

**§ 35.929-3**

**40 CFR Ch. I (7-1-04 Edition)**

(h) *Costs of pretreatment program.* A user charge system submitted by a municipality with an approved pretreatment program shall provide that the costs necessary to carry out the program and to comply with any applicable requirements of section 405 of the Act and related regulations are included within the costs of operation and maintenance of the system and paid through user charges, or are paid in whole or in part by other identified sources of funds.

[43 FR 44049, Sept. 27, 1978, as amended at 44 FR 10304, Feb. 16, 1979]

**§ 35.929-3 Implementation of the user charge system.**

(a) When a grantee's user charge system is approved, implementation of the approved system shall become a condition of the grant.

(b) The grantee shall maintain such records as are necessary to document compliance with these regulations.

(c) Appendix B to this subpart contains guidelines with illustrative examples of acceptable user charge systems.

(d) The Regional Administrator may review, no more often than annually, a grantee's user charge system to assure that it continues to meet the requirements of §§ 35.929-1 through 35.929-3.

**§ 35.930 Award of grant assistance.**

The Regional Administrator's approval of an application or amendments to it through execution of a grant agreement (including a grant amendment), in accordance with § 30.345 of this subchapter, shall constitute a contractual obligation of the United States for the payment of the Federal share of the allowable project costs, as determined by the Regional Administrator. Information about the approved project furnished in accordance with § 35.920-3 shall be considered incorporated in the grant agreement.

**§ 35.930-1 Types of projects.**

(a) The Regional Administrator is authorized to award grant assistance for the following types of projects:

(1) *Step 1.* A facilities plan and related step 1 elements (see § 35.920-3(b)), if he determines that the applicant has submitted the items required under

§ 35.920-3(a); (In the case of grant assistance awarded solely for the acquisition of eligible land, the following provisions are deferred until the award of the ensuing step 3 assistance for the construction of facilities: §§ 35.925-10, 35.925-11(b), 35.935-12 (c) and (d), 35.935-13(c), 35.935-15(c), 35.935-16 (b) and (c));

(2) *Step 2.* Construction drawings and specifications, if he determines that the applicant has submitted the items required under § 35.920-3(b);

(3) *Step 3.* Building and erection of a treatment works, if he determines that the applicant has submitted the items required under § 35.920-3(c); or

(4) *Steps 2 and 3.* A combination of design (step 2) and construction (step 3) for a treatment works (see § 35.909) if he determines that the applicant has submitted the items required under § 35.920-3(d).

(b) The Regional Administrator may award Federal assistance by a grant or grant amendment from any allotment or reallocation available to a State under § 35.910 *et seq.* for payment of 100 percent of the cost of construction of treatment works required to train and upgrade waste treatment works operations and maintenance personnel and for the costs of other operator training programs. Costs of other operator training programs are limited to mobile training units, classroom rental, specialized instructors, and instructional material, under section 109(b) of the Act.

(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 under section 109(b) to any State for all training facilities or programs shall not exceed \$500,000.

(2) Any grantee who received a grant under section 109(b) before December 27, 1977, is eligible to have the grant increased by funds made available under the Act, not to exceed 100 percent of eligible costs.

[43 FR 44049, Sept. 27, 1978, as amended at 44 FR 39340, July 5, 1979]

**§ 35.930-2 Grant amount.**

The grant agreement shall set forth the amount of grant assistance. The grant amount may not exceed the

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amount of funds available from the State allotments and reallocations under §35.910 *et seq.* Grant payments will be limited to the Federal share of allowable project costs incurred within the grant amount or any increases effected through grant amendments (see §35.955).

### § 35.930-3 Grant term.

The grant agreement shall establish the period within which the project must be completed, in accordance with §30.345-1 of this chapter. This time period is subject to extension for excusable delay, at the discretion of the Regional Administrator.

### § 35.930-4 Project scope.

The grant agreement must define the scope of the project for which Federal assistance is awarded under the grant. The project scope must include a step or an identified segment. Grant assistance may be awarded for a segment of step 3 treatment works construction, when that segment in and of itself does not provide for achievement of applicable effluent discharge limitations, if:

(a) The segment is to be a component of an operable treatment works which will achieve the applicable effluent discharge limitations; and

(b) A commitment for completion of the entire treatment works is submitted to the Regional Administrator and that commitment is reflected in a special condition in the grant agreement.

### § 35.930-5 Federal share.

(a) *General.* The grant shall be 75 percent of the estimated total cost of construction that the Regional Administrator approves in the grant agreement, except as otherwise provided in paragraphs (b) and (c) of this section and in §§35.925-15, 35.925-16, 35.925-17, 35.930-1(b), and paragraph 10 of appendix A.

(b) *Innovative and alternative technology.* In accordance with §35.908(b), the amount of any step 2, step 3, or step 2=3 grant assistance awarded from funds allotted for fiscal years 1979, 1980, and 1981 shall be 85 percent of the estimated cost of construction for those eligible treatment works or significant portions of them that the Regional Ad-

ministrator determines meet the criteria for innovative or alternative technology in appendix E. These grants depend on the availability of funds from the reserve under §35.915-1(b). The proportional State contribution to the non-Federal share of construction costs for 85-percent grants must be the same as or greater than the proportional State contribution (if any) to the non-Federal share of eligible construction costs for all treatment works which receive 75-percent grants in the State.

(c) *Modification and replacement of innovative and alternative projects.* In accordance with §35.908(c) and procedures published by EPA, the Regional Administrator may award grant assistance to fund 100 percent of the eligible costs of the modification or replacement of any treatment works constructed with grant assistance based upon a Federal share of 85 percent under paragraph (b) of this section.

### § 35.930-6 Limitation on Federal share.

The grantee must exert its best efforts to perform the project work as specified in the grant agreement within the approved cost ceiling. If at any time the grantee believes that the costs which it expects to incur in the performance of the project will exceed or be substantially less than the previously approved estimated total project costs, the grantee must notify the Regional Administrator and the State agency promptly in writing. As soon as practicable, the grantee must give the revised estimate of total cost for the performance of the project (see §30.900 of this subchapter). Delay in submission of the notice and excess cost information may prejudice approval of an increase in the grant amount. The United States shall not be obligated to pay for costs incurred in excess of the approved grant amount or any amendment to it until the State has approved an increase in the grant amount from available allotments under §35.915 and the Regional Administrator has issued a written grant amendment under §35.955.

### § 35.935 Grant conditions.

In addition to the EPA general grant conditions (subpart C and appendix A to part 30 of this subchapter), each