




STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Executive Office of Commerce (EOC)
Office of Housing and Community Development (OHCD)
One Capitol Hill, 3rd Floor
Providence, RI 02908-5873

DATE: November 3, 2015
TO: CDBG and CDBG-DR Grant Recipients
FROM: OHCD 
SUBJECT: Contract Provisions Required by Federal Law: Appendix II to Part 200

The federal Office of Management and Budget (OMB) has issued the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as the "Super Circular," replacing eight existing circulars. For purposes of the Super Circular, the term "federal award" includes federal grants, cooperative agreements and other agreements for federal assistance. For non-federal entities the requirements became effective as of December 26, 2014. **Cities and Towns receiving CDBG assistance and/or other federal grants are required to comply. Please insure that local rules and regulations are updated accordingly.**

To assist cities and towns in complying with the contracting requirements, including but not limited to those specified in Appendix II to Part 200, OHCD has collected federal documentation which can be inserted into HUD funded construction and services bid and contract documents, as specified below.

Attached you will find **Bid/Contract Provisions Inserts** for contracts under \$100,000 and contracts at/above \$100,000. The Inserts contain the following documents, except as noted below:

- (A) Clause addressing administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. *This language to be provided by the Grant Recipient for contracts valued above the simplified acquisition threshold, currently set at \$150,000.*
- (B) Clause addressing termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. *This language to be provided by the Grant Recipient for contracts in excess of \$10,000.*
- (C) Equal Employment Opportunity Clause. *(HUD form 92010)*
- (D) Labor Standards Provisions (HUD form 4010). *This includes the required Davis-Bacon language. In addition to form 4010, grant recipients must attach a copy of the applicable Davis Bacon prevailing wage determination, available for downloading at <http://www.wdol.gov/dba.aspx>. For additional resources on Davis Bacon, see the CDBG page on the OHCD website.*
- (E) Contract Work Hours and Safety Standards Act *(this is included in form HUD 4010)*

(F) Rights to Inventions Made Under a Contract or Agreement. (37 CFR 401.14)

(G) Clean Air Act and the Federal Water Pollution Control Act. (contracts over \$100,000 only)

(H) Debarment and Suspension (HUD form 2992)

(I) Byrd Anti-Lobbying (contracts over \$100,000 only)

(J) Procurement of recovered materials.

(K) Contracts over \$100,000 are required to contain the Section 3 Clause. OHCD has provided additional Section 3 documents to inform and assist compliance: Section 3 Overview; Certification; Section 3 Plan Certification; and reporting form 60002. These should also be included in the contract document.

(L) Additional Davis Bacon Materials: U.S. Department of Labor Certified Payroll form, Davis Bacon Poster, and Wage/Fringe Benefit Certification. (The Certification requires contractors to list the specific job classifications, from the Davis Bacon wage determination, that will be working at the job site.)

OHCD has collected this information for you, with two exceptions: Item A (language specifying administrative, contractual, and legal remedies in the event of breach of contract); and Item B (language addressing termination for cause and for convenience). If not in use already, municipalities must develop their own contract language to address A and B. To the best of our knowledge, federal templates have not been provided for these items.

Please note that this required language pertains to procured contracts only. For subrecipient contracts, CDBG and CDBG-DR Recipients should generally continue the current practice of using their contract with OHCD as a template, updating sections as necessary.

Full descriptions of provisions A - J may be found in Appendix II to Part 200. A link is provided in the box below. Provision K is required in HUD funded projects, but may not be applicable to other federally funded projects.

Copies of both Bid/Contract Provisions Inserts will be available on OHCD's website, at www.planning.ri.gov/community/development/blockgrants/. Please contact June House at 222-2079 or June.House@doa.ri.gov with questions.

The following links are provided for your reference. We recommend you share this memo with appropriate municipal staff involved in procurement and grant accounting.

Appendix II to Part 200 contains the full text associated with the required contract provisions specified above: http://www.ecfr.gov/cgi-bin/text-idx?node=ap2.1.200_1521.ii&rgn=div9

HUD Notice SD-2015-01, February 26, 2015, Transition to 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance. This document provides an overview of the new regulation. Please pay special attention to the information provided in pages 9-12: Subpart D – Post-federal award requirements. <https://portal.hud.gov/hudportal/documents/huddoc?id=15-01sdn.pdf>

The Rhode Island Department of Administration, Office of Management and Budget, has provided information and guidance at <http://www.omb.ri.gov/grants/resources/circulars.php>.