

able variation, tolerances, and exemptions with respect to this chapter (other than subsection (f)), but only in special circumstances where the Secretary determines that the limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Federal Government business, and is in accord with the remedial purpose of this chapter to protect prevailing labor standards.

(c) **PRESERVATION OF WAGES AND BENEFITS DUE UNDER PREDECESSOR CONTRACTS.**—

(1) **IN GENERAL.**—Under a contract which succeeds a contract subject to this chapter, and under which substantially the same services are furnished, a contractor or subcontractor may not pay a service employee less than the wages and fringe benefits the service employee would have received under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations.

(2) **EXCEPTION.**—This subsection does not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that wages and fringe benefits under the predecessor contract are substantially at variance with wages and fringe benefits prevailing in the same locality for services of a similar character.

(d) **DURATION OF CONTRACTS.**—Subject to limitations in annual appropriation acts but notwithstanding any other law, a contract to which this chapter applies may, if authorized by the Secretary, be for any term of years not exceeding 5, if the contract provides for periodic adjustment of wages and fringe benefits pursuant to future determinations, issued in the manner prescribed in section 6703 of this title at least once every 2 years during the term of the contract, covering each class of service employee.

(e) **EXCLUSION OF FRINGE BENEFIT PAYMENTS IN DETERMINING OVERTIME PAY.**—In determining any overtime pay to which a service employee is entitled under Federal law, the regular or basic hourly rate of pay of the service employee does not include any fringe benefit payments computed under this chapter which are excluded from the definition of “regular rate” under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).

(f) **TIMELINESS OF WAGE AND FRINGE BENEFIT DETERMINATIONS.**—It is the intent of Congress that determinations of minimum wages and fringe benefits under section 6703(1) and (2) of this title should be made as soon as administratively feasible for all contracts subject to this chapter. In any event, the Secretary shall at least make the determinations for contracts under which more than 5 service employees are to be employed.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3815.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6707(a)-(d) ..	41:353.	Pub. L. 89-286, § 4, Oct. 22, 1965, 79 Stat. 1035; Pub. L. 92-473, § 3, Oct. 9, 1972, 86 Stat. 789.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6707(e)	41:355.	Pub. L. 89-286, § 6, Oct. 22, 1965, 79 Stat. 1035.
6707(f)	41:358.	Pub. L. 89-286, § 10, as added Pub. L. 92-473, § 5, Oct. 9, 1972, 86 Stat. 790; Pub. L. 94-273, § 29, Apr. 21, 1976, 90 Stat. 380.

In subsection (e), the words “the definition of ‘regular rate’ under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e))” are substituted for “the regular rate under the Fair Labor Standards Act by provisions of section 7(d) thereof” for clarity, to correct the reference to “the Fair Labor Standards Act” in accordance with section 1 of the Fair Labor Standards Act of 1938 (29:201), which provided the short title for the Act, and to correct the reference to “section 7(d) thereof” in accordance with section 204(d)(1) of the Fair Labor Standards Amendments of 1966 (Public Law 89-601, 80 Stat. 836), which amended the Fair Labor Standards Act of 1938 by redesignating section 7(d) as 7(e).

In subsection (f), the words “paragraphs (1) and (2) of section 2”, which appear in section 10 of the Service Contract Act of 1965, as added by section 5 of Public Law 92-473 (86 Stat. 790), are treated as a reference to paragraphs (1) and (2) of section 2(a) of the Service Contract Act of 1965 to reflect the probable intent of Congress. The words “which are entered into during the applicable fiscal year”, 41:358(1)-(4), and the words “On and after July 1, 1976” are omitted as obsolete.

Subtitle III—Contract Disputes

Chapter	Sec.
71. Contract Disputes	7101

CHAPTER 71—CONTRACT DISPUTES

Sec.	
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§ 7101. Definitions

In this chapter:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator for Federal Procurement Policy appointed pursuant to section 1102 of this title.

(2) **AGENCY BOARD OR AGENCY BOARD OF CONTRACT APPEALS.**—The term “agency board” or “agency board of contract appeals” means—

(A) the Armed Services Board;

(B) the Civilian Board;

(C) the board of contract appeals of the Tennessee Valley Authority; or

(D) the Postal Service Board established under section 7105(d)(1) of this title.

(3) **AGENCY HEAD.**—The term “agency head” means the head and any assistant head of an executive agency. The term may include the chief official of a principal division of an executive agency if the head of the executive agency so designates that chief official.

(4) **ARMED SERVICES BOARD.**—The term “Armed Services Board” means the Armed Services Board of Contract Appeals established under section 7105(a)(1) of this title.

(5) **CIVILIAN BOARD.**—The term “Civilian Board” means the Civilian Board of Contract Appeals established under section 7105(b)(1) of this title.

(6) **CONTRACTING OFFICER.**—The term “contracting officer” —

(A) means an individual who, by appointment in accordance with applicable regulations, has the authority to make and administer contracts and to make determinations and findings with respect to contracts; and

(B) includes an authorized representative of the contracting officer, acting within the limits of the representative’s authority.

