



DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. L-12004]

Proposed Exemption for Certain Prohibited Transactions Involving the International Union of Operating Engineers Local Union 627 Training Fund of Oklahoma (the Plan or the Applicant) Located in Oklahoma City, OK

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This proposed exemption would permit certain loans from the International Union of Operating Engineers Local Union 627 (Local 627) to the Plan, so the Plan can purchase heavy machinery to fulfill its mission. As described below, absent an exemption, the loans would violate certain prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA).

DATES: Exemption date: If granted, the exemption will be in effect as of the date the grant notice is published in the *Federal Register*.

Comments due: Written comments and requests for a public hearing on the proposed exemption must be received by the Department of Labor by [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: All written comments and requests for a hearing should be submitted to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Attention: Application No. L-12004:

- via email to e-OED@dol.gov; or
- Electronically at <https://www.regulations.gov>. Follow the “Submit a comment” instructions.

Any such comments or requests should be sent by the end of the scheduled comment

period. The application for exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1515, 200 Constitution Avenue, N.W., Washington, D.C. 20210, reachable by telephone at (202) 693-8673. See SUPPLEMENTARY INFORMATION below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Schroth of the Department of Labor at (202) 693-8571 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Comments: Persons are encouraged to submit all comments electronically and not to follow with paper copies. Comments should state the nature of the person's interest in the proposed exemption and how the person would be adversely affected by the exemption, if granted. Any person who may be adversely affected by an exemption can request a hearing on the exemption if their request includes: (1) the name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department of Labor (hereinafter, the Department) will grant a hearing request made in accordance with the requirements above when the Department finds that a hearing is necessary to fully explore material factual issues identified by the requestor, and the Department will publish a hearing notice in the *Federal Register*. The Department may decline to hold a hearing if it finds that: (1) the request for the hearing does not meet the requirements stated above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified in the request can be fully explored through the submission of evidence in written (including electronic) form.

Warning: The Department will include all comments received in the public record without change and will make them available online at <https://www.regulations.gov>. The Department notes that it will include any personal information provided in the public record and online, unless the commenter claims that any of the information included is confidential or the disclosure of such information is restricted by statute. If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential or otherwise protected (such as a Social Security number or an unlisted phone number) and confidential business information that you do not want publicly disclosed. If EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment.

Additionally, the <https://www.regulations.gov> website is an “anonymous access” system, which means EBSA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EBSA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the internet.

Benefits of the Exemption: This exemption would permit the Plan to receive Loans at a lower cost and on better terms than would be available from third party lenders.

SUMMARY OF FACTS AND REPRESENTATIONS¹

Background

¹ The Summary of Facts and Representations is based on the Applicant’s representations provided in its exemption application and does not reflect factual findings or opinions of the Department, unless indicated otherwise. The Department notes that availability of this exemption is subject to the express condition that the material facts and representations made by the Applicant in Application L-12004 are true, complete, and accurately describe all material terms of the transaction(s) covered by the exemption. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described in the application, the exemption may cease to be effective, with such determination made at Department’s sole discretion. *See* 29 CFR 2570.49.

1. The Plan is an apprenticeship welfare plan that provides training to apprentices and operating engineers who are members of Local 627, a labor union located in Oklahoma. The Plan had \$3,099,767 in total assets and \$2,943,458 in net assets, as of August 31, 2022.

2. The Plan has six trustees (the Plan Trustees): three appointed by Local 627 (the Union Trustees); and three appointed by signatory employers to the collective bargaining agreement (the Employer Trustees). The Employer Trustees are not affiliated in any way with Local 627.

3. The Plan's mission is to develop highly skilled heavy machinery equipment operators and stationary/facilities engineers for the construction, pipeline, stationary, and environmental industries. To achieve this, the Plan needs heavy equipment, such as large cranes, bulldozers, tractors, trucks, graders, and forklifts.

The Plan's Need to Acquire New Equipment

4. Historically, the Plan has leased the majority of its equipment through a partnership with the Department of Labor's Employment and Training Administration (ETA).² That partnership ended on September 30, 2021.³ Since then, the Plan has not leased or purchased additional equipment.

The Requested Exemption

5. The Applicant represents that at some point the Plan will need to acquire additional equipment to meet the training needs of the Plan. The requested exemption would permit the Plan to receive one or more Loans from Local 627, so the Plan can purchase such equipment. As discussed further below, each Loan must be approved in advance by the Plan's Independent Fiduciary, following the Independent Fiduciary's

² ETA previously sponsored the National Training Fund Excess Property Program (the NTF Program), which generally facilitated the lease of pre-used government-owned property to private non-profit parties.

³ The Department understands that, in winding up the NTF Program, ownership of the equipment that the Plan had been using was formally transferred to the Plan.

review of the Plan's needs and the Loan's terms. Nothing in this exemption would preclude the Plan Trustees from causing the Plan to enter into a loan that is not prohibited under ERISA, with an unrelated third party.

6. Each Loan must be consistent with the Plan's written "Operating Procedures for [the] Equipment Loan Program" (the Loan Procedures), and the Loan Procedures must govern the operation of the Plan's Loan program (the Loan Program). The Union Trustees must not have any role in the operation of the Loan Program and must not participate in any discussion or vote regarding the Loan Program.

7. If the exemption is granted, each Loan will have fixed terms regarding payments, interest rate, and duration. The interest rate for each Loan must be set at two (2) percentage points below the U.S. Prime lending rate,⁴ except that the interest rate may not be lower than 1% or higher than 3%.⁵ The Department understands that a commercial loan transaction conducted at arm's-length among unrelated parties would rely on the U.S. Prime lending rate as an objective measurement of the market's loan rates.

The Independent Fiduciary

8. On March 12, 2025, the Employer Trustees, acting on behalf of the Plan, entered into an "Independent Fiduciary Services Agreement" (the QIF Agreement) with Judith P. Broach, Esq. (Ms. Broach).⁶ The QIF Agreement does not: contain any

⁴ The Department understands that the U.S. Prime lending rate is a key base interest rate used by banks to set the rates for loans. The U.S. Prime lending rate is generally set at 3% above the Fed Funds Rate which determined by the Federal Reserve Board and used for overnight loans between banks. For reference, the U.S. Prime lending rate as of August 12, 2025, is 7.5%.

⁵ The following example is illustrative of the Department's understanding of the mechanics of how the interest rate for a Loan is calculated: if the U.S. Prime Lending Rate (Prime) is 4.0%, then the rate of a Loan will be 2.0% since the Loan Procedures require the rate to be 2% below Prime. However, if Prime is 2.0%, then the rate of a Loan must be 1.0%, since the Loan Procedures provide that the lowest it can be is 1.0%. However, the Independent Fiduciary may not cause the Plan to enter into the Loan if better terms are available from unrelated lenders. If Prime is 5.0% or higher, then the rate of a Loan must be 3.0%, since that is the highest it can be under the Loan Procedures.

⁶ The Applicant represents that the Employer Trustees outlined the critical and necessary qualifications for the selection of the Independent Fiduciary, screened multiple candidates based on the individual's qualifications, rated all qualified candidates, and finally selected Ms. Broach for the position.

provisions that violate ERISA section 410; include any provision that provides for the direct or indirect indemnification or reimbursement of the Independent Fiduciary by the Plan or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Fiduciary's work; or waive any rights, claims, or remedies of the Plan under ERISA, state, or Federal law against the Independent Fiduciary with respect to any transaction described in this exemption.⁷

9. Ms. Broach represents that she has regularly advised boards of trustees regarding their fiduciary responsibilities and the prohibited transactions rules of ERISA, has experience in hiring qualified appraisers and in analyzing appraisal reports, and has served as an independent fiduciary of numerous employee benefit plans both by contractual arrangement and court appointment. Ms. Broach represents that neither she nor any entity related to her has a prior or current relationship with any party in interest involved in the proposed transaction, including the Plan, Local 627, and any individual performing services for the Plan. Ms. Broach represents that her fee for acting as the QIF will amount to no more than 5% of her gross income in any year.⁸

