

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.)

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 Section 207(a) and (f) was repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676).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 Sections 205(a) and 207(a) and (f) were repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676).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)).

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

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§ 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.	

EX. ORD. NO. 13126. PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR

Ex. Ord. No. 13126, June 12, 1999, 64 F.R. 32383, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to continue the executive branch’s commitment to fighting abusive child labor practices, it is hereby ordered as follows:

SECTION. 1. Policy. It shall be the policy of the United States Government, consistent with the Tariff Act of 1930, 19 U.S.C. 1307, the Fair Labor Standards Act [of 1938], 29 U.S.C. 201 *et seq.*, and the Walsh-Healey Public Contracts Act [Walsh-Healey Act], [former] 41 U.S.C. 35 *et seq.* [see 41 U.S.C. 6501 *et seq.*], that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.

SEC. 2. Publication of List. Within 120 days after the date of this order, the Department of Labor, in consultation and cooperation with the Department of the Treasury and the Department of State, shall publish in the Federal Register a list of products, identified by their country of origin, that those Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. The Department of Labor may conduct hearings to assist in the identification of those products.

SEC. 3. Procurement Regulations. Within 120 days after the date of this order, the Federal Acquisition Regulatory Council shall issue proposed rules to implement the following:

(a) *Required Solicitation Provisions.* Each solicitation of offers for a contract for the procurement of a product included on the list published under section 2 of this order shall include the following provisions:

(1) A provision that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor; and

(2) A provision that obligates the contractor to cooperate fully in providing reasonable access to the contractor’s records, documents, persons, or premises if reasonably requested by authorized officials of the con-

tracting agency, the Department of the Treasury, or the Department of Justice, for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract.

(b) *Investigations.* Whenever a contracting officer of an executive agency has reason to believe that forced or indentured child labor was used to mine, produce, or manufacture a product furnished pursuant to a contract subject to the requirements of subsection 3(a) of this order, the head of the executive agency shall refer the matter for investigation to the Inspector General of the executive agency and, as the head of the executive agency or the Inspector General determines appropriate, to the Attorney General and the Secretary of the Treasury.

(c) *Remedies.*

(1) The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor:

(i) Has furnished under the contract products that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in the mining, production, or manufacturing operations of the contractor;

(ii) Has submitted a false certification under subsection 3(a)(1) of this order; or

(iii) Has failed to cooperate in accordance with the obligation imposed pursuant to subsection 3(a)(2) of this order.

(2) The head of an executive agency, in his or her sole discretion, may terminate a contract on the basis of any finding described in subsection 3(c)(1) of this order for any contract entered into after the date the regulation called for in section 3 of this order is published in final.

(3) The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in subsection 3(c)(1) of this order. The provision for debarment may not exceed 3 years.

(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each party that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an agency on the basis that the person has engaged in an act described in subsection 3(c)(1) of this order.

(5) This section shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in subsection 3(c)(1) of this order.

SEC. 4. Report. Within 2 years after implementation of any final rule under this order, the Administrator of General Services, with the assistance of other executive agencies, shall submit to the Office of Management and Budget a report on the actions taken pursuant to this order.

SEC. 5. Scope. (a) Any proposed rules issued pursuant to section 3 of this order shall apply only to acquisitions for a total amount in excess of the micro-purchase threshold as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)).

(b) This order does not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product that is mined, produced, or manufactured in any foreign country if:

(1) the foreign country is a party to the Agreement on Government Procurement annexed to the WTO Agreement or a party to the North American Free Trade Agreement (“NAFTA”); and

(2) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or NAFTA, whichever is applicable.

SEC. 6. Definitions. (a) “Executive agency” and “agency” have the meaning given to “executive agency” in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(b) “WTO Agreement” means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(c) “Forced or indentured child labor” means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

SEC. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch and does not create any rights or benefits, substantive or procedural, enforceable by law by a party against the United States, its agencies, its officers, or any other person.

WILLIAM J. CLINTON.

§ 6502. Required contract terms

A contract made by an agency of the United States for the manufacture or furnishing of materials, supplies, articles, or equipment, in an amount exceeding \$10,000, shall include the following representations and stipulations:

(1) **MINIMUM WAGES TO BE PAID.**—All individuals employed by the contractor in the manufacture or furnishing of materials, supplies, articles, or equipment under the contract will be paid, without subsequent deduction or rebate on any account, not less than the prevailing minimum wages, as determined by the Secretary, for individuals employed in similar work or in the particular or similar industries or groups of industries currently operating in the locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under the contract, except that this paragraph applies only to purchases or contracts relating to industries that have been the subject matter of a determination by the Secretary.

(2) **MAXIMUM NUMBER OF HOURS TO BE WORKED IN A WEEK.**—No individual employed by the contractor in the manufacture or furnishing of materials, supplies, articles, or equipment under the contract shall be permitted to work in excess of 40 hours in any one week, except that this paragraph does not apply to an employer who has entered into an agreement with employees pursuant to paragraph (1) or (2) of section 7(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(b)(1) or (2)).

(3) **INELIGIBLE EMPLOYEES.**—No individual under 16 years of age and no incarcerated individual will be employed by the contractor in the manufacture or furnishing of materials, supplies, articles, or equipment under the contract, except that this section, or other law or executive order containing similar prohibitions against the purchase of goods by the Federal Government, does not apply to convict labor that satisfies the conditions of section 1761(c) of title 18.

(4) **STANDARDS OF PLACES AND WORKING CONDITIONS WHERE CONTRACT PERFORMED.**—No part of the contract will be performed, and no materials, supplies, articles, or equipment will be manufactured or fabricated under the con-

tract, in plants, factories, buildings, or surroundings, or under working conditions, that are unsanitary, hazardous, or dangerous to the health and safety of employees engaged in the performance of the contract. Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part of the work is to be performed is prima facie evidence of compliance with this paragraph.

(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)
6502 (matter before par. (1)).	41:35 (matter before subsec. (a) less words related to definition of "agency of the United States").	June 30, 1936, ch. 881, §1 (matter before subsec. (a) less words related to definition of "agency of the United States"), (a), 49 Stat. 2036; Pub. L. 103-355, title VII, §7201(1), Oct. 13, 1994, 108 Stat. 3378.
6502(1)	41:35(a). 41:45.	June 30, 1936, ch. 881, §13, formerly §11, 49 Stat. 2039; renumbered §12, June 30, 1952, ch. 530, title III, §301, 66 Stat. 308; renumbered §13, Pub. L. 104-106, div. D, title XLIII, §4321(f)(1)(B), Feb. 10, 1996, 110 Stat. 675.
6502(2)-(4) ...	41:35(b)-(d).	June 30, 1936, ch. 881, §1(b)-(d), 49 Stat. 2036; May 13, 1942, ch. 306, 56 Stat. 277; Pub. L. 90-351, title I, §819(b), formerly §827(b), as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1215 and renumbered §819(b), Pub. L. 98-473, title II, §609B(f), Oct. 12, 1984, 98 Stat. 2093; Pub. L. 99-145, title XII, §1241(b), Nov. 8, 1985, 99 Stat. 734; Pub. L. 103-355, title VII, §7201(1), Oct. 13, 1994, 108 Stat. 3378.

In the matter before paragraph (1), the words "and entered into" are omitted as unnecessary.

In paragraph (1), the words "under the contract" are substituted for "used in the performance of the contract" in 41:35(a) to eliminate unnecessary words and for consistency in the chapter. The words "Sections 35 to 45 of this title shall apply to all contracts entered into pursuant to invitations for bids issued on or after ninety days from June 30, 1936" in 41:45 are omitted as obsolete.

In paragraph (2), the words "under the contract" are substituted for "used in the performance of the contract" to eliminate unnecessary words and for consistency in the chapter.

In paragraph (3), the words "No individual under 16 years of age" are substituted for "no male person under sixteen years of age and no female person under eighteen years of age" to reflect the interpretation of this provision subsequent to enactment of civil rights laws such as section 703 of the Civil Rights Act of 1964 (42:2000e-2), as carried out by the Department of Labor through 41 C.F.R. Part 50-201.104. The words "incarcerated individual" are substituted for "convict labor" the first time the words appear because the term "convict labor" is ambiguous and may be interpreted to include individuals who are not incarcerated. This would be an inappropriate interpretation because 41:35(c) provides an exception for "convict labor" that satisfies the conditions of 18:1761(c) regarding certain non-Federal prison work projects. The words "or production" are omitted for consistency with the source provisions for paragraphs (1) and (2) and because, in this context, the concept of "production" is included in the words "manufacture or furnishing". The words "under the contract" are substituted for "included in such contract" for consistency in the chapter.

§ 6503. Breach or violation of required contract terms

(a) APPLICABLE BREACH OR VIOLATION.—This section applies in case of breach or violation of a representation or stipulation included in a contract under section 6502 of this title.

(b) LIQUIDATED DAMAGES.—In addition to damages for any other breach of the contract, the party responsible for a breach or violation described in subsection (a) is liable to the Federal Government for the following liquidated damages:

(1) An amount equal to the sum of \$10 per day for each individual under 16 years of age and each incarcerated individual knowingly employed in the performance of the contract.

(2) An amount equal to the sum of each underpayment of wages due an employee engaged in the performance of the contract, including any underpayments arising from deductions, rebates, or refunds.

(c) CANCELLATION AND ALTERNATIVE COMPLETION.—In addition to the Federal Government being entitled to damages described in subsection (b), the agency of the United States that made the contract may cancel the contract and make open-market purchases or make other contracts for the completion of the original contract, charging any additional cost to the original contractor.

(d) RECOVERY OF AMOUNTS DUE.—An amount due the Federal Government because of a breach or violation described in subsection (a) may be withheld from any amounts owed the contractor under any contract under section 6502 of this title or may be recovered in a suit brought by the Attorney General.

(e) EMPLOYEE REIMBURSEMENT FOR UNDERPAYMENT OF WAGES.—An amount withheld or recovered under subsection (d) that is based on an underpayment of wages as described in subsection (b)(2) shall be held in a special deposit account. On order of the Secretary, the amount shall be paid directly to the underpaid employee on whose account the amount was withheld or recovered. However, an employee's claim for payment under this subsection may be entertained only if made within one year from the date of actual notice to the contractor of the withholding or recovery.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3808.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6503	41:36.	June 30, 1936, ch. 881, §2, 49 Stat. 2037.

In subsection (b)(1), the words "individual under 16 years of age" are substituted for "male person under sixteen years of age or each female person under eighteen years of age" to reflect the interpretation of this provision subsequent to enactment of civil rights laws such as section 703 of the Civil Rights Act of 1964 (42:2000e-2), as carried out by the Department of Labor through 41 C.F.R. Part 50-201.104. The words "incarcerated individual" are substituted for "convict laborer" because of the exception to convict labor that satisfies the conditions of 18:1761(c). Section 1761 does not apply to non-incarcerated convicts.

Subsection (b)(2) is substituted for "a sum equal to the amount of any deductions, rebates, refunds, or

underpayment of wages due to any employee engaged in the performance of such contract” for consistency in the chapter.

In subsection (c), the words “made the contract” and “make other contracts” are substituted for “entering into such contract” and “enter into other contracts”, respectively, for consistency in the revised title.

In subsection (d), the words “suit brought by the Attorney General” are substituted for “suits brought in the name of the United States of America by the Attorney General thereof” to eliminate unnecessary words.

