

(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, 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was classified generally to sections 276a to 276a-5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141-3144, 3146, and 3147 of this title by Pub.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 de-

duction 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 semi-colon). | 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. |

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|--|
| 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” are substituted for “rate of pay described in paragraph (1)” for clarity.

Editorial Notes

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-284, §6(12), inserted “of this title” after “amount referred to in section 3141(2)(B)”.

Subsec. (e). Pub. L. 109-284, §6(13), inserted “of this title” after “determined under section 3141(2)(B)”.

§ 3143. Termination of work on failure to pay agreed wages

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor’s right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor’s sureties shall be liable to the Government for any excess costs the Government incurs.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1151.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--|
| 3143 | 40:276a-1. | Mar. 3, 1931, ch. 411, §2, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012. |

The words “The Government may have the work completed” are substituted for “and to prosecute the work to completion . . . thereby” for clarity.

§ 3144. Authority to pay wages and list contractors violating contracts

(a) PAYMENT OF WAGES.—

(1) IN GENERAL.—The Secretary of Labor shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) RIGHT OF ACTION.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor’s sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) LIST OF CONTRACTORS VIOLATING CONTRACTS.—

(1) IN GENERAL.—The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.

(2) RESTRICTION ON AWARDING CONTRACTS.—No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1152; Pub. L. 113-50, §2(a), Nov. 21, 2013, 127 Stat. 578.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|--|
| 3144(a)(1) | 40:276a-2(a) (1st sentence words before semicolon). | Mar. 3, 1931, ch. 411, §3, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012. |
| 3144(a)(2) | 40:276a-2(b). | |
| 3144(b) | 40:276a-2(a) (1st sentence words after semicolon, last sentence). | |

In subsection (b), the words “or firms” are omitted as being included in “persons”.

Editorial Notes

AMENDMENTS

2013—Pub. L. 113-50, §2(a)(1), struck out “of Comptroller General” after “Authority” in section catchline.

Subsec. (a)(1). Pub. L. 113-50, §2(a)(2), substituted “Secretary of Labor” for “Comptroller General”.

§ 3145. Regulations governing contractors and subcontractors

(a) IN GENERAL.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) APPLICATION.—Section 1001 of title 18 applies to the statements.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1152.)