

## PART A—GENERAL

## CHAPTER 31—GENERAL

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<sup>2</sup>Editorially supplied. Section 3177 added by Pub. L. 109-58 without corresponding amendment of chapter analysis.

Sec.

SUBCHAPTER I—OVERSIGHT AND  
REGULATION OF PUBLIC BUILDINGS

## § 3101. Public buildings under control of Administrator of General Services

All public buildings outside of the District of Columbia and outside of military reservations purchased or erected out of any appropriation under the control of the Administrator of General Services, and the sites of the public buildings, are under the exclusive jurisdiction and control, and in the custody of, the Administrator. The Administrator may take possession of the buildings and assign and reassign rooms in the buildings to federal officials, clerks, and employees that the Administrator believes should be furnished with offices or rooms in the buildings.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3101 .....	40:285.	July 1, 1898, ch. 546, § 1 (6th complete par. on p. 614), 30 Stat. 614.

The word “subtreasuries” in the 6th complete paragraph on p. 614 of section 1 of the Act of July 1, 1898 (ch. 546, 30 Stat. 614), is omitted because section 1 (words in par. under heading “Independent Treasury”) of the Act of May 29, 1914 (ch. 214, 41 Stat. 654) discontinued subtreasuries. The word “post-offices” in section 1 is omitted because section 1 of Executive Order No. 6166 (eff. June 10, 1933) transferred administration of post office buildings to the Post Office Department. The words “courthouses, customhouses, appraiser’s stores, barge offices, and other” are omitted as unnecessary. The words “or are in course of construction” are omitted as obsolete. The words “Administrator of General Services” are substituted for “Treasury Department” and “Secretary of the Treasury” [subsequently changed to “Federal Works Agency” and “Federal Works Administrator” because of sections 301 and 303, respectively, of Reorganization Plan No. I of 1939 (eff. July 1, 1939, 53 Stat. 1426, 1427)] because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

PROHIBITION OF CIGARETTE SALES TO MINORS IN  
FEDERAL BUILDINGS AND LANDS

Pub. L. 104-52, title VI, § 636, Nov. 19, 1995, 109 Stat. 507, known as the “Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act”, required the Administrator of General Services and the head of each Federal agency to promulgate regulations, to be reported to Congress, prohibiting the sale of tobacco products in vending machines or distribution of free samples of tobacco products located in or around any Federal building under the jurisdiction of the Administrator or agency head, and provided that the appropriate congressional committees would promulgate regulations prohibiting tobacco sales in vending machines in certain congressional buildings.

## § 3102. Naming or designating buildings

The Administrator of General Services may name or otherwise designate any building under the custody and control of the General Services Administration, regardless of whether it was previously named by statute.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3102 .....	40:298d.	June 16, 1949, ch. 218, title IV, §410, 63 Stat. 200; Pub. L. 85-542, July 18, 1958, 72 Stat. 399.

The words “notwithstanding any other provision of law” and “rename” are omitted as unnecessary.

**§ 3103. Admission of guide dogs or other service animals accompanying individuals with disabilities**

(a) IN GENERAL.—Guide dogs or other service animals accompanying individuals with disabilities and especially trained and educated for that purpose shall be admitted to any building or other property owned or controlled by the Federal Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property. The animals are not permitted to run free or roam in a building or on the property and must be in guiding harness or on leash and under the control of the individual at all times while in a building or on the property.

(b) REGULATIONS.—The head of each department or other agency of the Government may prescribe regulations the individual considers necessary in the public interest to carry out this section as it applies to any building or other property subject to the individual’s jurisdiction.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3103(a) .....	40:291 (1st sentence).	Dec. 10, 1941, ch. 563, 55 Stat. 796.
3103(b) .....	40:291 (last sentence).	

In subsection (a), the words “Seeing-eye dogs or other” are omitted as unnecessary. The words “or other service animals” are added, and the words “individuals with disabilities” are substituted for “blind masters”, because of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and Part 39 of Title 28 of the Code of Federal Regulations, which expanded the coverage of the source provision to all service animals and to all individuals with disabilities.

**§ 3104. Furniture for new buildings**

Furniture for all new public buildings shall be acquired in accordance with plans and specifications approved by the Administrator of General Services.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3104 .....	40:283.	May 27, 1908, ch. 200 1 [sic] (7th complete par. on p. 327), 35 Stat. 327.

The words “Administrator of General Services” are substituted for “Supervising Architect of the Treasury” [subsequently changed to “Secretary of the Treasury” because of section 1 of Executive Order No. 6166 (eff. June 10, 1933) and to “Federal Works Administrator” because of section 301 of Reorganization Plan

No. 1 of 1939 (eff. July 1, 1939, 53 Stat. 1426)] because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

**§ 3105. Buildings not to be draped in mourning**

No building owned, or used for public purposes, by the Federal Government shall be draped in mourning nor may public money be used for that purpose.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3105 .....	40:286.	Mar. 3, 1893, ch. 211, §3, 27 Stat. 715.

