(c) Your group should select a technical advisor who has experience working on hazardous or toxic waste problems, relocation, redevelopment or public health issues, and communicating those problems and issues to the public.

§ 35.4195 Are there certain people my group cannot select to be our technical advisor, grant administrator, or other contractor under the grant?

Your group may not hire the following:

(a) The person(s) who wrote the specifications for the “contract” and/or who helped screen or select the contractor;

(b) In the case of a technical advisor, a person or entity doing work for the Federal or State government or any other entity at the same NPL site for which your group is seeking a technical advisor; and

(c) Any person who is on the List of Parties Excluded from Federal Procurement or NonProcurement Programs.

§ 35.4200 What restrictions apply to contractors my group procures for our TAG?

When procuring contractors your group:

(a) Cannot award cost-plus-percent-age-of-cost contracts; and

(b) Must award only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract.

§ 35.4205 How does my group procure a technical advisor or any other contractor?

When procuring contractors your group must also:

(a) Provide opportunity for all qualified contractors to compete for your work (see §35.4210);

(b) Keep written records of the reasons for all your contracting decisions;

(c) Make sure that all costs are reasonable in a proposed contract;

(d) Inform EPA of any proposed contract over $1,000.00;

(e) Provide EPA the opportunity to review a contract before your group awards or amends it;

(f) Perform a “cost analysis” to evaluate each element of a contractor’s cost to determine if it is reasonable, allocable and allowable for all contracts over $25,000; and

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

§ 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:

<table>
<thead>
<tr>
<th>If the aggregate amount of the proposed contract is</th>
<th>Then your group</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) purchase is $1,000 or less</td>
<td>may make the purchase as long as you make sure the price is reasonable; no oral or written bids are necessary.</td>
</tr>
<tr>
<td>(2) proposed contract is over $1,000 but less than $25,000.</td>
<td>must obtain and document oral or written bids from two or more qualified sources.</td>
</tr>
<tr>
<td>(3) proposed contract is $25,000 to $100,000</td>
<td>must:</td>
</tr>
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<td></td>
<td>(i) Solicit written bids from three or more sources who are willing and able to do the work;</td>
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<td></td>
<td>(ii) Provide potential sources in the scope of work to be performed and the criteria your group will use to evaluate the bids;</td>
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<td></td>
<td>(iii) Objectively evaluate all bids; and</td>
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<td></td>
<td>(iv) Notify all unsuccessful bidders.</td>
</tr>
</tbody>
</table>
§ 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:
(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: