

§ 35.2152

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over any terms or conditions of agreements or contracts which are inconsistent with the requirements of section 204(b)(1)(A) of the Act and this section.

(i) *Low income residential user rates.* (1) Grantees may establish lower user charge rates for low income residential users after providing for public notice and hearing. A low income residential user is any residence with a household income below the Federal poverty level as defined in 45 CFR 1060.2 or any residence designated as low income under State law or regulation.

(2) Any lower user charge rate for low income residential users must be defined as a uniform percentage of the user charge rate charged other residential users.

(3) The costs of any user charge reductions afforded a low income residential class must be proportionately absorbed by all other user classes. The total revenue for operation and maintenance (including equipment replacement) of the facilities must not be reduced as a result of establishing a low income residential user class.

(Approved by the Office of Management and Budget under control number 2040-0027)

[49 FR 6234, Feb. 17, 1984, as amended at 55 FR 27097, June 29, 1990]

§ 35.2152 Federal share.

(a) *General.* The Federal share for each project shall be based on the sum of the total Step 3 or Step 7 allowable costs and the allowance established in the grant agreement under appendix B. Except as provided elsewhere in this section, the Federal share shall be:

(1) 75 percent for grant assistance awarded before October 1, 1984;

(2) 55 percent for grant assistance awarded after September 30, 1984, except as provided in paragraph (a)(3) of this section; and

(3) Subject to paragraphs (c) and (d) of this section, 75 percent for grant assistance awarded after September 30, 1984 and before October 1, 1990, for sequential phases or segments of a primary, secondary, or advanced treatment facility or its interceptors, or infiltration/inflow correction provided:

(i) The treatment works being phased or segmented is described in a facilities

plan approved by the Regional Administrator before October 1, 1984;

(ii) The Step 3 grant for the initial phase or segment of the treatment works described in (a)(3)(i) of this section is awarded prior to October 1, 1984; and

(iii) The phase or segment that receives 75 percent funding is necessary to (A) make a phase or segment previously funded by EPA operational and comply with the enforceable requirements of the Act, or (B) complete the treatment works referenced in (a)(3)(i) of this section provided that all phases or segments previously funded by EPA are operational and comply with the enforceable requirements of the Act.

(b) *Innovative and alternative technology.* In accordance with § 35.2032, the Federal share for eligible treatment works or unit processes and techniques that the Regional Administrator determines meet the definition of innovative or alternative technology shall be 20 percent greater than the Federal share under paragraph (a) or (c) of this section, but in no event shall the total Federal share be greater than 85 percent. This increased Federal share depends on the availability of funds from the reserve under § 35.2020. The proportional State contribution to the non-Federal share of building costs for I/A projects must be the same as or greater than the proportional State contribution (if any) to the non-Federal share of eligible building costs for all treatment works which receive 75 or 55 percent grants or such other Federal share under paragraph (c) of this section in the State.

(c) A project for which an application for grant assistance has been made before October 1, 1984, but which was under judicial injunction at that time prohibiting its construction, shall be eligible for a grant at 75 percent of the cost of its construction.

(d) *Uniform lower Federal share.* (1) Except as provided in § 35.2032 (c) and (d) of this section, the Governor of a State may request the Regional Administrator's approval to revise uniformly throughout the State the Federal share of grant assistance for all future projects. The revised Federal share must apply to all needs categories (see § 35.2015(b)(2)).

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(2) After EPA awards grant assistance for a project, the Federal share shall be the same for any grant increase that is within the scope of the project.

(3) The uniform lower Federal share established by the Governor does not apply to projects funded under § 35.2024(b).

(e) *Training facilities.* The Federal share of treatment works required to train and upgrade waste treatment works operations and maintenance personnel may be up to 100 percent of the allowable cost of the project.

(1) Where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each State. The Federal funds awarded to any State under section 109(b) for all training facilities shall not exceed \$500,000.

(2) Any grantee who received a grant under section 109(b) before December 27, 1977, may have the grant increased up to \$500,000 by funds made available under the Act, not to exceed 100 percent of the allowable costs.

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§ 35.2200 Grant conditions.

In addition to the EPA General Grant Conditions (part 30 of this subchapter), each treatment works grant shall be subject to the conditions under §§ 35.2202 through 35.2218.

§ 35.2202 Step 2+3 projects.

(a) Prior to initiating action to acquire eligible real property, a Step 2+3 grantee shall submit for Regional Administrator review and written approval the information required under § 35.2040(b)(7).

(b) Before initiating procurement action for the building of the project, a Step 2+3 grantee shall submit for the Regional Administrator's review and written approval the information required under §§ 35.2040(b) (5) and (6), 35.2106, 35.2107, 35.2130 and 35.2140.

§ 35.2203 Step 7 projects.

(a) Prior to initiating action to acquire real property, a Step 7 grantee shall submit for Regional Administrator review and written approval the information required under § 35.2040(b)(7).

(b) Before approving a Step 7 grant amendment under § 25.2036, the Regional Administrator shall determine that the applicant and its project have met the requirements of §§ 35.2040 (b)(6) and (g), 35.2106, 35.2107, and 35.2122.

[55 FR 27097, June 29, 1990]

§ 35.2204 Project changes.

(a) Minor changes in the project work that are consistent with the objectives of the project and within the scope of the grant agreement do not require the execution of a formal grant amendment before the grantee's implementation of the change. However, the amount of the funding provided by the grant agreement may only be increased by a formal grant amendment.

(b) The grantee must receive from the Regional Administrator a formal grant amendment before implementing changes which:

(1) Alter the project performance standards;

(2) Alter the type of wastewater treatment provided by the project;

(3) Significantly delay or accelerate the project schedule;

(4) Substantially alter the facilities plan, design drawings and specifications, or the location, size, capacity, or quality of any major part of the project; or

(5) Otherwise require a formal grant amendment under part 30 of this subchapter.

(c) Notwithstanding paragraph (a) of this section, changes to Step 7 projects cannot increase the amount of EPA assistance established at the time of the grant amendment.

[49 FR 6234, Feb. 17, 1984, as amended at 55 FR 27097, June 29, 1990]

§ 35.2205 Maximum allowable project cost.

(a) *Grants awarded on or after the effective date of this regulation.* Except as provided in paragraph (c) of this section, for Step 2+3 or Step 3 grants