The words “On and after March 3, 1893” are omitted as obsolete.

SUBCHAPTER II—ACQUIRING LAND

**§ 3111. Approval of sufficiency of title prior to acquisition**

(a) APPROVAL OF ATTORNEY GENERAL REQUIRED.—Public money may not be expended to purchase land or any interest in land unless the Attorney General gives prior written approval of the sufficiency of the title to the land for the purpose for which the Federal Government is acquiring the property.

(b) DELEGATION.—

(1) IN GENERAL.—The Attorney General may delegate the responsibility under this section to other departments and agencies of the Government, subject to general supervision by the Attorney General and in accordance with regulations the Attorney General prescribes.

(2) REQUEST FOR OPINION OF ATTORNEY GENERAL.—A department or agency of the Government that has been delegated the responsibility to approve land titles under this section may request the Attorney General to render an opinion as to the validity of the title to any real property or interest in the property, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

(c) PAYMENT OF EXPENSES FOR PROCURING CERTIFICATES OF TITLE.—Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency of the Government.

(d) NONAPPLICATION.—This section does not affect any provision of law in effect on September 1, 1970, that is applicable to the acquisition of land or interests in land by the Tennessee Valley Authority.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3111(a) .....	40:255 (1st par.).	R.S. §355 (1st–5th pars.); June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083; Pub. L. 91–393, §1, Sept. 1, 1970, 84 Stat. 835.
3111(b) .....	40:255 (2d, 3d pars.).	
3111(c) .....	40:255 (4th par.).	
3111(d) .....	40:255 (5th par.).	

In subsection (d), the words “in any manner” are omitted as unnecessary.

**§ 3112. Federal jurisdiction**

(a) EXCLUSIVE JURISDICTION NOT REQUIRED.—It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) ACQUISITION AND ACCEPTANCE OF JURISDICTION.—When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) PRESUMPTION.—It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3112(a) .....	40:255 (last par. 1st sentence words before semicolon).	R.S. §355 (last par.); June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083.
3112(b) .....	40:255 (last par. 1st sentence words after semicolon).	
3112(c) .....	40:255 (last par. last sentence).	

Subsection (a) is substituted for 40:255 (last par. 1st sentence words before semicolon) to eliminate unnecessary words.

In subsection (b), the words “exclusive or partial” are omitted as unnecessary.

**§ 3113. Acquisition by condemnation**

An officer of the Federal Government authorized to acquire real estate for the erection of a public building or for other public uses may acquire the real estate for the Government by condemnation, under judicial process, when the officer believes that it is necessary or advantageous to the Government to do so. The Attorney General, on application of the officer, shall have condemnation proceedings begun within 30 days from receipt of the application at the Department of Justice.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3113 .....	40:257.	Aug. 1, 1888, ch. 728, §1, 25 Stat. 357; June 25, 1948, ch. 646, §6, 62 Stat. 986.

The words “the Secretary of the Treasury or any other” are omitted as unnecessary. The reference to section 258 is omitted because 40:258 is superseded by rule 71A of the Federal Rules of Civil Procedure (28 App.: U.S.C.).

**§ 3114. Declaration of taking**

(a) FILING AND CONTENT.—In any proceeding in any court of the United States outside of the District of Columbia brought by and in the name of the United States and under the authority of the Federal Government to acquire land, or an easement or right of way in land, for the public use, the petitioner may file, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the land described in the petition, declaring that the land is taken for the use of the Government. The declaration of taking shall contain or have annexed to it—

- (1) a statement of the authority under which, and the public use for which, the land is taken;
- (2) a description of the land taken that is sufficient to identify the land;
- (3) a statement of the estate or interest in the land taken for public use;
- (4) a plan showing the land taken; and
- (5) a statement of the amount of money estimated by the acquiring authority to be just compensation for the land taken.

(b) VESTING OF TITLE.—On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration—

- (1) title to the estate or interest specified in the declaration vests in the Government;
- (2) the land is condemned and taken for the use of the Government; and
- (3) the right to just compensation for the land vests in the persons entitled to the compensation.

(c) COMPENSATION.—

(1) DETERMINATION AND AWARD.—Compensation shall be determined and awarded in the proceeding and established by judgment. The judgment shall include interest, in accordance with section 3116 of this title, on the amount finally awarded as the value of the property as of the date of taking and shall be awarded from that date to the date of payment. Interest shall not be allowed on as much of the compensation as has been paid into the court. Amounts paid into the court shall not be charged with commissions or poundage.

(2) ORDER TO PAY.—On application of the parties in interest, the court may order that any part of the money deposited in the court be paid immediately for or on account of the compensation to be awarded in the proceeding.

(3) DEFICIENCY JUDGMENT.—If the compensation finally awarded is more than the amount

of money received by any person entitled to compensation, the court shall enter judgment against the Government for the amount of the deficiency.

(d) AUTHORITY OF COURT.—On the filing of a declaration of taking, the court—

(1) may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner; and

(2) may make just and equitable orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges.

(e) VESTING NOT PREVENTED OR DELAYED.—An appeal or a bond or undertaking given in a proceeding does not prevent or delay the vesting of title to land in the Government.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1145.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 3114(a) through 3114(e) with corresponding legal references.

In subsection (a), before clause (1), the words “which has been or may be” are omitted as unnecessary.

In subsection (b)(1), the words “said lands in fee simple absolute, or such less” are omitted as unnecessary.

In subsection (b)(2), the words “deemed to be” are omitted as unnecessary.

§ 3115. Irrevocable commitment of Federal Government to pay ultimate award when fixed

(a) REQUIREMENT FOR IRREVOCABLE COMMITMENT.—Action under section 3114 of this title irrevocably committing the Federal Government to the payment of the ultimate award shall not be taken unless the head of the executive department or agency or bureau of the Government empowered to acquire the land believes that the ultimate award probably will be within any limits Congress prescribes on the price to be paid.

(b) AUTHORIZED PURPOSES OF EXPENDITURES AFTER IRREVOCABLE COMMITMENT MADE.—When the Government has taken or may take title to real property during a condemnation proceeding and in advance of final judgment in the proceeding and has become irrevocably committed to pay the amount ultimately to be awarded as compensation, and the Attorney General believes that title to the property has been vested in the Government or that all persons having an interest in the property have been made parties to the proceeding and will be bound by the final judgment, the Government may expend amounts appropriated for that purpose to demolish existing structures on the property and to erect public buildings or public works on the property.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1146.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 3115(a) and 3115(b) with corresponding legal references.

In subsection (b), the words “possession of” are omitted as unnecessary.

§ 3116. Interest as part of just compensation

(a) CALCULATION.—The district court shall calculate interest required to be paid under this subchapter as follows:

(1) PERIOD OF NOT MORE THAN ONE YEAR.—

Where the period for which interest is owed is not more than one year, interest shall be calculated from the date of taking at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of taking.

(2) PERIOD OF MORE THAN ONE YEAR.—Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the amount by which the award of compensation is more than the deposit referred to in section 3114 of this title, plus accrued interest, at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the beginning of each additional year.

(b) DISTRIBUTION OF NOTICE OF RATES.—The Director of the Administrative Office of the United States Courts shall distribute to all federal courts notice of the rates described in paragraphs (1) and (2) of subsection (a).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1146.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 3116(a) and 3116(b) with corresponding legal references.

§ 3117. Exclusion of certain property by stipulation of Attorney General

In any condemnation proceeding brought by or on behalf of the Federal Government, the Attorney General may stipulate or agree on behalf of the Government to exclude any part of the property, or any interest in the property, taken by or on behalf of the Government by a declaration of taking or otherwise.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3117 .....	40:258f.	Oct. 21, 1942, ch. 618, 56 Stat. 797.

The words “that may have been, or may be” are omitted as unnecessary.

**§ 3118. Right of taking as addition to existing rights**

The right to take possession and title in advance of final judgment in condemnation proceedings as provided by section 3114 of this title is in addition to any right, power, or authority conferred by the laws of the United States or of a State, territory, or possession of the United States under which the proceeding may be conducted, and does not abrogate, limit, or modify that right, power, or authority.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3118 .....	40:258d.	Feb. 26, 1931, ch. 307, § 4, 46 Stat. 1422.

The words “State, territory, or possession of the United States” are substituted for “State or Territory” for consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—BONDS

**§ 3131. Bonds of contractors of public buildings or works**

(a) DEFINITION.—In this subchapter, the term “contractor” means a person awarded a contract described in subsection (b).

(b) TYPE OF BONDS REQUIRED.—Before any contract of more than \$100,000 is awarded for the construction, alteration, or repair of any public building or public work of the Federal Government, a person must furnish to the Government the following bonds, which become binding when the contract is awarded:

(1) PERFORMANCE BOND.—A performance bond with a surety satisfactory to the officer awarding the contract, and in an amount the officer considers adequate, for the protection of the Government.

(2) PAYMENT BOND.—A payment bond with a surety satisfactory to the officer for the protection of all persons supplying labor and material in carrying out the work provided for in the contract for the use of each person. The amount of the payment bond shall equal the total amount payable by the terms of the contract unless the officer awarding the contract determines, in a writing supported by specific findings, that a payment bond in that amount is impractical, in which case the contracting officer shall set the amount of the payment bond. The amount of the payment bond shall not be less than the amount of the performance bond.

