

Act of 1996 (25 U.S.C. 4101 *et seq.*). The term “financial assistance” does not include any other contract of insurance or guaranty.

Labor organization has the same meaning it has in 42 U.S.C. 2000e(d).

(c) *Neutrality towards government contractors’ labor relations.* To the extent permitted by law, the bid specifications, project agreements, or other controlling documents for a construction contract awarded on or after June 23, 2003, by a HUD grantee, recipient of financial assistance from HUD, or party to a cooperative agreement with HUD, for a construction project (or a construction manager acting on their behalf) shall not:

(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 federally funded construction project; or

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

(d) *Exemptions*—(1) *Exemptions due to special circumstances.* HUD may exempt a particular construction project, construction contract, subcontract, grant, or cooperative agreement from any requirement of this section, if HUD determines that special circumstances require an exemption in order to avert an imminent threat to public health or safety or to serve the national security. HUD will not base a finding of “special circumstances” on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are non-signatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the construction project who are not members of, or affiliated with, a labor organization.

(2) *Exemption of construction projects subject to project labor agreements entered into as of June 23, 2003.* HUD may exempt a particular construction project from any requirement of this section upon written request from the HUD

grantee, recipient of financial assistance from HUD, or party to a cooperative agreement with HUD (or a construction manager acting on their behalf), if HUD determines that:

(i) The HUD grantee, recipient of financial assistance from HUD, or party to the cooperative agreement with HUD (or a construction manager acting on their behalf) issued, or was a party to, as of June 23, 2003, bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to a particular construction project, that contain any of the requirements or prohibitions contained in paragraph (c) of this section; and

(ii) One or more construction contracts subject to such requirements or prohibitions was awarded as of June 23, 2003.

(e) *Sanctions.* If HUD determines that a HUD grantee, recipient of financial assistance from HUD, or party to a cooperative agreement with HUD (or a construction manager acting on their behalf) performs in a manner contrary to the requirements of this section, HUD will take such action, consistent with law and regulations, as HUD determines appropriate.

(f) Voluntarily entering into project labor agreements. Nothing in this section prohibits contractors or subcontractors from voluntarily entering into project labor agreements.

[68 FR 28104, May 22, 2003]

§5.110 Waivers.

Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

AUTHORITY: 42 U.S.C. 3535(d), 3543, 3544, and 11901 *et seq.*