

**§ 35.935-2**

or administer this subpart in the manner which he determines most appropriate to coordinate with, restate, or enforce NPDES permit terms and schedules.

**§ 35.935-2 Procurement.**

The grantee and party to any sub-agreement must comply with the applicable provisions of §§35.935 through 35.939 with respect to procurement for step 1, 2, or 3 work. The Regional Administrator will cause appropriate review of grantee procurement to be made.

**§ 35.935-3 Property.**

(a) The grantee must comply with the property provisions of § 30.810 *et seq.* of this subchapter with respect to all property (real and personal) acquired with project funds.

(b) With respect to real property (including easements) acquired in connection with the project, whether such property is acquired with or in anticipation of EPA grant assistance or solely with funds furnished by the grantee or others:

(1) The acquisition must be conducted in accordance with part 4 of this chapter;

(2) Any displacement of a person by or as a result of any acquisition of the real property shall be conducted under the applicable provisions of part 4 of this chapter; and

(3) The grantee must obtain (before initiation of step 3 construction), and must thereafter retain, a fee simple or such estate or interest in the site of a step 3 project, and rights of access, as the Regional Administrator finds sufficient to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project. If a step 3 project serves more than one municipality, the grantee must insure that the participating municipalities have, or will have before the initiation of step 3 construction, such interests or rights in land as the Regional Administrator finds sufficient to assure their undisturbed utilization of the project site for the estimated life of the project.

(c) With respect to real property acquired with EPA grant assistance, the grantee must defer acquisition of such

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property until approval of the Regional Administrator is obtained under §35.940-3.

**§ 35.935-4 Step 2=3 projects.**

A grantee which has received step 2=3 grant assistance must make submittals required by §35.920-3(c), together with approvable user charge and industrial cost recovery systems and a preliminary plan of operation. The Regional Administrator shall give written approval of these submittals before advertising for bids on the step 3 construction portion of the step 2=3 project. The cost of step 3 work initiated before such approval is not allowable. Failure to make the above submittals as required is cause for invoking sanctions under §35.965.

**§ 35.935-5 Davis-Bacon and related statutes.**

Before soliciting bids or proposals for step 3-type work, the grantee must consult with the Regional Administrator concerning compliance with Davis-Bacon and other statutes referenced in §30.415 *et seq.* of this subchapter.

**§ 35.935-6 Equal employment opportunity.**

Contracts involving step 3-type work of \$10,000 or more are subject to equal employment opportunity requirements under Executive Order 11246 (see part 8 of this chapter). The grantee must consult with the Regional Administrator about equal employment opportunity requirements before issuance of an invitation for bids where the cost of construction work is estimated to be more than \$1 million or where required by the grant agreement.

**§ 35.935-7 Access.**

The grantee must insure that EPA and State representatives will have access to the project work whenever it is in preparation or progress. The grantee must provide proper facilities for access and inspection. The grantee must allow the Regional Administrator, the Comptroller General of the United States, the State agency, or any authorized representative, to have access to any books, documents, plans, reports, papers, and other records of the