

EFFECTIVE DATE

Section effective upon expiration of sixty days after Aug. 24, 1935, but not applicable to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract, see section 7 of act Aug. 24, 1935, set out as a note under section 270a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270b, 270d-1, 270e, 270f of this title; title 10 section 2701; title 15 section 636; title 25 sections 47a, 1656; title 31 section 9303; title 39 section 410; title 42 sections 9619, 11707.

§ 270d-1. Waiver of sections 270a to 270d with respect to small contracts

Sections 270a to 270d of this title do not apply to a contract in an amount that is not greater than \$100,000.

(Aug. 24, 1935, ch. 642, §5, as added Pub. L. 103-355, title IV, §4104(b)(1)(A), Oct. 13, 1994, 108 Stat. 3341.)

PRIOR PROVISIONS

A prior section 5 of act Aug. 24, 1935, was renumbered section 7 and is set out as an Effective Date note under section 270a of this title.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270b, 270d, 270e, 270f of this title; title 10 section 2701; title 15 section 636; title 25 sections 47a, 1656; title 31 section 9303; title 39 section 410; title 42 sections 9619, 11707.

§ 270e. Waiver of sections 270a to 270d-1 with respect to Army, Navy, Air Force, or Coast Guard contracts

The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive sections 270a to 270d-1 of this title 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 United States and with respect to contracts for the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, munitions, materiel, or supplies of any kind or nature for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of such contracts as to payment or title.

(Apr. 29, 1941, ch. 81, §1, 55 Stat. 147; June 3, 1955, ch. 129, 69 Stat. 83; Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938.)

AMENDMENTS

1955—Act June 3, 1955, authorized the Secretary of the Treasury to waive requirement of performance and payment bonds in connection with certain Coast Guard contracts, included the Secretary of the Air Force for purposes of clarification, made specific reference to cost-type contracts, and struck out proviso permitting bonds to be required for contracts which on Apr. 29, 1941, would have been subject to provisions of sections 270a to 270d of this title.

TRANSFER OF FUNCTIONS

Coast Guard transferred to Department of Transportation, and all functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, §6(b)(1). Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2701; title 39 section 410; title 42 section 9619.

§ 270f. Waiver of sections 270a to 270d-1 with respect to transportation contracts

The Secretary of Transportation may waive sections 270a to 270d-1 of this title, with respect to contracts for the construction, alteration, or repair, of vessels of any kind or nature, entered into pursuant to sections 1535 and 1536 of title 31, the Merchant Marine Act, 1936 [46 App. U.S.C. 1101 et seq.], or the Merchant Ship Sales Act of 1946 [50 App. U.S.C. 1735 et seq.], regardless of the terms of such contracts as to payment or title.

(Apr. 29, 1941, ch. 81, §2, as added Pub. L. 91-469, §39, Oct. 21, 1970, 84 Stat. 1036; amended Pub. L. 97-31, §12(12), Aug. 6, 1981, 95 Stat. 154.)

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in text, is act June 29, 1936, ch. 858, 49 Stat. 1985, as amended, which is classified principally to chapter 27 (§1101 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1245 of Title 46 and Tables.

The Merchant Ship Sales Act of 1946, referred to in text, 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 complete classification of this Act to the Code, see Short Title note set out under section 1735 of Title 50, Appendix, and Tables.

CODIFICATION

“Sections 1535 and 1536 of title 31” substituted in text for “the Act of June 30, 1932 (47 Stat. 382, 417-418), as amended [31 U.S.C. 686, 686b]” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1981—Pub. L. 97-31 substituted “Transportation” for “Commerce”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2701; title 42 section 9619.

§§ 271, 272. Omitted

CODIFICATION

Section 271, acts Aug. 25, 1919, ch. 52, 41 Stat. 281; Mar. 1, 1929, ch. 423, 45 Stat. 1425, provided relief for certain contractors for losses due to increased costs arising from the entrance of the United States into war on Apr. 6, 1917.

Section 272, act Mar. 6, 1920, ch. 94, 41 Stat. 507, related to losses due to World War I conditions.

§ 273. Repealed. Oct. 31, 1951, ch. 654, § 1(92), 65 Stat. 705

Section, act Mar. 3, 1887, ch. 362, 24 Stat. 512, related to contracts for heating apparatus for public buildings. See sections 252 and 253 of Title 41, Public Contracts.

§§ 274 to 276. Repealed. Pub. L. 86-249, § 17(13)-(15), Sept. 9, 1959, 73 Stat. 485

Section 274, act Mar. 2, 1895, ch. 189, 28 Stat. 914, authorized the payment for electric wiring of buildings.

Section 275, act July 1, 1916, ch. 209, 39 Stat. 273, related to payment for gas and electric fixtures for the equipment of public buildings.

Section 276, act June 6, 1900, ch. 791, 31 Stat. 591, authorized payment for engineering and electric-light plants in public buildings.

SAVINGS PROVISION

Sections repealed except as to their application to any project referred to in section 613 of this title, see section 17 of Pub. L. 86-249, set out as a note under section 341 of this title.

§ 276a. Rate of wages for laborers and mechanics

(a) The advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other 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; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than 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 such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer 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 such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

(b) As used in sections 276a to 276a-5 of this title the term "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include—

- (1) the basic hourly rate of pay; and
- (2) the amount of—

(A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) the rate of costs to the contractor or subcontractor which 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,

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 foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying 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 such benefits:

Provided, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as sections 276a to 276a-5 of this title and other Acts incorporating sections 276a to 276a-5 of this title by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2)(A), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in paragraph (2)(B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under sections 276a to 276a-5 of this title, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater.

(Mar. 3, 1931, ch. 411, § 1, 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,