



## Checklist of Requirements for Contracts Using Federal Grant Funds

Federal law requires that agreements between non-federal recipients of federal awards (including local jurisdictions receiving federal grants) and transferees (subrecipients and contractors) include certain statutory or regulatory language. Most of these requirements are included at 2 C.F.R. Part 200, [Appendix II](#).

Before entering a contract using federal grant funds, consult your legal counsel and the federal agency administering the awarded funds.

This checklist is intended to provide talking points for your conversation with your legal counsel to ensure that your agreement is compliant with federal rules. For more information on these provisions, including recommended language where appropriate, view this [guidance](#) prepared by the Federal Emergency Management Agency. For questions about complying with Chapter 30B of the Massachusetts General Laws and procurement rules for federal awards under 2 C.F.R. Part 200, please contact the Office of the Inspector General at (617) 722-8838.

### Requirements of 2 C.F.R. Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.



#### Contracts valued at over \$10,000:

- ☐ **Termination.** All contracts valued at more than \$10,000 must address termination for cause or convenience by the non-federal entity, including the manner by which termination will take effect and the basis for settlement.
- ☐ **Debarment and suspension.** All contracts and subcontracts exceeding \$25,000, all contracts that require the consent of an official of a federal agency, and all contracts for federally required audit services must have a provision requiring compliance with debarment and suspension regulations. [2 CFR Part 200, Appendix II \(H\)](#). When applicable, a contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM). A SAM exclusion contains the names of parties debarred, suspended or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. For more information on specific parties, see [SAM.gov](#). Procurement staff should also consult the Commonwealth's [debarment list](#).
- ☐ **Clean Air Act and Clean Water Act** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal awardee to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, [42 U.S.C. §§ 7401-7671g](#), and the Clean Water Act, as amended, [33 U.S.C. §§ 1251-1387](#).

- ☐ **Remedies.** If a contract is valued at more than the simplified acquisition threshold (usually \$250,000), it must address administrative, contractual or legal remedies for breach or violation of contract terms and provide sanctions and penalties as appropriate.



### Procurements valued at over \$10,000:

- ☐ **Procurement of recovered materials.** All procurements over \$10,000 made by a non-federal entity that is a state agency or an agency of a political subdivision of a state and its contractors, pursuant to [2 C.F.R. Part 200.323](#), must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requires, among other things, procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 C.F.R. Part 247](#).



### Construction-related provisions:

- ☐ **Equal employment opportunity.** All contracts that meet the definition of “federally assisted construction contract” in [41 C.F. R. Part 60-1.3](#) must include certain required language found in [41 C.F.R. Part 60-1.4\(b\)](#).
- ☐ **Davis-Bacon Act.** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act, [40 U.S.C. §§ 3141-3148](#). Please note that if the Davis-Bacon Act applies, the Massachusetts Prevailing Wage Law may apply as well. In a case where both laws apply, the higher wage is required.

Unless otherwise stated in a grant program’s authorizing statute, the Davis-Bacon Act applies *only* to the following federal programs:

- Emergency Management Performance Grant Program
- Homeland Security Grant Program
- Nonprofit Security Grant Program
- Tribal Homeland Security Grant Program
- Port Security Grant Program
- Transit Security Grant Program
- Intercity Passenger Rail Program
- Rehabilitation of High Hazard Potential Dams Program

- ☐ **Copeland “Anti-Kickback” Act.** All contracts that must comply with the Davis-Bacon Act must include a provision for compliance with the Copeland “Anti-Kickback” Act, [40 U.S.C. § 3145](#), as supplemented by Department of Labor regulations at [29 C.F.R. Part 3](#).



## For contracts that employ mechanics or laborers:

- ☐ **Contract Work Hours and Safety Standards Act.** Where applicable under [40 U.S.C. § 3701](#), all contracts awarded by a non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include the required provision for compliance with [40 U.S.C. §§ 3702 and 3704](#), as stated by Department of Labor regulations at [29 C.F.R. § 5.5 \(b\)\(1\)-\(4\)](#).



## For funding agreements involving research work:

- ☐ **Rights to inventions made under a contract or agreement.** If the federal award meets the definition of “funding agreement” under [37 C.F.R. Part 401.2\(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 C.F.R. Part 401](#).



## May apply, regardless of threshold:

- ☐ **Domestic preferences for procurements.** As appropriate and to the extent consistent with the law, the non-federal entity should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition or use of goods, products or materials produced in the United States. This requirement, pursuant to [2 C.F.R. Part 200.322](#) must be included in all subawards. In complying with this provision, Chapter 30B must still be followed to the extent practicable, consistent with M.G.L. c. 30B, § 1(b)(34).
- ☐ **Build America, Buy America Act provisions.** The Build America, Buy America Act requires that iron, steel, manufactured products, and construction materials used in applicable federally funded infrastructure projects be produced in the United States. For more information: <https://www.energy.gov/management/build-america-buy-america>
- ☐ **National Historic Preservation Act.** The National Historic Preservation Act, Pub. L. 89-665, requires federal agencies to consider the impact its actions have on historic buildings. As such, a recipient of a federal award may be required to comply with terms and conditions related to a federal agency’s compliance with the act. For more information: <https://www.achp.gov/digital-library-section-106-landing/national-historic-preservation-act>
- ☐ **National Environmental Policy Act.** The National Environmental Policy Act, [42 U.S.C. §§ 4321 - 4347](#), requires that prior to funding, authorizing or implementing an action, the federal government engage in an environmental review process to predict the consequences the proposed action may have on the environment. Each agency may have different requirements under NEPA, so consult with your administering agency to determine applicable requirements.

For more information: [NEPA | National Environmental Policy Act \(doe.gov\)](#)[NEPA | National Environmental Policy Act \(doe.gov\)](#)

- ☐ **Byrd Anti-Lobbying Amendment.** Contractors that apply or bid for an award exceeding \$100,000 must file, pursuant to [31 U.S.C. § 1352](#), the required certification relating to prohibitions on the use of federal funds to influence agency staff and congressional staff in connection with obtaining a covered federal award.
- ☐ **Prohibition on certain telecommunications and video surveillance services or equipment.** Recipients and subrecipients are prohibited from, among other things, entering into a contract to procure or obtain equipment, services or systems that uses equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) as a substantial or essential component of any system or as critical technology as part of any system, pursuant to [2 C.F.R. § 200.216](#). This section also includes restrictions on video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company or Dahua Technology Company (or any subsidiary or affiliate of such entities).



## Federal non-discrimination laws:

- ☐ **Title VI of the Civil Rights Act of 1964 (and [31 C.F.R. Part 22](#)) (Title VI).** Pursuant to [42 U.S.C. §§ 2000d et seq.](#), recipients and subrecipients are required to abide by the policy and procedures codified at [22 C.F.R. Part 141](#), which stipulates that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.
- ☐ **Section 503 of the Rehabilitation Act of 1973.** This law prohibits federal contractors and subcontractors from discriminating in employment against individuals with disabilities and requires that employers take affirmative action to recruit, hire, promote and retain these individuals.
- ☐ **Title IX of the Education Amendments of 1972 (and [31 C.F.R. Part 28](#)) (Title IX).** This law prohibits discrimination on the basis of sex (including discrimination on the basis of pregnancy, sexual orientation and gender identity) in any education program or activity receiving federal financial assistance.
- ☐ **Age Discrimination Act of 1975 (and [31 C.F.R. Part 23](#)).** This law prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.