In subsection (b)(2), the words ''to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States marshal of the district in which the public improvement is situated is authorized by law to serve summons'' are restated to reflect the probable intent of Congress. See H. Rept. 106–277, Part 1, 106th Cong., 1st Sess., pp. 4, 7.

In subsection (c), the words ''bring a civil action'' are substituted for ''sue'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–284, § 6(9), substituted ''To'' for ''to'' in heading.

Subsec. (c). Pub. L. 109–284, § 6(10), inserted heading.

§ 3134. Waivers for certain contracts

(a) MILITARY.—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) TRANSPORTATION.—The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31, subtitle V of title 46, or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1149; Pub. L. 109–304, § 17(g)(2), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3134(a)	40:270e.	Apr. 29, 1941, ch. 81, § 1, 55 Stat. 147; June 3, 1955, ch. 129, 69 Stat. 83.
3134(b)	40:270f.	Apr. 29, 1941, ch. 81, § 2, as added Pub. L. 91–469, § 39, Oct. 21, 1970, 84 Stat. 1036; Pub. L. 97–31, § 12(12), Aug. 6, 1981, 95 Stat. 154.

In subsection (a), the words ''Secretary of Transportation'' are substituted for ''Secretary of Commerce'' because of 49:108. The words ''the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of'' and ''of any kind or nature'' are omitted as unnecessary.

In subsection (b), the words ''of any kind or nature'' are omitted as unnecessary. The words ''sections 1535 and 1536 of title 31'' are substituted for ''the Act of June 30, 1932 (47 Stat. 382, 417–418), as amended [31 U.S.C. 686, 686b]'' because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067), the first section of which enacted Title 31, United States Code.

REFERENCES IN TEXT

The Merchant Ship Sales Act of 1946, referred to in subsec. (b), is act Mar. 8, 1946, ch. 82, 60 Stat. 41, as amended, which is classified to sections 1735 to 1746 of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1735 of Title 50, Appendix, and Tables.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–304 substituted ''subtitle V of title 46'' for ''the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

§ 3141. Definitions

In this subchapter, the following definitions apply:

(1) FEDERAL GOVERNMENT.—The term ''Federal Government'' has the same meaning that the term ''United States'' had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494) (known as the Davis-Bacon Act).

(2) WAGES, SCALE OF WAGES, WAGE RATES, MINIMUM WAGES, AND PREVAILING WAGES.—The terms ''wages'', ''scale of wages'', ''wage rates'', ''minimum wages'', and ''prevailing wages'' include—

(A) the basic hourly rate of pay; and

(B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1150; Pub. L. 109–284, § 6(11), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3141(1)	(no source).	
3141(2)	40:276a(b) (1st par. words before proviso).	Mar. 3, 1931, ch. 411, § 1(b) (1st par. words before proviso), as added Pub. L. 88–349, § 1, July 2, 1964, 78 Stat. 239.

Clause (1) is added for clarity.

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in par. (1), is act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which was classified generally to sections 276a to 276a–5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141–3144, 3146, and 3147 of this title by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2006—Par. (1). Pub. L. 109–284 substituted ''1494)'' for ''1494''.

§ 3142. Rate of wages for laborers and mechanics

(a) APPLICATION.—The advertised specifications for every contract in excess of $2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) BASED ON PREVAILING WAGE.—The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) STIPULATIONS REQUIRED IN CONTRACT.—Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

(1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) DISCHARGE OF OBLIGATION.—The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.

(e) OVERTIME PAY.—In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) of this title but not actually paid.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1150; Pub. L. 109–284, §6(12), (13), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3142(a), (b)	40:276a(a) (words before 1st semicolon).	Mar. 3, 1931, ch. 411, §1(a), 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1011; June 15, 1940, ch. 373, §1, 54 Stat. 399; Pub. L. 86–624, §26, July 12, 1960, 74 Stat. 418; Pub. L. 88–349, §1, July 2, 1964, 78 Stat. 238.
3142(c)	40:276a(a) (words after 1st semicolon).	
3142(d)	40:276a(b) (1st par. proviso).	Mar. 3, 1931, ch. 411, §1(b) (1st par. proviso, last par.), as added Pub. L. 88–349, §1, July 2, 1964, 78 Stat. 239.
3142(e)	40:276a(b) (last par.).	