§ 6504. Three-year prohibition on new contracts in case of breach or violation

(a) DISTRIBUTION OF LIST.—The Comptroller General shall distribute to each agency of the United States a list containing the names of persons found by the Secretary to have breached or violated a representation or stipulation included in a contract under section 6502 of this title.

(b) THREE-YEAR PROHIBITION.—Unless the Secretary recommends otherwise, a contract described in section 6502 of this title may not be awarded to a person named on the list under subsection (a), or to a firm, corporation, partnership, or association in which the person has a controlling interest, until 3 years have elapsed from the date of the determination by the Secretary that a breach or violation occurred.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3808.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6504	41:37.	June 30, 1936, ch. 881, §3, 49 Stat. 2037.

In this section, the words “or firms” are omitted because of the definition of “person” in 41:41, restated in section 6501 of the revised title.

In subsection (a), the words “or violated” are added for consistency in the chapter.

In subsection (b), the words “contract described in section 6502 of this title” are substituted for “contracts” to clarify the scope of the prohibition. The words “the date of the determination by the Secretary that a breach or violation occurred” are substituted for “the date the Secretary of Labor determines such breach to have occurred” to clarify that the three-year period begins with the date of the Secretary’s determination and not with the date of the breach or violation. The words “or violation” are added for consistency in the chapter.

§ 6505. Exclusions

(a) ITEMS AVAILABLE IN THE OPEN MARKET.—This chapter does not apply to the purchase of materials, supplies, articles, or equipment that may usually be bought in the open market.

(b) PERISHABLES AND AGRICULTURAL PRODUCTS.—This chapter does not apply to any of the following:

- (1) Perishables, including dairy, livestock and nursery products.
- (2) Agricultural or farm products processed for first sale by the original producers.
- (3) Contracts made by the Secretary of Agriculture for the purchase of agricultural commodities or products of agricultural commodities.

(c) CARRIAGE OF FREIGHT OR PERSONNEL.—This chapter may not be construed to apply to—

(1) the carriage of freight or personnel by vessel, airplane, bus, truck, express, or railway line where published tariff rates are in effect; or

(2) common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3809.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6505	41:43.	June 30, 1936, ch. 881, §9, 49 Stat. 2039.

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (c)(2), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

§ 6506. Administrative provisions

(a) IN GENERAL.—The Secretary shall administer this chapter.

(b) REGULATIONS.—The Secretary may make, amend, and rescind regulations as necessary to carry out this chapter.

(c) USE OF GOVERNMENT OFFICERS AND EMPLOYEES.—The Secretary shall use Federal officers and employees and, with a State’s consent, State and local officers and employees as the Secretary finds necessary to assist in the administration of this chapter.

(d) APPOINTMENTS.—The Secretary shall appoint an administrative officer and attorneys, experts, and other employees from time to time as the Secretary finds necessary for the administration of this chapter. The appointments are subject to chapter 51 and subchapter III of chapter 53 of title 5 and other law applicable to the employment and compensation of officers and employees of the Federal Government.

(e) INVESTIGATIONS.—The Secretary, or an authorized representative of the Secretary, may make investigations and findings as provided in this chapter and may, in any part of the United States, prosecute an inquiry necessary to carry out this chapter.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3809.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6506	41:38.	June 30, 1936, ch. 881, §4, 49 Stat. 2038.

In subsection (b), the word “rules” is omitted as included in “regulations”.

In subsection (c), the words “and to prescribe rules and regulations with respect thereto” are omitted as unnecessary because of subsection (b).