(7) **CONTRACTOR.**—The term “contractor” means a party to a Federal Government contract other than the Federal Government.

(8) **EXECUTIVE AGENCY.**—The term “executive agency” means—

(A) an executive department as defined in section 101 of title 5;

(B) a military department as defined in section 102 of title 5;

(C) an independent establishment as defined in section 104 of title 5, except that the term does not include the Government Accountability Office; and

(D) a wholly owned Government corporation as defined in section 9101(3) of title 31.

(9) **MISREPRESENTATION OF FACT.**—The term “misrepresentation of fact” means a false statement of substantive fact, or conduct that leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3816.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7101	41:601.	Pub. L. 95–563, § 2, Nov. 1, 1978, 92 Stat. 2383; Pub. L. 104–106, div. D, title XLIII, § 4322(b)(5), Feb. 10, 1996, 110 Stat. 677; Pub. L. 109–163, div. A, title VIII, § 847(d)(1), Jan. 6, 2006, 119 Stat. 3393.

In paragraph (8)(C), the words “Government Accountability Office” are substituted for “General Accounting Office” because of section 8(b) of the GAO Human Capital Reform Act of 2004 (Public Law 108–271, 118 Stat. 814, 31 U.S.C. 702 note).

In paragraph (8)(D), the words “section 9101(3) of title 31” are substituted for “section 846 of title 31” because of section 4(b) of Public Law 97–258 (31 U.S.C. note prec. 101).

§ 7102. Applicability of chapter

(a) **EXECUTIVE AGENCY CONTRACTS.**—Unless otherwise specifically provided in this chapter, this chapter applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28) made by an executive agency for—

(1) the procurement of property, other than real property in being;

(2) the procurement of services;

(3) the procurement of construction, alteration, repair, or maintenance of real property; or

(4) the disposal of personal property.

(b) **TENNESSEE VALLEY AUTHORITY CONTRACTS.**—

(1) **IN GENERAL.**—With respect to contracts of the Tennessee Valley Authority, this chapter applies only to contracts containing a clause that requires contract disputes to be resolved through an agency administrative process.

(2) **EXCLUSION.**—Notwithstanding any other provision of this chapter, this chapter does not apply to a contract of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system.

(c) **FOREIGN GOVERNMENT OR INTERNATIONAL ORGANIZATION CONTRACTS.**—If an agency head determines that applying this chapter would not be in the public interest, this chapter does not apply to a contract with a foreign government, an agency of a foreign government, an international organization, or a subsidiary body of an international organization.

(d) **MARITIME CONTRACTS.**—Appeals under section 7107(a) of this title and actions brought under sections 7104(b) and 7107(b) to (f) of this title, arising out of maritime contracts, are governed by chapter 309 or 311 of title 46, as applicable, to the extent that those chapters are not inconsistent with this chapter.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3817.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7102(a)–(c) ..	41:602.	Pub. L. 95–563, §§ 3, 4, Nov. 1, 1978, 92 Stat. 2383.
7102(d)	41:603.	

In subsection (c), the words “an agency head” are substituted for “the head of the agency” for consistency with the defined term “agency head” in section 7101 of the revised title.

In subsection (d), the words “chapter 309 or 311 of title 46” are substituted for “the Act of March 9, 1920, as amended (41 Stat. 525, as amended; 46 U.S.C. 741–752) or the Act of March 3, 1925, as amended (43 Stat. 1112, as amended; 46 U.S.C. 781–790)” in section 4 of the Contract Disputes Act of 1978 (Public Law 95–563, 92 Stat. 2384) because of section 18(c) of Public Law 109–304 (46 U.S.C. note prec. 101).

§ 7103. Decision by contracting officer

(a) **CLAIMS GENERALLY.**—

(1) **SUBMISSION OF CONTRACTOR’S CLAIMS TO CONTRACTING OFFICER.**—Each claim by a contractor against the Federal Government relating to a contract shall be submitted to the contracting officer for a decision.

(2) **CONTRACTOR’S CLAIMS IN WRITING.**—Each claim by a contractor against the Federal Government relating to a contract shall be in writing.

(3) **CONTRACTING OFFICER TO DECIDE FEDERAL GOVERNMENT’S CLAIMS.**—Each claim by the Federal Government against a contractor relating to a contract shall be the subject of a written decision by the contracting officer.

(4) TIME FOR SUBMITTING CLAIMS.—

(A) IN GENERAL.—Each claim by a contractor against the Federal Government relating to a contract and each claim by the Federal Government against a contractor relating to a contract shall be submitted within 6 years after the accrual of the claim.

(B) EXCEPTION.—Subparagraph (A) of this paragraph does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(5) APPLICABILITY.—The authority of this subsection and subsections (c)(1), (d), and (e) does not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation that another Federal agency is specifically authorized to administer, settle, or determine.

