

## Contract Provisions Quick Reference Guide Modified for FEMA's Public Assistance Program

Tables A and B are designed to help FEMA Public Assistance grant subrecipients conduct a quick reference of the applicability of a specific contract provision and whether sample contract language is included within FEMA's Contract Provisions Guide to incorporate within the subrecipient's contract.  
The Tables are divided between the REQUIRED contract provisions set forth under 2 C.F.R. Part 200 Appendix II and those that FEMA RECOMMENDS in addition to those required by 2 C.F.R. Part 200.

[FEMA Contract Provisions Guide Acronyms and Definitions can be found HERE.](#)

[Full text of Appendix II to Part 200, Title 2 can be found HERE.](#)

### FEMA Contract Provision Guide - Table A: REQUIRED Contract Provisions

The Table A below has been modified to show contract provision applicability for FEMA Public Assistance Program funding *only*.

Shading for PA -- **Green** = required; **Blue** = not required but recommended; **None** = not required

	Provision (Appendix II Section)	Applicability	Applicable to FEMA Public Assistance (PA) Funding	Sample Contract Language Included
1	Legal/contractual/administrative remedies for breach of contract	Greater than Simplified Acquisition Threshold (SAT)- \$250,000	YES for procurements greater than \$250K; NO if less than or equal to \$250K but FEMA suggests including it in all contracts anyway	No. It is based on Non-Federal Entity's (NFE) procedures.
2	Termination for cause and convenience	Greater than \$10,000	YES for procurements greater than \$10K; NO if less than \$10K. FEMA suggests including it in all contracts, even when not required.	No. It is based on NFE's procedures.
3	Equal Employment Opportunity	Construction work	<a href="#">YES for all procurements that meet the "federally assisted construction contract." (definition in Sec. 3.2 on pg 10)</a>	Yes. Exact language from 41 C.F.R. §60-1.4(b) included.
4	Davis Bacon Act	Construction work	No	Yes, via reference to required language at 29 C.F.R. § 5.5(a).
5	Copeland "Anti-Kickback" Act	Construction work greater than \$2,000	No	Yes.
6	Contract Work Hours and Safety Standards Act	Greater than \$100,000 + mechanics or laborers and construction work	YES - for all procurements over \$100K that involve the employment of <u>mechanics, laborers, and construction work</u> .	Yes. Exact language required from 29 C.F.R. § 5.5(b).
7	Rights to inventions made under a contract or agreement	Funding agreement	No	Yes.
8	Clean Air Act and federal Water Pollution Control Act	Greater than \$150,000	YES - for all procurements over \$150K	Yes.
9	Debarment and Suspension	Greater than \$25,000; For NFEs contracts of any amount [2 C.F.R. § 200.318(h)]	Yes	Yes.
10	Byrd Anti-Lobbying Amendment	Greater than \$100,000; and Certification required for all contracts greater than \$100,000	YES - for all procurements over \$100K	Yes. Clause and certification.
11	Procurement of Recovered Materials	Work involves the use of materials and the contract is for more than \$10,000.	Yes - for all procurements over \$10K	Yes.
12	Prohibition on Contracting for Covered Telecommunications Equipment or Services	All FEMA declarations and awards issued on or after November 12, 2020.	Yes	Yes.
13	Domestic Preferences for Procurements	All FEMA declarations and awards issued on or after November 12, 2020.	Yes	Yes.

### FEMA Contract Provisions Guide - Table B: RECOMMENDED Contract Provisions

	Provision	Applicability	Sample Contract Language Included
1	Access to Records	All	Yes.
2	Contract Changes or Modifications	All	No. It depends on nature of contract and end-item procured.
3	DHS Seal, Logo, and Flags	All	Yes.
4	Compliance with federal Law, Regulations and Executive Orders	All	Yes.
5	No Obligation by Federal Government	All	Yes.
6	Program Fraud and False or Fraudulent Statements or Related Acts	All	Yes.
7	Affirmative Socioeconomic Steps	State entities: all FEMA declarations and awards issued on or after November 12, 2020. Non-state entities: all procurements.	Yes.
8	Copyright	All procurements that may involve creation of copyrightable material.	Yes.