In subsection (d), the words “without regard to the provisions of the civil-service laws”, which appear in section 4 of the Walsh-Healey Act (June 30, 1936, ch. 881, 49 Stat. 2038), are omitted as obsolete because of Executive Order 8743, April 23, 1941 (5 U.S.C. 3301 note), issued by the President pursuant to the Act of November 26, 1940, ch. 919, title I, §1, 54 Stat. 1211. The words “the Classification Act of 1923”, which appear in section 4 of the Walsh-Healey Act (June 30, 1936, ch. 881, 49 Stat. 2038), are considered to be a reference to the Classifica-

tion Act of 1949 because of section 1106(a) of the Classification Act of 1949 (Oct. 28, 1949, ch. 782, 63 Stat. 972). The words “chapter 51 and subchapter III of chapter 53 of title 5” are substituted for the reference to the Classification Act of 1949 because of section 7(b) of Public Law 89-554 (5 U.S.C. note prec. 101).

§ 6507. Hearing authority and procedures

(a) RECORD AND HEARING REQUIREMENTS FOR WAGE DETERMINATIONS.—A wage determination under section 6502(1) of this title shall be made on the record after opportunity for a hearing.

(b) AUTHORITY TO HOLD HEARINGS.—The Secretary or an impartial representative designated by the Secretary may hold hearings when there is a complaint of breach or violation of a representation or stipulation included in a contract under section 6502 of this title. The Secretary may initiate hearings on the Secretary’s own motion or on the application of a person affected by the ruling of an agency of the United States relating to a proposal or contract under this chapter.

(c) ORDERS TO COMPEL TESTIMONY.—The Secretary or an impartial representative designated by the Secretary may issue orders requiring witnesses to attend hearings held under this section and to produce evidence and testify under oath. Witnesses shall be paid fees and mileage at the same rates as witnesses in courts of the United States.

(d) ENFORCEMENT OF ORDERS.—If a person refuses or fails to obey an order issued under subsection (c), the Secretary or an impartial representative designated by the Secretary may bring an action to enforce the order in a district court of the United States or in the district court of a territory or possession of the United States. A court has jurisdiction to enforce the order if the inquiry is being carried out within the court’s judicial district or if the person is found or resides or transacts business within the court’s judicial district. The court may issue an order requiring the person to obey the order issued under subsection (c), and the court may punish any further refusal or failure as contempt of court.

(e) FINDINGS OF FACT.—After notice and a hearing, the Secretary or an impartial representative designated by the Secretary shall make findings of fact. The findings are conclusive for agencies of the United States. If supported by a preponderance of the evidence, the findings are conclusive in any court of the United States.

(f) DECISIONS.—The Secretary or an impartial representative designated by the Secretary may make decisions, based on findings of fact, that are considered necessary to enforce this chapter. (Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3809.)

In subsection (d), the word “contumacy” is omitted as included in “refuses or fails”. The words “may bring an action to enforce the order” are substituted for “upon the application by” for consistency in the revised title and with other titles of the United States Code. The words “the United States District Court for the District of Columbia” in section 5 of the Act of June 30, 1936 (which were substituted for “the Supreme Court of the District of Columbia” by section 32(b) of the Act of June 25, 1948 (ch. 646, 62 Stat. 991), as amended by section 127 of the Act of May 24, 1949 (ch. 139, 63 Stat. 107), and which were editorially omitted from 41:39) are omitted as included in “a district court of the United States” because of sections 88 and 132(a) of title 28, United States Code. The words “within the court’s judicial district” are substituted for “within the jurisdiction of which” for clarity and for consistency in the revised title and with other titles of the United States Code. The words “requiring the person to obey the order issued under subsection (c)” are substituted for “requiring such person to appear before him or representative designated by him, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question” for clarity and to eliminate unnecessary words.

