Aerial Legal Experts with respect to necessary stenographic and other services by contract.

(e) ARCHITECT OF THE CAPITOL.—The purchase of supplies and equipment and the procurement of services for all branches under the Architect of the Capitol may be made in the open market according to common business practice, without compliance with section 6101 of this title, when the aggregate amount of the purchase or the service does not exceed $25,000 in any instance.

(f) FOREST PRODUCTS FROM INDIAN RESERVATIONS.—Lumber and other forest products produced by Indian enterprises from forests on Indian reservations may be sold under regulations the Secretary of the Interior prescribes, without compliance with section 6101 of this title.

(g) HOUSE OF REPRESENTATIVES.—Section 6101 of this title does not apply to purchases and contracts for supplies or services for any office of the House of Representatives.

(h) CONGRESSIONAL BUDGET OFFICE.—The Director of the Congressional Budget Office may enter into agreements or contracts without regard to section 6101 of this title.

(i) SENATE.—Section 6101 of this title does not apply to agreements, contracts or purchases by any office of the Senate.

(j) LIBRARIAN OF CONGRESS.—Section 6101 of this title does not apply to a procurement made against an order placed under a task order contract or a delivery order contract (as such terms are defined in section 4101 of this title) entered into by the Librarian of Congress.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3802; Pub. L. 115–141, div. I, title I, § 102, Mar. 23, 2018, 132 Stat. 772; Pub. L. 117–103, div. I, title I, § 142(b), Mar. 15, 2022, 136 Stat. 519.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6102(a)	41:6a(a).	Oct. 10, 1940, ch. 851, § 2(a), 54 Stat. 1110; Oct. 31, 1951, ch. 654, § 3(8), 65 Stat. 708.
6102(b)	41:6a(f).	Oct. 10, 1940, ch. 851, § 2(f), (j), 54 Stat. 1110.
6102(c)	41:6a(h).	Oct. 10, 1940, ch. 851, § 2(h), 54 Stat. 1110; Oct. 31, 1951, ch. 654, § 3(9), 65 Stat. 708.
6102(d)	41:6a(j).	
6102(e)	41:6a–1.	Pub. L. 89–90, (2d par. on p. 276), July 27, 1965, 79 Stat. 276; Pub. L. 93–356, § 2, July 25, 1974, 88 Stat. 390; Pub. L. 98–191, § 9(c), Dec. 1, 1983, 97 Stat. 1332.
6102(f)	41:6b(d).	June 24, 1940, ch. 412, 54 Stat. 504.
6102(g)	41:6a–3.	Pub. L. 108–7, div. H, title I, §§ 104, 1102, Feb. 20, 2003, 117 Stat. 354, 370.
6102(h)	41:6a–4.	

In subsections (a)–(d), the words ''under any appropriation Act'' are omitted as unnecessary.

In subsection (e), the words ''On and after July 27, 1965'' are omitted as unnecessary. The words ''according to common business practice'' are substituted for ''in the manner common among businessmen'' for consistency in the revised title.

In subsection (g), the words ''in any fiscal year'' are omitted as unnecessary.

In subsection (h), the text of 41:6a–4(b) is omitted as unnecessary.

Editorial Notes

AMENDMENTS

2022—Subsec. (j). Pub. L. 117–103 added subsec. (j).

2018—Subsec. (i). Pub. L. 115–141 added subsec. (i).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–103 applicable with respect to fiscal year 2022 and each succeeding fiscal year, see section 186(d) of Title 2, The Congress.

§ 6103. Opening of bids

Whenever proposals for supplies have been solicited, the parties responding to the solicitation shall be notified of the time and place of the opening of the bids, and be permitted to be present either in person or by attorney. A record of each bid shall be made at the time and place of the opening of the bids.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3803.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6103	41:8.	R.S. § 3710.

CHAPTER 63—GENERAL CONTRACT PROVISIONS

Sec.
6301. Authorization requirement.
6302. Contracts for fuel made by Secretary of the Army.
6303. Certain contracts limited to appropriated amounts.
6304. Certain contracts limited to one-year term.
6305. Prohibition on transfer of contract and certain allowable assignments.
6306. Prohibition on Members of Congress making contracts with Federal Government.
6307. Contracts with Federal Government-owned establishments and availability of appropriations.
6308. Contracts for transportation of Federal Government securities.
6309. Honorable discharge certificate in lieu of birth certificate.
6310. Requirement for agencies to buy domestically made United States flags.

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–74, § 2(a)(2), July 30, 2024, 138 Stat. 1506, added item 6310.

Statutory Notes and Related Subsidiaries

FEDERAL CONTRACTOR AUTHORITY

Pub. L. 116–136, div. A, title III, § 3610, Mar. 27, 2020, 134 Stat. 414, as amended by Pub. L. 117–2, title IV, § 4015, Mar. 11, 2021, 135 Stat. 80, provided that: ''Notwithstanding any other provision of law, and subject to the availability of appropriations, funds made available to an agency by this Act [div. A of Pub. L. 116–136, see Tables for classification] or any other Act may be used by such agency to modify the terms and conditions of a contract, or other agreement, without consideration, to reimburse at the minimum applicable contract billing rates not to exceed an average of 40 hours per week any paid leave, including sick leave, a contractor provides to keep its employees or subcontractors in a ready state, including to protect the life and safety of Government and contractor personnel, but in no event beyond September 30, 2021. Such authority shall apply only to a contractor whose employees or subcontractors cannot perform work on a site that has been ap-

proved by the Federal Government, including a federally-owned or leased facility or site, due to facility closures or other restrictions, and who cannot telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020 for COVID–19: *Provided*, That the maximum reimbursement authorized by this section shall be reduced by the amount of credit a contractor is allowed pursuant to division G [§§7001–7005] of Public Law 116–127 [set out as notes under sections 1401 and 3111 of Title 26, Internal Revenue Code] and any applicable credits a contractor is allowed under this Act.''

[Pub. L. 116–260, div. N, title X, §1002, Dec. 27, 2020, 134 Stat. 2145, provided that: ''Section 3610 of division A of the CARES Act (Public Law 116–136) [set out above] shall be applied by substituting 'March 31, 2021' for 'September 30, 2020'.''']