(c) COVERAGE FOR TAXES IN PERFORMANCE BOND.—

(1) IN GENERAL.—Every performance bond required under this section specifically shall

provide coverage for taxes the Government imposes which are collected, deducted, or withheld from wages the contractor pays in carrying out the contract with respect to which the bond is furnished.

(2) NOTICE.—The Government shall give the surety on the bond written notice, with respect to any unpaid taxes attributable to any period, within 90 days after the date when the contractor files a return for the period, except that notice must be given no later than 180 days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(3) CIVIL ACTION.—The Government may not bring a civil action on the bond for the taxes—

(A) unless notice is given as provided in this subsection; and

(B) more than one year after the day on which notice is given.

(d) WAIVER OF BONDS FOR CONTRACTS PERFORMED IN FOREIGN COUNTRIES.—A contracting officer may waive the requirement of a performance bond and payment bond for work under a contract that is to be performed in a foreign country if the officer finds that it is impracticable for the contractor to furnish the bonds.

(e) AUTHORITY TO REQUIRE ADDITIONAL BONDS.—This section does not limit the authority of a contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases, specified in subsection (b).

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1147; Pub. L. 109-284, § 6(8), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3131(a) .....	40:270a(a) (words before cl. (1) related to definition).  40:270d.	Aug. 24, 1935, ch. 642, §1(a)-(c), 49 Stat. 793; Pub. L. 95-585, Nov. 2, 1978, 92 Stat. 2484; Pub. L. 103-355, title IV, §4104(b)(1)(B), Oct. 13, 1994, 108 Stat. 3342; Pub. L. 106-49, §2(a), Aug. 17, 1999, 113 Stat. 231.  Aug. 24, 1935, ch. 642, § 4, 49 Stat. 794.
3131(b) .....	40:270a(a) (words before cl. (1) related to furnishing bond), (1), (2). 40:270d-1.	Aug. 24, 1935, ch. 642, §5, as added Pub. L. 103-355, title IV, §4104(b)(1)(A), Oct. 13, 1994, 108 Stat. 3341.
3131(c) .....	40:270a(d).	Aug. 24, 1935, ch. 642, §1(d), as added Pub. L. 89-719, title I, §105(b), Nov. 2, 1966, 80 Stat. 1139.
3131(d) .....	40:270a(b).	
3131(e) .....	40:270a(c).	

In subsection (a), the text of 40:270d is omitted because of 1:1.

In subsections (b) and (c), the words “or sureties” are omitted because of 1:1.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c)(2), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2006—Subsec. (e). Pub. L. 109-284 substituted “To” for “to” in heading.

**§ 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation**

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in section 3131(a) of this title that are more than \$25,000 and not more than \$100,000.

(b) RESPONSIBILITIES OF CONTRACTING OFFICER.—The contracting officer for a contract shall—

(1) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subsection (a), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and

(2) specify in the solicitation of offers for the contract the payment protections selected.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1148.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3132 .....	40:270a note.	Pub. L. 103-355, title IV, §4104(b)(2), Oct. 13, 1994, 108 Stat. 3342.

**§ 3133. Rights of persons furnishing labor or material**

(a) RIGHT OF PERSON FURNISHING LABOR OR MATERIAL TO COPY OF BOND.—The department secretary or agency head of the contracting agency shall furnish a certified copy of a payment bond and the contract for which it was given to any person applying for a copy who submits an affidavit that the person has supplied labor or material for work described in the contract and payment for the work has not been made or that the person is being sued on the bond. The copy is prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay any fees the department secretary or agency head of the contracting agency fixes to cover the cost of preparing the certified copy.

(b) RIGHT TO BRING A CIVIL ACTION.—

(1) IN GENERAL.—Every person that has furnished labor or material in carrying out work provided for in a contract for which a payment bond is furnished under section 3131 of this title and that has not been paid in full within 90 days after the day on which the person did or performed the last of the labor or furnished or supplied the material for which the claim is made may bring a civil action on the payment bond for the amount unpaid at the time the civil action is brought and may prosecute the action to final execution and judgment for the amount due.

(2) PERSON HAVING DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR.—A person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond may bring a civil action on the payment bond on giving written notice to the contractor within 90 days from the date on which the person did or performed

the last of the labor or furnished or supplied the last of the material for which the claim is made. The action must state with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. The notice shall be served—

(A) by any means that provides written, third-party verification of delivery to the contractor at any place the contractor maintains an office or conducts business or at the contractor's residence; or

(B) in any manner in which the United States marshal of the district in which the public improvement is situated by law may serve summons.

(3) VENUE.—A civil action brought under this subsection must be brought—

(A) in the name of the United States for the use of the person bringing the action; and

(B) in the United States District Court for any district in which the contract was to be performed and executed, regardless of the amount in controversy.