(b) CERTIFICATION OF CLAIMS.—

(1) REQUIREMENT GENERALLY.—For claims of more than \$100,000 made by a contractor, the contractor shall certify that—

(A) the claim is made in good faith;

(B) the supporting data are accurate and complete to the best of the contractor's knowledge and belief;

(C) the amount requested accurately reflects the contract adjustment for which the contractor believes the Federal Government is liable; and

(D) the certifier is authorized to certify the claim on behalf of the contractor.

(2) WHO MAY EXECUTE CERTIFICATION.—The certification required by paragraph (1) may be executed by an individual authorized to bind the contractor with respect to the claim.

(3) FAILURE TO CERTIFY OR DEFECTIVE CERTIFICATION.—A contracting officer is not obligated to render a final decision on a claim of more than \$100,000 that is not certified in accordance with paragraph (1) if, within 60 days after receipt of the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective. A defect in the certification of a claim does not deprive a court or an agency board of jurisdiction over the claim. Prior to the entry of a final judgment by a court or a decision by an agency board, the court or agency board shall require a defective certification to be corrected.

(c) FRAUDULENT CLAIMS.—

(1) NO AUTHORITY TO SETTLE.—This section does not authorize an agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(2) LIABILITY OF CONTRACTOR.—If a contractor is unable to support any part of the contractor's claim and it is determined that the inability is attributable to a misrepresentation of fact or fraud by the contractor, then the contractor is liable to the Federal Government for an amount equal to the unsupported part of the claim plus all of the Federal Government's costs attributable to reviewing the unsupported part of the claim. Liability under this paragraph shall be determined within 6 years of the commission of the misrepresentation of fact or fraud.

(d) ISSUANCE OF DECISION.—The contracting officer shall issue a decision in writing and shall mail or otherwise furnish a copy of the decision to the contractor.

(e) CONTENTS OF DECISION.—The contracting officer's decision shall state the reasons for the decision reached and shall inform the contractor of the contractor's rights as provided in this chapter. Specific findings of fact are not required. If made, specific findings of fact are not binding in any subsequent proceeding.

(f) TIME FOR ISSUANCE OF DECISION.—

(1) CLAIM OF \$100,000 OR LESS.—A contracting officer shall issue a decision on any submitted claim of \$100,000 or less within 60 days from the contracting officer's receipt of a written request from the contractor that a decision be rendered within that period.

(2) CLAIM OF MORE THAN \$100,000.—A contracting officer shall, within 60 days of receipt of a submitted certified claim over \$100,000—

(A) issue a decision; or

(B) notify the contractor of the time within which a decision will be issued.

(3) GENERAL REQUIREMENT OF REASONABLENESS.—The decision of a contracting officer on submitted claims shall be issued within a reasonable time, in accordance with regulations prescribed by the agency, taking into account such factors as the size and complexity of the claim and the adequacy of information in support of the claim provided by the contractor.

(4) REQUESTING TRIBUNAL TO DIRECT ISSUANCE WITHIN SPECIFIED TIME PERIOD.—A contractor may request the tribunal concerned to direct a contracting officer to issue a decision in a specified period of time, as determined by the tribunal concerned, in the event of undue delay on the part of the contracting officer.

(5) FAILURE TO ISSUE DECISION WITHIN REQUIRED TIME PERIOD.—Failure by a contracting officer to issue a decision on a claim within the required time period is deemed to be a decision by the contracting officer denying the claim and authorizes an appeal or action on the claim as otherwise provided in this chapter. However, the tribunal concerned may, at its option, stay the proceedings of the appeal or action to obtain a decision by the contracting officer.

(g) FINALITY OF DECISION UNLESS APPEALED.—The contracting officer's decision on a claim is final and conclusive and is not subject to review by any forum, tribunal, or Federal Government agency, unless an appeal or action is timely commenced as authorized by this chapter. This chapter does not prohibit an executive agency from including a clause in a Federal Government contract requiring that, pending final decision of an appeal, action, or final settlement, a contractor shall proceed diligently with performance of the contract in accordance with the contracting officer's decision.

(h) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, or other mutually

agreeable procedures, for resolving claims. All provisions of subchapter IV of chapter 5 of title 5 apply to alternative means of dispute resolution under this subsection.

(2) CERTIFICATION OF CLAIM.—The contractor shall certify the claim when required to do so under subsection (b)(1) or other law.

(3) REJECTING REQUEST FOR ALTERNATIVE DISPUTE RESOLUTION.—

(A) CONTRACTING OFFICER.—A contracting officer who rejects a contractor's request for alternative dispute resolution proceedings shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title 5 or other specific reasons that alternative dispute resolution procedures are inappropriate.

