

### § 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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 Section 205(a) was repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676).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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 Gov-

ernment 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 non-withholding 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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.

#### 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