Executive Documents

EX. ORD. NO. 13658. ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS

Ex. Ord. No. 13658, Feb. 12, 2014, 79 F.R. 9851, as amended by Ex. Ord. 13838, §2, May 25, 2018, 83 F.R. 25341, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act [of 1949], 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in procurement by contracting with sources who adequately compensate their workers, it is hereby ordered as follows:

SECTION 1. *Policy*. This order seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to $10.10 the hourly minimum wage paid by those contractors. Raising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs. These savings and quality improvements will lead to improved economy and efficiency in Government procurement.

SEC. 2. *Establishing a minimum wage for Federal contractors and subcontractors*. (a) Executive departments and agencies (agencies) shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as ''contracts''), as described in section 7 of this order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that the minimum wage to be paid to workers, including workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c), in the performance of the contract or any subcontract thereunder, shall be at least:

(i) $10.10 per hour beginning January 1, 2015; and

(ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). The amount shall be published by the Secretary at least 90 days before such new minimum wage is to take effect and shall be:

(A) not less than the amount in effect on the date of such determination;

(B) increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics; and

(C) rounded to the nearest multiple of $0.05.

(b) In calculating the annual percentage increase in the Consumer Price Index for purposes of subsection (a)(ii)(B) of this section, the Secretary shall compare such Consumer Price Index for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect pursuant to subsection (a)(ii)(B)) with the Consumer Price Index for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively.

(c) Nothing in this order shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this order.

SEC. 3. *Application to tipped workers*. (a) For workers covered by section 2 of this order who are tipped employees pursuant to 29 U.S.C. 203(t), the hourly cash wage that must be paid by an employer to such workers shall be at least:

(i) $4.90 an hour, beginning on January 1, 2015;

(ii) for each succeeding 1-year period until the hourly cash wage under this section equals 70 percent of the wage in effect under section 2 of this order for such period, an hourly cash wage equal to the amount determined under this section for the preceding year, increased by the lesser of:

(A) $0.95; or

(B) the amount necessary for the hourly cash wage under this section to equal 70 percent of the wage under section 2 of this order; and

(iii) for each subsequent year, 70 percent of the wage in effect under section 2 for such year rounded to the nearest multiple of $0.05.

(b) Where workers do not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer, such that their wages are equal to the minimum wage under section 2 of this order, the cash wage paid by the employer, as set forth in this section for those workers, shall be increased such that their wages equal the minimum wage under section 2 of this order. Consistent with applicable law, if the wage required to be paid under the Service Contract Act [of 1965], 41 U.S.C. 6701 *et seq.*, or any other applicable law or regulation is higher than the wage required by section 2, the employer shall pay additional cash wages sufficient to meet the highest wage required to be paid.

SEC. 4. *Regulations and Implementation*. (a) The Secretary shall issue regulations by October 1, 2014, to the extent permitted by law and consistent with the requirements of the Federal Property and Administrative Services Act, to implement the requirements of this order, including providing exclusions from the requirements set forth in this order where appropriate. To the extent permitted by law, within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council shall issue regulations in the Federal Acquisition Regulation to provide for inclusion of the contract clause in Federal procurement solicitations and contracts subject to this order.

(b) Within 60 days of the Secretary issuing regulations pursuant to subsection (a) of this section, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts as described in section 7(d)(i)(C) and (D) of this order, entered into after January 1, 2015, consistent with the effective date of such agency action, comply with the requirements set forth in sections 2 and 3 of this order.

(c) Any regulations issued pursuant to this section should, to the extent practicable and consistent with section 8 of this order, incorporate existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act [of 1938], 29 U.S.C. 201 *et seq.*; the Service Contract Act, 41 U.S.C. 6701 *et seq.*; and the Davis-Bacon Act, 40 U.S.C. 3141 *et seq*.

SEC. 5. *Enforcement*. (a) The Secretary shall have the authority for investigating potential violations of and obtaining compliance with this order.

(b) This order creates no rights under the Contract Disputes Act [of 1978], and disputes regarding whether a contractor has paid the wages prescribed by this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

SEC. 6. *Severability*. If any provision of this order, or applying such provision to any person or circumstance,

is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) This order shall apply only to a new contract or contract-like instrument, as defined by the Secretary in the regulations issued pursuant to section 4(a) of this order, if:

(i)(A) it is a procurement contract for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 C.F.R. 4.133(b); or

(D) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(ii) the wages of workers under such contract or contract-like instrument are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act.

(e) For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. For procurement contracts where workers' wages are governed by the Fair Labor Standards Act, this order shall apply only to contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 4 of this order.

(f) This order shall not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 4(a) of this order. This order shall not apply to contracts or contract-like instruments entered into with the Federal Government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands, but this exemption shall not apply to lodging and food services associated with seasonal recreational services. Seasonal recreational services include river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

(g) Independent agencies are strongly encouraged to comply with the requirements of this order.

SEC. 8. *Effective Date.* (a) This order is effective immediately and shall apply to covered contracts where the solicitation for such contract has been issued on or after:

(i) January 1, 2015, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 4(a) of this order; or

(ii) for contracts where an agency action is taken pursuant to section 4(b) of this order, January 1, 2015, consistent with the effective date for such action.

(b) This order shall not apply to contracts or contract-like instruments entered into pursuant to solicitations issued on or before the effective date for the relevant action taken pursuant to section 4 of this order.

(c) For all new contracts and contract-like instruments negotiated between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged to take all steps that are reasonable and legally permissible to ensure that individuals working pursuant to those contracts and contract-like instruments are paid an hourly wage of at least $10.10 (as set forth under sections 2 and 3 of this order) as of the effective dates set forth in this section.

[Ex. Ord. No. 13658, set out above, superseded, as of Jan. 30, 2022, to the extent inconsistent with Ex. Ord. No. 14026, see section 6 of Ex. Ord. No. 14026, set out below.]

EX. ORD. NO. 13706. ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS

Ex. Ord. No. 13706, Sept. 7, 2015, 80 F.R. 54697, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 121, and in order to promote economy and efficiency in procurement by contracting with sources that allow their employees to earn paid sick leave, it is hereby ordered as follows:

SECTION 1. *Policy.* This order seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by ensuring that employees on those contracts can earn up to 7 days or more of paid sick leave annually, including paid leave allowing for family care. Providing access to paid sick leave will improve the health and performance of employees of Federal contractors and bring benefits packages at Federal contractors in line with model employers, ensuring that they remain competitive employers in the search for dedicated and talented employees. These savings and quality improvements will lead to improved economy and efficiency in Government procurement.