(B) CONTRACTOR.—A contractor that rejects an agency's request for alternative dispute resolution proceedings shall inform the agency in writing of the contractor's specific reasons for rejecting the request.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3817.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7103(a)(1)	41:605(a) (1st sentence related to submission).	Pub. L. 95-563, §§5, 6(a) (1st, 2d, 5th-last sentences), (b), (c)(3), (5), Nov. 1, 1978, 92 Stat. 2384, 2385.
7103(a)(2)	41:605(a) (1st sentence related to writing requirement).	
7103(a)(3)	41:605(a) (2d sentence).	
7103(a)(4)(A)	41:605(a) (3d sentence).	Pub. L. 95-563, §6(a) (3d, 4th sentences), Nov. 1, 1978, as added Pub. L. 103-355, title II, §2351(a)(1), Oct. 13, 1994, 108 Stat. 3322, amended Pub. L. 104-106, div. D, title XLIII, §4321(a)(6), Feb. 10, 1996, 110 Stat. 671.
7103(a)(4)(B)	41:605(a) (4th sentence).	
7103(a)(5)	41:605(a) (8th sentence).	
7103(b)(1)	41:605(c)(1) (last sentence).	Pub. L. 95-563, §6(c)(1) (last sentence), Nov. 1, 1978, 92 Stat. 2385; Pub. L. 102-572, title IX, §907(a)(1)(A), Oct. 29, 1992, 106 Stat. 4518; Pub. L. 103-355, title II, §2351(b), Oct. 13, 1994, 108 Stat. 3322.
7103(b)(2)	41:605(c)(7).	Pub. L. 95-563, §6(c)(6), (7), as added Pub. L. 102-572, title IX, §907(a)(1)(B), Oct. 29, 1992, 106 Stat. 4518.
7103(b)(3)	41:605(c)(6).	
7103(c)(1)	41:605(a) (last sentence).	
7103(c)(2)	41:604.	
7103(d)	41:605(a) (5th sentence).	
7103(e)	41:605(a) (6th, 7th sentences).	
7103(f)(1)	41:605(c)(1) (1st sentence).	Pub. L. 95-563, §6(c)(1) (1st sentence), (2), Nov. 1, 1978, 92 Stat. 2385; Pub. L. 103-355, title II, §2351(b), Oct. 13, 1994, 108 Stat. 3322.
7103(f)(2)	41:605(c)(2).	
7103(f)(3)	41:605(c)(3).	
7103(f)(4)	41:605(c)(4).	Pub. L. 95-563, §6(c)(4), Nov. 1, 1978, 92 Stat. 2385; Pub. L. 103-355, title II, §2351(e), Oct. 13, 1994, 108 Stat. 3322.
7103(f)(5)	41:605(c)(5).	
7103(g)	41:605(b).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7103(h)(1)	41:605(d) (1st, last sentences).	Pub. L. 95-563, §6(d) (1st, last sentences), as added Pub. L. 101-552, §6(a), Nov. 15, 1990, 104 Stat. 2745, 2746; Pub. L. 104-106, div. D, title XLIII, §4322(b)(6), Feb. 10, 1996, 110 Stat. 677; Pub. L. 105-85, div. A, title X, §1073(g)(3), Nov. 18, 1997, 111 Stat. 1906.
7103(h)(2)	41:605(d) (2d sentence).	Pub. L. 95-563, §6(d) (2d sentence), as added Pub. L. 101-552, §6(a), Nov. 15, 1990, 104 Stat. 2745; Pub. L. 104-320, §6(1), Oct. 19, 1996, 110 Stat. 3871.
7103(h)(3)(A)	41:605(e) (1st sentence).	Pub. L. 95-563, §6(e), as added Pub. L. 101-552, §6(a), Nov. 15, 1990, 104 Stat. 2746; Pub. L. 103-355, title II, §2352, Oct. 13, 1994, 108 Stat. 3322; Pub. L. 104-106, div. D, title XLIII, §§4321(a)(7), 4322(b)(6), Feb. 10, 1996, 110 Stat. 671, 677; Pub. L. 104-320, §6(2), Oct. 19, 1996, 110 Stat. 3871; Pub. L. 105-85, div. A, title X, §1073(g)(3), Nov. 18, 1997, 111 Stat. 1906.
7103(h)(3)(B)	41:605(e) (last sentence).	

In subsection (b)(1)(D) and (2), the word “duly” is omitted as unnecessary.

In subsection (b)(3), the words “of contract appeals” are omitted as unnecessary because of the definition of “agency board” in section 7101 of the revised title.

In subsection (c)(2), the words “this subsection”, which appear in section 5 of the Contract Disputes Act of 1978 (Pub. L. 95-563, 92 Stat. 2384), and which were probably intended to mean “this section”, are translated as “this paragraph” in accordance with the probable intent of Congress.

In subsection (f)(5), the words “the commencement of” are omitted as unnecessary. The words “of the appeal or action” are substituted for “in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer” to eliminate unnecessary words.

§ 7104. Contractor's right of appeal from decision by contracting officer

(a) APPEAL TO AGENCY BOARD.—A contractor, within 90 days from the date of receipt of a contracting officer's decision under section 7103 of this title, may appeal the decision to an agency board as provided in section 7105 of this title.

