

tion, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into such litigation to protect the interests of the United States.”

(b) Nothing in this order shall be construed to require or recommend that agencies, contractors, or subcontractors pay the relocation costs of employees who exercise their right to work for a successor contractor or subcontractor pursuant to this order.

SEC. 4. Location Continuity. (a) When an agency prepares a solicitation for a service contract that succeeds a contract for performance of the same or similar work, the agency shall consider whether performance of the work in the same locality or localities in which the contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services.

(b) If an agency determines that performance of the contract in the same locality or localities is reasonably necessary to ensure economical and efficient provision of services, then the agency shall, to the extent consistent with law, include a requirement or preference in the solicitation for the successor contract that it be performed in the same locality or localities.

SEC. 5. Exclusions. This order shall not apply to:

(a) contracts under the simplified acquisition threshold as defined in 41 U.S.C. 134; or

(b) employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of this order.

SEC. 6. Exceptions Authorized by Agencies. (a) A senior official within an agency may grant an exception from the requirements of section 3 of this order for a particular contract by, no later than the solicitation date, providing a specific written explanation of why at least one of the following circumstances exists with respect to that contract:

(i) Adhering to the requirements of section 3 of this order would not advance the Federal Government’s interests in achieving economy and efficiency in Federal procurement;

(ii) Based on a market analysis, adhering to the requirements of section 3 of this order would:

(A) substantially reduce the number of potential bidders so as to frustrate full and open competition; and

(B) not be reasonably tailored to the agency’s needs for the contract; or

(iii) Adhering to the requirements of section 3 of this order would otherwise be inconsistent with statutes, regulations, Executive Orders, or Presidential Memoranda.

(b) To the extent permitted by law and consistent with national security and executive branch confidentiality interests, each agency shall publish, on a centralized public website, descriptions of the exceptions it has granted under this section, and ensure that the contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency’s determination to grant an exception.

(c) On a quarterly basis, each agency shall report to the Office of Management and Budget descriptions of the exceptions granted under this section.

SEC. 7. Regulations and Implementation. (a) The Secretary of Labor (Secretary) shall, to the extent consistent with law, issue final regulations within 180 days of the date of this order [Nov. 18, 2021] to implement the requirements of this order, other than those specified in sections 6(b) and (c) of this order.

(b) Within 60 days of the Secretary issuing final regulations, the Federal Acquisition Regulatory Council (FAR Council), to the extent consistent with law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the clause described in section 3 of this order.

(c) The Director of the Office of Management and Budget shall, to the extent consistent with law, issue guidance to implement section 6(c) of this order.

SEC. 8. Enforcement. (a) The Secretary shall have the authority to investigate potential violations of, and obtain compliance with, this order. In such proceedings, the Secretary shall have the authority to issue final orders prescribing appropriate sanctions and remedies, including, but not limited to, orders requiring employment and payment of wages lost. The Secretary may also provide that, if a contractor or subcontractor has failed to comply with any order of the Secretary or has committed willful violations of this order or the regulations issued pursuant thereto, the contractor or subcontractor, and its responsible officers, and any firm in which the contractor or subcontractor has a substantial interest, may be ineligible to be awarded any contract of the United States for a period of up to 3 years. Neither an order for debarment of any contractor or subcontractor from further Federal Government contracts under this section nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors shall be carried out without affording the contractor or subcontractor an opportunity to present information and argument in opposition to the proposed debarment or inclusion on the list.

(b) This order creates no rights under the Contract Disputes Act, 41 U.S.C. 7101 *et seq.*, and disputes regarding the requirements of the contract clause prescribed by section 3 of this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued under this order.

SEC. 9. Revocation. Executive Order 13897 of October 31, 2019 (Improving Federal Contractor Operations by Revoking Executive Order 13495) [formerly set out above], is revoked. Executive Order 13495 of January 30, 2009 (Nondisplacement of Qualified Workers Under Service Contracts) [formerly set out above], remains revoked.

SEC. 10. Severability. If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

SEC. 11. Effective Date. This order shall become effective immediately and shall apply to solicitations issued on or after the effective date of the final regulations issued by the FAR Council under section 7 of this order. For solicitations issued between the date of this order and the date of the action taken by the FAR Council under section 7 of this order, or solicitations that have already been issued and are outstanding as of the date of this order, agencies are strongly encouraged, to the extent permitted by law, to include in the relevant solicitation the contract clause described in section 3 of this order.

SEC. 12. 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 or 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.

J.R. BIDEN, JR.

§ 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 reason-