

§ 6706. Three-year prohibition on new contracts in case of violation

(a) DISTRIBUTION OF LIST.—The Comptroller General shall distribute to each agency of the Federal Government a list containing the names of persons or firms that a Federal agency or the Secretary has found to have violated this chapter.

(b) THREE-YEAR PROHIBITION.—Unless the Secretary recommends otherwise because of unusual circumstances, a Federal Government contract may not be awarded to a person or firm named on the list under subsection (a), or to an entity in which the person or firm has a substantial interest, until 3 years have elapsed from the date of publication of the list. If the Secretary does not recommend otherwise because of unusual circumstances, the Secretary shall, not later than 90 days after a hearing examiner has made a finding of a violation of this chapter, forward to the Comptroller General the name of the person or firm found to have violated this chapter.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3814.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6706(a)	41:354(a) (1st sentence).	Pub. L. 89-286, §5(a) (1st sentence), Oct. 22, 1965, 79 Stat. 1035.
6706(b)	41:354(a) (2d-last sentences).	Pub. L. 89-286, §5(a) (2d-last sentences), Oct. 22, 1965, 79 Stat. 1035; Pub. L. 92-473, §4, Oct. 9, 1972, 86 Stat. 790.

In subsection (b), the word “entity” is substituted for “firm, corporation, partnership, or association” to use a single broad term clarifying that the prohibition applies to any kind of organization in which the person or firm has a substantial interest. The words “containing the name of such persons or firms” are omitted as unnecessary. The word “person” is substituted for “individual” for consistency in the subsection.

§ 6707. Enforcement and administration of chapter

(a) ENFORCEMENT OF CHAPTER.—Sections 6506 and 6507 of this title govern the Secretary’s authority to enforce this chapter, including the Secretary’s authority to prescribe regulations, issue orders, hold hearings, make decisions based on findings of fact, and take other appropriate action under this chapter.

(b) LIMITATIONS AND REGULATIONS FOR VARIATIONS, TOLERANCES, AND EXEMPTIONS.—The Secretary may provide reasonable limitations and may prescribe regulations allowing reasonable variation, tolerances, and exemptions with respect to this chapter (other than subsection (f)), but only in special circumstances where the Secretary determines that the limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Federal Government business, and is in accord with the remedial purpose of this chapter to protect prevailing labor standards.

(c) PRESERVATION OF WAGES AND BENEFITS DUE UNDER PREDECESSOR CONTRACTS.—

(1) IN GENERAL.—Under a contract which succeeds a contract subject to this chapter, and

under which substantially the same services are furnished, a contractor or subcontractor may not pay a service employee less than the wages and fringe benefits the service employee would have received under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm’s-length negotiations.

(2) EXCEPTION.—This subsection does not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that wages and fringe benefits under the predecessor contract are substantially at variance with wages and fringe benefits prevailing in the same locality for services of a similar character.

(d) DURATION OF CONTRACTS.—Subject to limitations in annual appropriation acts but notwithstanding any other law, a contract to which this chapter applies may, if authorized by the Secretary, be for any term of years not exceeding 5, if the contract provides for periodic adjustment of wages and fringe benefits pursuant to future determinations, issued in the manner prescribed in section 6703 of this title at least once every 2 years during the term of the contract, covering each class of service employee.

(e) EXCLUSION OF FRINGE BENEFIT PAYMENTS IN DETERMINING OVERTIME PAY.—In determining any overtime pay to which a service employee is entitled under Federal law, the regular or basic hourly rate of pay of the service employee does not include any fringe benefit payments computed under this chapter which are excluded from the definition of “regular rate” under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).

(f) TIMELINESS OF WAGE AND FRINGE BENEFIT DETERMINATIONS.—It is the intent of Congress that determinations of minimum wages and fringe benefits under section 6703(1) and (2) of this title should be made as soon as administratively feasible for all contracts subject to this chapter. In any event, the Secretary shall at least make the determinations for contracts under which more than 5 service employees are to be employed.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3815.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6707(a)–(d) ..	41:353.	Pub. L. 89-286, §4, Oct. 22, 1965, 79 Stat. 1035; Pub. L. 92-473, §3, Oct. 9, 1972, 86 Stat. 789.
6707(e)	41:355.	Pub. L. 89-286, §6, Oct. 22, 1965, 79 Stat. 1035.
6707(f)	41:358.	Pub. L. 89-286, §10, as added Pub. L. 92-473, §5, Oct. 9, 1972, 86 Stat. 790; Pub. L. 94-273, §29, Apr. 21, 1976, 90 Stat. 380.

