

§ 3134. Waivers for certain contracts

(a) **MILITARY.**—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) **TRANSPORTATION.**—The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31 or subtitle V of title 46, regardless of the terms of the contracts as to payment or title.

(c) **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**—The Secretary of Commerce may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels, regardless of the terms of the contracts as to payment or title, when the contract is made under the Act entitled “An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes”, approved August 6, 1947 (33 U.S.C. 883a et seq.).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1149; Pub. L. 109–304, §17(g)(2), Oct. 6, 2006, 120 Stat. 1709; Pub. L. 115–91, div. C, title XXXV, §3502(b)(2), Dec. 12, 2017, 131 Stat. 1910; Pub. L. 115–232, div. C, title XXXV, §3515(c), Aug. 13, 2018, 132 Stat. 2313.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3134(a)	40:270e.	Apr. 29, 1941, ch. 81, §1, 55 Stat. 147; June 3, 1955, ch. 129, 69 Stat. 83.
3134(b)	40:270f.	Apr. 29, 1941, ch. 81, §2, as added Pub. L. 91–469, §39, Oct. 21, 1970, 84 Stat. 1036; Pub. L. 97–31, §12(12), Aug. 6, 1981, 95 Stat. 154.

In subsection (a), the words “Secretary of Transportation” are substituted for “Secretary of Commerce” because of 49:108. The words “the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of” and “of any kind or nature” are omitted as unnecessary.

In subsection (b), the words “of any kind or nature” are omitted as unnecessary. The words “sections 1535 and 1536 of title 31” are substituted for “the Act of June 30, 1932 (47 Stat. 382, 417–418), as amended [31 U.S.C. 686, 686b]” because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067), the first section of which enacted Title 31, United States Code.

Editorial Notes

REFERENCES IN TEXT

An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes, referred to in subsec. (c), is act Aug. 6, 1947, ch. 504, 61 Stat. 787, popularly known as the Coast and Geodetic Survey Act, which is classified generally to subchapter II (§883a et

seq.) of chapter 17 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115–232 added subsec. (c).

2017—Subsec. (b). Pub. L. 115–91, §3502(b)(2), substituted “31 or” for “31,” and struck out “or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.)” after “title 46.”

2006—Subsec. (b). Pub. L. 109–304 substituted “subtitle V of title 46” for “the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)”.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

§ 3141. Definitions

In this subchapter, the following definitions apply:

(1) **FEDERAL GOVERNMENT.**—The term “Federal Government” has the same meaning that the term “United States” had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494) (known as the Davis-Bacon Act).

(2) **WAGES, SCALE OF WAGES, WAGE RATES, MINIMUM WAGES, AND PREVAILING WAGES.**—The terms “wages”, “scale of wages”, “wage rates”, “minimum wages”, and “prevailing wages” include—

(A) the basic hourly rate of pay; and

(B) for 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 forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1150; Pub. L. 109–284, §6(11), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3141(1)	(no source).	
3141(2)	40:276a(b) (1st par. words before proviso).	Mar. 3, 1931, ch. 411, §1(b) (1st par. words before proviso), as added Pub. L. 88-349, §1, July 2, 1964, 78 Stat. 239.

Clause (1) is added for clarity.

Editorial Notes

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in par. (1), is act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which was classified generally to sections 276a to 276a-5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141-3144, 3146, and 3147 of this title by Pub. L. 107-217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2006—Par. (1). Pub. L. 109-284 substituted “1494” for “1494”.

§ 3142. Rate of wages for laborers and mechanics

(a) APPLICATION.—The advertised specifications for every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) BASED ON PREVAILING WAGE.—The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) STIPULATIONS REQUIRED IN CONTRACT.—Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

- (1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;
- (2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and
- (3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work

the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) DISCHARGE OF OBLIGATION.—The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.

(e) OVERTIME PAY.—In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) of this title but not actually paid.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1150; Pub. L. 109-284, §6(12), (13), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3142(a), (b)	40:276a(a) (words before 1st semicolon).	Mar. 3, 1931, ch. 411, §1(a), 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1011; June 15, 1940, ch. 373, §1, 54 Stat. 399; Pub. L. 86-624, §26, July 12, 1960, 74 Stat. 418; Pub. L. 88-349, §1, July 2, 1964, 78 Stat. 238.
3142(c)	40:276a(a) (words after 1st semicolon).	
3142(d)	40:276a(b) (1st par. proviso).	Mar. 3, 1931, ch. 411, §1(b) (1st par. proviso, last par.), as added Pub. L. 88-349, §1, July 2, 1964, 78 Stat. 239.
3142(e)	40:276a(b) (last par.).	

In subsection (a), the words “a State” are substituted for “the geographical limits of the States of the Union” for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words “city, town, village, or other” are omitted as unnecessary.

In subsection (d), the words “of a type” are omitted as unnecessary. The words “basic hourly rate of pay”