In subsection (a), the words ''a State'' are substituted for ''the geographical limits of the States of the Union'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words ''city, town, village, or other'' are omitted as unnecessary.

In subsection (d), the words ''of a type'' are omitted as unnecessary. The words ''basic hourly rate of pay'' are substituted for ''rate of pay described in paragraph (1)'' for clarity.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–284, §6(12), inserted ''of this title'' after ''amount referred to in section 3141(2)(B)''.

Subsec. (e). Pub. L. 109–284, §6(13), inserted ''of this title'' after ''determined under section 3141(2)(B)''.

§ 3143. Termination of work on failure to pay agreed wages

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1151.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3143	40:276a–1.	Mar. 3, 1931, ch. 411, § 2, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012.

The words ''The Government may have the work completed'' are substituted for ''and to prosecute the work to completion . . . thereby'' for clarity.

§ 3144. Authority of Comptroller General to pay wages and list contractors violating contracts

(a) PAYMENT OF WAGES.—

(1) IN GENERAL.—The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) RIGHT OF ACTION.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) LIST OF CONTRACTORS VIOLATING CONTRACTS.—

(1) IN GENERAL.—The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.

(2) RESTRICTION ON AWARDING CONTRACTS.—No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3144(a)(1)	40:276a–2(a) (1st sentence words before semicolon).	Mar. 3, 1931, ch. 411, § 3, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012.
3144(a)(2)	40:276a–2(b).	
3144(b)	40:276a–2(a) (1st sentence words after semicolon, last sentence).	

In subsection (b), the words ''or firms'' are omitted as being included in ''persons''.

§ 3145. Regulations governing contractors and subcontractors

(a) IN GENERAL.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) APPLICATION.—Section 1001 of title 18 applies to the statements.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3145(a)	40:276c (1st sentence).	June 13, 1934, ch. 482, § 2, 48 Stat. 948; May 24, 1949, ch. 139, § 134, 63 Stat. 108; Pub. L. 85–800, § 12, Aug. 28, 1958, 72 Stat. 967.
3145(b)	40:276c (last sentence).	

§ 3146. Effect on other federal laws

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3146	40:276a–3.	Mar. 3, 1931, ch. 411, § 4, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012.

§ 3147. Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3147	40:276a–5.	Mar. 3, 1931, ch. 411, § 6, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1013.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of former 40 U.S.C. 276a–5, the date July 25, 1947, was to be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 3148. Application of this subchapter to certain contracts

This subchapter applies to a contract authorized by law that is made without regard to section 6101(b) to (d) of title 41, or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1153; Pub. L. 111–350, § 5(*l*)(14), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3148	40:276a–7.	Mar. 23, 1941, ch. 26 (last proviso in 5th complete par. on p. 53), 55 Stat. 53; Aug. 21, 1941, ch. 395 (last proviso in 14th par. on p. 664), 55 Stat. 664.

The words ''this subchapter'' are substituted for ''such Act'' to correct the reference as stated in 40:276a–7.

AMENDMENTS

2011—Pub. L. 111–350 substituted ''section 6101(b) to (d) of title 41'' for ''section 3709 of the Revised Statutes (41 U.S.C. 5)''.

SUBCHAPTER V—VOLUNTEER SERVICES

§ 3161. Purpose

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3161	40:276d.	Pub. L. 103–355, title VII, § 7302, Oct. 13, 1994, 108 Stat. 3382.

§ 3162. Waiver for individuals who perform volunteer services

(a) CRITERIA FOR RECEIVING WAIVER.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) does not apply to an individual—

(1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—

(A) for civic, charitable, or humanitarian reasons;

(B) only for the personal purpose or pleasure of the individual;

(C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and

(D) freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(b) PAYMENTS.—

(1) IN ACCORDANCE WITH REGULATIONS.—Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.

(2) CRITERIA AND CONTENT OF REGULATIONS.—In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;

(B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

(3) NOMINAL FEE.—The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—In determining whether an expense, benefit, or fee described in sub-