In subsection (e), the duty to make findings of fact is restated as a duty of the Secretary (or the Secretary’s representative). The grammatical structure of the last sentence of 41:39 seems to suggest that the court, rather than the Secretary (or the Secretary’s representative), serves as fact finder. However, the provision taken as a whole indicates that it is the Secretary (or the Secretary’s representative) who serves as fact finder. It is the Secretary (or the Secretary’s representative) before whom hearings are held, witnesses testify, and evidence is produced. The court’s involvement is limited to compelling recalcitrant witnesses “to appear before him [the Secretary] or representative designated by him”. The restatement clarifies the generally accepted understanding that the Secretary (or the Secretary’s representative) serves as fact finder (see, e.g., *United States v. Sweet Briar*, 92 F. Supp. 777, 780 (W.D.S.C. 1950) (“the Secretary ‘shall make findings of fact’”); *Ready-Mix Concrete Company v. United States*, 158 F. Supp. 571, 578 (Cl. Ct. 1958) (“the findings of the Department of Labor”)).

§ 6508. Authority to make exceptions

(a) DUTY OF THE SECRETARY TO MAKE EXCEPTIONS.—When the head of an agency of the United States makes a written finding that the inclusion of representations or stipulations under section 6502 of this title in a proposal or contract will seriously impair the conduct of Federal Government business, the Secretary shall make exceptions, in specific cases or otherwise, when justice or the public interest will be served.

(b) AUTHORITY OF THE SECRETARY TO MODIFY EXISTING CONTRACTS.—When an agency of the United States and a contractor jointly recommend, the Secretary may modify the terms of an existing contract with respect to minimum wages and maximum hours of labor as the Secretary finds necessary and proper in the public interest or to prevent injustice and undue hardship.

(c) AUTHORITY OF THE SECRETARY TO ALLOW LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS.—The Secretary may provide reasonable limitations and may prescribe regulations to allow reasonable variations, tolerances, and exemptions in the application of this chapter to contractors, including with respect to minimum wages and maximum hours of labor.

(d) RATE OF PAY FOR OVERTIME.—When the Secretary permits an increase in the maximum

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6507(a)	41:43a(b) (1st sentence).	June 30, 1936, ch. 881, § 10(b) (1st sentence), as added June 30, 1952, ch. 530, title III, § 301, 66 Stat. 308; Pub. L. 104-106, div. D, title XLIII, § 4321(f)(2), Feb. 10, 1996, 110 Stat. 675.
6507(b)-(f) ..	41:39.	June 30, 1936, ch. 881, § 5, 49 Stat. 2038.

hours of labor stipulated in a contract, the Secretary shall set a rate of pay for overtime. The overtime rate must be at least one and one-half times the basic hourly rate.

(e) **AUTHORITY OF THE PRESIDENT TO SUSPEND.**—The President may suspend any of the representations and stipulations contained in section 6502 of this title whenever, in the President’s judgment, suspension is in the public interest.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3810.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6508(a)	41:40 (1st sentence).	June 30, 1936, ch. 881, §6, 49 Stat. 2038; June 28, 1940, ch. 440, title 1, §13, 54 Stat. 681.
6508(b)	41:40 (2d sentence).	
6508(c)	41:40 (3d sentence).	
6508(d)	41:40 (last sentence less proviso).	
6508(e)	41:40 (last sentence proviso).	

In subsection (a), the words “an agency of the United States” are substituted for “the contracting agency or department” for consistency in the chapter. Commas are inserted after “exceptions” and “otherwise” to clarify that the words “when justice or the public interest will be served” apply to exceptions in “specific cases” as well as “otherwise”. The word “thereby” is omitted as unnecessary.

In subsection (b), the words “an agency of the United States” are substituted for “the contracting agency”, and the words “minimum wages” are substituted for “minimum rates of pay”, for consistency in the chapter.

In subsection (c), the word “rules” is omitted as included in “regulations”. The words “as hereinbefore described” are omitted as unnecessary. The words “minimum wages” are substituted for “minimum rates of pay” for consistency in the chapter.

In subsection (d), the words “received by any employee affected” are omitted as unnecessary.

In subsection (e), the words “or all” are omitted as unnecessary.

§ 6509. Other procedures

(a) **APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.**—Notwithstanding section 553 of title 5, subchapter II of chapter 5 and chapter 7 of title 5 are applicable in the administration of sections 6501 to 6507 and 6511 of this title.

