Environmental Protection Agency

§ 35.6585 Cost and price analysis.

(a) General. The recipient must conduct and document a cost or price analysis in connection with every procurement action including contract modification.

(1) Cost analysis. The recipient must conduct and document a cost analysis for all negotiated contracts over the simplified acquisition threshold and for all change orders regardless of price. A cost analysis is not required when adequate price competition exists and the recipient can establish price reasonableness. The recipient must base its determination of price reasonableness on a catalog or market price of a commercial product sold in substantial quantities to the general public, or on prices set by law or regulation.

(2) Price analysis. In all instances other than those described in paragraph (a)(1) of this section, the recipient must perform a price analysis to
§ 35.6590 Bonding and insurance.

(a) General. The recipient must meet the requirements regarding bonding described in 40 CFR 31.36(h). The recipient must clearly and accurately state in the contract documents the bonds and insurance requirements, including the amounts of security coverage that a bidder or offeror must provide.

(b) Accidents and catastrophic loss. The recipient must require the contractor to provide insurance against accidents and catastrophic loss to manage any risk inherent in completing the project.

§ 35.6595 Contract provisions.

(a) General. Each contract must be a sound and complete agreement, and include the following provisions:

1. Nature, scope, and extent of work to be performed;
2. Time frame for performance;
3. Total cost of the contract; and
4. Payment provisions.

(b) Other contract provisions. Recipients’ contracts must include the following provisions:

1. Energy efficiency. A contract must comply with mandatory standards and policies on energy efficiency contained in the State’s energy conservation plan, which is issued under 10 CFR part 420.

2. Patents, inventions, and copyrights. All contracts must include notice of EPA requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed while conducting work under a contract. This notice shall also include EPA requirements and regulations pertaining to copyrights and rights to data contained in 40 CFR 31.34.

3. Labor standards. The recipient must comply with 40 CFR 31.36(i)(3) through (6).

4. Conflict of interest. The recipient must include provisions pertaining to conflict of interest as described in §35.6550(b)(2)(i).

§ 35.6600 Contractor claims.

(a) General. The recipient must conduct an administrative and technical review of each claim before EPA will consider funding these costs.

(b) Claims settlement. The recipient may incur costs (including legal, technical and administrative) to assess the merits of or to negotiate the settlement of a claim by or against the recipient under a contract, provided:

1. The claim arises from work within the scope of the Cooperative Agreement;
2. A formal Cooperative Agreement amendment is executed specifically covering the costs before they are incurred;
3. The costs are not incurred to prepare documentation that should be prepared by the contractor to support a claim against the recipient; and
4. The award official determines that there is a significant Federal interest in the issues involved in the claim.

(c) Claims defense. The recipient may incur costs (including legal, technical and administrative) to defend against a contractor claim for increased costs under a contract or to prosecute a claim to enforce a contract provided:

1. The claim arises from work within the scope of the Cooperative Agreement;
2. A formal Cooperative Agreement amendment is executed specifically covering the costs before they are incurred;
3. Settlement of the claim cannot occur without arbitration or litigation;
4. The claim does not result from the recipient’s mismanagement;