

Environmental Protection Agency

§ 35.945

§ 35.940-4 Indirect costs.

Indirect costs shall be allowable in accordance with an indirect cost agreement negotiated and incorporated in the grant agreement. An indirect cost agreement must identify those cost elements allowable under § 35.940-1. Where the benefits derived from indirect services cannot be readily determined, a lump sum for overhead may be negotiated if EPA determines that this amount will be approximately the same as the actual indirect costs.

§ 35.940-5 Disputes concerning allowable costs.

The grantee should seek to resolve any questions relating to cost allowability or allocation at its earliest opportunity (if possible, before execution of the grant agreement). Final determinations concerning the allowability of costs shall be conclusive unless appealed within 30 days in accordance with the "Disputes" provisions of part 30, subpart J, of this subchapter.

§ 35.945 Grant payments.

The grantee shall be paid the Federal share of allowable project costs incurred within the scope of an approved project and which are currently due and payable from the grantee (i.e., not including withheld or deferred amounts), subject to the limitations of §§ 35.925-18, 35.930-5, 35.930-6, and 35.965 (b) and (c), up to the grant amount set forth in the grant agreement and any amendments thereto. Payments for engineering services for step 1, 2 or 3 shall be made in accordance with § 35.937-10 and payments for step 3 construction contracts shall be made in accordance with §§ 35.938-6 and 35.938-7. All allowable costs incurred before initiation of construction of the project must be claimed in the application for grant assistance for that project before the award of the assistance or no subsequent payment will be made for the costs.

(a) *Initial request for payment.* Upon award of grant assistance, the grantee may request payment for the unpaid Federal share of actual or estimated allowable project costs incurred before grant award subject to the limitations of § 35.925-18. Payment for such costs shall be made in accordance with the

negotiated payment schedule included in the grant agreement.

(b) *Interim requests for payment.* The grantee may submit requests for payments for allowable costs in accordance with the negotiated payment schedule included in the grant agreement. Upon receipt of a request for payment, subject to the limitations set forth in § 30.615-3 of this subchapter and §§ 35.935-12, 35.935-13, and 35.935-16, the Regional Administrator shall cause to be disbursed from available appropriated funds such amounts as are necessary so that the total amount of Federal payments to the grantee for the project is equal to the Federal share of the actual or estimated allowable project costs incurred to date, as certified by the grantee in its most recent request for payment. Generally, payments will be made within 20 days after receipt of a request for payment.

(c) *Adjustment.* At any time before final payment under the grant, the Regional Administrator may cause any request(s) for payment to be reviewed or audited. Based on such review or audit, any payment may be reduced for prior overpayment or increased for prior underpayment.

(d) *Refunds, rebates, credits, etc.* The Federal share of any refunds, rebates, credits, or other amounts (including any interest) that accrue to or are received by the grantee for the project, and that are properly allocable to costs for which the grantee has been paid under a grant, must be credited to the current State allotment or paid to the United States. Reasonable expenses incurred by the grantee for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable under the grant when approved by the Regional Administrator.

(e) *Final payment.* After completion of final inspection under § 35.935-14, approval of the request for payment which the grantee designates as the "final payment request," and the grantee's compliance with all applicable requirements of this subchapter and the grant agreement, the Regional Administrator shall pay to the grantee any