(4) PERIOD IN WHICH ACTION MUST BE BROUGHT.—An action brought under this subsection must be brought no later than one year after the day on which the last of the labor was performed or material was supplied by the person bringing the action.

(5) LIABILITY OF FEDERAL GOVERNMENT.—The Government is not liable for the payment of any costs or expenses of any civil action brought under this subsection.

(c) WAIVER OF RIGHT TO CIVIL ACTION.—A waiver of the right to bring a civil action on a payment bond required under this subchapter is void unless the waiver is—

(1) in writing;

(2) signed by the person whose right is waived; and

(3) executed after the person whose right is waived has furnished labor or material for use in the performance of the contract.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1148; Pub. L. 109-284, §6(9), (10), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3133(a) .....	40:270c.	Aug. 24, 1935, ch. 642, §3, 49 Stat. 794; Pub. L. 86-135, §2, Aug. 4, 1959, 73 Stat. 279; Pub. L. 98-269, Apr. 18, 1984, 98 Stat. 156.
3133(b)(1), (2).	40:270b(a).	Aug. 24, 1935, ch. 642, §2(a), (b), 49 Stat. 794; Pub. L. 86-135, §1, Aug. 4, 1959, 73 Stat. 279; Pub. L. 106-49, §2(b), Aug. 17, 1999, 113 Stat. 231.
3133(b)(3)-(5).	40:270b(b).	
3133(c) .....	40:270b(c).	Aug. 24, 1935, ch. 642, §2(c), as added Pub. L. 106-49, §2(c), Aug. 17, 1999, 113 Stat. 231.

In subsection (b)(1), the words “may bring a civil action” are substituted for “shall have the right to sue” for consistency in the revised title and with other titles of the United States Code. The words “or sums” are omitted because of 1:1.

In subsection (b)(2), the words “to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States marshal of the district in which the public improvement is situated is authorized by law to serve summons” are restated to reflect the probable intent of Congress. See H. Rept. 106-277, Part 1, 106th Cong., 1st Sess., pp. 4, 7.

In subsection (c), the words “bring a civil action” are substituted for “sue” for consistency in the revised title and with other titles of the United States Code.

## AMENDMENTS

2006—Subsec. (b). Pub. L. 109-284, §6(9), substituted “To” for “to” in heading.

Subsec. (c). Pub. L. 109-284, §6(10), inserted heading.

## § 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, subtitle V of title 46, or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1149; Pub. L. 109-304, §17(g)(2), Oct. 6, 2006, 120 Stat. 1709.)

## HISTORICAL AND REVISION NOTES

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

## REFERENCES IN TEXT

The Merchant Ship Sales Act of 1946, referred to in subsec. (b), is act Mar. 8, 1946, ch. 82, 60 Stat. 41, as amended, which is classified to sections 1735 to 1746 of Title 50, Appendix, War and National Defense. For com-

plete classification of this Act to the Code, see Short Title note set out under section 1735 of Title 50, Appendix, and Tables.

## AMENDMENTS

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.)”.

## 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

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

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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.
3142(c) .....	40:276a(a) (words after 1st semi-colon).	
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.

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

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

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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 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 of Comptroller General to pay wages and list contractors violating contracts

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows 1-3: 3144(a)(1), 3144(a)(2), 3144(b) with corresponding U.S. Code and Statutes at Large references.

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

§ 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.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows 1-2: 3145(a), 3145(b) with corresponding U.S. Code and Statutes at Large references.

(a) PAYMENT OF WAGES.—

(1) IN GENERAL.—The Comptroller General 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 AWARDED 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.

§ 3146. Effect on other federal laws

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

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

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 3146, 40:276a-3, Mar. 3, 1931, ch. 411, § 4, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012.

§ 3147. Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 3147, 40:276a-5, Mar. 3, 1931, ch. 411, § 6, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1013.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of former 40 U.S.C. 276a-5, the date July 25, 1947, was to be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

**§ 3148. Application of this subchapter to certain contracts**

This subchapter applies to a contract authorized by law that is made without regard to section 6101(b) to (d) of title 41, or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1153; Pub. L. 111-350, §5(l)(14), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3148 .....	40:276a-7.	Mar. 23, 1941, ch. 26 (last proviso in 5th complete par. on p. 53), 55 Stat. 53; Aug. 21, 1941, ch. 395 (last proviso in 14th par. on p. 664), 55 Stat. 664.

The words “this subchapter” are substituted for “such Act” to correct the reference as stated in 40:276a-7.

AMENDMENTS

2011—Pub. L. 111-350 substituted “section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes (41 U.S.C. 5)”.

SUBCHAPTER V—VOLUNTEER SERVICES

**§ 3161. Purpose**

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3161 .....	40:276d.	Pub. L. 103-355, title VII, §7302, Oct. 13, 1994, 108 Stat. 3382.

