

**§ 35.925**

**40 CFR Ch. I (7-1-13 Edition)**

of the property to be acquired, a preliminary layout of the distribution and drainage systems, and an explanation of the intended method of acquiring the property);

(3) A schedule for or evidence of compliance with §§35.925-10 and 35.935-12 concerning an operation and maintenance program, including a preliminary plan of operation; and

(4) After December 31, 1980, the items required by §35.907(d)(1) through (d)(9), as applicable, for grantees subject to pretreatment requirements under §35.907(b).

(5) A public participation work plan, in accordance with §35.917-5(g), if the grantee determines, after consultation with the public, that additional public participation activities are necessary.

(d) *Step 2+3.* Combination design and construction of a treatment works. Before the award of a grant or grant amendment for a step 2=3 project, the grantee must furnish:

(1) Each of the items specified in paragraph (b) of this section, and (2) a schedule for timely submission of plans and specifications, operation and maintenance manual, user charge and industrial cost recovery systems, sewer use ordinance, and a preliminary plan of operation.

(e) *Training facility project.* An application for grant assistance for construction and support of a training facility, facilities or training programs under section 109(b) of the Act shall include:

(1) A statement concerning the suitability of the treatment works facility, facilities or training programs for training operations and maintenance personnel for treatment works throughout one or more States;

(2) A written commitment from the State agency or agencies to carry out at such facility a program of training approved by the Regional Administrator;

(3) An engineering report (required only if a facility is to be constructed) including facility design data and cost estimates for design and construction;

(4) A detailed outline of the training programs, including (for 1-, 3-, and 5-year projections):

(i) An assessment of need for training,

(ii) How the need was determined,

(iii) Who would be trained,

(iv) What curriculum and materials would be used,

(v) What type of delivery system will be used to conduct training, (i.e., State vocational education system, State environmental agency, universities or private organizations),

(vi) What resources are available for the program,

(vii) A budget breakdown on the cost of the program, and

(viii) The relationship of the facility or programs to other training programs.

[43 FR 44049, Sept. 27, 1978, as amended at 44 FR 10304, Feb. 16, 1979; 44 FR 37595, June 27, 1979; 44 FR 39339, July 5, 1979]

**§ 35.925 Limitations on award.**

Before awarding initial grant assistance for any project for a treatment works through a grant or grant amendment, the Regional Administrator shall determine that all of the applicable requirements of §35.920-3 have been met. He shall also determine the following:

**§ 35.925-1 Facilities planning.**

That, if the award is for step 2, step 3, or step 2=3 grant assistance, the facilities planning requirements in §35.917 *et seq.* have been met.

**§ 35.925-2 Water quality management plans and agencies.**

That the project is consistent with any applicable water quality management (WQM) plan approved under section 208 or section 303(e) of the Act; and that the applicant is the wastewater management agency designated in any WQM plan certified by the Governor and approved by the Regional Administrator.

**§ 35.925-3 Priority determination.**

That such works are entitled to priority in accordance with §35.915, and that the award of grant assistance for the proposed project will not jeopardize the funding of any treatment works of higher priority.

**§ 35.925-4 State allocation.**

That the award of grant assistance for a particular project will not cause

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the total of all grant assistance which applicants within a State received, including grant increases, to exceed the total of all allotments and reallocations available to the State under §35.910.

### § 35.925-5 Funding and other capabilities.

That the applicant has:

(a) Agreed to pay the non-Federal project costs, and

(b) The legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of the treatment works throughout the applicant's jurisdiction. (Also see §30.340-3 of this subchapter.)

### § 35.925-6 Permits.

That the applicant has, or has applied for, the permit or permits as required by the national pollutant discharge elimination system (NPDES) with respect to existing discharges affected by the proposed project.

### § 35.925-7 Design.

That the treatment works design will be (in the case of projects involving step 2) or has been (in the case of projects for step 3) based upon:

(a) Appendix A to this subpart, so that the design, size, and capacity of such works are cost-effective and relate directly to the needs they serve, including adequate reserve capacity;

(b) Subject to the limitations set forth in §35.930-4, achievement of applicable effluent limitations established under the Act, or BPWTT (see §35.917-1(d)(5)), including consideration, as appropriate, for the application of technology which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants;

(c) The sewer system evaluation and rehabilitation requirements of §35.927; and

(d) The value engineering requirements of §35.926 (b) and (c).

### § 35.925-8 Environmental review.

(a) That, if the award is for step 2, step 3, or step 2=3, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) applicable

to the project step have been met. The grantee or grant applicant must prepare an adequate assessment of expected environmental impacts, consistent with the requirements of part 6 of this chapter, as part of facilities planning, in accordance with §35.917-1(d)(7). The Regional Administrator must insure that an environmental impact statement or a negative declaration is prepared in accordance with part 6 of this chapter (particularly §§6.108, 6.200, 6.212, and 6.504) in conjunction with EPA review of a facility plan and issued before any award of step 2 or step 3 grant assistance.

(b) The Regional Administrator may not award step 2 or step 3 grant assistance if the grantee has not made, or agreed to make, pertinent changes in the project, in accordance with determinations made in a negative declaration or environmental impact statement. He may condition a grant to ensure that the grantee will comply, or seek to obtain compliance, with such environmental review determinations. The conditions may address secondary impacts to the extent deemed appropriate by the Regional Administrator.

### § 35.925-9 Civil rights.

That if the award of grant assistance is for a project involving step 2 or step 3, the applicable requirements of the Civil Rights Act of 1964 and part 7 of this chapter have been met.

### § 35.925-10 Operation and maintenance program.

If the award of grant assistance is for a step 3 project, that the applicant has made satisfactory provision to assure proper and efficient operation and maintenance of the treatment works (including the sewer system), in accordance with §35.935-12, and that the State will have an effective operation and maintenance monitoring program to assure that treatment works assisted under this subpart comply with applicable permit and grant conditions.

### § 35.925-11 User charges and industrial cost recovery.

That, in the case of grant assistance for a project involving step 2 or step 3, the grantee has complied or will comply with the requirements for user