10. Under the QIF Agreement, Ms. Broach agrees, represents, and certifies that she will perform her fiduciary duties with the care, skill, prudence, and diligence under the circumstances prevailing that a prudent person acting in a like fiduciary capacity and familiar with such matters would use in an enterprise of like character and with like aims. Ms. Broach certifies through the QIF Agreement that she is qualified by education, training, experience, and professional activities to perform the analysis, review, and

⁷ This restriction also applies to the independent appraiser discussed below. However, the restriction does not limit the ability of the Independent Fiduciary or the independent appraiser to acquire liability insurance and does not limit the terms of that insurance.

⁸ The Department notes that, in connection with an exemption application, if a prospective independent fiduciary is projected to receive revenues from parties in interest to the transaction (and their affiliates), and the plan, that is greater than 2% of such fiduciary's annual revenues based upon its prior income tax year, such fiduciary will not be presumed to be independent based solely on the revenue it receives, but it may nonetheless be considered to be independent "based upon other facts and circumstances provided that it receives or is projected to receive revenues that are not more than 5% within the current federal income tax year from parties in interest (and their affiliates) to the transaction based upon its prior income tax year." See 29 CFR 2570.31(j), 76 FR66646 (October 27, 2011).

determinations necessary to evaluate and maintain the Plan's ongoing heavy equipment needs as Independent Fiduciary. The Plan may reimburse the Independent Fiduciary for the reasonable costs of maintaining these coverages. The QIF Agreement provides that Ms. Broach will be reimbursed for all reasonable out-of-pocket expenses related to the QIF Services.

*Independent Fiduciary Duties*⁹

11. As Independent Fiduciary, Ms. Broach must, in advance of each Loan: (a) review the needs, assets and mission of the Plan, and determine that it would be prudent for the Plan to enter into the Loan; (b) negotiate (if appropriate) and approve the terms and conditions of the Loan; (c) determine that the terms of the Loan are in the interests and protective of the Plan and its participants and beneficiaries; (d) have sole discretionary authority to approve the Loan or to retain the services of a qualified independent appraiser (the Independent Appraiser) to evaluate a piece of Equipment that either needs to be purchased or replaced.

12. During the existence of any Loan made under the Loan Program, the Independent Fiduciary must: (a) monitor the terms of each Loan on a continuing basis to ensure that the parties adhere to the terms and conditions of each Loan and enforce the Plan's rights under any Loan and the Loan Procedures; (b) ensure that the Loan Program remains in the best interest of the Plan and its participants and beneficiaries; (c) monitor compliance with the terms of the exemption to ensure that the conditions are adhered to; and (d) monitor the Equipment to ensure that its usage is consistent with the mission of the Plan.¹⁰ Finally, if the Independent Fiduciary discovers any conduct that violates the conditions for the exemption, it must notify the Department by email at e-OED@dol.gov

⁹ The following is a summary of the conditions of the proposed exemption. Please see Section II of the proposed exemption, below, for a complete description of all the terms and conditions of the proposed exemption.

¹⁰ The Department cautions that any use of the Equipment by an Employer Trustee for its own purpose would constitute a prohibited transaction that is outside the scope of this exemption, if granted.

within seven (7) calendar days of the discovery, describing the conduct involved and steps taken or intended to be taken by the Independent Fiduciary to remedy the breach.

13. Annual Reporting. The Independent Fiduciary must prepare a written report at the end of each calendar year containing a summary of any new and outstanding Loans made under the Loan Program, including but not limited to a description of the Equipment purchased using proceeds from such Loans; and a certification that the Independent Fiduciary determined, in accordance with its fiduciary duties under ERISA, that any new and outstanding Loans: (a) are necessary for the Plan's operation; (b) are on more favorable terms (including lower overall cost) to the Plan than those offered by a third-party lender for a comparable loan; (c) were entered into for the benefit of the Plan and not Local 627; and (d) meet all the requirements of the Loan Procedures and this exemption (the Annual Report). The Independent Fiduciary must deliver the Annual Report to the Department and the Plan Trustees no later than March 31st of the year that immediately follows the calendar year to which the report relates. The Annual Report must also describe any amendment to the Loan Procedures.

