

## Environmental Protection Agency

## § 35.135

Appropriations Act of 1996, (Pub. L. 104-134; 110 Stat. 1321, 1321-299 (1996)) and the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, (Pub. L. 105-65; 111 Stat. 1344, 1373 (1997)).

(b) *Purpose of program.* Performance Partnership Grants enable States and interstate agencies to combine funds from more than one environmental program grant into a single grant with a single budget. Recipients do not need to account for Performance Partnership Grant funds in accordance with the funds' original environmental program sources; they need only account for total Performance Partnership Grant expenditures subject to the requirements of this subpart. The Performance Partnership Grant program is designed to:

(1) Strengthen partnerships between EPA and State and interstate agencies through joint planning and priority-setting and better deployment of resources;

(2) Provide State and interstate agencies with flexibility to direct resources where they are most needed to address environmental and public health priorities;

(3) Link program activities more effectively with environmental and public health goals and program outcomes;

(4) Foster development and implementation of innovative approaches such as pollution prevention, ecosystem management, and community-based environmental protection strategies; and

(5) Provide savings by streamlining administrative requirements.

### § 35.132 Requirements summary.

Applicants and recipients of Performance Partnership Grants must meet:

(a) The requirements in §§35.100 to 35.118, which apply to all environmental program grants, including Performance Partnership Grants; and

(b) The requirements in §§35.130 to 35.138, which apply only to Performance Partnership Grants.

### § 35.133 Programs eligible for inclusion.

(a) *Eligible programs.* Except as provided in paragraph (b) of this section,

the environmental programs eligible, in accordance with appropriation acts, for inclusion in a Performance Partnership Grant are listed in §35.101(a)(2) through (17). (Funds available from the section 205(g) State Administration Grants program (§35.100(b)(18)) and the Water Quality Management Planning Grant program (§35.100(b)(19)) may not be included in Performance Partnership Grants.)

(b) *Changes in eligible programs.* The Administrator may, in guidance or regulation, describe subsequent additions, deletions, or changes to the list of environmental programs eligible for inclusion in Performance Partnership Grants.

### § 35.134 Eligible recipients.

(a) *Eligible agencies.* All State agencies (including environmental, health, agriculture, and other agencies) and interstate agencies eligible to receive funds from more than one environmental program may receive Performance Partnership Grants

(b) *Designated agency.* A State agency must be designated by a Governor, State legislature, or other authorized State process to receive grants under each of the environmental programs to be combined in the Performance Partnership Grant. If it is not the designated agency for a particular grant program to be included in the Performance Partnership Grant, the State agency must have an agreement with the State agency that does have the designation regarding how the funds will be shared between the agencies.

(c) *Programmatic requirements.* In order to include funds from an environmental program grant listed in §35.101 of this subpart in a Performance Partnership Grant, applicants must meet the requirements for award of each of the environmental programs from which funds are combined in the agency's Performance Partnership Grant, except the requirements at §§35.268(b) and (c), 35.272, and 35.298 (c), (d), (e), and (g). These requirements can be found in this regulation beginning at §35.140.

### § 35.135 Activities eligible for funding.

(a) A recipient may use a Performance Partnership Grant, subject to the

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requirements of paragraph (c) of this section, to fund any activity that is eligible for funding under at least one of the environmental programs from which funds are combined into the grant.

(b) A recipient may also use a Performance Partnership Grant to fund multi-media activities that are eligible in accordance with paragraph (a) of this section and have been agreed to by the Regional Administrator. Such activities may include multi-media permitting and enforcement and pollution prevention, ecosystem management, community-based environmental protection, and other innovative approaches.

(c) A recipient may not use a Performance Partnership Grant to fund activities eligible only under a specific environmental program grant unless some or all of the recipient's allotted funds for that program have been included in the Performance Partnership Grant.

**§ 35.136 Cost share requirements.**

(a) An applicant for a Performance Partnership Grant must provide a non-federal cost share that is not less than the sum of the minimum non-federal cost share required under each of the environmental programs that are combined in the Performance Partnership Grant. Cost share requirements for the individual environmental programs are described in §§ 35.140 to 35.418.

(b) When an environmental program included in the Performance Partnership Grant has both a matching and maintenance of effort requirement, the greater of the two amounts will be used to calculate the minimum cost share attributed to that environmental program.

**§ 35.137 Application requirements.**

(a) An application for a Performance Partnership Grant must contain:

(1) A list of the environmental programs and the amount of funds from each program to be combined in the Performance Partnership Grant;

(2) A consolidated budget;

(3) A consolidated work plan that addresses each program being combined in the grant and that meets the requirements of § 35.107; and,

(4) A rationale, commensurate with the extent of any programmatic flexibility (i.e., increased effort in some programs and decreased effort in others) indicated in the work plan, that explains the basis for the applicant's priorities, the expected environmental or other benefits to be achieved, and the anticipated impact on any environmental programs or program areas proposed for reduced effort.

(b) The applicant and the Regional Administrator will negotiate regarding the information necessary to support the rationale for programmatic flexibility required in paragraph (a)(4) of this section. The rationale may be supported by information from a variety of sources, including a Performance Partnership Agreement or comparable negotiated document, the evaluation report required in § 35.125, and other environmental and programmatic data sources.

(c) A State agency seeking programmatic flexibility is encouraged to include a description of efforts to involve the public in developing the State agency's priorities.

**§ 35.138 Competitive grants.**

(a) Some environmental program grants are awarded through a competitive process. An applicant and the Regional Administrator may agree to add funds available for a competitive grant to a Performance Partnership Grant. If this is done, the work plan commitments that would have been included in the competitive grant must be included in the Performance Partnership Grant work plan. After the funds have been added to the Performance Partnership Grant, the recipient does not need to account for these funds in accordance with the funds' original environmental program source.

(b) If the projected completion date for competitive grant work plan commitments added to a Performance Partnership Grant is after the end of the Performance Partnership Grant funding period, the Regional Administrator and the applicant will agree in writing as to how the work plan commitments will be carried over into future work plans.