SEC. 2. *Establishing paid sick leave for Federal contractors and subcontractors.* (a) Executive departments and agencies (agencies) shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as ''contracts''), as described in section 6 of this order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than 1 hour of paid sick leave for every 30 hours worked.

(b) A contractor may not set a limit on the total accrual of paid sick leave per year, or at any point in time, at less than 56 hours.

(c) Paid sick leave earned under this order may be used by an employee for an absence resulting from:

(i) physical or mental illness, injury, or medical condition;

(ii) obtaining diagnosis, care, or preventive care from a health care provider;

(iii) caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship who has any of the conditions or needs for diagnosis, care, or preventive care described in paragraphs (i) or (ii) of this subsection or is otherwise in need of care; or

(iv) domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described in paragraphs (i) and (ii) of this subsection, to obtain additional counseling, to seek relocation, to seek assistance from a victim services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described in paragraph (iii) of this subsection in engaging in any of these activities.

(d) Paid sick leave accrued under this order shall carry over from 1 year to the next and shall be rein-

stated for employees rehired by a covered contractor within 12 months after a job separation.

(e) The use of paid sick leave cannot be made contingent on the requesting employee finding a replacement to cover any work time to be missed.

(f) The paid sick leave required by this order is in addition to a contractor's obligations under 41 U.S.C. chapter 67 (Service Contract Act [of 1965]) and 40 U.S.C. chapter 31, subchapter IV (Davis-Bacon Act), and contractors may not receive credit toward their prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of this order.

(g) A contractor's existing paid leave policy provided in addition to the fulfillment of Service Contract Act or Davis-Bacon Act obligations, if applicable, and made available to all covered employees will satisfy the requirements of this order if the amount of paid leave is sufficient to meet the requirements of this section and if it may be used for the same purposes and under the same conditions described herein.

(h) Paid sick leave shall be provided upon the oral or written request of an employee that includes the expected duration of the leave, and is made at least 7 calendar days in advance where the need for the leave is foreseeable, and in other cases as soon as is practicable.

(i) Certification.

(i) A contractor may only require certification issued by a health care provider for paid sick leave used for the purposes listed in subsections (c)(i), (c)(ii), or (c)(iii) of this section for employee absences of 3 or more consecutive workdays, to be provided no later than 30 days from the first day of the leave.

(ii) If 3 or more consecutive days of paid sick leave is used for the purposes listed in subsection (c)(iv) of this section, documentation may be required to be provided from an appropriate individual or organization with the minimum necessary information establishing a need for the employee to be absent from work. The contractor shall not disclose any verification information and shall maintain confidentiality about the domestic violence, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(j) Nothing in this order shall require a covered contractor to make a financial payment to an employee upon a separation from employment for accrued sick leave that has not been used, but unused leave is subject to reinstatement as prescribed in subsection (d) of this section.

(k) A covered contractor may not interfere with or in any other manner discriminate against an employee for taking, or attempting to take, paid sick leave as provided for under this order or in any manner asserting, or assisting any other employee in asserting, any right or claim related to this order.

(l) Nothing in this order shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under this order.

SEC. 3. *Regulations and Implementation*. (a) The Secretary of Labor (Secretary) shall issue such regulations by September 30, 2016, as are deemed necessary and appropriate to carry out this order, to the extent permitted by law and consistent with the requirements of 40 U.S.C. 121, including providing exclusions from the requirements set forth in this order where appropriate; defining terms used in this order; and requiring contractors to make, keep, and preserve such employee records as the Secretary deems necessary and appropriate for the enforcement of the provisions of this order or the regulations thereunder. To the extent permitted by law, within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council shall issue regulations in the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the contract clause described in section 2(a) of this order.

(b) Within 60 days of the Secretary issuing regulations pursuant to subsection (a) of this section, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts as described in section 6(d)(i)(C) and (D) of this order, entered into after January 1, 2017, consistent with the effective date of such agency action, comply with the requirements set forth in section 2 of this order.

(c) Any regulations issued pursuant to this section should, to the extent practicable and consistent with section 7 of this order, incorporate existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act [of 1938], 29 U.S.C. 201 *et seq.*; the Service Contract Act; the Davis-Bacon Act; the Family and Medical Leave Act [of 1993], 29 U.S.C. 2601 *et seq.*; the Violence Against Women Act of 1994, 42 U.S.C. 13925 *et seq.* [now 34 U.S.C. 12291 *et seq.*]; and Executive Order 13658 of February 12, 2014, Establishing a Minimum Wage for Contractors.

SEC. 4. *Enforcement*. (a) The Secretary shall have the authority for investigating potential violations of and obtaining compliance with this order, including the prohibitions on interference and discrimination in section 2(k) of this order.

(b) This order creates no rights under the Contract Disputes Act [of 1978], and disputes regarding whether a contractor has provided employees with paid sick leave prescribed by this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

SEC. 5. *Severability*. If any provision of this order, or applying such provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) This order shall apply only to a new contract or contract-like instrument, as defined by the Secretary in the regulations issued pursuant to section 3(a) of this order, if:

(i)(A) it is a procurement contract for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or

(D) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(ii) the wages of employees under such contract or contract-like instrument are governed by the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act, including employees who qualify for an exemption from its minimum wage and overtime provisions.

(e) For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. For procurement contracts in which employees' wages are governed by the Fair Labor

Standards Act, this order shall apply only to contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 3 of this order.

(f) This order shall not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 3(a) of this order.

(g) Independent agencies are strongly encouraged to comply with the requirements of this order.

SEC. 7. *Effective Date.* (a) This order is effective immediately and shall apply to covered contracts where the solicitation for such contract has been issued, or the contract has been awarded outside the solicitation process, on or after:

(i) January 1, 2017, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 3(a) of this order; or

(ii) January 1, 2017, for contracts where an agency action is taken pursuant to section 3(b) of this order, consistent with the effective date for such action.