Other Conditions:

14. The material facts and representations set forth in the Summary of Facts and Representations must be true and accurate at all times, and the Plan must retain for six years the records necessary for the Department to ascertain whether the conditions for relief have been adhered to. The Plan must not pay any fees or expenses or pre-payment penalties in connection with any Loan.¹¹ Each Loan must be secured solely with the Equipment purchased with the Loan. At the time the Loan is entered into, the interest rate on the Loan must not be greater than the interest rate on a substantially similar loan that could be obtained from an unrelated, third-party lender.

¹¹ The Department notes that the amount being financed with a Loan may include costs for shipping and for updating the Equipment for the Plan's use and operations (including, but not limited to new tires, tracks, hoses, cables, safety-related equipment, and electronic upgrades, etc.).

15. If the Plan defaults on a Loan, Local 627 may declare the entire Loan immediately due and payable 30 days after prior written notice or repossess the underlying Equipment securing the defaulted Loan 30 days after prior written notice. However, in such event, the Plan will not be liable for any costs associated with the repossession of the Equipment and will not be liable for any amount remaining on the Loan. The terms of each Loan must provide that, if the Equipment that is the subject of the Loan is repossessed by Local 627 consistent with the terms of this exemption, and the Independent Fiduciary determines that the fair market value of the Equipment exceeds the Loan balance, Local 627 must pay the Plan any such excess within 30 days of the repossession.

16. The Employer Trustees may amend the Loan Procedures if the amendment is consistent with this exemption and approved by the Independent Fiduciary. The Independent Fiduciary may also propose to amend the Loan Procedures consistent with the terms of this exemption, in consultation with the Employer Trustees, to facilitate compliance with its obligations under the exemption. The Loan Program may be terminated by a majority vote of the Plan's Trustees after paying off all outstanding Loans between the Plan and Local 627, unless the Plan is prudently required to terminate the Loan Program immediately, which termination may be made by majority vote of the Employer Trustees only. Unless the Employer Trustees immediately terminate the Loan Program, the Plan will provide Local 627 with 90 days' advance written notice of the Plan's intent to cease the Loan Program and Local 627 must provide the Plan with 180 days' advance written notice of its intent to stop issuing Loans under the Loan Program.

Exemptive Relief Requested and Analysis

17. ERISA section 406(a) prohibits a wide range of transactions between a plan and a party in interest with respect to the plan. As a labor union whose members are covered under the Plan, Local 627 is a party in interest with respect to the Plan under

ERISA section 3(14)(D), because it is an employee organization whose members are covered under the Plan.

18. ERISA section 406(a)(1)(A) prohibits a sale or exchange, or leasing, of any property between a plan and a party in interest. If this exemption is granted and the Plan purchases Equipment with Loan proceeds, the Plan will grant Local 627 a security interest in the purchased Equipment. Therefore, the Plan's receipt of Loan proceeds in exchange for Local 627's receipt of a security interest in the purchased Equipment would violate ERISA section 406(a)(1)(A).

19. ERISA section 406(a)(1)(B) prohibits the lending of money or other extension of credit between the plan and a party in interest. Each Loan would violate ERISA section 406(a)(1)(B) because it would involve Local 627 lending funds to the Plan.

20. ERISA section 406(a)(1)(D) prohibits the transfer to, or use by or for the benefit of, a party in interest, of any assets of a plan. The Plan's repayment of a Loan would violate ERISA section 406(a)(1)(D) because it would involve the transfer of Plan assets to Local 627.

21. ERISA section 406(b)(1) prohibits a fiduciary from dealing with a plan's assets in their own interest or own account. Because the Union Trustees participated in the creation and development of the Loan Program, and the Union Trustees have an interest in Local 627 that could affect their best judgment as Plan fiduciaries, Loans by Local 627 to the Plan under the Loan Program may violate ERISA section 406(b)(1).

