

SUBCHAPTER C—EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

PART 470—OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

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AUTHORITY: E.O. 13201, 3 CFR, 2001 Comp., p.754, (66 FR 11221), issued pursuant to the

Constitution and laws of the United States, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, now codified as amended at 40 U.S.C. 101 *et seq.*

SOURCE: 69 FR 16836, Mar. 29, 2004, unless otherwise noted.

Subpart A—Preliminary Matters

§ 470.1 What definitions apply to this part?

(a) Assistant Secretary means the Assistant Secretary for Employment Standards, United States Department of Labor, or his or her designee.

(b) Construction means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term construction also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

(c) Construction work site means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair, and any temporary location or facility at which a contractor or subcontractor meets a demand or performs a function relating to the contract or subcontract.

(d) Contract means, unless otherwise indicated, any Government contract or subcontract.

(e) Contracting agency means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

(f) Contractor means, unless otherwise indicated, a prime contractor or subcontractor, at any tier.

(g) Department means the U.S. Department of Labor.

(h) Employee notice clause means the contract clause that Government contracting departments and agencies

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must include in all nonexempt Government contracts and subcontracts pursuant to Executive Order 13201.

(i) Government means the Government of the United States of America.

(j) Government contract means any agreement or modification thereof between any contracting agency and any person for the purchase, sale, or use of personal property or nonpersonal services. The term "personal property," as used in this section, includes supplies, and contracts for the use of real property (such as lease arrangements), unless the contract for the use of real property itself constitutes real property (such as easements). The term "nonpersonal services" as used in this section includes, but is not limited to, the following services: utilities, construction, transportation, research, insurance, and fund depository. The term Government contract does not include:

(1) Agreements in which the parties stand in the relationship of employer and employee; and

(2) Federally assisted contracts.

(k) Labor organization means any organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(l) Modification of a contract means any alteration in the terms and conditions of that contract, including amendments, renegotiations, and renewals.

(m) Order or Executive Order means Executive Order 13201 (66 FR 11221, February 22, 2001).

(n) Person means any natural person, corporation, partnership, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

(o) Prime contractor means any person holding a contract with a contracting agency, and, for the purposes of subparts B and C of this part, includes any person who has held a contract subject to the Executive Order.

(p) Related rules, regulations, and orders of the Secretary of Labor, as used in section 470.2 of this part, means rules, regulations, and relevant orders

of the Assistant Secretary for Employment Standards, or his or her designee, issued pursuant to the Executive Order or this part.

(q) Secretary means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

(r) Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.

(s) Subcontractor means any person holding a subcontract and, for the purposes of subparts B and C of this part, any person who has held a subcontract subject to the Executive Order.

(t) Union means a labor organization as defined in paragraph (k) of this section.

(u) Union-security agreement means an agreement entered into between a contractor and a labor organization which requires certain employees of the contractor to pay uniform periodic dues and/or fees, initiation fees, or other payments to that labor organization as a condition of employment.

(v) United States, as used herein, shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island.

§ 470.2 Under the Executive Order, what employee notice clause must be included in Government contracts?

(a) *Government contracts.* Except in contracts exempted in accordance with Section 470.3 and collective bargaining agreements as defined in 5 U.S.C. 7103(a)(8), all Government contracting agencies must, to the extent consistent with law, include the following provisions in Government contracts entered