In subsection (e), the words “the definition of ‘regular rate’ under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e))” are substituted for “the regular rate under the Fair Labor Standards Act by provisions of section 7(d) thereof” for clarity, to correct the reference to “the Fair Labor Standards Act” in accordance with section 1 of the Fair Labor Standards Act of 1938 (29:201), which provided the short title

for the Act, and to correct the reference to “section 7(d) thereof” in accordance with section 204(d)(1) of the Fair Labor Standards Amendments of 1966 (Public Law 89-601, 80 Stat. 836), which amended the Fair Labor Standards Act of 1938 by redesignating section 7(d) as 7(e).

In subsection (f), the words “paragraphs (1) and (2) of section 2”, which appear in section 10 of the Service Contract Act of 1965, as added by section 5 of Public Law 92-473 (86 Stat. 790), are treated as a reference to paragraphs (1) and (2) of section 2(a) of the Service Contract Act of 1965 to reflect the probable intent of Congress. The words “which are entered into during the applicable fiscal year”, 41:358(1)-(4), and the words “On and after July 1, 1976” are omitted as obsolete.

Subtitle III—Contract Disputes

Chapter 71. Contract Disputes Sec. 7101

CHAPTER 71—CONTRACT DISPUTES

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§ 7101. Definitions

In this chapter:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator for Federal Procurement Policy appointed pursuant to section 1102 of this title.

(2) AGENCY BOARD OR AGENCY BOARD OF CONTRACT APPEALS.—The term “agency board” or “agency board of contract appeals” means—

- (A) the Armed Services Board;
(B) the Civilian Board;
(C) the board of contract appeals of the Tennessee Valley Authority; or
(D) the Postal Service Board established under section 7105(d)(1) of this title.

(3) AGENCY HEAD.—The term “agency head” means the head and any assistant head of an executive agency. The term may include the chief official of a principal division of an executive agency if the head of the executive agency so designates that chief official.

(4) ARMED SERVICES BOARD.—The term “Armed Services Board” means the Armed Services Board of Contract Appeals established under section 7105(a)(1) of this title.

(5) CIVILIAN BOARD.—The term “Civilian Board” means the Civilian Board of Contract Appeals established under section 7105(b)(1) of this title.

(6) CONTRACTING OFFICER.—The term “contracting officer”—

- (A) means an individual who, by appointment in accordance with applicable regulations, has the authority to make and administer contracts and to make determinations and findings with respect to contracts; and
(B) includes an authorized representative of the contracting officer, acting within the limits of the representative’s authority.

(7) CONTRACTOR.—The term “contractor” means a party to a Federal Government contract other than the Federal Government.

(8) EXECUTIVE AGENCY.—The term “executive agency” means—

- (A) an executive department as defined in section 101 of title 5;
(B) a military department as defined in section 102 of title 5;
(C) an independent establishment as defined in section 104 of title 5, except that the term does not include the Government Accountability Office; and
(D) a wholly owned Government corporation as defined in section 9101(3) of title 31.

(9) MISREPRESENTATION OF FACT.—The term “misrepresentation of fact” means a false statement of substantive fact, or conduct that leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3816.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 7101 points to 41:601 and various public laws.

In paragraph (8)(C), the words “Government Accountability Office” are substituted for “General Accounting Office” because of section 8(b) of the GAO Human Capital Reform Act of 2004 (Public Law 108-271, 118 Stat. 814, 31 U.S.C. 702 note).

In paragraph (8)(D), the words “section 9101(3) of title 31” are substituted for “section 846 of title 31” because of section 4(b) of Public Law 97-258 (31 U.S.C. note prec. 101).

§ 7102. Applicability of chapter

(a) EXECUTIVE AGENCY CONTRACTS.—Unless otherwise specifically provided in this chapter, this chapter applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28) made by an executive agency for—

- (1) the procurement of property, other than real property in being;
(2) the procurement of services;
(3) the procurement of construction, alteration, repair, or maintenance of real property; or
(4) the disposal of personal property.

(b) TENNESSEE VALLEY AUTHORITY CONTRACTS.—

(1) IN GENERAL.—With respect to contracts of the Tennessee Valley Authority, this chapter applies only to contracts containing a clause that requires contract disputes to be resolved through an agency administrative process.

(2) EXCLUSION.—Notwithstanding any other provision of this chapter, this chapter does not apply to a contract of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system.