(b) BRINGING AN ACTION DE NOVO IN FEDERAL COURT.—

(1) IN GENERAL.—Except as provided in paragraph (2), and in lieu of appealing the decision of a contracting officer under section 7103 of this title to an agency board, a contractor may bring an action directly on the claim in the United States Court of Federal Claims, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(2) TENNESSEE VALLEY AUTHORITY.—In the case of an action against the Tennessee Valley Authority, the contractor may only bring an action directly on the claim in a district court of the United States pursuant to section 1337 of title 28, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(3) TIME FOR FILING.—A contractor shall file any action under paragraph (1) or (2) within 12 months from the date of receipt of a con-

tracting officer's decision under section 7103 of this title.

(4) DE NOVO.—An action under paragraph (1) or (2) shall proceed de novo in accordance with the rules of the appropriate court.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3820.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7104(a)	41:606.	Pub. L. 95-563, §7, Nov. 1, 1978, 92 Stat. 2385.
7104(b)	41:609(a).	Pub. L. 95-563, §10(a), Nov. 1, 1978, 92 Stat. 2388; Pub. L. 97-164, title 1, §161(10), Apr. 2, 1982, 96 Stat. 49.

In subsection (a), the words “of contract appeals” are omitted as unnecessary because of the definition of “agency board” in section 7101 of the revised title.

In subsection (b)(1), the words “United States Court of Federal Claims” are substituted for “United States Claims Court” because of section 902(b)(1) of the Federal Courts Administration Act of 1992 (Pub. L. 102-572, 106 Stat. 4516, 28 U.S.C. 171 note).

§ 7105. Agency boards

(a) ARMED SERVICES BOARD.—

(1) ESTABLISHMENT.—An Armed Services Board of Contract Appeals may be established within the Department of Defense when the Secretary of Defense, after consultation with the Administrator, determines from a workload study that the volume of contract claims justifies the establishment of a full-time agency board of at least 3 members who shall have no other inconsistent duties. Workload studies will be updated at least once every 3 years and submitted to the Administrator.

(2) APPOINTMENT OF MEMBERS AND COMPENSATION.—Members of the Armed Services Board shall be selected and appointed in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, with an additional requirement that members must have had at least 5 years of experience in public contract law. The Secretary of Defense shall designate the chairman and vice chairman of the Armed Services Board from among the appointed members. Compensation for the chairman, vice chairman, and other members shall be determined under section 5372a of title 5.

(b) CIVILIAN BOARD.—

(1) ESTABLISHMENT.—There is established in the General Services Administration the Civilian Board of Contract Appeals.

(2) MEMBERSHIP.—

(A) ELIGIBILITY.—The Civilian Board consists of members appointed by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) from a register of applicants maintained by the Administrator of General Services, in accordance with rules issued by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) for establishing and maintaining a register of eligible applicants and selecting Civilian Board members. The Administrator of General Services shall appoint a member without re-

gard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board member.

(B) APPOINTMENT OF MEMBERS AND COMPENSATION.—Members of the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, with an additional requirement that members must have had at least 5 years experience in public contract law. Compensation for the members shall be determined under section 5372a of title 5.

(3) REMOVAL.—Members of the Civilian Board are subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5.

(4) FUNCTIONS.—

(A) IN GENERAL.—The Civilian Board has jurisdiction as provided by subsection (e)(1)(B).

(B) ADDITIONAL JURISDICTION.—With the concurrence of the Federal agencies affected, the Civilian Board may assume—

(i) jurisdiction over any additional category of laws or disputes over which an agency board of contract appeals established pursuant to section 8 of the Contract Disputes Act exercised jurisdiction before January 6, 2007; and

(ii) any other function the agency board performed before January 6, 2007, on behalf of those agencies.

(c) TENNESSEE VALLEY AUTHORITY BOARD.—

(1) ESTABLISHMENT.—The Board of Directors of the Tennessee Valley Authority may establish a board of contract appeals of the Tennessee Valley Authority of an indeterminate number of members.

(2) APPOINTMENT OF MEMBERS AND COMPENSATION.—The Board of Directors of the Tennessee Valley Authority shall establish criteria for the appointment of members to the agency board established under paragraph (1), and shall designate a chairman of the agency board. The chairman and other members of the agency board shall receive compensation, at the daily equivalent of the rates determined under section 5372a of title 5, for each day they are engaged in the actual performance of their duties as members of the agency board.

(d) POSTAL SERVICE BOARD.—

(1) ESTABLISHMENT.—There is established an agency board of contract appeals known as the Postal Service Board of Contract Appeals.

(2) APPOINTMENT AND SERVICE OF MEMBERS.—The Postal Service Board of Contract Appeals consists of judges appointed by the Postmaster General. The judges shall meet the qualifications of and serve in the same manner as members of the Civilian Board.

(3) APPLICATION.—This chapter applies to contract disputes before the Postal Service Board of Contract Appeals in the same manner as it applies to contract disputes before the Civilian Board.

(e) JURISDICTION.—

(1) IN GENERAL.—

(A) ARMED SERVICES BOARD.—The Armed Services Board has jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration relative to a contract made by that department or agency.

(B) CIVILIAN BOARD.—The Civilian Board has jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Regulatory Commission, or the Tennessee Valley Authority) relative to a contract made by that agency.