(b) **JUDICIAL REVIEW IN GENERAL.**—Notwithstanding the inclusion of representations and stipulations in a contract under section 6502 of this title, an interested person has the right of judicial review of any legal question which might otherwise be raised, including wage determinations and the interpretation of the terms “locality” and “open market”.

(c) **JUDICIAL REVIEW OF WAGE DETERMINATIONS.**—A person adversely affected or aggrieved by a wage determination under section 6502(1) of this title has the right of judicial review of the determination, or of the applicability of the determination, within 90 days after the determination is made, in the manner provided by chapter 7 of title 5. A person adversely affected or aggrieved by a wage determination is deemed to include a person in an industry to which the determination applies that is a supplier of materials, supplies, articles, or equipment that are purchased or intended to be purchased by the Federal Government from any source.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3810.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6509(a)	41:43a(a).	June 30, 1936, ch. 881, §10(a), (b) (last sentence), (c), as added June 30, 1952, ch. 530, title III, §301, 66 Stat. 308; Pub. L. 103–355, title VII, §7201(2), (3), Oct. 13, 1994, 108 Stat. 3378.
6509(b)	41:43a(c).	
6509(c)	41:43a(b) (last sentence).	

Subsection (a) is substituted for “Notwithstanding any provision of section 4 of the Administrative Procedure Act, such Act shall be applicable in the administration of sections 1 to 5 and 7 to 9 of this Act” in section 10 of the Act of June 30, 1936 (ch. 881), for consistency in the revised title and because of section 7(b) of Public Law 89–554 (5 U.S.C. note prec. 101).

In subsection (c), the words “has the right of judicial review” are substituted for “Review . . . may be had” for consistency with subsection (b) and with section 6510(b) of the revised title and because the review provided for in chapter 7 of title 5 is denominated as judicial review. The words “chapter 7 of title 5” are substituted for “section 10 of the Administrative Procedure Act” on authority of section 7(b) of Public Law 89–554 (5 U.S.C. note prec. 101).

§ 6510. Manufacturers and regular dealers

(a) **PRESCRIBING STANDARDS.**—The Secretary may prescribe, in regulations, standards for determining whether a contractor is a manufacturer or regular dealer with respect to materials, supplies, articles, or equipment to be manufactured or furnished under, or used in the performance of, a contract entered into by an agency of the United States.

(b) **JUDICIAL REVIEW.**—An interested person has the right of judicial review of any legal question relating to interpretation of the terms “regular dealer” and “manufacturer” as defined pursuant to subsection (a).

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3811.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6510	41:43b.	June 30, 1936, ch. 881, §11, as added Pub. L. 103–355, title VII, §7201(4), Oct. 13, 1994, 108 Stat. 3378; Pub. L. 104–106, div. D, title XLIII, §4321(f)(1)(A), Feb. 10, 1996, 110 Stat. 675.

In subsection (a), the words “an agency of the United States” are substituted for “any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States” because of the definition in section 6501 of the revised title.

§ 6511. Effect on other law

This chapter may not be construed to modify or amend the following provisions:

- (1) Chapter 83 of this title.
- (2) Sections 3141 to 3144, 3146, and 3147 of title 40.
- (3) Chapter 307 of title 18.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3811.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6511	41:42.	June 30, 1936, ch. 881, § 8, 49 Stat. 2039.

Paragraph (1) is substituted for “Title III of the act entitled ‘An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes’, approved May 3, 1933 (commonly known as the Buy American Act)” for consistency in the revised title and to correct an error in the source, which incorrectly gives May 3, 1933, rather than March 3, 1933, as the date of approval.

Paragraph (2) is substituted for “the Act entitled ‘An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes’, approved March 3, 1931 (commonly known as the Bacon-Davis Act), as amended from time to time” because of section 5(c) of Public Law 107-217 (40 U.S.C. note prec. 101) and for consistency with title 40.

