

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1934 (ch. 736, 48 Stat. 1211), which were classified to sections 744a to 744n of former title 18, were substantially repealed and were replaced by chapter 307 and section 4162 of title 18 in the codification of title 18 by the Act of June 25, 1948 (ch. 645, 62 Stat. 683). Subsequently, section 4162 of title 18 was repealed by section 218(a)(4) of Public Law 98-473 (98 Stat. 2027).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

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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 1301 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;

(2) involves an amount exceeding \$2,500; and

(3) has as its principal purpose the furnishing of services in the United States through the use of service employees.

(b) **EXEMPTIONS.**—This chapter does not apply to—

(1) a contract of the Federal Government or the District of Columbia for the construction, alteration, or repair, including painting and decorating, of public buildings or public works;

(2) any work required to be done in accordance with chapter 65 of this title;

(3) a contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect;

(4) a contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.);

(5) a contract for public utility services, including electric light and power, water, steam, and gas;

(6) an employment contract providing for direct services to a Federal agency by an individual; and

(7) a contract with the United States Postal Service, the principal purpose of which is the operation of postal contract stations.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3812.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6702(a) .....	41:351(a) (words before par. (1) related to applicability).	Pub. L. 89-286, §2(a) (words before par. (1) related to applicability), Oct. 22, 1965, 79 Stat. 1034; Pub. L. 94-489, §1(a), Oct. 13, 1976, 90 Stat. 2358.
6702(b) .....	41:356.	Pub. L. 89-286, §7, Oct. 22, 1965, 79 Stat. 1035.

In subsection (b)(2), the words “the Walsh-Healey Public Contracts Act (49 Stat. 2036)”, which appear in section 7(2) of Public Law 89-286 (79 Stat. 1036), are treated as a reference to the Act of June 30, 1936 (ch. 881, 49 Stat. 2036), which was known as the Walsh-Healey Act and which was subsequently designated as the Walsh-Healey Act by section 12 of the Act of June 30, 1936, which was added by section 10005(f)(5) of Public Law 103-355 (108 Stat. 3409).

In subsection (b)(7), the words “United States Postal Service” are substituted for “Post Office Department” because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91-375, 84 Stat. 773, 783, 39 U.S.C. note prec. 101, 201 note).

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (b)(4), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telecommunications. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

§ 6703. Required contract terms

A contract, and bid specification for a contract, to which this chapter applies under section 6702 of this title shall contain the following terms:

(1) MINIMUM WAGE.—The contract and bid specification shall contain a provision specifying the minimum wage to be paid to each class of service employee engaged in the performance of the contract or any subcontract, as determined by the Secretary or the Secretary’s authorized representative, in accordance with prevailing rates in the locality, or, where a collective-bargaining agreement covers the service employees, in accordance with the rates provided for in the agreement, including prospective wage increases provided for in the agreement as a result of arm’s length negotiations. In any case the minimum wage may not be less than the minimum wage specified in section 6704 of this title.

(2) FRINGE BENEFITS.—The contract and bid specification shall contain a provision specifying the fringe benefits to be provided to each class of service employee engaged in the performance of the contract or any subcontract, as determined by the Secretary or the Secretary’s authorized representative to be prevailing in the locality, or, where a collective-bargaining agreement covers the service employees, to be provided for under the agreement, including prospective fringe benefit increases provided for in the agreement as a result of arm’s-length negotiations. The fringe benefits shall include 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 foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor. The obligation under this paragraph may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under regulations established by the Secretary.

(3) WORKING CONDITIONS.—The contract and bid specification shall contain a provision specifying that no part of the services covered by this chapter may be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to provide the services.

(4) NOTICE.—The contract and bid specification shall contain a provision specifying that on the date a service employee begins work on a contract to which this chapter applies, the contractor or subcontractor will deliver to the employee a notice of the compensation required under paragraphs (1) and (2), on a form prepared by the Federal agency, or will post a notice of the required compensation in a prominent place at the worksite.

(5) GENERAL SCHEDULE PAY RATES AND PREVAILING RATE SYSTEMS.—The contract and bid specification shall contain a statement of the rates that would be paid by the Federal agency to each class of service employee if section 5332 or 5341 of title 5 were applicable to them. The Secretary shall give due consideration to these rates in making the wage and fringe benefit determinations specified in this section.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3812.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6703 .....	41:351(a) (words before par. (1) related to required contract terms), (1)-(5).	Pub. L. 89-286, §2(a) (words before par. (1) related to required contract terms), (1)-(5), Oct. 22, 1965, 79 Stat. 1034; Pub. L. 92-473, §§1, 2, Oct. 9, 1972, 86 Stat. 789; Pub. L. 94-489, §2, Oct. 13, 1976, 90 Stat. 2358.

EX. ORD. NO. 13495. NONDISPLACEMENT OF QUALIFIED WORKERS UNDER SERVICE CONTRACTS

Ex. Ord. No. 13495, Jan. 30, 2009, 74 F.R. 6103, provided: When a service contract expires, and a follow-on contract is awarded for the same service, at the same location, the successor contractor or its subcontractors often hires the majority of the predecessor’s employees. On some occasions, however, a successor contractor or its subcontractors hires a new work force, thus displacing the predecessor’s employees.

The Federal Government’s procurement interests in economy and efficiency are served when the successor contractor hires the predecessor’s employees. A carry-over work force reduces disruption to the delivery of services during the period of transition between contractors and provides the Federal Government the benefits of an experienced and trained work force that is familiar with the Federal Government’s personnel, facilities, and requirements.