(b) This order shall not apply to contracts or contract-like instruments that are awarded, or entered into pursuant to solicitations issued, on or before the effective date for the relevant action taken pursuant to section 3 of this order.

BARACK OBAMA.

EXECUTIVE ORDER NO. 13838

Ex. Ord. No. 13838, May 25, 2018, 83 F.R. 25341, which related to an exemption from the minimum wage requirements for contractors established by Ex. Ord. No. 13658 (set out above) for recreational services on Federal lands, was revoked, effective Jan. 30, 2022, by Ex. Ord. No. 14026, §6, Apr. 27, 2021, 86 F.R. 22836, set out below.

EX. ORD. NO. 14026. INCREASING THE MINIMUM WAGE FOR FEDERAL CONTRACTORS

Ex. Ord. No. 14026, Apr. 27, 2021, 86 F.R. 22835, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act [of 1949], [see] 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in procurement by contracting with sources that adequately compensate their workers, it is hereby ordered as follows:

SECTION 1. *Policy.* This order promotes economy and efficiency in Federal procurement by increasing the hourly minimum wage paid by the parties that contract with the Federal Government to $15.00 for those workers working on or in connection with a Federal Government contract as described in section 8 of this order. Raising the minimum wage enhances worker productivity and generates higher-quality work by boosting workers' health, morale, and effort; reducing absenteeism and turnover; and lowering supervisory and training costs. Accordingly, ensuring that Federal contractors pay their workers an hourly wage of at least $15.00 will bolster economy and efficiency in Federal procurement.

SEC. 2. *Increasing the Minimum Wage for Federal Contractors and Subcontractors.* (a) Executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A), (5) (agencies), shall, to the extent permitted by law, ensure that contracts and contract-like instruments (as defined in regulations issued pursuant to section 4(a) of this order and as described in section 8(a) of this order) include a clause that the contractor and any covered subcontractors (as defined in regulations issued pursuant to section 4(a) of this order) shall incorporate into lower-tier subcontracts. This clause shall specify that, as a condition of payment, the minimum wage to be paid to workers employed in the performance of the contract or any covered subcontract thereunder, including workers whose wages are calculated pursuant to special certificates issued under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)), shall be at least:

(i) $15.00 per hour, beginning January 30, 2022; and

(ii) beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). The amount shall be published by the Secretary at least 90 days before such new minimum wage is to take effect and shall be:

(A) not less than the amount in effect on the date of such determination;

(B) increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics; and

(C) rounded to the nearest multiple of $0.05.

(b) In calculating the annual percentage increase in the Consumer Price Index for purposes of subsection (a)(ii)(B) of this section, the Secretary shall compare such Consumer Price Index for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect pursuant to subsection (a)(ii)(B) of this section) with the Consumer Price Index for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively.

(c) Nothing in this order shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this order.

SEC. 3. *Application to Tipped Workers.* (a) For workers covered under section 2 of this order who are tipped employees pursuant to section 3(t) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(t)), the cash wage that must be paid by an employer to such workers shall be at least:

(i) $10.50 per hour, beginning January 30, 2022;

(ii) beginning January 1, 2023, 85 percent of the wage in effect under section 2 of this order, rounded to the nearest multiple of $0.05; and

(iii) beginning January 1, 2024, and for each subsequent year, 100 percent of the wage in effect under section 2 of this order.

(b) Where workers do not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer, such that their wages are equal to the minimum wage under section 2 of this order, the cash wage paid by the employer, as set forth in this section for those workers, shall be increased such that their wages equal the minimum wage under section 2 of this order. Consistent with applicable law, if the wage required to be paid under the Service Contract Act [of 1965], [see] 41 U.S.C. 6701 *et seq.*, or any other applicable law or regulation is higher than the wage required under section 2 of this order, the employer shall pay additional cash wages sufficient to meet the highest wage required to be paid.

SEC. 4. *Regulations and Implementation.* (a) The Secretary shall, consistent with applicable law, issue regulations by November 24, 2021, to implement the requirements of this order. Such regulations shall include both definitions of relevant terms and, as appropriate, exclusions from the requirements of this order. Within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council, to the extent permitted by law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations, contracts, and contract-like instruments subject to this order the clause described in section 2(a) of this order.

(b) Within 60 days of the Secretary issuing regulations pursuant to subsection (a) of this section, agen-

cies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts and contract-like instruments as described in sections 8(a)(i)(C) and (D) of this order, entered into on or after January 30, 2022, consistent with the effective date of such agency action, comply with the requirements set forth in sections 2 and 3 of this order.

(c) Any regulations issued pursuant to this section should, to the extent practicable, incorporate existing definitions, principles, procedures, remedies, and enforcement processes under the Fair Labor Standards Act of 1938, 29 U.S.C. 201 *et seq.*; the Service Contract Act, 41 U.S.C. 6701 *et seq.*; the Davis-Bacon Act, [see] 40 U.S.C. 3141 *et seq.*; Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors) [41 U.S.C. 6301 note prec.]; and regulations issued to implement that order.

SEC. 5. *Enforcement*. (a) The Secretary shall have the authority for investigating potential violations of and obtaining compliance with this order.

(b) This order creates no rights under the Contract Disputes Act [of 1978], [see] 41 U.S.C. 7101 *et seq.*, and disputes regarding whether a contractor has paid the wages prescribed by this order, as appropriate and consistent with applicable law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

SEC. 6. *Revocation of Certain Presidential Actions*. Executive Order 13838 of May 25, 2018 (Exemption From Executive Order 13658 for Recreational Services on Federal Lands) [set out above], is revoked as of January 30, 2022. Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors) [set out above], is superseded, as of January 30, 2022, to the extent it is inconsistent with this order.

SEC. 7. *Severability*. If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

SEC. 8. *Applicability*. (a) This order shall apply to any new contract; new contract-like instrument; new solicitation; extension or renewal of an existing contract or contract-like instrument; and exercise of an option on an existing contract or contract-like instrument, if (i): [sic]

(A) it is a procurement contract or contract-like instrument for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or

(D) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(ii) the wages of workers under such contract or contract-like instrument are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act.

(b) For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. Where workers' wages are governed by the Fair Labor Standards Act of 1938, this order shall apply only to procurement contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 4 of this order.

(c) This order shall not apply to grants; contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) [25 U.S.C. 5301 et seq.], as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 4(a) of this order.

