

tion, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, shall be fined under this title<sup>1</sup> or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §184 (Mar. 4, 1909, ch. 321, §98, 35 Stat. 1106).

Words “or employee” were inserted to remove any ambiguity as to scope of section.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from \$2,000 to \$1,000 and from 2 years to 1 year, so that the stigma of a felony would not attach to an offender. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

Mandatory punishment provisions were rephrased in the alternative.

Changes were also made in phraseology.

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

#### § 436. Convict labor contracts

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, contracts with any person or corporation, or permits any warden, agent, or official of any penal or correctional institution, to hire out the labor of any prisoners confined for violation of any laws of the United States, shall be fined under this title<sup>1</sup> or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§708, 709 (Feb. 23, 1887, ch. 213, §§1, 2, 24 Stat. 411).

This section consolidates sections 708 and 709 of title 18, U.S.C., 1940 ed., as the offense and penalty provisions, respectively.

Words “department or agency thereof” were inserted to clarify scope of section. See definition of department and agency in section 6 of this title.

To retain uniformity words “shall be deemed guilty of a misdemeanor, and,” were omitted. The reference to misdemeanor is now covered by the definition in section 1 of this title.

Words “on conviction thereof” were omitted as unnecessary since punishment can follow only upon conviction.

The minimum punishment provisions “less than one year nor” and “less than \$500 nor” were deleted to conform to the policy followed by codifiers of 1909 Criminal Code. (See reviser’s note under section 203 of this title.)

Changes were also made in phraseology.

<sup>1</sup> See 1994 Amendment note below.

<sup>1</sup> See 1994 Amendment note below.

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

#### [§ 437. Repealed. Pub. L. 104-178, §1(a), Aug. 6, 1996, 110 Stat. 1565]

Section, acts June 25, 1948, ch. 645, 62 Stat. 703; June 17, 1980, Pub. L. 96-277, §1, 94 Stat. 544; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, §330016(1)(L), 108 Stat. 2147, related to Federal employees contracting or trading with Indians.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Pub. L. 104-178, §1(c), Aug. 6, 1996, 110 Stat. 1565, provided that: “The repeal made by subsection (a) [repealing this section] shall—

“(1) take effect on the date of enactment of this Act [Aug. 6, 1996]; and

“(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.”

#### [§§ 438, 439. Repealed. Pub. L. 106-568, title VIII, § 812(c)(2), Dec. 27, 2000, 114 Stat. 2917]

Section 438, acts June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147, related to Indian contracts for services generally.

Section 439, acts June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147, related to Indian enrollment contracts.

#### § 440. Mail contracts

Whoever, being a person employed in the Postal Service, becomes interested in any contract for carrying the mail, or acts as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service, shall be fined under this title<sup>1</sup> or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91-375, §6(j)(3), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §356 (Mar. 4, 1909, ch. 321, §226, 35 Stat. 1134).

Provision for dismissal from office was omitted since this might be handled better administratively.

Changes were made in phraseology.

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$10,000”, was executed by making the substitution for “fined not more than \$5,000”, to reflect the probable intent of Congress.

1970—Pub. L. 91-375 substituted “Postal Service” for “Post Office Department” before “, shall be fined”.

<sup>1</sup> See 1994 Amendment note below.