

Environmental Protection Agency

§ 35.535

§ 35.532 Requirements summary.

(a) Applicants and recipients of Performance Partnership Grants must meet:

(1) The requirements in §§35.500 to 35.518 of this subpart which apply to all environmental program grants, including Performance Partnership Grants; and

(2) The requirements in §§35.530 to 35.538 of this subpart which apply only to Performance Partnership Grants.

(b) In order to include funds from an environmental program grant listed in §35.501(a) of this subpart in a Performance Partnership Grant, applicants must meet the requirements for award of each environmental program from which funds are included in the Performance Partnership Grant, except the requirements at §§35.548(c), 35.638(b) and (c), 35.691, and 35.708 (c), (d), (e), and (g). These requirements can be found in this regulation beginning at §35.540. If the applicant is an Intertribal Consortium, each Tribe that is a member of the Consortium must meet the requirements.

(3) Apply for the environmental program grant.

(4) Obtain the Regional Administrator's approval of the application for that grant.

(c) If funds from an environmental program are not included in a Performance Partnership Grant, an applicant is not required to meet the eligibility requirements for that environmental program grant in order to carry out activities eligible under that program as provided in §35.535.

§ 35.533 Programs eligible for inclusion.

(a) *Eligible programs.* Except as provided in paragraph (b) of this section, the environmental program grants eligible for inclusion in a Performance Partnership Grant are listed in §35.501(a)(2) through (9) of this subpart.

(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.

§ 35.534 Eligible recipients.

(a) A Tribe or Intertribal Consortium is eligible for a Performance Partnership Grant if the Tribe or each member of the Intertribal Consortium is eligible for, and the Tribe or Intertribal Consortium receives funding from, more than one of the environmental program grants listed in §35.501(a) in accordance with the requirements for those environmental programs.

(b) For grants to Tribes, a Tribal agency must be designated by a Tribal government or other authorized Tribal process to receive grants under each of the environmental programs to be combined in the Performance Partnership Grant.

§ 35.535 Activities eligible for funding.

(a) *Delegated, approved, or authorized activities.* A Tribe or Intertribal Consortium may use Performance Partnership Grant funds to carry out EPA-delegated, EPA-approved, or EPA-authorized activities, such as permitting and primary enforcement responsibility only if the Tribe or each member of the Intertribal Consortium receives from the Regional Administrator the delegations, approvals, or authorizations to conduct such activities.

(b) *Other program activities.* Except for the limitation in paragraph (a) of this section, a Tribe or Intertribal Consortium may use Performance Partnership Grant funds for any activity that is eligible under the environmental programs listed in §35.501(a) of this subpart, as determined by the Regional Administrator. If an applicant proposes a Performance Partnership Grant work plan that differs significantly from any of the proposed work plans approved for funding that the applicant now proposes to move into a Performance Partnership Grant, the Regional Administrator must consult with the appropriate National Program Managers before agreeing to the Performance Partnership Grant work plan. National Program Managers may expressly waive or modify this requirement for consultation in national program guidance. National Program Managers also may define in national program guidance "significant" differences from a work plan submitted with a Tribe's or a Consortium's application for funds.