SEC. 9. *Effective Date*. (a) This order is effective immediately and shall apply to new contracts; new contract-like instruments; new solicitations; extensions or renewals of existing contracts or contract-like instruments; and exercises of options on existing contracts or contract-like instruments, as described in section 8(a) in this order, where the relevant contract or contract-like instrument will be entered into, the relevant contract or contract-like instrument will be extended or renewed, or the relevant option will be exercised, on or after:

(i) January 30, 2022, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 4(a) of this order; or

(ii) for contracts where an agency action is taken pursuant to section 4(b) of this order, January 30, 2022, consistent with the effective date for such action.

(b) As an exception to subsection (a) of this section, where agencies have issued a solicitation before the effective date for the relevant action taken pursuant to section 4 of this order and entered into a new contract or contract-like instrument resulting from such solicitation within 60 days of such effective date, such agencies are strongly encouraged but not required to ensure that the minimum wages specified in sections 2 and 3 of this order are paid in the new contract or contract-like instrument. But if that contract or contract-like instrument is subsequently extended or renewed, or an option is subsequently exercised under that contract or contract-like instrument, the minimum wages specified in sections 2 and 3 of this order shall apply to that extension, renewal, or option.

(c) For all existing contracts and contract-like instruments, solicitations issued between the date of this order and the effective dates set forth in this section, and contracts and contract-like instruments entered into between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged, to the extent permitted by law, to ensure that the hourly wages paid under such contracts or contract-like instruments are consistent with the minimum wages specified in sections 2 and 3 of this order.

SEC. 10. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

EXECUTIVE ORDER NO. 14042

Ex. Ord. No. 14042, Sept. 9, 2021, 86 F.R. 50985, which related to COVID safety protocols for Federal contractors, was revoked by Ex. Ord. No. 14099, §2, May 9, 2023, 88 F.R. 30891.

EX. ORD. NO. 14069. ADVANCING ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN FEDERAL CONTRACTING BY PROMOTING PAY EQUITY AND TRANSPARENCY

Ex. Ord. No. 14069, Mar. 15, 2022, 87 F.R. 15315, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of my Administration to eliminate discriminatory pay practices that inhibit the economy, efficiency, and effectiveness of the Federal workforce and the procurement of property and services by the Federal Government. The Office of Personnel Management anticipates issuing a proposed rule

that will address the use of salary history in the hiring and pay-setting processes for Federal employees, consistent with Executive Order 14035 of June 25, 2021 (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce) [42 U.S.C. 2000e note]. The purpose of this order is to direct the consideration of parallel efforts with respect to Federal procurement.

SEC. 2. *Economy, Efficiency, and Effectiveness in Federal Procurement*. Consistent with applicable law and subject to the availability of appropriations, the Federal Acquisition Regulatory Council, in consultation with the Secretary of Labor and the heads of other executive departments and agencies as appropriate, shall consider issuing proposed rules to promote economy, efficiency, and effectiveness in Federal procurement by enhancing pay equity and transparency for job applicants and employees of Federal contractors and subcontractors. In doing so, the Federal Acquisition Regulatory Council shall specifically consider whether any such rules should limit or prohibit Federal contractors and subcontractors from seeking and considering information about job applicants' and employees' existing or past compensation when making employment decisions. The Federal Acquisition Regulatory Council shall also consider the inclusion of appropriate accountability measures in any such rules.

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§ 6301. Authorization requirement

(a) IN GENERAL.—A contract or purchase on behalf of the Federal Government shall not be made unless the contract or purchase is authorized by law or is under an appropriation adequate to its fulfillment.

(b) EXCEPTION.—

(1) DEFINITION.—In this subsection, the term ''defined Secretary'' means—

(A) the Secretary of Defense; or

(B) the Secretary of Homeland Security with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(2) IN GENERAL.—Subsection (a) does not apply to a contract or purchase made by a defined Secretary for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies.

(3) CURRENT YEAR LIMITATION.—A contract or purchase made by a defined Secretary under this subsection may not exceed the necessities of the current year.

(4) REPORTS.—The defined Secretary shall immediately advise Congress when authority is exercised under this subsection. The defined Secretary shall report quarterly on the estimated obligations incurred pursuant to the authority granted in this subsection.

(c) SPECIAL RULE FOR PURCHASE OF LAND.—Land may not be purchased by the Federal Government unless the purchase is authorized by law.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3803; Pub. L. 111–281, title IX, § 903(a)(4), Oct. 15, 2010, 124 Stat. 3010.)

AMENDMENT NOT SHOWN IN TEXT

Subsecs. (a) and (b) of this section are derived from section 11 of former Title 41, Public Contracts, which was amended by Pub. L. 111–281, title IX, § 903(a)(4), Oct. 15, 2010, 124 Stat. 3010, prior to being repealed and reenacted as subsecs. (a) and (b) of this section by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For applicability of that amendment to this section, see section 6(a) of Pub. L. 111–350, set out as a Transitional and Savings Provisions note preceding section 101 of this title. Section 903 of Pub. L. 111–281 provided that, effective with the enactment of Pub. L. 109–241, section 902(c) of Pub. L. 109–241, which amended section 3732 of the Revised Statutes, is amended by inserting in the directory language, ''of the United States'' after ''Revised Statutes'', resulting in no change in text.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6301(a)	41:11(a) (words before 2nd comma).	R.S. § 3732; Pub. L. 89–687, title VI, § 612(e), Oct. 15, 1966, 80 Stat. 993; Pub. L. 98–557, § 17(e)(1), (2), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 104–106, div. D, title XLIII, § 4322(b)(4), Feb. 10, 1996, 110 Stat. 677; Pub. L. 109–241, title IX, § 902(c), July 11, 2006, 120 Stat. 566.
6301(b)	41:11(a) (words after 2nd comma), (b).	
6301(c)	41:14.	R.S. § 3736.

In subsection (b)(1)(A), the words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:113.

In subsection (b)(1)(B), the words ''Secretary of Homeland Security'' are substituted for ''Department of Homeland Security'' because of section 102(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)(2)).