(C) POSTAL SERVICE BOARD.—The Postal Service Board of Contract Appeals has jurisdiction to decide any appeal from a decision of a contracting officer of the United States Postal Service or the Postal Regulatory Commission relative to a contract made by either agency.

(D) OTHER AGENCY BOARDS.—Each other agency board has jurisdiction to decide any appeal from a decision of a contracting officer relative to a contract made by its agency.

(2) RELIEF.—In exercising this jurisdiction, an agency board may grant any relief that would be available to a litigant asserting a contract claim in the United States Court of Federal Claims.

(f) SUBPOENA, DISCOVERY, AND DEPOSITION.—A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpoena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board. In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board through the Attorney General, or upon application by the board of contract appeals of the Tennessee Valley Authority, shall have jurisdiction to issue the person an order requiring the person to appear before the agency board or a member of the agency board, to produce evidence or to give testimony, or both. Any failure of the person to obey the order of the court may be punished by the court as contempt of court.

(g) DECISIONS.—An agency board shall—

(1) to the fullest extent practicable provide informal, expeditious, and inexpensive resolution of disputes;

(2) issue a decision in writing or take other appropriate action on each appeal submitted; and

(3) mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3820; Pub. L. 111-259, title IV, §422, Oct. 7, 2010, 124

Stat. 2727; Pub. L. 111-383, div. A, title X, §1075(o), Jan. 7, 2011, 124 Stat. 4378.)

AMENDMENTS NOT SHOWN IN TEXT

Subsecs. (b) and (e)(1)(A), (B), (D) and (2) of this section were derived from sections 438 and 607(d), respectively, of former Title 41, Public Contracts. Sections 438 and 607(d) were amended by Pub. L. 111-383, div. A, title X, §1075(o), Jan. 7, 2011, 124 Stat. 4378, and Pub. L. 111-259, title IV, §422, Oct. 7, 2010, 124 Stat. 2727, respectively, prior to being repealed and reenacted as subsecs. (b) and (e)(1)(A), (B), (D) and (2) of this section by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For applicability of those amendments to this section, see section 6(a) of Pub. L. 111-350, set out as a Transitional and Savings Provisions note preceding section 101 of this title. Section 438 of former Title 41 was amended in subsec. (c)(1) by striking “(41 U.S.C. 607(b))” and inserting “(41 U.S.C. 607(d))” and in subsec. (c)(2)(A) by inserting “of 1978” after “Contract Disputes Act”. Section 607(d) of former Title 41 was amended by adding at the end “Notwithstanding any other provision of this section and any other provision of law, an appeal from a decision of a contracting officer of the Central Intelligence Agency relative to a contract made by that Agency may be filed with whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified by such contracting officer as the Board to which such an appeal may be made and such Board shall have jurisdiction to decide that appeal.”

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
7105(a)	41:607(a)(1), (b)(1).	Pub. L. 95-563, §8(a)(1), (b)(1), Nov. 1, 1978, 92 Stat. 2385; Pub. L. 101-509, title V, §529 [title I, §104(d)(4)], Nov. 5, 1990, 104 Stat. 1447; Pub. L. 109-163, div. A, title VIII, §847(d)(3), Jan. 6, 2006, 119 Stat. 3394.
7105(b)	41:438.	Pub. L. 93-400, §42, as added Pub. L. 109-163, div. A, title VIII, §847(a), Jan. 6, 2006, 119 Stat. 3391.
7105(c)	41:607(a)(2), (b)(2).	Pub. L. 95-563, §8(a)(2), (b)(2), Nov. 1, 1978, 92 Stat. 2385, 2386.
7105(d)	41:607(c) (1st, 3d, last sentences).	Pub. L. 95-563, §8(c), Nov. 1, 1978, 92 Stat. 2386; Pub. L. 109-163, div. A, title VIII, §847(d)(2)(B), Jan. 6, 2006, 119 Stat. 3394.
7105(e)(1) (A), (B).	41:607(d) (1st, 2d sentences).	Pub. L. 95-563, §8(d), Nov. 1, 1978, 92 Stat. 2386; Pub. L. 97-164, title I, §160(a)(15), Apr. 2, 1982, 96 Stat. 48; Pub. L. 109-163, div. A, title VIII, §847(d)(2)(A), Jan. 6, 2006, 119 Stat. 3393.
7105(e)(1)(C)	41:607(c) (2d sentence).	
7105(e)(1)(D)	41:607(d) (3d sentence).	
7105(e)(2)	41:607(d) (last sentence).	
7105(f)	41:610.	Pub. L. 95-563, §11, Nov. 1, 1978, 92 Stat. 2388.
7105(g)	41:607(e).	Pub. L. 95-563, §8(e), Nov. 1, 1978, 92 Stat. 2386.

In subsection (a)(2), the words “administrative law judges” are substituted for “hearing examiners” because of section 3 of Public Law 95-251 (5 U.S.C. 3105 note). The words “Full-time members of agency boards serving as such on the effective date of this chapter shall be considered qualified” are omitted as obsolete.

