

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6506	41:38.	June 30, 1936, ch. 881, § 4, 49 Stat. 2038.

In subsection (b), the word “rules” is omitted as included in “regulations”.

In subsection (c), the words “and to prescribe rules and regulations with respect thereto” are omitted as unnecessary because of subsection (b).

In subsection (d), the words “without regard to the provisions of the civil-service laws”, which appear in section 4 of the Walsh-Healey Act (June 30, 1936, ch. 881, 49 Stat. 2038), are omitted as obsolete because of Executive Order 8743, April 23, 1941 (5 U.S.C. 3301 note), issued by the President pursuant to the Act of November 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211. The words “the Classification Act of 1923”, which appear in section 4 of the Walsh-Healey Act (June 30, 1936, ch. 881, 49 Stat. 2038), are considered to be a reference to the Classification Act of 1949 because of section 1106(a) of the Classification Act of 1949 (Oct. 28, 1949, ch. 782, 63 Stat. 972). The words “chapter 51 and subchapter III of chapter 53 of title 5” are substituted for the reference to the Classification Act of 1949 because of section 7(b) of Public Law 89-554 (5 U.S.C. note prec. 101).

§ 6507. Hearing authority and procedures

(a) RECORD AND HEARING REQUIREMENTS FOR WAGE DETERMINATIONS.—A wage determination under section 6502(1) of this title shall be made on the record after opportunity for a hearing.

(b) AUTHORITY TO HOLD HEARINGS.—The Secretary or an impartial representative designated by the Secretary may hold hearings when there is a complaint of breach or violation of a representation or stipulation included in a contract under section 6502 of this title. The Secretary may initiate hearings on the Secretary’s own motion or on the application of a person affected by the ruling of an agency of the United States relating to a proposal or contract under this chapter.

(c) ORDERS TO COMPEL TESTIMONY.—The Secretary or an impartial representative designated by the Secretary may issue orders requiring witnesses to attend hearings held under this section and to produce evidence and testify under oath. Witnesses shall be paid fees and mileage at the same rates as witnesses in courts of the United States.

(d) ENFORCEMENT OF ORDERS.—If a person refuses or fails to obey an order issued under subsection (c), the Secretary or an impartial representative designated by the Secretary may bring an action to enforce the order in a district court of the United States or in the district court of a territory or possession of the United States. A court has jurisdiction to enforce the order if the inquiry is being carried out within the court’s judicial district or if the person is found or resides or transacts business within the court’s judicial district. The court may issue an order requiring the person to obey the order issued under subsection (c), and the court may punish any further refusal or failure as contempt of court.

(e) FINDINGS OF FACT.—After notice and a hearing, the Secretary or an impartial representative designated by the Secretary shall make findings of fact. The findings are conclusive for agencies of the United States. If sup-

ported by a preponderance of the evidence, the findings are conclusive in any court of the United States.

(f) DECISIONS.—The Secretary or an impartial representative designated by the Secretary may make decisions, based on findings of fact, that are considered necessary to enforce this chapter.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3809.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6507(a)	41:43a(b) (1st sentence).	June 30, 1936, ch. 881, § 10(b) (1st sentence), as added June 30, 1952, ch. 530, title III, § 301, 66 Stat. 308; Pub. L. 104-106, div. D, title XLIII, § 4321(f)(2), Feb. 10, 1996, 110 Stat. 675.
6507(b)–(f) ..	41:39.	June 30, 1936, ch. 881, § 5, 49 Stat. 2038.

In subsection (d), the word “contumacy” is omitted as included in “refuses or fails”. The words “may bring an action to enforce the order” are substituted for “upon the application by” for consistency in the revised title and with other titles of the United States Code. The words “the United States District Court for the District of Columbia” in section 5 of the Act of June 30, 1936 (which were substituted for “the Supreme Court of the District of Columbia” by section 32(b) of the Act of June 25, 1948 (ch. 646, 62 Stat. 991), as amended by section 127 of the Act of May 24, 1949 (ch. 139, 63 Stat. 107), and which were editorially omitted from 41:39) are omitted as included in “a district court of the United States” because of sections 88 and 132(a) of title 28, United States Code. The words “within the court’s judicial district” are substituted for “within the jurisdiction of which” for clarity and for consistency in the revised title and with other titles of the United States Code. The words “requiring the person to obey the order issued under subsection (c)” are substituted for “requiring such person to appear before him or representative designated by him, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question” for clarity and to eliminate unnecessary words.

In subsection (e), the duty to make findings of fact is restated as a duty of the Secretary (or the Secretary’s representative). The grammatical structure of the last sentence of 41:39 seems to suggest that the court, rather than the Secretary (or the Secretary’s representative), serves as fact finder. However, the provision taken as a whole indicates that it is the Secretary (or the Secretary’s representative) who serves as fact finder. It is the Secretary (or the Secretary’s representative) before whom hearings are held, witnesses testify, and evidence is produced. The court’s involvement is limited to compelling recalcitrant witnesses “to appear before him [the Secretary] or representative designated by him”. The restatement clarifies the generally accepted understanding that the Secretary (or the Secretary’s representative) serves as fact finder (see, e.g., *United States v. Sweet Briar*, 92 F. Supp. 777, 780 (W.D.S.C. 1950) (“the Secretary ‘shall make findings of fact’”); *Ready-Mix Concrete Company v. United States*, 158 F. Supp. 571, 578 (Cl. Ct. 1958) (“the findings of the Department of Labor”)).

§ 6508. Authority to make exceptions

(a) DUTY OF THE SECRETARY TO MAKE EXCEPTIONS.—When the head of an agency of the United States makes a written finding that the inclusion of representations or stipulations under section 6502 of this title in a proposal or contract will seriously impair the conduct of Federal Government business, the Secretary shall make exceptions, in specific cases or oth-