§ 6302. Contracts for fuel made by Secretary of the Army

The Secretary of the Army, when the Secretary believes it is in the interest of the United States, may enter into contracts and incur obligations for fuel in sufficient quantities to meet the requirements for one year without regard to the current fiscal year. Amounts appropriated for the fiscal year in which the contract is made or amounts appropriated or which may be appropriated for the following fiscal year may be used to pay for supplies delivered under a contract made pursuant to this section.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6302	41:11a.	June 30, 1921, ch. 33, § 1 (last proviso on p. 78), 42 Stat. 78.

The words ''Secretary of the Army'' are substituted for ''Secretary of War'' because of section 205(a) of the

National Security Act of 1947 (ch. 343, 61 Stat. 501). Section 205(a) was repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676). Section 1 of the Act of August 10, 1956 (70A Stat. 1) enacted Title 10, ''Armed Forces'', and under sections 3011 to 3013 of title 10, the Department of the Army remains under the administrative supervision of the Secretary of the Army.

§ 6303. Certain contracts limited to appropriated amounts

A contract to erect, repair, or furnish a public building, or to make any public improvement, shall not be made on terms requiring the Federal Government to pay more than the amount specifically appropriated for the activity covered by the contract.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6303	41:12.	R.S. § 3733.

The words ''the activity covered by the contract'' are substituted for ''the specific purpose'' for clarity.

§ 6304. Certain contracts limited to one-year term

Except as otherwise provided, an executive department shall not make a contract for stationery or other supplies for a term longer than one year from the time the contract is made.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6304	41:13.	R.S. § 3735.

The words ''an executive department shall not'' are substituted for ''it shall not be lawful for any of the executive departments to'' to state the legal prohibition directly and to eliminate unnecessary words.

§ 6305. Prohibition on transfer of contract and certain allowable assignments

(a) GENERAL PROHIBITION ON TRANSFER OF CONTRACTS.—The party to whom the Federal Government gives a contract or order may not transfer the contract or order, or any interest in the contract or order, to another party. A purported transfer in violation of this subsection annuls the contract or order so far as the Federal Government is concerned, except that all rights of action for breach of contract are reserved to the Federal Government.

(b) ASSIGNMENT.—

(1) IN GENERAL.—Notwithstanding subsection (a) and in accordance with the requirements of this subsection, amounts due from the Federal Government under a contract may be assigned to a bank, trust company, Federal lending agency, or other financing institution.

(2) MINIMUM AMOUNT.—This subsection applies only to a contract under which the aggregate amounts due from the Federal Government total at least $1,000.

(3) ACCORD WITH CONTRACT TERMS.—Assignment may not be made under this subsection if the contract forbids the assignment.

(4) FULL BALANCE DUE.—Unless otherwise expressly permitted by the contract, an assignment under this subsection must cover the balance of all amounts due from the Federal Government under the contract.

(5) SINGLE ASSIGNMENT.—Unless otherwise expressly permitted by the contract, an assignment under this subsection may not be made to more than one party or be subject to further assignment, except that assignment may be made to one party as agent or trustee for 2 or more parties participating in the financing.

(6) WRITTEN NOTICE.—The assignee of an assignment under this subsection shall file written notice of the assignment and a true copy of the instrument of assignment with—

(A) the contracting officer or head of the officer's department or agency;

(B) the surety on any bond connected with the contract; and

(C) the disbursing officer, if any, designated in the contract to make payment.

(7) VALIDITY.—Notwithstanding any law to the contrary governing the validity of assignments, an assignment under this subsection is a valid assignment for all purposes.

(8) NO REFUND TO COVER ASSIGNOR'S LIABILITY.—The assignee of an assignment under this subsection is not liable to make any refund to the Federal Government because of an assignor's liability to the Federal Government, whether that liability arises from the contract or independently.

(9) AVOIDING REDUCTION OR SETOFF WITH CERTAIN CONTRACTS.—

(A) CONTRACT PROVISION.—A contract of the Department of Defense, the General Services Administration, the Department of Energy, or another department or agency of the Federal Government designated by the President may, on a determination of need by the President, provide or be amended without consideration to provide that payments made to an assignee under the contract are not subject to reduction or setoff. Each determination of need by the President under this subparagraph shall be published in the Federal Register.

(B) CARRYING OUT CONTRACT PROVISION.—When a ''no reduction or setoff'' provision as described in subparagraph (A) is included in a contract, payments to the assignee are not subject to reduction or setoff for an assignor's liability arising—

(i) independently of the contract;

(ii) on account of renegotiation under a renegotiation statute or under a statutory renegotiation article in the contract;

(iii) on account of fines;

(iv) on account of penalties; or

(v) on account of taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of the contract.

(C) LIMITATION.—Subparagraph (B)(iv) does not apply to amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6305(a)	41:15(a).	R.S. § 3737; Oct. 9, 1940, ch. 779, § 1, 54 Stat. 1029; May 15, 1951, ch. 75, 65 Stat. 41; Pub. L. 103–355, title II, § 2451, Oct. 13, 1994, 108 Stat. 3324; Pub. L. 104–106, div. D, title XLIII, § 4321(i)(9), Feb. 10, 1996, 110 Stat. 676.
6305(b)(1)	41:15(b) (words before par. (1) less words related to minimum amount).	
6305(b)(2)	41:15(b) (words before par. (1) related to minimum amount).	
6305(b)(3)	41:15(b)(1).	
6305(b)(4)	41:15(b)(2) (related to full balance due).	
6305(b)(5)	41:15(b)(2) (related to single assignment).	
6305(b)(6)	41:15(b)(3).	
6305(b)(7)	41:15(c).	
6305(b)(8)	41:15(d).	
6305(b)(9)(A)	41:15(e).	
6305(b)(9)(B)	41:15(f) (less parenthetical phrase in par. (3)).	
6305(b)(9)(C)	41:15(f) (parenthetical phrase in par. (3)), (g).	

In subsection (a), the words ''The party to whom the Federal Government gives a contract or order'' are substituted for ''the party to whom such contract or order is given'' for clarity. The words ''A purported transfer in violation of this subsection'' are substituted for ''any such transfer'' because an actual transfer is precluded by this provision.

In subsection (b)(1), the words ''amounts due from the Federal Government'' are substituted for ''moneys due or to become due from the United States or from any agency or department thereof'' to eliminate unnecessary words. The words ''may be assigned'' are added to provide explicitly for authority that is necessarily implied by the source provision.

