

HISTORICAL AND REVISION NOTES—CONTINUED

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

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