

with the definition of “agency board” in section 7101 of the revised title.

In subsection (f)(1), the words “under consideration” are substituted for “at issue” to avoid potential confusion with the words “issue described in paragraph (2)”.

§ 7108. Payment of claims

(a) JUDGMENTS.—Any judgment against the Federal Government on a claim under this chapter shall be paid promptly in accordance with the procedures provided by section 1304 of title 31.

(b) MONETARY AWARDS.—Any monetary award to a contractor by an agency board shall be paid promptly in accordance with the procedures contained in subsection (a).

(c) REIMBURSEMENT.—Payments made pursuant to subsections (a) and (b) shall be reimbursed to the fund provided by section 1304 of title 31 by the agency whose appropriations were used for the contract out of available amounts or by obtaining additional appropriations for purposes of reimbursement.

(d) TENNESSEE VALLEY AUTHORITY.—

(1) JUDGMENTS.—Notwithstanding subsections (a) to (c), any judgment against the Tennessee Valley Authority on a claim under this chapter shall be paid promptly in accordance with section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)).

(2) MONETARY AWARDS.—Notwithstanding subsections (a) to (c), any monetary award to a contractor by the board of contract appeals of the Tennessee Valley Authority shall be paid in accordance with section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)).

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3825.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 7108: 41:612, Pub. L. 95-563, §13, Nov. 1, 1978, 92 Stat. 2389; Pub. L. 104-106, div. D, title XLIII, §4322(b)(7), Feb. 10, 1996, 110 Stat. 677.

§ 7109. Interest

(a) PERIOD.—

(1) IN GENERAL.—Interest on an amount found due a contractor on a claim shall be paid to the contractor for the period beginning with the date the contracting officer receives the contractor’s claim, pursuant to section 7103(a) of this title, until the date of payment of the claim.

(2) DEFECTIVE CERTIFICATION.—On a claim for which the certification under section 7103(b)(1) of this title is found to be defective, any interest due under this section shall be paid for the period beginning with the date the contracting officer initially receives the contractor’s claim until the date of payment of the claim.

(b) RATE.—Interest shall accrue and be paid at a rate which the Secretary of the Treasury shall specify as applicable for each successive 6-month period. The rate shall be determined by the Secretary of the Treasury taking into consideration current private commercial rates of interest for new loans maturing in approximately 5 years.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3825.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows 7109(a)(1), 7109(a)(2), 7109(b).

In subsection (a)(2), the words “on or after the date of the enactment of this Act”, “the later of”, and “or the date of the enactment of this Act” are omitted as obsolete.

Subsection (b) is substituted for “The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board” to eliminate obsolete language and to codify the criteria under which the interest rate is computed. Section 2(a)(3) of the Act of July 1, 1971 (Pub. L. 92-41, 85 Stat. 97), amended section 105(b)(2) of the Renegotiation Act of 1951 (Mar. 23, 1951, ch. 15, 65 Stat. 13) by adding provisions substantially similar to those enacted here. However, the Renegotiation Act of 1951 (Mar. 23, 1951, ch. 15, 65 Stat. 7) was omitted from the Code pursuant to section 102(c)(1) of the Act (65 Stat. 8), amended several times, the last being Public Law 94-185 (89 Stat. 1061), which provided that most provisions of that Act do not apply to receipts and accruals attributable to contract performance after September 30, 1976, and in view of the termination of the Renegotiation Board and the transfer of property and records of the Board to the Administrator of the General Services Administration on March 31, 1979, pursuant to Public Law 95-431 (92 Stat. 1043). Although the Renegotiation Board is no longer in existence, Federal agencies, including the General Services Administration, are required to use interest rates that are computed under the criteria set out in this subsection. See 31:3902(a) and the website of the Bureau of the Public Debt, available at http://www.publicdebt.treas.gov/opd/opdprmt2.htm. For an example of publication of rates under the criteria enacted here, see Federal Register, volume 67, number 247, page 78566, December 24, 2002.

Subtitle IV—Miscellaneous

Chapter 81. Drug-Free Workplace ..... 8101
83. Buy American ..... 8301
85. Committee for Purchase From People Who Are Blind or Severely Disabled ..... 8501
87. Kickbacks ..... 8701

CHAPTER 81—DRUG-FREE WORKPLACE

Sec. 8101. Definitions and construction.
8102. Drug-free workplace requirements for Federal contractors.
8103. Drug-free workplace requirements for Federal grant recipients.
8104. Employee sanctions and remedies.
8105. Waiver.
8106. Regulations.

§ 8101. Definitions and construction

(a) DEFINITIONS.—In this chapter:

(1) CONTRACTOR.—The term “contractor” means the department, division, or other unit of a person responsible for the performance under the contract.

(2) CONTROLLED SUBSTANCE.—The term “controlled substance” means a controlled sub-

stance in schedules I through V of section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812).

(3) **CONVICTION.**—The term “conviction” means a finding of guilt (including a plea of nolo contendere), an imposition of sentence, or both, by a judicial body charged with the responsibility to determine violations of Federal or State criminal drug statutes.