In subsection (b)(3), the words ''in the case of any contract entered into after October 9, 1940'' are omitted as obsolete.

In subsection (b)(5), the words ''participating in such financing'' are omitted as unnecessary.

In subsection (b)(8), the words ''is not liable to make any refund to the Federal Government'' are substituted for ''no [liability] . . . shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment'' to eliminate unnecessary words. The words ''an assignor's liability to the Federal Government'' are substituted for ''liability of any nature of the assignor to the United States or any department or agency thereof'' for clarity and to eliminate unnecessary words.

In subsection (b)(9)(A), the words ''except any such contract under which full payment has been made'' are omitted as unnecessary because subsection (b)(8) precludes refund where full payment has already been made. The words ''payments made to an assignee under the contract'' are substituted for ''payments to be made to the assignee of any moneys due or to become due under such contract'' to eliminate unnecessary words.

In subsection (b)(9)(B), the words ''When a 'no reduction or setoff' provision as described in subparagraph (A) is included in a contract'' are substituted for ''If a provision described in subsection (e) of this section or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract'', the words ''payments to the assignee'' are substituted for ''payments to be made thereafter to an assignee of any moneys due or to become due'', and the words ''an assignor's liability'' are substituted for ''any liability of any nature of the assignor to the United States or any department or agency thereof'', for clarity and to eliminate unnecessary words.

In subsection (b)(9)(C), the text of 40:15(g), which provided that nothing in 40:15 affected rights and obligations accrued before subsection (g) was added by the Act of May 15, 1951 (ch. 75, 65 Stat. 41), is omitted as obsolete.

Executive Documents

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Oct. 3, 1995, 60 F.R. 52289, provided:

Memorandum for the Heads of Executive Departments and Agencies

Section 2451 of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 ([amending former] 41 U.S.C. 15 [see 41 U.S.C. 6305]) (''Act''), provides, in part, that ''[a]ny contract of the Department of Defense, the General Services Administration, the Department of Energy or any other department or agency of the United States designated by the President, except [contracts where] . . . full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under [the] contract shall not be subject to reduction or set-off.''

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby designate all other departments and agencies of the United States as subject to this provision. Furthermore, I hereby delegate to the Secretaries of Defense and Energy, the Administrator of General Services, and the heads of all other departments and agencies, the authority under section 2451 of the Act to make determinations of need for their respective agency's contracts, subject to such further guidance as issued by the Office of Federal Procurement Policy.

The authority delegated by this memorandum may be further delegated within the departments and agencies.

This memorandum shall be published in the Federal Register.

WILLIAM J. CLINTON.

§ 6306. Prohibition on Members of Congress making contracts with Federal Government

(a) IN GENERAL.—A Member of Congress may not enter into or benefit from a contract or agreement or any part of a contract or agreement with the Federal Government.

(b) EXEMPTIONS.—

(1) IN GENERAL.—Subsection (a) does not apply to contracts that the Secretary of Agriculture may enter into with farmers.

(2) CERTAIN ACTS.—Subsection (a) does not apply to a contract entered into under—

(A) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.);

(B) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(C) the Home Owners' Loan Act (12 U.S.C. 1461 et seq.).

(3) PUBLIC RECORD.—An exemption under this subsection shall be made a matter of public record.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6306(a)	41:22 (1st sentence).	R.S. §3741; Feb. 27, 1877, ch. 69, (16th complete par. on p. 249), 19 Stat. 249; Pub. L. 103–355, title VI, §6004, Oct. 13, 1994, 108 Stat. 3364; Pub. L. 104–106, div. D, title XLIII, §4321(i)(12), Feb. 10, 1996, 110 Stat. 676.
6306(b)	41:22 (last sentence).	Jan. 25, 1934, ch. 5, (related to R.S. §3741), 48 Stat. 337; June 27, 1934, ch. 847, title V, §510, 48 Stat. 1264; Aug. 26, 1937, ch. 821, 50 Stat. 838.

In subsection (b)(2), the words ''Emergency Farm Mortgage Act of 1933'' and ''Federal Farm Mortgage Corporation Act'' are omitted because all provisions of those Acts have previously been executed or repealed.

In subsection (b)(2)(B), the words ''Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)'' are substituted for ''Federal Farm Loan Act'' and ''Farm Credit Act of 1933'' because of section 5.40(a), formerly 5.26(a), of the Farm Credit Act of 1971 (Pub. L. 92–181, 12 U.S.C. 2001 note).

In subsection (b)(2)(C), the words ''Home Owners' Loan Act'' are substituted for ''Home Owners' Loan Act of 1933'' because of the amendment to 12:1461 made by Public Law 101–73.

§ 6307. Contracts with Federal Government-owned establishments and availability of appropriations

An order or contract placed with a Federal Government-owned establishment for work, material, or the manufacture of material pertaining to an approved project is deemed to be an obligation in the same manner that a similar order or contract placed with a commercial manufacturer or private contractor is an obligation. Appropriations remain available to pay an obligation to a Federal Government-owned establishment just as appropriations remain available to pay an obligation to a commercial manufacturer or private contractor.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3806.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6307	41:23.	June 5, 1920, ch. 240, (last par. under heading ''Purchase of Articles Manufactured at Government Arsenals''), 41 Stat. 975. July 1, 1922, ch. 259, (1st proviso on p. 812), 42 Stat. 812.

The words ''heretofore or'' are omitted as obsolete. The word ''hereafter'' is omitted as unnecessary because the provision is restated as permanent law rather than as part of a fiscal year appropriation.

§ 6308. Contracts for transportation of Federal Government securities

When practicable, a contract for transporting bullion, cash, or securities of the Federal Government shall be awarded to the lowest responsible bidder after notice to all parties with means of transportation.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3806.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6308	41:24.	July 7, 1884, ch. 332, (words after ''fifty five thousand dollars'' in 3d par. under heading ''Miscellaneous Objects Under the Treasury Department''), 23 Stat. 204.

The words ''bullion, cash, or securities of the Federal Government'' are substituted for ''moneys, bullion, coin, notes, bonds, and other securities of the United States, and paper'' to eliminate unnecessary words. The word ''awarded'' is substituted for ''let'' to use more modern terminology.

