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Department of Energy
Assistance Regulation

No. 2001-02
Date 07/30/2001

FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the Procurement Executives of DOE and NNSA

Subject: **Preservation of Open Competition and Government Neutrality Towards Contractors' Labor Relations on Federally Funded Construction Projects.**

References:

Executive Order 13202, dated February 17, 2001
Executive Order 13208, dated April 6, 2001

When is this Financial Assistance Letter (FAL) Effective?

This FAL is effective 10 business days from the date of issuance.

When does this FAL Expire?

This FAL remains in effect until superseded or canceled.

Who is the Point of Contact?

Contact Trudy Wood of the Office of Procurement and Assistance Policy at (202) 586-5625, or by e-mail at trudy.wood@pr.doe.gov.

Please visit our website at www.pr.doe.gov/fahhome.html for information on Financial Assistance Letters and other policy issues.

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What is the Purpose of this FAL?

This FAL provides the Department's contracting officers and financial assistance personnel guidance regarding the implementation of Executive Order 13202 of February 17, 2001, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, and Executive Order 13208 of April 6, 2001, Amendment to Executive Order 13202.

What is the Background?

Executive Order 13202 of February 17, 2001, as amended by Executive Order 13208 of April 6, 2001, requires agencies entering into grants or cooperative agreements for construction projects, to ensure that the bid specifications, project agreements, or other controlling documents for construction contracts awarded by the financial assistance recipient, or by a construction manager acting on behalf of the recipient, neither require nor prohibit offerors, contractors or subcontractors from entering into agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the Executive Order under special circumstances, but the exemption may not be related to a potential or presence of an actual labor dispute. The amendment also authorized the head of the agency to exempt certain projects which had a construction contract awarded as of April 11, 2001.

What is the Guidance Included in the FAL?

Contracting Officers should incorporate the following special provision in new or renewal grants or cooperative agreements, if the objective of the award is to construct, rehabilitate, alter, convert, extend, or repair buildings, highways, or make other improvements to real property.

PRESERVATION OF OPEN COMPETITION AND NEUTRALITY TOWARDS LABOR RELATIONS ON FEDERALLY FUNDED CONSTRUCTION PROJECTS

a. Unless in conflict with State or local laws, the recipient shall ensure that the bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this agreement, or pursuant to a subaward to this agreement, do not:

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1. *Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or*

2. *Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).*

b. *The term "construction contract" as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.*

c. *Nothing in this provision prohibits bidders, offerors, contractors or subcontractors from voluntarily entering into agreements with labor organizations.*