22. Finally, ERISA section 406(b)(2) prohibits a fiduciary from acting in any transaction involving the plan on behalf of a party whose interests are adverse to the Plan's interests. Because the Union Trustees participated in the creation and development of the Loan Program, and the Union Trustees have an interest in Local 627 that are adverse to the Plan's interests, Loans by Local 627 to the Plan under the Loan Program may violate 406(b)(2).

Statutory Findings

23. “The Proposed Exemption is Administratively Feasible.” The Department has tentatively determined that the requested exemption is administratively feasible for the Department, because, among other things, the Independent Fiduciary will represent the interests of the Plan for all purposes with respect to each Loan and its repayment, and will provide annual reports to the Department.

24. “The Proposed Exemption is in the Interest of the Plan.” The Department has tentatively determined that the proposed exemption is in the interest of the Plan because, among other things, each Loan will be on more favorable terms (including lower overall cost to the Plan) than those offered by a third-party lender for a comparable loan.

25. “The Proposed Exemption is Protective of the Plan.” The Department has tentatively determined that the proposed exemption is protective of the rights of the Plan and its participants and beneficiaries because, among other things, the Plan will be protected by an Independent Fiduciary who will have the sole discretionary authority to approve a Loan on behalf of the Plan.

Notice to Interested Persons

Interested persons include participants and beneficiaries of the Plan. The Applicants will provide notification to interested persons by electronic mail and/or first-class mail within fifteen (15) calendar days of the date of the publication of the Notice in the *Federal Register*. The mailing will contain a copy of the Notice, as it appears in the *Federal Register*, plus a copy of the Supplemental Statement that is required pursuant to 29 CFR 2570.43(a)(2), which advises the interested persons of their right to comment and to request a hearing. The Department will not consider comments and requests for a hearing it receives later than forty-five (45) days from the date of the publication of the Notice in the *Federal Register*.

All comments will be made available to the public.

WARNING: If you submit a comment, the Department recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as a Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) does not relieve a fiduciary or other party in interest from certain other provisions of ERISA, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the plan and its participants and beneficiaries and in a prudent manner in accordance with ERISA section 404(a)(1)(B);

(2) Before an exemption may be granted under ERISA section 408(a), the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, would be supplemental to, and not in derogation of, any other provisions of ERISA, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is, in fact, a prohibited transaction; and

(4) The proposed exemption, if granted, would be subject to the express condition

that the material facts and representations contained in the application are true and complete at all times and that the application accurately describes all material terms of the transactions which are the subject of the exemption.

PROPOSED EXEMPTION

The Department is considering granting the proposed exemption under the authority of ERISA Section 408(a), and in accordance with the procedures set forth in the exemption procedure regulation.¹²

Section I. Covered Transactions

If this proposed exemption is granted and Section II conditions are met, the restrictions of ERISA sections 406(a)(1)(A), (B), and (D), 406(b)(1), and 406(b)(2) shall not apply to: one or more loans (the Loan(s)) by the International Union of Operating Engineers Local Union 627 (Local 627) to the International Union of Operating Engineers Local Union 627 Training Fund of Oklahoma (the Plan) for the Plan's purchase of heavy machinery equipment that will solely be used in the Plan's apprenticeship training (the Equipment); the Plan's repayment of the Loan(s) to Local 627; and the Plan's grant to Local 627 of a security interest in the Equipment, provided the conditions set forth in Section II are met.

Section II. Conditions

(a) The terms and conditions of each Loan are at least as favorable to the Plan and its participants and beneficiaries as the terms and conditions that the Plan could have obtained in an arm's-length transaction with an unrelated third party;

(b) The proceeds of each Loan are used solely for the Plan's acquisition of a specific piece of Equipment;

¹² 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).

(c) The determination to enter into a Loan on behalf of the Plan must be made by a qualified independent fiduciary prudently selected by the Employer Trustees (the Independent Fiduciary);

(d) The interest rate on each Loan must be two (2) percentage points below the U.S. Prime lending rate, provided that the interest rate for any Loan will be not less than one (1) percent nor greater than three (3) percent.