**§ 3162. Waiver for individuals who perform volunteer services**

(a) CRITERIA FOR RECEIVING WAIVER.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and the Housing and Community

Development Act of 1974 (42 U.S.C. 5301 et seq.) does not apply to an individual—

(1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—

(A) for civic, charitable, or humanitarian reasons;

(B) only for the personal purpose or pleasure of the individual;

(C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and

(D) freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(b) PAYMENTS.—

(1) IN ACCORDANCE WITH REGULATIONS.—Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.

(2) CRITERIA AND CONTENT OF REGULATIONS.—In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;

(B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker’s compensation plan) or pension plan, or the awarding of a length of service award; and

(C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

(3) NOMINAL FEE.—The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—In determining whether an expense, benefit, or fee described in sub-

section (b) may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary may not permit any expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3162(a) .....	40:276d–1(a). 40:276d–2. 40:276d–3.	Pub. L. 103–355, title VII, §§7303, 7304, Oct. 13, 1994, 108 Stat. 3382. Pub. L. 103–355, title VII, §7305, Oct. 13, 1994, 108 Stat. 3384; Pub. L. 104–208, div. A, §101(e) [title VII, §709(a)(4)], Sept. 30, 1996, 110 Stat. 3009–312.
3162(b) .....	40:276d–1(b).	
3162(c) .....	40:276d–1(c).	

In subsection (a), the references to sections 254b and 254c of title 42 in 40:276d–3 are omitted. Sections 329 and 330 of the Public Health Service Act were omitted in the general amendment of subpart I of part D of title III of the Act (42:254b et seq.) by sections 2 and 3(a) of the Health Care Consolidation Act of 1996 (Public Law 104–299, 110 Stat. 3626), which enacted new sections 330 and 330A of the Public Health Service Act. Sections 330 and 330A do not refer to the Act of March 3, 1931 (ch. 411, 46 Stat. 1494).

In subsection (b)(1), the words “Volunteers who are performing services directly to a public or private non-profit entity may not receive those payments” are added for clarity.

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (a), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§1601 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (a), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

SUBCHAPTER VI—MISCELLANEOUS

§ 3171. Contract authority when appropriation is for less than full amount

Unless specifically directed otherwise, the Administrator of General Services may make a contract within the full limit of the cost fixed by Congress for the acquisition of land for sites, or for the enlargement of sites, for public buildings, or for the erection, remodeling, extension, alteration, and repairs of public buildings, even though an appropriation is made for only part of the amount necessary to carry out legislation authorizing that purpose.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1154.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3171 .....	40:261.	May 30, 1908, ch. 228, §34, 35 Stat. 545.

The words “On and after May 30, 1908” are omitted as obsolete. The words “Administrator of General Services” are substituted for “Secretary of the Treasury” [subsequently changed to “Federal Works Administrator” because of section 303 of Reorganization Plan No. I of 1939 (eff. July 1, 1939, 53 Stat. 1427)] because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

§ 3172. Extension of state workers’ compensation laws to buildings, works, and property of the Federal Government

(a) AUTHORIZATION OF EXTENSION.—The state authority charged with enforcing and requiring compliance with the state workers’ compensation laws and with the orders, decisions, and awards of the authority may apply the laws to all land and premises in the State which the Federal Government owns or holds by deed or act of cession, and to all projects, buildings, constructions, improvements, and property in the State and belonging to the Government, in the same way and to the same extent as if the premises were under the exclusive jurisdiction of the State in which the land, premises, projects, buildings, constructions, improvements, or property are located.

(b) LIMITATION ON RELINQUISHING JURISDICTION.—The Government under this section does not relinquish its jurisdiction for any other purpose.

(c) NONAPPLICATION.—This section does not modify or amend subchapter I of chapter 81 of title 5.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1154.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3172(a) .....	40:290 (1st par., last par. words before 1st proviso).	June 25, 1936, ch. 822, 49 Stat. 1938.
3172(b) .....	40:290 (last par. 1st proviso).	
3172(c) .....	40:290 (last par. last proviso).	

In subsection (a), the words “by purchase or otherwise” and 40:290(last par. words before 1st proviso) are omitted as unnecessary.

Subsection (b) is substituted for 40:290(last par. 1st proviso) to eliminate unnecessary words.

In subsection (c), the words “subchapter I of chapter 81 of title 5” are substituted for “the United States Employees’ Compensation Act as amended from time to time (Act of September 7, 1916, 39 Stat. 742, U.S.C., title 5 and supplement, sec. 751 et seq.)” because of section 7(b) of the Act of September 6, 1966 (Public Law 89–554, 80 Stat. 631), the first section of which enacted Title 5, United States Code.

§ 3173. Working capital fund for General Services Administration

(a) ESTABLISHMENT AND PURPOSE.—There is a working capital fund for the necessary expenses of administrative support services including accounting, budget, personnel, legal support and

other related services; and the maintenance and operation of printing and reproduction facilities in support of the functions of the General Services Administration, other Federal agencies, and other entities; and other such administrative and management services that the Administrator of GSA deems appropriate and advantageous (subject to prior notice to the Office of Management and Budget).

(b) COMPOSITION.—

(1) IN GENERAL.—Amounts received shall be credited to and merged with the Fund, to remain available until expended, for operating costs and capital outlays of the Fund: *Provided*, That entities for which such services are performed shall be charged at rates which will return in full all costs of providing such services.

(2) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged to entities for which services are performed, in accordance with the plan.

(c) DEPOSIT OF EXCESS AMOUNTS IN THE TREASURY.—At the close of each fiscal year, after making provision for anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.

(d) TRANSFER AND USE OF AMOUNTS FOR MAJOR EQUIPMENT ACQUISITIONS.—

(1) IN GENERAL.—Subject to subparagraph (2), unobligated balances of amounts appropriated or otherwise made available to the General Services Administration for operating expenses and salaries and expenses may be transferred and merged into the “Major equipment acquisitions and development activity” of the working capital fund of the General Services Administration for agency-wide acquisition of capital equipment, automated data processing systems and financial management and management information systems: *Provided*, That acquisitions are limited to those needed to implement the Chief Financial Officers Act of 1990 (Public Law 101–576, 104 Stat. 2838) and related laws or regulations.

(2) REQUIREMENTS AND AVAILABILITY.—

(A) TIME FOR TRANSFER.—Transfer of an amount under this section must be done no later than the end of the fifth fiscal year after the fiscal year for which the amount is appropriated or otherwise made available.

(B) APPROVAL FOR USE.—An amount transferred under this section may be used only with the advance approval of the Committees on Appropriations of the House of Representatives and the Senate.

(C) AVAILABILITY.—An amount transferred under this section remains available until expended.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1155; Pub. L. 111–8, div. D, title V, § 518(a), (b), (c)(2), Mar. 11, 2009, 123 Stat. 664, 665.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3173(a), (b)	40:293 (words before proviso).	May 3, 1945, ch. 106, title I, 101 (2d complete par. on p. 115), 59 Stat. 115.
3173(c) .....	40:293 (proviso).	

In subsection (b)(2), the words “Administrator of General Services” are substituted for “Federal Works Agency” and “Public Buildings Administration” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in subsec. (d)(1), is Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

AMENDMENTS

2009—Pub. L. 111–8, § 518(c)(2), substituted “Working capital fund for General Services Administration” for “Working capital fund for blueprinting, photostating, and duplicating services in General Services Administration” in section catchline.

Subsecs. (a) to (c). Pub. L. 111–8, § 518(a), amended subsecs. (a) to (c) generally. Prior to amendment, subsecs. (a) to (c) related to establishment and purpose of a working capital fund, components of the fund, and deposit of excess amounts in the Treasury.

Subsec. (d). Pub. L. 111–8, § 518(b), added subsec. (d).

**§ 3174. Operation of public utility communications services serving governmental activities**

The Administrator of General Services may provide and operate public utility communications services serving any governmental activity when the services are economical and in the interest of the Federal Government. This section does not apply to communications systems for handling messages of a confidential or secret nature, the operation of cryptographic equipment or transmission of secret, security, or coded messages, or buildings operated or occupied by the United States Postal Service, except on request of the department or agency concerned.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3174 .....	40:295.	June 14, 1946, ch. 404, § 7, 60 Stat. 258.

The words “Administrator of General Services” are substituted for “Commissioner of Public Buildings” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “in and outside the District of Columbia” are omitted as unnecessary. The words “United States Postal Service” are substituted for “Post Office Department” because of section 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 783).

**§ 3175. Acceptance of gifts of property**

The Administrator of General Services, and the United States Postal Service where that office is concerned, may accept on behalf of the Federal Government unconditional gifts of property in aid of any project or function within their respective jurisdictions.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1155.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3175 .....	40:298a.	June 16, 1949, ch. 218, title IV, § 404, 63 Stat. 199.

The words “Administrator of General Services” are substituted for “Federal Works Administrator” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “United States Postal Service” are substituted for “Postmaster General” because of section 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 783). The words “real, personal, or other” are omitted as unnecessary.

**§ 3176. Administrator of General Services to furnish services in continental United States to international bodies**

Sections 1535 and 1536 of title 31 are extended so that the Administrator of General Services, at the request of the Secretary of State, may furnish services in the continental United States, on a reimbursable basis, to any international body with which the Federal Government is affiliated.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1156.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3176 .....	40:298b.	June 16, 1949, ch. 218, title IV, § 405, 63 Stat. 199.

The words “Sections 1535 and 1536 of title 31” are substituted for “section 601 of the Economy Act, approved June 30, 1932, as amended” 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. The words “Administrator of General Services” are substituted for “Public Buildings Administration” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “Secretary of State” are substituted for “State Department” because of 22:2651.

**§ 3177. Use of photovoltaic energy in public buildings**

(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

(1) IN GENERAL.—The Administrator of General Services may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general

public as an option which can reduce the national consumption of fossil fuel.

(B) To reduce the fossil fuel consumption and costs of the Federal Government.

(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government’s Million Solar Roof Initiative of 1997.

(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

(4) ADMINISTRATION.—The Administrator shall administer the program and shall—

(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

(B) develop innovative procurement strategies for the acquisition of such systems; and

(C) transmit to Congress an annual report on the results of the program.

(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Administrator shall ensure that such systems reflect the most advanced technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) \$50,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) \$10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(Added Pub. L. 109–58, title II, § 204(a), Aug. 8, 2005, 119 Stat. 653.)

## REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 109–58, which was approved Aug. 8, 2005.

**CHAPTER 33—ACQUISITION, CONSTRUCTION,  
AND ALTERATION**

Sec.	
3301.	Definitions and nonapplication.
3302.	Prohibition on construction of buildings except by Administrator of General Services.
3303.	Continuing investigation and survey of public buildings.
3304.	Acquisition of buildings and sites.
3305.	Construction and alteration of buildings.
3306.	Accommodating federal agencies.
3307.	Congressional approval of proposed projects.
3308.	Architectural or engineering services.
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3310.	Special rules for leased buildings.
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3312.	Compliance with nationally recognized codes.
3313.	Use of energy efficient lighting fixtures and bulbs.
3314.	Delegation.
3315.	Report to Congress.
3316.	Certain authority not affected.

**AMENDMENTS**

2007—Pub. L. 110-140, title III, § 323(c)(2), Dec. 19, 2007, 121 Stat. 1591, added items 3313 to 3316 and struck out former items 3313 “Delegation”, 3314 “Report to Congress”, and 3315 “Certain authority not affected”.

**§ 3301. Definitions and nonapplication**

(a) **DEFINITIONS.**—In this chapter—

(1) **ALTER.**—The term “alter” includes—

(A) preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the alteration of a public building; and

(B) repairing, remodeling, improving, or extending, or other changes in, a public building.

(2) **CONSTRUCT.**—The term “construct” includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction of a public building.

(3) **EXECUTIVE AGENCY.**—The term “executive agency” means an executive department or independent establishment in the executive branch of the Federal Government, including—

(A) any wholly owned Government corporation;

(B) the Central-Bank for Cooperatives and the regional banks for cooperatives;

(C) federal land banks;

(D) federal intermediate credit banks;

(E) the Federal Deposit Insurance Corporation; and

(F) the Government National Mortgage Association.

(4) **FEDERAL AGENCY.**—The term “federal agency” means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect).

(5) **PUBLIC BUILDING.**—The term “public building”—

(A) means a building, whether for single or multitenant occupancy, and its grounds, approaches, and appurtenances, which is generally suitable for use as office or storage space or both by one or more federal agencies or mixed-ownership Government corporations;

(B) includes—

(i) federal office buildings;

(ii) post offices;

(iii) customhouses;

(iv) courthouses;

(v) appraisers stores;

(vi) border inspection facilities;

(vii) warehouses;

(viii) record centers;

(ix) relocation facilities;

(x) telecommuting centers;

(xi) similar federal facilities; and

(xii) any other buildings or construction projects the inclusion of which the President considers to be justified in the public interest; but

(C) does not include a building or construction project described in subparagraphs (A) and (B)—

(i) that is on the public domain (including that reserved for national forests and other purposes);

(ii) that is on property of the Government in foreign countries;

(iii) that is on Indian and native Eskimo property held in trust by the Government;

(iv) that is on land used in connection with federal programs for agricultural, recreational, and conservation purposes, including research in connection with the programs;

(v) that is on or used in connection with river, harbor, flood control, reclamation or power projects, for chemical manufacturing or development projects, or for nuclear production, research, or development projects;

(vi) that is on or used in connection with housing and residential projects;

(vii) that is on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense);

(viii) that is on installations of the Department of Veterans Affairs used for hospital or domiciliary purposes; or

(ix) the exclusion of which the President considers to be justified in the public interest.

(6) **UNITED STATES.**—The term “United States” includes the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) **NONAPPLICATION.**—This chapter does not apply to the construction of any public building to which section 241(g) of the Immigration and Nationality Act (8 U.S.C. 1231(g)) or section 1 of the Act of June 26, 1930 (19 U.S.C. 68) applies.