

§ 35.1650-2

40 CFR Ch. I (7-1-07 Edition)

and projects incorporating major construction may have longer project periods if approved by the Regional Administrator.

§ 35.1650-2 Limitations on awards.

(a) Before awarding assistance, the Regional Administrator shall determine that:

(1) The applicant has met all of the applicable requirements of § 35.1620 and § 35.1630; and

(2) State programs under section 314 of the Act are part of a State/EPA Agreement which shall be completed before the project is awarded.

(b) Before awarding Phase 2 projects, the Regional Administrator shall further determine that:

(1) When a Phase 1 project was awarded, the final report prepared under Phase 1 is used by the applicant to apply for Phase 2 assistance. The lake restoration plan selected under the Phase 1 project must be implemented under a Phase 2 cooperative agreement.

(2) Pollution control measures in the lake watershed authorized by section 201, included in an approved 208 plan, or required by section 402 of the Act have been completed or are being implemented according to a schedule that is included in an approved plan or discharge permit.

(3) The project does not include costs for controlling point source discharges of pollutants where those sources can be alleviated by permits issued under section 402 of the Act, or by the planning and construction of wastewater treatment facilities under section 201 of the Act.

(4) The State has appropriately considered the "open space" policy presented in sections 201(f), 201(g)(6), and 208(b)(2)(A) of the Act in any wastewater management activities being implemented by them in the lake watershed.

(5)(i) The project does not include costs for harvesting aquatic vegetation, or for chemical treatment to alleviate temporarily the symptoms of eutrophication, or for operating and maintaining lake aeration devices, or for providing similar palliative methods and procedures, unless these proce-

dures are the most energy efficient or cost effective lake restorative method.

(ii) Palliative approaches can be supported only where pollution in the lake watershed has been controlled to the greatest practicable extent, and where such methods and procedures are a necessary part of a project during the project period. EPA will determine the eligibility of such a project, based on the applicant's justification for the proposed restoration, the estimated time period for improved lake water quality, and public benefits associated with the restoration.

(6) The project does not include costs for desalinization procedures for naturally saline lakes.

(7) The project does not include costs for purchasing or long term leasing of land used solely to provide public access to a lake.

(8) The project does not include costs resulting from litigation against the recipient by EPA.

(9) The project does not include costs for measures to mitigate adverse environmental impacts that are not identified in the approved project scope of work. (EPA may allow additional costs for mitigation after it has reevaluated the cost-effectiveness of the selected alternative and has approved a request for an increase from the recipient.)

§ 35.1650-3 Conditions on award.

(a) *All awards.* (1) All assistance awarded under the Clean Lakes program is subject to the EPA General Grant conditions (subpart C and appendix A of part 30 of this chapter).

(2) For each clean lakes project the State agrees to pay or arrange the payment of the non-Federal share of the project costs.

(b) *Phase 1.* Phase 1 projects are subject to the following conditions:

(1) The recipient must receive EPA project officer approval on any changes to satisfy the requirements of paragraph (a)(10) of appendix A before undertaking any other work under the grant.

(2)(i) Before selecting the best alternative for controlling pollution and improving the lake, as required in paragraph (b)(1) of appendix A of this regulation, and before undertaking any other work stated under paragraph (b)