Companies Can Be Barred from Defense Contracts If Their Consultants Lobby for Chinese Military Companies

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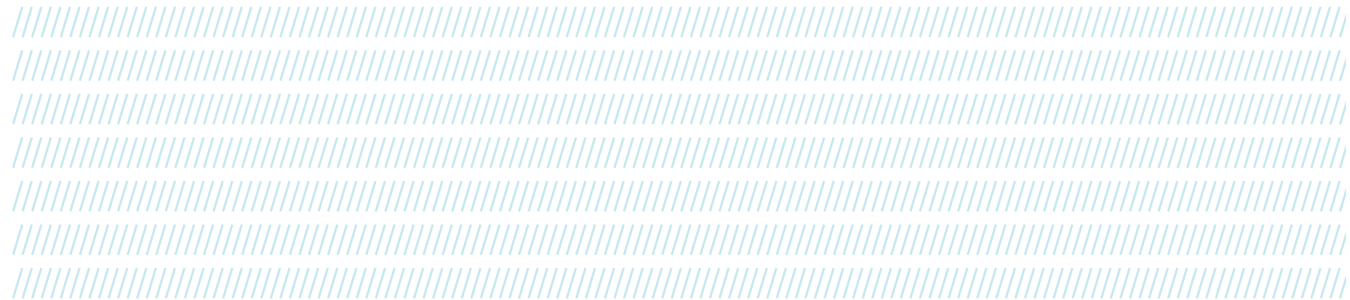

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Beginning June 30, 2026, the Department of Defense may not award a contract to a defense contractor if the contractor—or its parent or subsidiary—retains a consultant engaged in lobbying activities on behalf of a Chinese military company (CMC). The prohibition extends to any consultant relationship, including with law firms and public relations firms, and applies even if the lobbying is for another client and is entirely unrelated to the contractor's work.

What Section 851 Prohibits

The National Defense Authorization Act for Fiscal Year 2025 (codified at 10 U.S.C. § 4663) bars DoD from entering into a contract with any defense contractor—or its parent or subsidiary—that has a contractual relationship with a "covered lobbyist." A covered lobbyist is any individual or entity that engages in "lobbying activities" as defined in the Lobbying Disclosure Act (LDA) on behalf of any entity on DoD's Section 1260H CMC list.

The statute is broad in four important respects.

- **Corporate family liability**. The prohibition applies to the contracting entity and any parent or subsidiary.
- **Unrelated lobbying counts**. The lobbying activity need not relate to the contractor's operations or the DoD work at issue. If a retained consultant engages in lobbying activities for a CMC-listed company, the contractor may be disqualified.
- **Behind-the-scenes activities are covered**. "Lobbying activities" under the LDA include more than direct contacts with federal officials. They include planning, preparation, coordination, and other support intended for use in lobbying efforts, including work through trade associations or coalitions. Developing lobbying strategy, identifying advocacy opportunities, or managing consultants engaged in direct lobbying may all qualify.
- **Any contractual relationship triggers the prohibition**. Disqualification is triggered when the contractor retains for any purpose a consultant, including a public relations firm or law firm, that is engaged in lobbying activities for a covered CMC, even if the lobbying activity is for a different client and is unrelated to the contractor's work.

Not every engagement touching government affairs or policy triggers the prohibition. Whether work constitutes lobbying under the LDA turns on intent. It includes work intended, when performed, for use in lobbying contacts with covered officials. Work lacking that intent—regulatory compliance advice, internal training, litigation strategy—does not ordinarily constitute "lobbying activities." Labels alone do not control. Contractors should not rely solely on whether a consultant files LDA reports.

The Section 1260H List

The new law requires the 1260H CMC list to be updated at least annually by DoD (through December 31, 2030) and was most recently updated on June 8, 2026. The current list identifies 188 entities, including parent companies and their subsidiaries, spanning the technology, energy, biotechnology, telecommunications, and other industries.

The Reasonable Inquiries Safe Harbor

Section 851 creates a safe harbor for contractors "that made reasonable inquiries regarding the lobbying activities of another entity and determined such entity was not a covered lobbyist." This safe harbor provides important protection, but the statute does not define what constitutes "reasonable inquiries," and DoD has not yet issued implementing guidance.

Contractors should recognize that consultants and law firms may engage in lobbying activities without filing LDA reports—for example, because they conclude they fall below the registration thresholds or if they engage in behind-the-scenes support for the lobbying efforts of another entity.

Until DoD provides guidance, contractors should make and document reasonable inquiries into their consultants' lobbying activities, including by reviewing public disclosures where appropriate.

Pending Regulations and Enforcement Uncertainty

Defense contractors face a difficult compliance environment. The statute takes effect June 30, but the implementing rule (Case 2025-D007) remains in draft and is not due to the Defense Acquisition Regulations Council until July 15, 2026—after the statute's effective date. From there, it must clear OMB review before publication.

The proposed DFARS rule is expected to require contractors submitting bids or proposals to certify that neither they nor their parents or subsidiaries have contractual relationships with covered lobbyists. Although the statute applies to new contracts, the regulations may require certifications for contract modifications or option exercises, effectively extending compliance obligations to existing contracts.

Congressional support for aggressive enforcement has been growing. Members of the House Select Committee on China have urged DoD to apply the ban broadly—including to existing contractor relationships—and to interpret "lobbying activities" expansively to encompass consulting, advisory, and other activities that support lobbying, even without direct official contacts. Contractors should not view the absence of implementing regulations as reducing compliance risk.

What Defense Contractors Should Do Now

- **Inventory consultant relationships**. Review engagements with lobbying firms, government affairs consultants, trade associations, and law firms, including those retained by parent and subsidiary entities.
- **Obtain written certifications**. Seek written certifications from consultants confirming that they do not engage in "lobbying activities," as defined in the Lobbying Disclosure Act, on behalf of any entity on DoD's Section 1260H list. Certifications should require prompt notice of any change.
- **Update engagement agreements**. Add Section 851 representations, notification obligations, and termination rights if a consultant becomes a covered lobbyist.
- **Monitor updates to the 1260H list**. Establish a process to review each updated CMC list and reassess consultant relationships.
- **Track regulatory developments**. Monitor the DFARS rulemaking (Case 2025-D007) and any DoD class deviation that may be issued. Certifications may be required with pending and upcoming proposal submissions.
- **Evaluate close questions with counsel**. The distinction between covered "lobbying activities" and permissible consulting work is highly fact-specific. Contractors should evaluate existing and prospective consultant relationships and establish procedures for ongoing compliance.

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