(4) **CRIMINAL DRUG STATUTE.**—The term “criminal drug statute” means a criminal statute involving manufacture, distribution, dispensation, use, or possession of a controlled substance.

(5) **DRUG-FREE WORKPLACE.**—The term “drug-free workplace” means a site of an entity—

(A) for the performance of work done in connection with a specific contract or grant described in section 8102 or 8103 of this title; and

(B) at which employees of the entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4181).

(6) **EMPLOYEE.**—The term “employee” means the employee of a contractor or grantee directly engaged in the performance of work pursuant to the contract or grant described in section 8102 or 8103 of this title.

(7) **FEDERAL AGENCY.**—The term “Federal agency” means an agency as defined in section 552(f) of title 5.

(8) **GRANTEE.**—The term “grantee” means the department, division, or other unit of a person responsible for the performance under the grant.

(b) **CONSTRUCTION.**—This chapter does not require law enforcement agencies to comply with this chapter if the head of the agency determines it would be inappropriate in connection with the agency’s undercover operations.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3826.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8101(a)(1) ....	41:706(7).	Pub. L. 100-690, title V, §§5157, 5158, Nov. 18, 1988, 102 Stat. 4308.
8101(a)(2) ....	41:706(3).	
8101(a)(3) ....	41:706(4).	
8101(a)(4) ....	41:706(5).	
8101(a)(5) ....	41:706(1).	
8101(a)(6) ....	41:706(2).	
8101(a)(7) ....	41:706(8).	
8101(a)(8) ....	41:706(6).	
8101(b) .....	41:707.	

**§ 8102. Drug-free workplace requirements for Federal contractors**

(a) **IN GENERAL.**—

(1) **PERSONS OTHER THAN INDIVIDUALS.**—A person other than an individual shall not be considered a responsible source (as defined in section 113 of this title) for the purposes of being awarded a contract for the procurement of any property or services of a value greater than the simplified acquisition threshold (as defined in section 134 of this title) by a Federal

agency, other than a contract for the procurement of commercial items (as defined in section 103 of this title), unless the person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person’s workplace and specifying the actions that will be taken against employees for violations of the prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the person’s policy of maintaining a drug-free workplace;

(iii) available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed on employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A) that as a condition of employment on the contract the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of a conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by section 8104 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A) to (F).

(2) **INDIVIDUALS.**—A Federal agency shall not make a contract with an individual unless the individual agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(b) **SUSPENSION, TERMINATION, OR DEBARMENT OF CONTRACTOR.**—

(1) **GROUND FORS SUSPENSION, TERMINATION, OR DEBARMENT.**—Payment under a contract awarded by a Federal agency may be suspended and the contract may be terminated, and the contractor or individual who made the contract with the agency may be suspended or debarred in accordance with the requirements of this section, if the head of the agency determines that—

(A) the contractor is violating, or has violated, the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1); or

(B) the number of employees of the contractor who have been convicted of violations of criminal drug statutes for violations occurring in the workplace indicates that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—A contracting officer who determines in writing that cause for suspension of payments, termination, or suspension or debarment exists shall initiate an appropriate action, to be conducted by the agency concerned in accordance with the Federal Acquisition Regulation and applicable agency procedures. The Federal Acquisition Regulation shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and other procedures as may be necessary to provide a full and fair proceeding to a contractor or individual.

(3) EFFECT OF DEBARMENT.—A contractor or individual debarred by a final decision under this subsection is ineligible for award of a contract by a Federal agency, and for participation in a future procurement by a Federal agency, for a period specified in the decision, not to exceed 5 years.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3827.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8102 .....	41:701.	Pub. L. 100-690, title V, § 5152, Nov. 18, 1988, 102 Stat. 4304; Pub. L. 103-355, title IV, § 4104(d), title VIII, § 8301(f), Oct. 13, 1994, 108 Stat. 3342, 3397; Pub. L. 104-106, div. D, title XLIII, §§ 4301(a)(3), 4321(i)(13), Feb. 10, 1996, 110 Stat. 656, 677.

**§ 8103. Drug-free workplace requirements for Federal grant recipients**

(a) IN GENERAL.—

(1) PERSONS OTHER THAN INDIVIDUALS.—A person other than an individual shall not receive a grant from a Federal agency unless the person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of the prohibition;

(B) establishing a drug-free awareness program to inform employees about—

- (i) the dangers of drug abuse in the workplace;
- (ii) the grantee's policy of maintaining a drug-free workplace;
- (iii) available drug counseling, rehabilitation, and employee assistance programs; and
- (iv) the penalties that may be imposed on employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A) that as a condition of employment in the grant the employee will—

- (i) abide by the terms of the statement; and
- (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;

(E) notifying the granting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of a conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by section 8104 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A) to (F).

(2) INDIVIDUALS.—A Federal agency shall not make a grant to an individual unless the individual agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting an activity with the grant.

