

APPENDIX II: CONTRACT PROVISIONS QUICK REFERENCE TABLE FOR THE CONTRACT PROVISIONS TEMPLATE PROVIDED BY FEMA

The 2 CFR 200 Procurement Standards require a contract provisions document to be prepared by you and included with all contracts and purchase orders. This Reference Guide is to be used with the Contract Provisions Template created by FEMA in preparing your contract provisions document. If your contract does not meet the Contract Criteria Threshold for a provision, that provision is not required. We suggest your document begin with a statement that says the contractor agrees to comply with the following provisions. List each provision with the required suggested or sample language and have the contractor sign and date. The Davis-Bacon Act (Provision D(4) requires a Wage Determination Document also be included with construction solicitations. We suggest including both the Contract Provisions (all solicitations) and Wage Determination Document (construction only) with each solicitation, whether verbal or written, and maintain this documentation in your procurement file.

Provision Reference Number	Required Provision	Contract Criteria	Is Language Provided in the FEMA Contract Provisions Template?	Comments
PROVISIONS REQUIRED BY 2 CFR 200.326 AND APPENDIX II				
1	Remedies Legal contractual/ administrative remedies for breach of contract	> the Simplified Acquisition Threshold (SAT) which is currently \$250,000	No. It is based on applicant's procedures; see page 6.	The \$250,000 threshold pertains to each contract. We recommend having your attorney prepare the language.
2	Termination for cause or convenience	> \$10,000	No. It is based on applicant's procedures; see page 6.	We recommend having your attorney prepare the language.
3	Equal Employment Opportunity	All construction work	<u>Required</u> language provided pursuant to 41 CFR Part 60-1.4(b); see pages 7- 10.	41 CFR Part 60-1.4 is listed in the FEMA Contract Provisions Template.
4	Davis Bacon Act	Construction work > \$2,000 A construction contract for the purposes of this contract provision is defined as a contract for >\$2,000 for the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, or other changes or improvements to real property, including supervision, inspection, and other onsite functions incident to the actual construction.	<u>Suggested</u> language provided; see page 11.	Appendix II requires the non-federal entity to place a copy of the current prevailing wage determination in each solicitation. See Davis-Bacon Fact Sheet from DOL.pdf for more information concerning Davis-Bacon requirement. See 0-Instructions for Creating the Wage Determination Document for Contract Final 3-18-20.docx for instructions for preparing the prevailing wage determination document.
5	Copeland Anti-Kickback Act	Construction work > \$2,000 where Davis-Bacon act applies	<u>Sample</u> language provided; see pages 11-12.	Include suggested language when Davis-Bacon Act language is required.
6	Contract Work Hours and Safety Standards Act	> \$100,000 and employing mechanics or laborers	<u>Suggested</u> language provided; see pages 13-14.	Reference 29 CFR 5. 5(b).

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7	Rights to inventions made under a contract or agreement	Funding agreement	No sample language provided.	This provision pertains to funding agreements and is not applicable to MSP/EMSHD grants.
8	Clean Air Act and Federal Water Pollution Control Act	> \$150,000	<u>Suggested</u> language provided; see pages 15-16	Include when your contract is > \$150,000.
9	Debarment and Suspension	All	<u>Suggested</u> language; see pages 17-18	Evidence of a debarment and suspension search of your vendor or contractor is required for all purchases; keep the documentation with your procurement records.
10	Byrd Anti-Lobbying Amendment	All (>\$100,000 must include a certification)	<u>Suggested</u> language and certification; see pages 19-20	Required for all contracts. If your contract is > \$100,000, the certification is required. The FEMA template has the suggested language for both the contract provision and certification; if a certification is required, prepare a separate document for your contractor to sign and return to you.
11	Procurement of Recovered Materials	Applicant is a state or political subdivision of a state.	<u>Suggested</u> language; see page 21.	Required for counties/cities/townships; not required for nonprofits.
PROVISIONS RECOMMENDED BY FEMA				
1	Access to Records	All	<u>Suggested</u> language; see page 22-23.	
2	Changes <i>Contract changes or modifications</i>	All	No recommended language. It depends on nature of contract and end-item procured.	All contract changes must be approved by FEMA in advance. This provision should be included in your contract.
3	DHS Seal, Logo, and Flags	All	<u>Suggested</u> language; see pages 24	
4	Compliance with Federal Law, Regulations, and Executive Orders	All	<u>Suggested</u> language; see page 24	
5	No Obligation by Federal Government	All	<u>Suggested</u> language; see pages 24-25	
6	Program Fraud and False or Fraudulent Statements or Related Acts	All	<u>Suggested</u> language; see page 25	