

that will address the use of salary history in the hiring and pay-setting processes for Federal employees, consistent with Executive Order 14035 of June 25, 2021 (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce) [42 U.S.C. 2000e note]. The purpose of this order is to direct the consideration of parallel efforts with respect to Federal procurement.

SEC. 2. *Economy, Efficiency, and Effectiveness in Federal Procurement.* Consistent with applicable law and subject to the availability of appropriations, the Federal Acquisition Regulatory Council, in consultation with the Secretary of Labor and the heads of other executive departments and agencies as appropriate, shall consider issuing proposed rules to promote economy, efficiency, and effectiveness in Federal procurement by enhancing pay equity and transparency for job applicants and employees of Federal contractors and subcontractors. In doing so, the Federal Acquisition Regulatory Council shall specifically consider whether any such rules should limit or prohibit Federal contractors and subcontractors from seeking and considering information about job applicants' and employees' existing or past compensation when making employment decisions. The Federal Acquisition Regulatory Council shall also consider the inclusion of appropriate accountability measures in any such rules.

SEC. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

**§ 6301. Authorization requirement**

(a) IN GENERAL.—A contract or purchase on behalf of the Federal Government shall not be made unless the contract or purchase is authorized by law or is under an appropriation adequate to its fulfillment.

(b) EXCEPTION.—

(1) DEFINITION.—In this subsection, the term “defined Secretary” means—

- (A) the Secretary of Defense; or
- (B) the Secretary of Homeland Security with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(2) IN GENERAL.—Subsection (a) does not apply to a contract or purchase made by a defined Secretary for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies.

(3) CURRENT YEAR LIMITATION.—A contract or purchase made by a defined Secretary under this subsection may not exceed the necessities of the current year.

(4) REPORTS.—The defined Secretary shall immediately advise Congress when authority is exercised under this subsection. The defined Secretary shall report quarterly on the estimated obligations incurred pursuant to the authority granted in this subsection.

(c) SPECIAL RULE FOR PURCHASE OF LAND.—Land may not be purchased by the Federal Gov-

ernment unless the purchase is authorized by law.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3803; Pub. L. 111-281, title IX, §903(a)(4), Oct. 15, 2010, 124 Stat. 3010.)

AMENDMENT NOT SHOWN IN TEXT

*Subsecs. (a) and (b) of this section are derived from section 11 of former Title 41, Public Contracts, which was amended by Pub. L. 111-281, title IX, §903(a)(4), Oct. 15, 2010, 124 Stat. 3010, prior to being repealed and reenacted as subsecs. (a) and (b) of this section by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For applicability of that amendment 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 903 of Pub. L. 111-281 provided that, effective with the enactment of Pub. L. 109-241, section 902(c) of Pub. L. 109-241, which amended section 3732 of the Revised Statutes, is amended by inserting in the directory language, “of the United States” after “Revised Statutes”, resulting in no change in text.*

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6301(a) .....	41:11(a) (words before 2nd comma).	R.S. §3732; Pub. L. 89-687, title VI, §612(e), Oct. 15, 1966, 80 Stat. 993; Pub. L. 98-557, §17(e)(1), (2), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 104-106, div. D, title XLIII, §4322(b)(4), Feb. 10, 1996, 110 Stat. 677; Pub. L. 109-241, title IX, §902(c), July 11, 2006, 120 Stat. 566.
6301(b) .....	41:11(a) (words after 2nd comma), (b).	
6301(c) .....	41:14.	R.S. §3736.

In subsection (b)(1)(A), the words “Secretary of Defense” are substituted for “Department of Defense” because of 10:113.

In subsection (b)(1)(B), the words “Secretary of Homeland Security” are substituted for “Department of Homeland Security” because of section 102(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)(2)).

**§ 6302. Contracts for fuel made by Secretary of the Army**

The Secretary of the Army, when the Secretary believes it is in the interest of the United States, may enter into contracts and incur obligations for fuel in sufficient quantities to meet the requirements for one year without regard to the current fiscal year. Amounts appropriated for the fiscal year in which the contract is made or amounts appropriated or which may be appropriated for the following fiscal year may be used to pay for supplies delivered under a contract made pursuant to this section.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6302 .....	41:11a.	June 30, 1921, ch. 33, §1 (last proviso on p. 78), 42 Stat. 78.

