## Required Contract Provisions

This resource identifies provisions and procurement review sections that are required by USDA to be included in formal contracts and solicitations. Please refer to the GaDOE School Nutrition IFB (Invitation for Bid) checklist for additional sections that should also be included. The language for these provisions can be found in the GaDOE SNP Sample IFB.

## Required provisions that should be included in *all* contracts:

1. **Debarment and Suspension:** Confirmation that a vendor is neither debarred, suspended, or deemed ineligible.
	* 2 CFR 200.213, and 2 CFR Appendix II to Part 200, Section (H)
	* Refer to Attachment H in Procurement Manual
2. **Civil Rights Assurance**
	* FNS-113-1
	* Refer to Attachment J in Procurement Manual

## Required provisions that should be included in contracts *only when applicable* to the listed contract types:

### **Contracts involving Food:**

1. **The Buy American Provision:** Include this only when soliciting foods. The Buy American provision is one of the procurement standards SFAs must comply with when purchasing commercial food products served in the school meals programs.
	* 7 CFR Part 210.21(d).

### **Required for Processing Contracts (but recommended for all food contracts):**

1. **Food Recall Language:** Include this language when soliciting processing contracts.
This should address SFA responsibilities, recall procedures and tracking, assignment
of a food safety coordinator and alternate, among other conditions.
	* 7 CFR Part 250

### **For USDA approved construction/repair contracts over $2,000 *(in extremely rare cases):***

1. **Davis Bacon Act:** Include this in USDA approved construction contracts in excess of $2,000.
	* 2 CFR Appendix II to Part 200, Section (D).
2. **Copeland “Anti-Kickback” Act:**  Include this, jointly, with the Davis Bacon Act,
in USDA approved construction contracts in excess of $2,000.
	* 2 CFR Appendix II to Part 200, Section (D) under the Davis Bacon Act.

### **Contracts greater than $10,000:**

1. **Termination for Cause and Convenience:** Include this in all contracts in excess of $10,000 and incorporate how it will affect both parties and the basis for settlement.
	* 2 CFR Appendix II to Part 200, Section (B).
2. **Equal Employment Opportunity:** Include this in all contracts in excess of $10,000.
	* 2 CFR Appendix II to Part 200, Section (C).
3. **Procurement of Recovered Materials:** Include this in all contracts where the purchase price of items designated by the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 exceeds $10,000 or the value of the quantity procured during the prior fiscal year exceeded $10,000.
	* 2 CFR 200.322 and 2 CFR Appendix II to Part 200, Section (J)

### **Contracts greater than $100,000:**

1. **Byrd Anti-Lobbying Amendment:** Contractors that apply or bid for an award of $100,000 or more must file the required certification.
	* 2 CFR Appendix II to Part 200, Section (I), and 31 U.S.C. 1352
	* Refer to Attachment I in Procurement Manual
2. **Contract Work Hours/Safety Standards Act:** Include this provision in all contracts in excess of $100,000 and in cases where your program’s School Nutrition funds will be paying the contractor and/or its workers for overtime.
	* 2 CFR Appendix II to Part 200, Section (E).
3. **Rights to Inventions Made Under a Contract or Agreement:**  Include this provision in all contracts in excess of $100,000 and if experimental, developmental, or research is performed under a “funding agreement.”
	* 2 CFR Appendix II to Part 200, Section (F).

### **Contracts greater than $150,000:**

1. **Clean Air and the Federal Water Pollution Control Act:** Include this provision in all contracts in excess of $150,000.
	* 2 CFR Appendix II to Part 200, Section (G) and under Clean Air Act
	(42 U.S.C. 7401 et. seq.) and the Federal Water Pollution Control Act
	(33 U.S.C. 1251 et seq.).

### **Contracts greater than $250,000:**

1. **Administrative, Contractual, or Legal Remedies for Breach of Contract:**
Include general language in all contracts in excess of $250,000 to address potential poor contractor performance, contractor responsibilities, and remedies for poor performance.
	* 2 CFR Appendix II to Part 200, Section (A).