In subsection (b), the text of 41 U.S.C. 438 (b)(1)(C) is omitted as obsolete.

In subsection (e)(1)(B) and (C), the words “Postal Regulatory Commission” are substituted for “Postal Rate Commission” because of section 604(f) of the Postal Accountability and Enhancement Act (Public Law 109–435, 120 Stat. 3242, 39 U.S.C. 404 note).

Editorial Notes

REFERENCES IN TEXT

Section 8 of the Contract Disputes Act, referred to in subsec. (b)(4)(B)(i), probably means section 8 of Pub. L. 95–563, the Contract Disputes Act of 1978, which was classified to former section 607 of this title prior to being repealed and reenacted as subsecs. (a), (c) to (e), and (g) of this section by Pub. L. 111–350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

§ 7106. Agency board procedures for accelerated and small claims

(a) **ACCELERATED PROCEDURE WHERE \$100,000 OR LESS IN DISPUTE.**—The rules of each agency board shall include a procedure for the accelerated disposition of any appeal from a decision of a contracting officer where the amount in dispute is \$100,000 or less. The accelerated procedure is applicable at the sole election of the contractor. An appeal under the accelerated procedure shall be resolved, whenever possible, within 180 days from the date the contractor elects to use the procedure.

(b) **SMALL CLAIMS PROCEDURE.**—

(1) **IN GENERAL.**—The rules of each agency board shall include a procedure for the expedited disposition of any appeal from a decision of a contracting officer where the amount in dispute is \$50,000 or less, or in the case of a small business concern (as defined in the Small Business Act (15 U.S.C. 631 et seq.) and regulations under that Act), \$150,000 or less. The small claims procedure is applicable at the sole election of the contractor.

(2) **SIMPLIFIED RULES OF PROCEDURE.**—The small claims procedure shall provide for simplified rules of procedure to facilitate the decision of any appeal. An appeal under the small claims procedure may be decided by a single member of the agency board with such concurrences as may be provided by rule or regulation.

(3) **TIME OF DECISION.**—An appeal under the small claims procedure shall be resolved, whenever possible, within 120 days from the date the contractor elects to use the procedure.

(4) **FINALITY OF DECISION.**—A decision against the Federal Government or against the contractor reached under the small claims procedure is final and conclusive and may not be set aside except in cases of fraud.

(5) **NO PRECEDENT.**—Administrative determinations and final decisions under this subsection have no value as precedent for future cases under this chapter.

(6) **REVIEW OF REQUISITE AMOUNTS IN CONTROVERSY.**—The Administrator, from time to time, may review the dollar amounts specified in paragraph (1) and adjust the amounts in accordance with economic indexes selected by the Administrator.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3823.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7106(a)	41:607(f).	Pub. L. 95–563, §8(f), Nov. 1, 1978, 92 Stat. 2386; Pub. L. 103–355, title II, §2351(c), Oct. 13, 1994, 108 Stat. 3322.
7106(b)	41:608.	Pub. L. 95–563, §9, Nov. 1, 1978, 92 Stat. 2387; Pub. L. 103–355, title II, §2351(d), Oct. 13, 1994, 108 Stat. 3322; Pub. L. 109–364, div. A, title VIII, §857, Oct. 17, 2006, 120 Stat. 2349.

In subsection (a), the word “only” is omitted for consistency with a similar provision in 41:608(a) and because the word “only” is redundant with the word “sole”.

In subsection (b)(6), the words “from time to time, may review” are substituted for “is authorized to review at least every three years” because the source law, while effectively granting the Administrator authority to conduct the reviews, does not require the Administrator to conduct any reviews, and does not restrict the number of reviews the Administrator may conduct during any time period. The words “beginning with the third year after November 1, 1978” are omitted as obsolete. The words “the dollar amount specified in paragraph (1)” are substituted for “the dollar amount defined in subsection (a) of this section as a small claim” to eliminate unnecessary words and because 41:608(a), restated as paragraph (1), does not explicitly provide a definition for the term “small claim”.

SENATE REVISION AMENDMENT

In subsec. (b)(6), “AMOUNTS” substituted for “AMOUNT” in heading and “amounts” substituted for “amount” in two places in text by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. 18683 (2010).

§ 7107. Judicial review of agency board decisions

(a) **REVIEW.**—

(1) **IN GENERAL.**—The decision of an agency board is final, except that—

(A) a contractor may appeal the decision to the United States Court of Appeals for the Federal Circuit within 120 days from the date the contractor receives a copy of the decision; or

(B) if an agency head determines that an appeal should be taken, the agency head, with the prior approval of the Attorney General, may transmit the decision to the United States Court of Appeals for the Federal Circuit for judicial review under section 1295 of title 28, within 120 days from the date the agency receives a copy of the decision.

(2) **TENNESSEE VALLEY AUTHORITY.**—Notwithstanding paragraph (1), a decision of the board of contract appeals of the Tennessee Valley Authority is final, except that—

(A) a contractor may appeal the decision to a United States district court pursuant to section 1337 of title 28, within 120 days from the date the contractor receives a copy of the decision; or

(B) the Tennessee Valley Authority may appeal the decision to a United States district court pursuant to section 1337 of title 28, within 120 days from the date of the decision.

