

(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.

Executive Documents

EXECUTIVE ORDER NO. 13495

Ex. Ord. No. 13495, Jan. 30, 2009, 74 F.R. 6103, which provided for nondisplacement of qualified workers under a successor service contract upon the expiration of the predecessor contract, was revoked by Ex. Ord. No. 13897, § 1, Oct. 31, 2019, 84 F.R. 59709, set out below.

EX. ORD. NO. 13897. IMPROVING FEDERAL CONTRACTOR OPERATIONS BY REVOKING EXECUTIVE ORDER 13495

Ex. Ord. No. 13897, Oct. 31, 2019, 84 F.R. 59709, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in Federal Government procurement, it is hereby ordered as follows:

SECTION 1. *Revocation of Prior Order.* Executive Order 13495 of January 30, 2009 (Nondisplacement of Qualified Workers Under Service Contracts) [formerly set out above], which requires that successor Federal contractors in certain circumstances offer a right of first refusal of employment to employees employed under the predecessor contract, is hereby revoked.

SEC. 2. *Agency Implementation.* The Secretary of Labor (Secretary), the Federal Acquisition Regulatory Council, and heads of executive departments and agencies shall, consistent with law, promptly move to rescind any orders, rules, regulations, guidelines, programs, or policies implementing or enforcing Executive Order 13495.

SEC. 3. *Enforcement.* The Secretary shall terminate, effective immediately, any investigations or compliance actions based on Executive Order 13495.

SEC. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department, agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 6704. Limitation on minimum wage

(a) IN GENERAL.—A contractor that makes a contract with the Federal Government, the principal purpose of which is to furnish services through the use of service employees, and any subcontractor, may not pay less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) to an employee engaged in performing work on the contract.

(b) VIOLATIONS.—Sections 6705 to 6707(d) of this title are applicable to a violation of this section.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3813.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6704	41:351(b).	Pub. L. 89-286, §2(b), Oct. 22, 1965, 79 Stat. 1034; Pub. L. 94-489, §1(b), Oct. 13, 1976, 90 Stat. 2358.

§ 6705. Violations

(a) LIABILITY OF RESPONSIBLE PARTY.—A party responsible for a violation of a contract provision required under section 6703(1) or (2) of this title or a violation of section 6704 of this title is liable for an amount equal to the sum of any deduction, rebate, refund, or underpayment of compensation due any employee engaged in the performance of the contract.

(b) RECOVERY OF AMOUNTS UNDERPAID TO EMPLOYEES.—

(1) WITHHOLDING ACCRUED PAYMENTS DUE ON CONTRACTS.—The total amount determined under subsection (a) to be due any employee engaged in the performance of a contract may be withheld from accrued payments due on the contract or on any other contract between the same contractor and the Federal Government. The amount withheld shall be held in a deposit fund. On order of the Secretary, the compensation found by the Secretary or the head of a Federal agency to be due an underpaid employee pursuant to this chapter shall be paid from the deposit fund directly to the underpaid employee.

(2) BRINGING ACTIONS AGAINST CONTRACTORS.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse a service employee with respect to whom there has been a failure to pay the compensation required pursuant to this chapter, the Federal Government may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayment. Any amount recovered shall be held in the deposit fund and shall be paid, on order of the Secretary, directly to the underpaid employee. Any amount not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury as miscellaneous receipts.

(c) CANCELLATION AND ALTERNATIVE COMPLETION.—In addition to other actions in accordance with this section, when a violation of any contract stipulation is found, the Federal agency that made the contract may cancel the contract on written notice to the original contractor. The Federal Government may then make other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

(d) ENFORCEMENT OF SECTION.—In accordance with regulations prescribed pursuant to section 6707(a)–(d) of this title, the Secretary or the head of a Federal agency may carry out this section.

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

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6705(a)	41:352(a) (1st sentence).	Pub. L. 89–286, §§3, 5(b), Oct. 22, 1965, 79 Stat. 1035.
6705(b)(1)	41:352(a) (2d–last sentences).	
6705(b)(2)	41:354(b)	
6705(c)	41:352(c).	
6705(d)	41:352(b).	

In subsection (c), the words “to other actions in accordance with this section” are added for clarity.

§ 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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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