

## Presidential Documents

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

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to (1) promote and ensure open competition on Federal and federally funded or assisted construction projects; (2) maintain Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects; (3) reduce construction costs to the Federal Government and to the taxpayers; (4) expand job opportunities, especially for small and disadvantaged businesses; and (5) prevent discrimination against Government contractors or their employees based upon labor affiliation or lack thereof; thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects, it is hereby ordered that:

**Section 1.** To the extent permitted by law, any executive agency awarding any construction contract after the date of this order, or obligating funds pursuant to such a contract, shall ensure that neither the awarding Government authority nor any construction manager acting on behalf of the Government shall, in its bid specifications, project agreements, or other controlling documents:

(a) 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

(b) 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).

(c) Nothing in this section shall prohibit contractors or subcontractors from voluntarily entering into agreements described in subsection (a).

**Sec. 2.** Contracts awarded before the date of this order, and subcontracts awarded pursuant to such contracts, whenever awarded, shall not be governed by this order.

**Sec. 3.** To the extent permitted by law, any executive agency issuing grants, providing financial assistance, or entering into cooperative agreements for construction projects, shall ensure that neither the bid specifications, project agreements, nor other controlling documents for construction contracts awarded after the date of this order by recipients of grants or financial assistance or by parties to cooperative agreements, nor those of any construction manager acting on their behalf, shall contain any of the requirements or prohibitions set forth in section 1(a) or (b) of this order.

**Sec. 4.** In the event that an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, performs in a manner contrary to the provisions of sections 1 or 3 of this order, the executive agency awarding the contract, grant, or assistance shall take such action, consistent with law and regulation, as the agency determines may be appropriate.

**Sec. 5.** (a) The head of an executive agency may exempt a particular project, contract, subcontract, grant, or cooperative agreement from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds that special circumstances require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

(b) A finding of “special circumstances” under section 5(a) may not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

**Sec. 6.** (a) The term “construction contract” as used in this order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The term “executive agency” as used in this order shall have the same meaning it has in 5 U.S.C. 105, excluding the General Accounting Office.

(c) The term “labor organization” as used in this order shall have the same meaning it has in 42 U.S.C. 2000e(d).

**Sec. 7.** With respect to Federal contracts, within 60 days of the issuance of this order, the Federal Acquisition Regulatory Council shall take whatever action is required to amend the Federal Acquisition Regulation in order to implement the provisions of this order.

**Sec. 8.** As it relates to project agreements, Executive Order 12836 of February 1, 1993, which, among other things, revoked Executive Order 12818 of October 23, 1992, is revoked.

**Sec. 9.** The Presidential Memorandum of June 5, 1997, entitled “Use of Project Labor Agreements for Federal Construction Projects” (the “Memorandum”), is also revoked.

**Sec. 10.** The heads of executive departments and agencies shall revoke expeditiously any orders, rules, regulations, guidelines, or policies implementing or enforcing the Memorandum or Executive Order 12836 of February 1, 1993, as it relates to project agreements, to the extent consistent with law.

**Sec. 11.** This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,  
February 17, 2001

and Social Security, and pays down a record amount of debt.

I applaud today's action and congratulate the Republicans and Democrats who helped make it happen.

### **Message on the Observance of Passover**

*April 6, 2001*

I am pleased to send warm greetings to Jews around the world celebrating the Passover holiday, beginning at sundown on April 7. As you gather with family and friends, eat traditional foods, and sing joyous songs, you follow in the footsteps of your forefathers in remembering the Exodus of the Israelites from Egypt nearly 3,500 years ago.

During this season of renewal, the Passover holiday commemorates the liberation of the Jewish people from slavery. Through the years, Jewish sages have taught that the lesson of freedom found in the miracle of Passover has two important aspects. The first is the escape from physical bondage and the regaining of dignity and equality by the individual and by a people. Equally important is spiritual liberation from selfish desires and destructive habits.

The flight from slavery led quickly to Mount Sinai and the Holy One's gift of the Commandments to Moses and the Israelites. They were then fully free to follow the Creator's laws in striving to perfect their own lives and the world in which they lived. The connection between freedom from bondage and the gift of the Commandments enhances Passover's abiding influence, not only as a Jewish holiday, but also as an inspiration to all mankind.

Laura joins me in sending best wishes for a joyous and memorable holiday observance.

**George W. Bush**

### **Executive Order 13208— Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects**

*April 6, 2001*

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to (1) promote and ensure open competition on Federal and federally funded or assisted construction projects; (2) maintain Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects; (3) reduce construction costs to the Federal Government and to the tax payers; (4) expand job opportunities, especially for small and disadvantaged businesses; (5) prevent discrimination against Government contractors or their employees based upon labor affiliation or lack thereof; and (6) prevent the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases; thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects, it is hereby ordered that Executive Order 13202 of February 17, 2001, is amended by adding to section 5 of that order the following new subsection:

- (c) The head of an executive agency, upon application of an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, may exempt a particular project from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds: (i) that

the awarding authority, recipient of grants or financial assistance, party to a cooperative agreement, or construction manager acting on behalf of the foregoing had issued or was a party to, as of the date of this order, bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to that particular project, which contained any of the requirements or prohibitions set forth in sections 1(a) or (b) of this order; and (ii) that one or more construction contracts subject to such requirements or prohibitions had been awarded as of the date of this order.

### George W. Bush

The White House,  
April 6, 2001.

[Filed with the Office of the Federal Register, 8:45 a.m., April 10, 2001]

NOTE: This Executive order will be published in the *Federal Register* on April 11.

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## Digest of Other White House Announcements

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The following list includes the President's public schedule and other items of general interest announced by the Office of the Press Secretary and not included elsewhere in this issue.

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### April 1

In the afternoon, the President returned from Camp David, MD, to Washington, DC.

### April 3

In the morning, the President traveled to Wilmington, DE, where he toured the H. Fletcher Brown Boys and Girls Club. In the afternoon, the President returned to Washington, DC.

The President announced his intention to nominate Angela Antonelli to be Chief Financial Officer of the Department of Housing and Urban Development.

The President announced his intention to nominate Brian Jones to be General Counsel at the Department of Education.

The President announced his intention to nominate Bruce P. Mehlman to be Assistant Secretary of Commerce for Technology Policy.

The President announced his intention to nominate Bill Hawks to be Under Secretary of Agriculture for Marketing and Regulatory Programs.

The President announced his intention to nominate James R. Moseley to be Deputy Secretary of Agriculture.

The President announced his intention to nominate Thomas L. Sansonetti to be Assistant Attorney General for the Environmental and Natural Resources Division.

The President announced his intention to nominate Patricia Lynn Scarlett to be Assistant Secretary of the Interior for Policy, Management, and Budget.

The President announced his intention to nominate Allan Rutter to be Administrator of the Federal Railroad Administration.

The President announced the designation of Jonathon Chase as Acting Director of the Community Relations Service.

The President announced the designation of Kevin D. Rooney as Acting Commissioner of Immigration and Naturalization.

The President announced the designation of Kathryn Turman as Acting Director of the Office for Victims of Crime.

### April 4

In the morning, the President had separate telephone calls with President Zine El Abidine Ben Ali of Tunisia and President Ali Abdallah Salih of Yemen.

The President announced his intention to nominate Robert D. McCallum, Jr., to be Assistant Attorney General for the Civil Division.

The President announced his intention to nominate Paul V. Kelly to be Assistant Secretary of State for Legislative Affairs.

The President announced his intention to nominate Sue Cobb to be Ambassador to Jamaica.

The President announced his intention to nominate Anthony H. Gioia to be Ambassador to Malta.