

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3838.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 8505 | 41:48a. | June 25, 1938, ch. 697, §4, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 81. |

In this section, before paragraph (1), the words “or any of his duly authorized representatives” are omitted because of 31:711(2). In paragraph (1), the words “central nonprofit” are added for clarity.

§ 8506. Authorization of appropriations

Necessary amounts may be appropriated to the Committee to carry out this chapter.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3838.)

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|-----------------|--------------------|---|
| 8506 | 41:48c. | June 25, 1938, ch. 697, §6, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 82; Pub. L. 93-76, July 30, 1973, 87 Stat. 176; Pub. L. 93-358, §1(4), July 25, 1974, 88 Stat. 393. |

The reference to the fiscal year ending June 30, 1974 is omitted as obsolete.

CHAPTER 87—KICKBACKS

Sec.

- 8701. Definitions.
- 8702. Prohibited conduct.
- 8703. Contractor responsibilities.
- 8704. Inspection authority.
- 8705. Administrative offsets.
- 8706. Civil actions.
- 8707. Criminal penalties.

§ 8701. Definitions

In this chapter:

(1) CONTRACTING AGENCY.—The term “contracting agency”, when used with respect to a prime contractor, means a department, agency, or establishment of the Federal Government that enters into a prime contract with a prime contractor.

(2) KICKBACK.—The term “kickback” means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided to a prime contractor, prime contractor employee, subcontractor, or subcontractor employee to improperly obtain or reward favorable treatment in connection with a prime contract or a subcontract relating to a prime contract.

(3) PERSON.—The term “person” means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

(4) PRIME CONTRACT.—The term “prime contract” means a contract or contractual action entered into by the Federal Government to obtain supplies, materials, equipment, or services of any kind.

(5) PRIME CONTRACTOR.—The term “prime contractor” means a person that has entered into a prime contract with the Federal Government.

(6) PRIME CONTRACTOR EMPLOYEE.—The term “prime contractor employee” means an officer, partner, employee, or agent of a prime contractor.

(7) SUBCONTRACT.—The term “subcontract” means a contract or contractual action entered into by a prime contractor or subcontractor to obtain supplies, materials, equipment, or services of any kind under a prime contract.

(8) SUBCONTRACTOR.—The term “subcontractor”—

(A) means a person, other than the prime contractor, that offers to furnish or furnishes supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with the prime contract; and

(B) includes a person that offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

(9) SUBCONTRACTOR EMPLOYEE.—The term “subcontractor employee” means an officer, partner, employee, or agent of a subcontractor.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3838.)

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| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 8701 | 41:52. | Mar. 8, 1946, ch. 80, §2, 60 Stat. 37; Pub. L. 86-695, Sept. 2, 1960, 74 Stat. 740; Pub. L. 99-634, §2(a), Nov. 7, 1986, 100 Stat. 3523. |

In this section, the text of 41:52(3) is omitted because of the definition of “person” in 1:1.

In paragraph (2), the words “directly or indirectly” are omitted as unnecessary.

SENATE REVISION AMENDMENT

Senate amendment 4726 (111th Cong.) added par. (3) and redesignated former pars. (3) to (8) as (4) to (9), respectively. See 156 Cong. Rec. 18683 (2010).

§ 8702. Prohibited conduct

A person may not—

(1) provide, attempt to provide, or offer to provide a kickback;

(2) solicit, accept, or attempt to accept a kickback; or

(3) include the amount of a kickback prohibited by paragraph (1) or (2) in the contract price—

(A) a subcontractor charges a prime contractor or a higher tier subcontractor; or

(B) a prime contractor charges the Federal Government.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3839.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 8702 | 41:53. | Mar. 8, 1946, ch. 80, §3, 60 Stat. 37; Pub. L. 86-695, Sept. 2, 1960, 74 Stat. 740; Pub. L. 99-634, §2(a), Nov. 7, 1986, 100 Stat. 3524. |

In paragraph (3), before subparagraph (A), the words “directly or indirectly” are omitted as unnecessary.