

grant assistance is awarded. The grantee is responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements entered into under the grant (except as § 35.936-6 provides) in accordance with sound business judgment and good administrative practice. This includes issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other related procurement matters.

(b) With the prior written approval of the Regional Administrator, the grantee may retain an individual or firm to perform these functions. Such an agent acts for the grantee and is subject to the provisions of this subpart which apply to the grantee.

(c) In accordance with § 35.970, a grantee may request technical and legal assistance from the Regional Administrator for the administration and enforcement of any contract related to treatment works that are assisted by an EPA grant. The Regional Administrator's assistance does not release the grantee from those responsibilities identified in paragraph (a) of this section.

§ 35.936-6 EPA responsibility.

Generally, EPA will only review grantee compliance with Federal requirements applicable to a grantee's procurement. However, where specifically provided in this chapter (e.g., §§ 8.8(j) and 35.939), EPA is responsible for determining compliance with Federal requirements.

§ 35.936-7 Small and minority business.

Grantees shall make positive efforts to use small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for subagreements to be performed using Federal grant funds.

§ 35.936-8 Privity of contract.

Neither EPA nor the United States shall be a party to any subagreement (including contracts or subcontracts), nor to any solicitation or request for proposals. (See §§ 35.937-9(a), 35.938-

4(c)(5), and appendices C-1 and C-2 to this subpart for the required solicitation statement and contract provisions.) However, in accordance with § 35.970 the Regional Administrator, if a grantee requests, may provide technical and legal assistance in the administration and enforcement of any contract related to treatment works for which an EPA grant was made.

§ 35.936-9 Disputes.

Only an EPA grantee may initiate and prosecute an appeal to the Administrator under the disputes provision of a grant with respect to its subagreements (see subpart J of part 30 of this subchapter). Neither a contractor nor a subcontractor may prosecute an appeal under the disputes provisions of a grant in its own name or interest.

§ 35.936-10 Federal procurement regulations.

Regulations applicable to direct Federal procurement shall not be applicable to subagreements under grants except as stated in this subchapter.

§ 35.936-11 General requirements for subagreements.

Subagreements must:

- (a) Be necessary for and directly related to the accomplishment of the project work;
- (b) Be in the form of a bilaterally executed written agreement (except for small purchases of \$10,000 or less);
- (c) Be for monetary or in-kind consideration; and
- (d) Not be in the nature of a grant or gift.

§ 35.936-12 Documentation.

(a) Procurement records and files for purchases in excess of \$10,000 shall include the following:

- (1) Basis for contractor selection;
 - (2) Justification for lack of competition if competition appropriate to the type of project work to be performed is required but is not obtained; and
 - (3) Basis for award cost or price.
- (b) The grantee or contractors of the grantee must retain procurement documentation required by § 30.805 of this subchapter and by this subpart, including a copy of each subagreement, for the period of time specified in § 30.805.