The words “Secretary of the Army” are substituted for “Secretary of War” because of section 205(a) of the

National Security Act of 1947 (ch. 343, 61 Stat. 501). Section 205(a) was repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676). Section 1 of the Act of August 10, 1956 (70A Stat. 1) enacted Title 10, “Armed Forces”, and under sections 3011 to 3013 of title 10, the Department of the Army remains under the administrative supervision of the Secretary of the Army.

**§ 6303. Certain contracts limited to appropriated amounts**

A contract to erect, repair, or furnish a public building, or to make any public improvement, shall not be made on terms requiring the Federal Government to pay more than the amount specifically appropriated for the activity covered by the contract.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6303 .....	41:12.	R.S. §3733.

The words “the activity covered by the contract” are substituted for “the specific purpose” for clarity.

**§ 6304. Certain contracts limited to one-year term**

Except as otherwise provided, an executive department shall not make a contract for stationery or other supplies for a term longer than one year from the time the contract is made.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6304 .....	41:13.	R.S. §3735.

The words “an executive department shall not” are substituted for “it shall not be lawful for any of the executive departments to” to state the legal prohibition directly and to eliminate unnecessary words.

**§ 6305. Prohibition on transfer of contract and certain allowable assignments**

(a) GENERAL PROHIBITION ON TRANSFER OF CONTRACTS.—The party to whom the Federal Government gives a contract or order may not transfer the contract or order, or any interest in the contract or order, to another party. A purported transfer in violation of this subsection annuls the contract or order so far as the Federal Government is concerned, except that all rights of action for breach of contract are reserved to the Federal Government.

(b) ASSIGNMENT.—

(1) IN GENERAL.—Notwithstanding subsection (a) and in accordance with the requirements of this subsection, amounts due from the Federal Government under a contract may be assigned to a bank, trust company, Federal lending agency, or other financing institution.

(2) MINIMUM AMOUNT.—This subsection applies only to a contract under which the aggregate amounts due from the Federal Government total at least \$1,000.

(3) ACCORD WITH CONTRACT TERMS.—Assignment may not be made under this subsection if the contract forbids the assignment.

(4) FULL BALANCE DUE.—Unless otherwise expressly permitted by the contract, an assign-

ment under this subsection must cover the balance of all amounts due from the Federal Government under the contract.

(5) SINGLE ASSIGNMENT.—Unless otherwise expressly permitted by the contract, an assignment under this subsection may not be made to more than one party or be subject to further assignment, except that assignment may be made to one party as agent or trustee for 2 or more parties participating in the financing.

(6) WRITTEN NOTICE.—The assignee of an assignment under this subsection shall file written notice of the assignment and a true copy of the instrument of assignment with—

(A) the contracting officer or head of the officer’s department or agency;

(B) the surety on any bond connected with the contract; and

(C) the disbursing officer, if any, designated in the contract to make payment.

(7) VALIDITY.—Notwithstanding any law to the contrary governing the validity of assignments, an assignment under this subsection is a valid assignment for all purposes.

(8) NO REFUND TO COVER ASSIGNOR’S LIABILITY.—The assignee of an assignment under this subsection is not liable to make any refund to the Federal Government because of an assignor’s liability to the Federal Government, whether that liability arises from the contract or independently.

(9) AVOIDING REDUCTION OR SETOFF WITH CERTAIN CONTRACTS.—

(A) CONTRACT PROVISION.—A contract of the Department of Defense, the General Services Administration, the Department of Energy, or another department or agency of the Federal Government designated by the President may, on a determination of need by the President, provide or be amended without consideration to provide that payments made to an assignee under the contract are not subject to reduction or setoff. Each determination of need by the President under this subparagraph shall be published in the Federal Register.

(B) CARRYING OUT CONTRACT PROVISION.—When a “no reduction or setoff” provision as described in subparagraph (A) is included in a contract, payments to the assignee are not subject to reduction or setoff for an assignor’s liability arising—

- (i) independently of the contract;
- (ii) on account of renegotiation under a renegotiation statute or under a statutory renegotiation article in the contract;
- (iii) on account of fines;
- (iv) on account of penalties; or
- (v) on account of taxes, social security contributions, or the withholding or non-withholding of taxes or social security contributions, whether arising from or independently of the contract.

(C) LIMITATION.—Subparagraph (B)(iv) does not apply to amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3804.)