§ 6309. Honorable discharge certificate in lieu of birth certificate

(a) IN GENERAL.—An employer described in subsection (b) may not deny employment, on account of failure to produce a birth certificate, to an individual who submits, in lieu of the birth certificate, an honorable discharge certificate (or certificate issued in lieu of an honorable discharge certificate) from the Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard of the United States, unless the honorable discharge certificate shows on its face that the individual may have been an alien at the time of its issuance.

(b) EMPLOYERS TO WHICH SECTION APPLIES.—An employer referred to in subsection (a) is an employer—

(1) engaged in—

(A) the production, maintenance, or storage of arms, armament, ammunition, implements of war, munitions, machinery, tools, clothing, food, fuel, or any articles or supplies, or parts or ingredients of any articles or supplies; or

(B) the construction, reconstruction, repair, or installation of a building, plant, structure, or facility; and

(2) engaged in the activity described in paragraph (1) under—

(A) a contract with the Federal Government; or

(B) any contract that the President, the Secretary of the Army, the Secretary of the Air Force, the Secretary of the Navy, or the Secretary of the Department in which the Coast Guard is operating certifies to the employer to be necessary to the national defense.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3806; Pub. L. 116–283, div. A, title IX, §927(e), Jan. 1, 2021, 134 Stat. 3832.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6309(a)	41:49.	June 22, 1942, ch. 432, §1, 56 Stat. 375.
6309(b)	41:50.	June 22, 1942, ch. 432, §2, 56 Stat. 376; Pub. L. 97–31, §12(16), Aug. 6, 1981, 95 Stat. 154.

In subsection (a), the words ''Air Force'' are added because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). Section 207(a) and (f) was repealed by section 53 of the Act of August 10,

1956 (ch. 1041, 70A Stat. 676). Section 1 of the Act of August 10, 1956 (70A Stat. 1) enacted Title 10, ''Armed Forces'' and under subtitle D of title 10 the Department of the Air Force remained an independent administrative entity in the Department of Defense.

Subsection (b)(2)(B) is set out as a separate provision to clarify that the certification applies only to contracts other than contracts with the Federal Government. If the certification were to be construed as applying to all contracts, then the words ''under a contract with the United States or'' in section 2 of the Act of June 22, 1942, would be rendered meaningless.

In subsection (b)(2)(B), the words ''Secretary of the Army'' are substituted for ''Secretary of War'', and the words ''Secretary of the Air Force'' are added, because of sections 205(a) and 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 501, 502, 503). Sections 205(a) and 207(a) and (f) were repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676). Section 1 of the Act of August 10, 1956 (70A Stat. 1) enacted Title 10, ''Armed Forces'' and under sections 3010 to 3013 and 8010 to 8013 the Departments of the Army and Air Force remained under the administrative supervision of the Secretaries of the Army and Air Force, respectively. The words ''Secretary of the Department in which the Coast Guard is operating'' are substituted for ''Secretary of Transportation'' because of 6:468(b) and (h), 551(d), and 552(d), 14:1 and 3, and the Department of Homeland Security Reorganization Plan of November 25, 2002 (H. Doc. No. 108–16, 108th Cong., 1st Sess. (6 U.S.C. 542 note)).

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283 inserted ''Space Force,'' after ''Marine Corps,''.

§ 6310. Requirement for agencies to buy domestically made United States flags

(a) REQUIREMENT.—Except as provided in subsections (b) through (d), funds appropriated or otherwise available to an agency may not be used for the procurement of any flag of the United States, unless such flag has been 100 percent manufactured in the United States from articles, materials, or supplies that have been grown or 100 percent produced or manufactured in the United States.

(b) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the head of the agency concerned determines that satisfactory quality and sufficient quantity of a flag described in such subsection cannot be procured as and when needed at United States market prices.

(c) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

(1) Procurements by vessels in foreign waters.

(2) Procurements for resale purposes in any military commissary, military exchange, or nonappropriated fund instrumentality operated by an agency.

(3) Procurements for amounts less than the simplified acquisition threshold.

(d) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—The President may waive the requirement in subsection (a) if the President determines a waiver is necessary to comply with any trade agreement to which the United States is a party.

(2) NOTICE OF WAIVER.—Not later than 30 days after granting a waiver under paragraph (1), the President shall publish a notice of the waiver in the Federal Register.

(e) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given the term ''executive agency'' in section 102 of title 40.

(2) SIMPLIFIED ACQUISITION THRESHOLD.—The term ''simplified acquisition threshold'' has the meaning given that term in section 134.

(Added Pub. L. 118–74, § 2(a)(1), July 30, 2024, 138 Stat. 1505.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 118–74, § 2(b), July 30, 2024, 138 Stat. 1506, provided that: ''Section 6310 of title 41, United States Code, as added by subsection (a)(1), shall apply with respect to any contract entered into on or after the date that is 180 days after the date of the enactment of this Act [July 30, 2024].''

CHAPTER 65—CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING $10,000

Sec.
6501. Definitions.
6502. Required contract terms.
6503. Breach or violation of required contract terms.
6504. Three-year prohibition on new contracts in case of breach or violation.
6505. Exclusions.
6506. Administrative provisions.
6507. Hearing authority and procedures.
6508. Authority to make exceptions.
6509. Other procedures.
6510. Manufacturers and regular dealers.
6511. Effect on other law.

§ 6501. Definitions

In this chapter—

(1) AGENCY OF THE UNITED STATES.—The term ''agency of the United States'' means an executive department, independent establishment, or other agency or instrumentality of the United States, the District of Columbia, or a corporation in which all stock is beneficially owned by the Federal Government.

(2) PERSON.—The term ''person'' includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under title 11, or receivers.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3807.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
6501(1)	41:35 (matter before subsec. (a) related to definition of ''agency of the United States'').	June 30, 1936, ch. 881, § 1 (matter before subsec. (a) related to definition of ''agency of the United States''), 49 Stat. 2036; Pub. L. 103–355, title VII, § 7201(1), Oct. 13, 1994, 108 Stat. 3378.
6501(2)	41:41.	June 30, 1936, ch. 881, § 7, 49 Stat. 2039; Pub. L. 95–598, title III, § 326, Nov. 6, 1978, 92 Stat. 2679.
6501(3)	no source.	