The words “the labor provisions of Title II of the National Industrial Recovery Act, approved June 16, 1933, as extended” are omitted as obsolete because of section 201 of the Act of June 21, 1938 (ch. 554, 52 Stat. 816), as amended by the Acts of June 27, 1940 (ch. 437, 54 Stat. 633), April 5, 1941 (ch. 40, 55 Stat. 110), and June 27, 1942 (ch. 450, 56 Stat. 410).

The words “or [the labor provisions] of section 7 of the Emergency Relief Appropriation Act, approved April 8, 1935” are omitted as obsolete. The intended reference was probably to section 7 of the Emergency Relief Appropriation Act of 1935 (49 Stat. 118). Section 7 of the Emergency Relief Appropriation Act of 1935 provided that the President shall require certain rates of pay for persons engaged in carrying out projects that were financed by amounts being appropriated in that Act.

Paragraph (3) is substituted for “the Act entitled ‘An Act to provide for the diversification of employment of Federal prisoners, for their training and schooling in trades and occupations, and for other purposes’, approved May 27, 1930, as amended and supplemented by the Act approved June 23, 1934” for consistency with title 18. The Act of May 27, 1930 (ch. 340, 46 Stat. 391) and the Act of June 23, 1934 (ch. 736, 48 Stat. 1211), which were classified to sections 744a to 744n of former title 18, were substantially repealed and were replaced by chapter 307 and section 4162 of title 18 in the codification of title 18 by the Act of June 25, 1948 (ch. 645, 62 Stat. 683). Subsequently, section 4162 of title 18 was repealed by section 218(a)(4) of Public Law 98-473 (98 Stat. 2027).

CHAPTER 67—SERVICE CONTRACT LABOR STANDARDS

Sec.	
6701.	Definitions.
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§ 6701. Definitions

In this chapter:

(1) **COMPENSATION.**—The term “compensation” means any of the payments or fringe benefits described in section 6703 of this title.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(3) **SERVICE EMPLOYEE.**—The term “service employee”—

(A) means an individual engaged in the performance of a contract made by the Federal Government and not exempted under section 6702(b) of this title, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States;

(B) includes an individual without regard to any contractual relationship alleged to exist between the individual and a contractor or subcontractor; but

(C) does not include an individual employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations.

(4) **UNITED STATES.**—The term “United States”—

(A) includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. §1331 et seq.), American Samoa, Guam, Wake Island, and Johnston Island; but

(B) does not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3811.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6701	41:357.	Pub. L. 89-286, § 8, Oct. 22, 1965, 79 Stat. 1036; Pub. L. 93-57, § 1, July 6, 1973, 87 Stat. 140; Pub. L. 94-489, § 3, Oct. 13, 1976, 90 Stat. 2358.

In paragraph (3), the word “individual” is substituted for “person” because of the definition of “person” in 1:1. The words “contract made by the Federal Government” are substituted for “contract entered into by the United States” for consistency in the revised title. The words “as of July 30, 1976, and any subsequent revision of those regulations” are omitted as obsolete.

In paragraph (4)(A), the words “the outer Continental Shelf” are substituted for “Outer Continental Shelf lands” for consistency with the definition in 43:1331 and for consistency with the more common usage generally found in subchapter III of chapter 29 of title 43. The words “Eniwetok Atoll, Kwajalein Atoll” are omitted because they are part of the Marshall Islands and therefore no longer part of the United States. The words “Canton Island” are omitted because it is part of Kiribati and therefore no longer part of the United States.

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in par. (4)(A), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

§ 6702. Contracts to which this chapter applies

(a) **IN GENERAL.**—Except as provided in subsection (b), this chapter applies to any contract or bid specification for a contract, whether negotiated or advertised, that—

(1) is made by the Federal Government or the District of Columbia;