(e) At the time the Loan is entered into, the interest rate on the Loan must not be greater than the interest rate on a substantially similar loan that could be obtained from an unrelated, third-party lender;

(f) With respect to each Loan, the Plan will not pay any fees or expenses, including any prepayment penalty, in connection with the Loan, or be subject to payment of any other amounts other than principal and interest, except that the Plan may pay direct expenses reasonably incurred by the Independent Fiduciary and the Independent Appraiser in the performance of their duties;

(g) Each Loan must be secured solely with the Equipment purchased with the Loan. If the Plan defaults on a Loan, then 30 days after prior written notice delivered to the Employer Trustees, Local 627 may declare the entire Loan immediately due and payable or commence proceedings to repossess the underlying Equipment securing the defaulted Loan. However, in such an event, the Plan will not be liable for any costs or expenses associated with the repossession of the Equipment, including legal fees, administrative fees, or expenses related to relocating any Equipment, and the Plan will not be liable for any amount remaining on the Loan. The terms of each Loan must provide that, if the Equipment that is the subject of the Loan is repossessed by Local 627 consistent with the terms of this exemption, and the Independent Fiduciary determines that the fair market value of the Equipment exceeds the Loan balance, then Local 627 must pay the Plan such excess within 30 days of the repossession;

(h) The trustees appointed by the employers of members of Local 627, which are signatory to the agreement establishing the Plan (collectively, or individually, the Employer Trustee(s)) must unanimously determine in accordance with their fiduciary duties of loyalty and prudence, in writing, that the Loan Program complies with the terms of this exemption, if granted, and is an appropriate means to finance the purchase of the Equipment and is in the best interests of the Plan and its participants and beneficiaries;

(i) The trustees appointed by Local 627 (collectively, or individually, the Union Trustee(s)) will not play any role in the operation of the Loan Program and will not participate in any discussion or vote regarding the Loan Program, except for the termination of the Loan Program;

(j) The Independent Fiduciary represents that they understand and accept the duties and responsibilities to act as a fiduciary under ERISA when acting as a fiduciary on behalf of the Plan. The Independent Fiduciary must also perform the following tasks:

(1) Review the needs, assets and mission of the Plan, and determine that it is prudent for the Plan to enter into each Loan;

(2) Negotiate (if appropriate) and approve the terms and conditions of each Loan;

(3) Determine that the terms of each Loan are in the interests of, and protective of, the Plan and the Plan's participants or beneficiaries;

(4) Continuously represent the Plan's interests for all purposes with respect to each Loan, including:

(A) monitoring the Loans to ensure that the parties adhere to the terms and conditions of each Loan agreement;

(B) enforcing the Plan's rights under a Loan's terms and the Loan Procedures;

(C) taking appropriate steps to ensure that participation in the Loan Program remains in the best interest of the Plan and its participants and beneficiaries; and

(D) monitoring the Equipment to ensure its usage is consistent with the mission of the Plan;

(5) Ensure and verify that all the conditions of this exemption continue to be met;

(6) Notify the Department by email at e-OED@dol.gov upon discovering any conduct that violates the conditions for the exemption within seven (7) calendar days of the discovery, describing the conduct involved and steps taken or intended to be taken by the Independent Fiduciary to remedy the breach; and

(7) Annual Summary Reporting: Prepare a written report at the end of each calendar year containing a summary of any new and outstanding Loans made under the Loan Program, including but not limited to a description of the Equipment purchased using proceeds from such Loans; and a certification that the Independent Fiduciary determined, in accordance with its fiduciary duties under ERISA, that any new and outstanding Loans: (a) are necessary for the Plan's operation; (b) are on more favorable terms (including lower overall cost) to the Plan than those offered by a third-party lender for a comparable loan; (c) were entered into for the benefit of the Plan and not Local 627; and (d) meet all the requirements of the Loan Procedures and this exemption. The Annual Report must be delivered to the Department and the Plan's trustees no later than March 31st of the year that immediately follows the year to which the Annual Report corresponds. The Annual Report must also describe any amendment to the Loan Procedures;

