

**Environmental Protection Agency**

**§ 35.4220**

encourage and facilitate participation by small businesses, minority-owned firms, and women’s business enterprises.

(3) When procuring firms for larger contracts, consider whether those firms intend to subcontract with small businesses, minority-owned firms, and women’s business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women’s business enterprises when a contract is too large for one of those to handle on its own.

(5) Use the services and help, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce’s Minority

Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women’s business enterprises.

(6) If your contractor awards a contract, require the contractor to take the steps in 40 CFR 30.44(b) as summarized in paragraphs (g)(1) through (5) of this section.

**§35.4210 Must my group solicit and document bids for our procurements?**

(a) The steps needed to be taken to procure goods and/or services depends on the amount of the proposed procurement:

If the aggregate amount of the	Then your group
(1) purchase is \$1,000 or less .....	may make the purchase as long as you make sure the price is reasonable; no oral or written bids are necessary.
(2) proposed contract is over \$1,000 but less than \$25,000.	must obtain and document oral or written bids from two or more qualified sources.
(3) proposed contract is \$25,000 to \$100,000 .....	must: <ul style="list-style-type: none"> <li>(i) Solicit written bids from three or more sources who are willing and able to do the work;</li> <li>(ii) Provide potential sources in the scope of work to be performed and the criteria your group will use to evaluate the bids;</li> <li>(iii) Objectively evaluate all bids; and</li> <li>(iv) Notify all unsuccessful bidders.</li> </ul>
(4) proposed contract is greater than \$100,000	must follow the procurement regulations in 40 CFR part 30 (these regulations outline the standards for your group to use when contracting for services with Federal funds; they also contain provisions on: codes of conduct for the award and administration of contracts; competition; procurement procedures; cost and price analysis; procurement records; contract administration; and contracts generally).

(b) Your group must not divide any procurements into smaller parts to get under any of the dollar limits in paragraph (a) of this section.

**§35.4215 What if my group can’t find an adequate number of potential sources for a technical advisor or other contractor?**

In situations where only one adequate bidder can be found, your group

may request written authority from the EPA award official to contract with the sole bidder.

**§35.4220 How does my group ensure a prospective contractor does not have a conflict of interest?**

Your group must require any prospective contractor on any contract to provide, with its bid or proposal:

**§ 35.4225**

**40 CFR Ch. I (7-1-07 Edition)**

(a) Information on its financial and business relationship with all PRPs at the site, with PRP parent companies, subsidiaries, affiliates, subcontractors, contractors, and current clients or attorneys and agents. This disclosure requirement includes past and anticipated financial and business relationships, and services provided to or on behalf of such parties in connection with any proposed or pending litigation;

(b) Certification that, to the best of its knowledge and belief, it has disclosed such information or no such information exists; and

(c) A statement that it will disclose to you immediately any such information discovered after submission of its bid or after award.

**§ 35.4225 What if my group decides a prospective contractor has a conflict of interest?**

If, after evaluating the information in § 35.4220, your group decides a prospective contractor has a significant conflict of interest that cannot be avoided or otherwise resolved, you must exclude him or her from consideration.

**§ 35.4230 What are my group's contractual responsibilities once we procure a contractor?**

For contractual responsibilities, your group, not EPA:

(a) Is responsible for resolving all contractual and administrative issues arising out of contracts you enter into under a TAG; you must establish a procedure for resolving such issues with your contractor which complies with the provisions of 40 CFR 30.41. These provisions say your group, not EPA, is responsible for settling all issues related to decisions you make in procuring advisors or other contractors with TAG funds; and

(b) Must ensure your contractor(s) perform(s) in accordance with the terms and conditions of the contract.

**§ 35.4235 Are there specific provisions my group's contract(s) must contain?**

Your group must include the following provisions in each of its contracts:

(a) Statement of work;

(b) Schedule for performance;

(c) Due dates for deliverables;

(d) Total cost of the contract;

(e) Payment provisions;

(f) The following clauses from 40 CFR part 30, appendix A, which your EPA regional office can provide to you:

(1) Equal Employment Opportunity; and

(2) Suspension and Debarment;

(g) The following clauses from 40 CFR 30.48:

(1) Remedies for breaches of contract (40 CFR 30.48(a));

(2) Termination by the recipient (40 CFR 30.48(b)); and

(3) Access to records (40 CFR 30.48(d)); and

(h) Provisions that require your contractor(s) to keep the following detailed records as § 35.4180 requires for ten years after the end of the contract:

(1) Acquisitions;

(2) Work progress reports;

(3) Expenditures; and

(4) Commitments indicating their relationship to established costs and schedules.

**REQUIREMENTS FOR TAG CONTRACTORS**

**§ 35.4240 What provisions must my group's TAG contractor comply with if it subcontracts?**

A TAG contractor must comply with the following provisions when awarding subcontracts:

(a) Section 35.4205 (b) pertaining to documentation;

(b) Section 35.4205 (c) and (f) pertaining to cost;

(c) Section 35.4195 (c) pertaining to suspension and debarment;

(d) Section 35.4200 (b) pertaining to responsible contractors;

(e) Section 35.4205 (g) pertaining to disadvantaged business enterprises;

(f) Section 35.4200 (a) pertaining to unallowable contracts;

(g) Section 35.4235 pertaining to contract provisions; and

(h) Cost principles in 48 CFR part 31, the Federal Acquisition Regulation, if the contractor and subcontractors are profit-making organizations.