(3) **REVIEW OF ARBITRATION.**—An award by an arbitrator under this chapter shall be reviewed pursuant to sections 9 to 13 of title 9, except

that the court may set aside or limit any award that is found to violate limitations imposed by Federal statute.

(b) **FINALITY OF AGENCY BOARD DECISIONS ON QUESTIONS OF LAW AND FACT.**—Notwithstanding any contract provision, regulation, or rule of law to the contrary, in an appeal by a contractor or the Federal Government from the decision of an agency board pursuant to subsection (a)—

(1) the decision of the agency board on a question of law is not final or conclusive; but

(2) the decision of the agency board on a question of fact is final and conclusive and may not be set aside unless the decision is—

(A) fraudulent, arbitrary, or capricious;

(B) so grossly erroneous as to necessarily imply bad faith; or

(C) not supported by substantial evidence.

(c) **REMAND.**—In an appeal by a contractor or the Federal Government from the decision of an agency board pursuant to subsection (a), the court may render an opinion and judgment and remand the case for further action by the agency board or by the executive agency as appropriate, with direction the court considers just and proper.

(d) **CONSOLIDATION.**—If 2 or more actions arising from one contract are filed in the United States Court of Federal Claims and one or more agency boards, for the convenience of parties or witnesses or in the interest of justice, the United States Court of Federal Claims may order the consolidation of the actions in that court or transfer any actions to or among the agency boards involved.

(e) **JUDGMENTS AS TO FEWER THAN ALL CLAIMS OR PARTIES.**—In an action filed pursuant to this chapter involving 2 or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one of the claims can be divided for purposes of decision or judgment, and in any action where multiple parties are involved, the court, whenever appropriate, may enter a judgment as to one or more but fewer than all of the claims or portions of claims or parties.

(f) **ADVISORY OPINIONS.**—

(1) **IN GENERAL.**—Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request an agency board to provide the court with an advisory opinion on the matters of contract interpretation under consideration.

(2) **APPLICABLE ISSUE.**—An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this chapter.

(3) **REFERRAL TO AGENCY BOARD WITH JURISDICTION.**—A district court shall direct a request under paragraph (1) to the agency board having jurisdiction under this chapter to adjudicate appeals of contract claims under the contract being interpreted by the court.

(4) **TIMELY RESPONSE.**—After receiving a request for an advisory opinion under paragraph (1), an agency board shall provide the advisory opinion in a timely manner to the district court making the request.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3824.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7107(a)	41:607(g).	Pub. L. 95-563, §8(g), Nov. 1, 1978, 92 Stat. 2387; Pub. L. 97-164, title I, §156, Apr. 2, 1982, 96 Stat. 47; Pub. L. 101-552, §6(b), Nov. 15, 1990, 104 Stat. 2746.
7107(b)	41:609(b).	Pub. L. 95-563, §10(b), (e), Nov. 1, 1978, 92 Stat. 2388.
7107(c)	41:609(c).	Pub. L. 95-563, §10(c), Nov. 1, 1978, 92 Stat. 2388; Pub. L. 97-164, title I, §157, Apr. 2, 1982, 96 Stat. 47.
7107(d)	41:609(d).	Pub. L. 95-563, §10(d), Nov. 1, 1978, 92 Stat. 2388; Pub. L. 97-164, title I, §160(a)(15), Apr. 2, 1982, 96 Stat. 48.
7107(e)	41:609(e).	Pub. L. 95-563, §10(f), as added Pub. L. 103-355, title II, §2354, Oct. 13, 1994, 108 Stat. 3323.
7107(f)	41:609(f).	

In subsection (a)(1)(B), the words “may transmit” are substituted for “transmits” to correct the grammatical structure of the provision in accordance with the probable intent of Congress. The words “the decision” are substituted for “the decision of the board of contract appeals” and for “the board’s decision” to eliminate unnecessary words and for consistency with 41:607(g)(1)(A).

In subsection (a)(2)(B), the words “in any case” are omitted as unnecessary.

In subsection (d), the words “United States Court of Federal Claims” are substituted for “United States Claims Court” because of section 902(b)(1) of the Federal Courts Administration Act of 1992 (Pub. L. 102-572, 106 Stat. 4516, 28 U.S.C. 171 note).

In subsection (f)(1), (3), and (4), the words “agency board” are substituted for “board of contract appeals” to eliminate unnecessary words and for consistency 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

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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
7109(a)(1)	41:611 (1st sentence).	Pub. L. 95-563, § 12, Nov. 1, 1978, 92 Stat. 2389.
7109(a)(2)	41:611 note.	Pub. L. 102-572, title IX, § 907(a)(3), Oct. 29, 1992, 106 Stat. 4518.
7109(b)	41:611 (last sentence).	

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	Sec.
81. Drug-Free Workplace	8101
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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 substance 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.