(k) The Independent Fiduciary's engagement agreement to provide services in connection with any transaction described in this proposed exemption must not: (1) contain any provisions that violate ERISA section 410; (2) include any provision that

provides for the direct or indirect indemnification or reimbursement of the Independent Fiduciary by the Plan or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Fiduciary's work; (3) or waive any rights, claims, or remedies of the Plan under ERISA, state, or Federal law against the Independent Fiduciary with respect to any transaction described in this exemption;

(l) The Independent Fiduciary has sole authority to retain the services of a qualified independent appraiser (the Independent Appraiser), if necessary, to value any of the Plan's Equipment (or parts of Equipment) that need to be purchased or replaced, provided that any such Independent Appraiser must meet the Department's definition for a qualified independent appraiser as provided in the Department's regulation codified at 29 CFR 2570.31(i) (as amended). Furthermore, the Independent Appraiser retained by the Independent Fiduciary may not enter into any agreement, arrangement or understanding with the Plan, or with the Independent Fiduciary on behalf of the Plan, that includes any provision that: (1) provides for the direct or indirect indemnification or reimbursement of Independent Appraiser by the Plan or another party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Appraiser's work; or (2) waives any rights, claims or remedies of the Plan or its participants and beneficiaries under ERISA, the Code, or other Federal and state laws against the Independent Appraiser with respect to the transaction(s) that are the subject of the exemption;

(m) Termination of the Independent Fiduciary. The Employer Trustees must provide the Department with notice of the termination of the Independent Fiduciary's services contract for any reason within 15 business days after the Employer Trustees have knowledge of such termination. The Employer Trustees must notify the Department before retaining the services of a new Independent Fiduciary and entering into any Loan approved by such new Independent Fiduciary, and must provide a written report to the

Department describing the methodology used by the Employer Trustees to select such Independent Fiduciary containing the information required by the Department's exemption procedure regulation at 29 CFR 2570.34(d) (as amended), including a certification that neither the proposed new Independent Fiduciary nor any entity related to such new Independent Fiduciary has a prior or current relationship with the Plan or Local 627. The Independent Fiduciary will be deemed approved by the Department within 10 business days unless the Department objects by electronic mail within such time period. The Department may approve or object to the proposed new Independent Fiduciary in its sole discretion based on factors established in the Department's regulation codified at 29 CFR 2570.31(j) (as amended);

(n) The Loan Program is governed by a written set of procedures (Loan Procedures) requiring that:

(1) The terms of each Loan comply with the provisions of this exemption, if granted;

(2) Each Loan and each repayment of a Loan comply with the terms of the Loan Program and the Loan Procedures;

(3) The Loan Procedures may be amended by the Employer Trustees if the amendment is consistent with this exemption and approved by the Independent Fiduciary, and the Independent Fiduciary may also propose to amend the Loan Procedures consistent with the terms of this exemption, in consultation with the Employer Trustees, to facilitate compliance with its obligations under the exemption; and

(4) The Loan Program may be terminated by a majority vote of the Plan's Trustees after paying off all outstanding Loans between the Plan and Local 627, unless the Plan is prudently required to terminate the Loan Program immediately, which termination may be by majority vote of the Employer Trustees only. Unless the Employer Trustees immediately terminate the Loan Program, the Plan will provide Local

627 with 90 days' advance written notice of the Plan's intent to cease the Loan Program and Local 627 must provide the Plan with 180 days' advance written notice of its intent to stop issuing Loans under the Loan Program;

(o) All the material facts and representations set forth in the Summary of Facts and Representations are true and accurate at all times; and

(p) The Plan will maintain, for six (6) years beginning immediately following any conduct that is taken in relation to any transaction that is detailed above in Section I, all records necessary to demonstrate that the conditions of this exemption have been met and make such records available to the Department within 30 calendar days of the Department's request.

Exemption date: If granted, the exemption will be in effect as of the date the grant notice is published in the *Federal Register*.

Signed at Washington, DC.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor

[FR Doc. 2025-17391 Filed: 9/9/2025 8:45 am; Publication Date: 9/10/2025]