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF GRANTEE.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Payment under a grant awarded by a Federal agency may be suspended and the grant may be terminated, and the grantee may be suspended or debarred, in accordance with the requirements of this section, if the head of the agency or the official designee of the head of the agency determines in writing that—

(A) the grantee is violating, or has violated, the requirements of subparagraph (A), (B), (C), (D), (E), (F), or (G) of subsection (a)(1); or

(B) the number of employees of the grantee who have been convicted of violations of criminal drug statutes for violations occurring in the workplace indicates that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—A suspension of payments, termination, or suspension or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding executive order and any regulations prescribed to implement the law or executive order.

(3) EFFECT OF DEBARMENT.—A grantee debarred by a final decision under this subsection is ineligible for award of a grant by a Federal agency, and for participation in a future grant by a Federal agency, for a period specified in the decision, not to exceed 5 years.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3828.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8103 .....	41:702.	Pub. L. 100-690, title V, §5153, Nov. 18, 1988, 102 Stat. 4306; Pub. L. 105-85, div. A, title VIII, §809, Nov. 18, 1997, 111 Stat. 1838.

§ 8104. Employee sanctions and remedies

Within 30 days after receiving notice from an employee of a conviction pursuant to section 8102(a)(1)(D)(ii) or 8103(a)(1)(D)(ii) of this title, a contractor or grantee shall—

- (1) take appropriate personnel action against the employee, up to and including termination; or
- (2) require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for those purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3830.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8104 .....	41:703.	Pub. L. 100-690, title V, §5154, Nov. 18, 1988, 102 Stat. 4307.

§ 8105. Waiver

(a) IN GENERAL.—The head of an agency may waive a suspension of payments, termination of the contract or grant, or suspension or debarment of a contractor or grantee under this chapter with respect to a particular contract or grant if—

- (1) in the case of a contract, the head of the agency determines under section 8102(b)(1) of this title, after a final determination is issued under section 8102(b)(1), that suspension of payments, termination of the contract, suspension or debarment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract would severely disrupt the operation of the agency to the detriment of the Federal Government or the general public; or
- (2) in the case of a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

(b) WAIVER AUTHORITY MAY NOT BE DELEGATED.—The authority of the head of an agency under this section to waive a suspension, termination, or debarment shall not be delegated.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3830.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8105 .....	41:704.	Pub. L. 100-690, title V, §5155, Nov. 18, 1988, 102 Stat. 4307.

§ 8106. Regulations

Government-wide regulations governing actions under this chapter shall be issued pursuant to division B of subtitle I of this title.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3830.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8106 .....	41:705.	Pub. L. 100-690, title V, §5156, Nov. 18, 1988, 102 Stat. 4308.

The words “Not later than 90 days after November 18, 1988, the” are omitted as obsolete.

CHAPTER 83—BUY AMERICAN

- Sec. 8301. Definitions.
- 8302. American materials required for public use.
- 8303. Contracts for public works.
- 8304. Waiver rescission.
- 8305. Annual report.

§ 8301. Definitions

In this chapter:

- (1) PUBLIC BUILDING, PUBLIC USE, AND PUBLIC WORK.—The terms “public building”, “public use”, and “public work” mean a public building of, use by, and a public work of, the Federal Government, the District of Columbia, Puerto Rico, American Samoa, and the Virgin Islands.
- (2) UNITED STATES.—The term “United States” includes any place subject to the jurisdiction of the United States.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3830.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8301 .....	41:10c.	Mar. 3, 1933, ch. 212, title III, §1, 47 Stat. 1520; Pub. L. 86-70, §43, June 25, 1959, 73 Stat. 151; Pub. L. 86-624, §28, July 12, 1960, 74 Stat. 419; Pub. L. 100-418, title VII, §7005(a), Aug. 23, 1988, 102 Stat. 1552.

In paragraph (1), the words “the Philippine Islands” are omitted because of Proclamation No. 2695 (22 U.S.C. 1394 note). The words “the Canal Zone” are omitted because of the Panama Canal Treaty of 1977.

In paragraph (2), the words “when used in a geographical sense” are omitted as unnecessary.

IMPLEMENTATION OF BUY AMERICAN ACT WITH RESPECT TO CERTAIN WATER RESOURCE PROJECTS

Pub. L. 100-371, title V, §508, July 19, 1988, 102 Stat. 875, provided that:

“(a) GENERAL RULE.—For purposes of title III of the Act of March 3, 1933 (47 Stat. 1520; [former] 41 U.S.C. 10a-10c) [see 41 U.S.C. 8301 et seq.], commonly known as the Buy American Act, a cofferdam or any other temporary structure to be constructed by the Secretary of the Army, acting through the Chief of Engineers, shall be treated in the same manner as a permanent dam constructed by the Secretary of the Army.

“(b) APPLICABILITY.—Subsection (a) shall only apply to contracts entered into after the date of the enactment of this Act [July 19, 1988].”

EX. ORD. NO. 13788. BUY AMERICAN AND HIRE AMERICAN  
Ex. Ord. No. 13788, Apr. 18, 2017, 82 F.R. 18837, provided: