

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE C: WATER POLLUTION

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 362

PROCEDURES FOR ADMINISTRATION OF THE CONSTRUCTION
MANAGEMENT ASSISTANCE PROGRAM FOR GRANTS UNDER THE
CLEAN WATER ACT

SUBPART A: GENERAL

Section

- 362.101 Administration
- 362.102 Definitions
- 362.103 Project Priority List
- 362.104 Grant Assistance Availability
- 362.105 Initiation of Work

SUBPART B: PROCEDURES FOR ISSUANCE OF
STEP 2 + 3 OR STEP 3 GRANTS

Section

- 362.201 Review and Approval of Step 2 + 3 Grants
- 362.202 Review and Approval of Step 3 Grants

SUBPART C: PROCEDURES FOLLOWING THE ADVERTISEMENT
FOR BUILDING BIDS

Section

- 362.301 Bid Proposal and Proposed and Executed Contract
- 362.302 Addenda and Change Orders
- 362.303 Operation and Maintenance Manuals
- 362.304 Requests for Payment

AUTHORITY: Implementing and authorized by Title II federal Clean Water Act, (33 U.S.C. 1285(g)), and Section 4 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 1004).

SOURCE: Adopted and codified at 8 Ill. Reg. 6156, effective July 1, 1984.

SUBPART A: GENERAL

<BSection 362.101 Administration>>

- a) Title II of the federal Clean Water Act (33 U.S.C. 1281 et seq.), authorizes the issuance of grants for the construction of sewage treatment works by municipalities and other units of local government. In addition, Section 205(g), 33 U.S.C. 1285(g) authorizes the delegation to States of the responsibility to manage the construction assistance program set forth in Title II.
- b) The construction management assistance program is administered in Illinois on a joint cooperative basis by the Illinois Environmental Protection Agency ("Agency") and the United States Environmental Protection Agency ("USEPA") in accordance with state and federal laws and regulations, these procedures, delegation agreements executed by the Agency and USEPA, and the Agency's Annual Water Pollution Control Program Plan as approved by the USEPA in accordance with Section 106 of the federal Clean Water Act (33 U.S.C. 1256).

<BSection 362.102 Definitions>>

Unless specified otherwise all terms shall have the meanings set forth in the federal Clean Water Act (33 U.S.C. 1251 et seq.) and 40 CFR 35. Federal regulations referenced in this Part will be applicable as of the effective date of this Part.

<BSection 362.103 Project Priority List>>

The Agency maintains a list setting forth the priority for receipt of federal funding for each project applicant. Project priorities are established in accordance with Agency rules entitled "Procedures and Requirements for Determining Construction Grant Priorities for Municipal Sewage Treatment Works Needs" (35 Ill. Adm. Code 364). The Project Priorities list may be obtained from the Agency upon request.

<BSection 362.104 Grant Assistance Availability>>

- a) For projects on the Project Priority List, the following grant assistance is available, subject to the availability of funding under federal appropriation:

- 1) Step 1 (facilities planning). No grant assistance is available for Step 1, except for amendments to existing Step 1 grants. If a Step 3 or Step 2 + 3 grant is later offered, an allowance for facility planning may be provided by the USEPA at the prevailing federal share.
- 2) Step 2 (design engineering and specifications). No grant assistance is available for Step 2, except for amendments to existing Step 2 grants. If a Step 3 grant is later offered, an allowance for design engineering and specifications may be provided by the USEPA at the prevailing federal share. If a Step 2 + 3 grant is offered, Step 2 will consist of an allowance for design engineering and specifications at the prevailing federal share.
- 3) Step 3 (building). Step 3 grants at the prevailing federal share are available in accordance with the approved Water Pollution Control Program Plan to grant applicants with a Grant Priority Index of 94 or higher as established under 35 Ill. Adm. Code 364. Funding for Step 3 for projects utilizing innovative or alternative wastewater systems with a Grant Priority Index of less than 94 is contingent upon the availability of funds for alternative and innovative projects. Where no Step 1 and Step 2 grants, or Step 1 grant and advance of allowance for Step 2, have been previously awarded, the Step 3 grant will include the federal share of the allowance for both facilities planning and design engineering and specifications. Where a Step 1 grant has been previously awarded, and no Step 2 grant or advance of allowance for Step 2 has been previously awarded, the Step 3 grant will include the federal share of the allowance for design engineering and specifications only. Step 3 grants will include the federal share of the total estimated eligible Step 3 costs.
- 4) Step 2 + 3 (design engineering and specifications and building). Step 2 + 3 grants at the prevailing federal share are available in accordance with the approved Water Pollution Control Program Plan to grant applicants with a Grant Priority Index of 94 or higher as established under 35 Ill. Adm. Code 364, and which have a population of 25,000 or less, a total estimated Step 3 building cost of \$8 million or less, and a project that is not phased or segmented. Step 2 + 3 funding for projects using alternative or innovative wastewater systems which qualify for a Step 2 + 3 grant, and with a Grant Priority Index of less than 94, is contingent

upon the availability of funds for alternative and innovative projects. Where no Step 1 grant has been previously awarded, the Step 2 + 3 grant will include the federal share of the allowance for facilities planning and design. Where a Step 1 grant has been previously awarded, the Step 2 + 3 grant will include the federal share of the allowance for design engineering and specifications only. The Step 2 + 3 grant will include the federal share of the total estimated eligible Step 3 costs.

- 5) Advance of allowance
 - A) Advance of the federal share of an allowance is available to a community with a population of 25,000 or less and which is eligible for the advance under 40 CFR 35, Subpart I. The advance shall not exceed the federal share of the allowance for such costs received.
 - B) Where an advance of allowance has been awarded to a grantee that subsequently refuses to accept a Step 2 + 3 or Step 3 grant, the grantee shall repay the advance. Where a Step 2 + 3 or Step 3 grant is awarded to a grant recipient that has received an advance, the federal share of the allowance will be reduced by the amount of the advance.
- b) The federal share for total eligible Step 3 costs, the allowance for both Step 1 and Step 2, the allowance for Step 2 only, and the advance of allowance, is as follows:
 - 1) 75 percent for grant assistance awarded before October 1, 1984.
 - 2) 55 percent for grant assistance awarded after September 30, 1984, except that grant assistance shall be available at 75 percent for sequential phases or segments of an eligible project under 40 CFR 35, Subpart I where such project is described in the facilities plan, and the Step 3 grant for the initial phase or segment was awarded prior to October 1, 1984.
 - 3) 85 percent for grant assistance awarded before October 1, 1984 for projects utilizing innovative or alternative wastewater conveyance and treatment systems. After September 30, 1984, grant assistance for such projects is available at 75 percent, or 85 percent if the project is a sequential phase or segment of an eligible project under 40 CFR 35, Subpart I.

Except as provided under 40 CFR 35, Subpart I, the applicant must not initiate Step 3 building prior to issuance of a Step 2 + 3 or Step 3 grant agreement.

SUBPART B: PROCEDURES FOR ISSUANCE OF STEP 2 + 3 OR STEP 3 GRANTS

<BSection 362.201 Review and Approval of Step 2 + 3 Grants>>

- a) Each application for a Step 2 + 3 grant shall include a facilities plan. The Agency shall review the application, the facilities plan, and other information to determine if it is complete and approvable under 40 CFR 35, Subpart I.
- b) If the facilities plan and supporting application materials are complete and approvable, the Agency shall certify the project to the USEPA for issuance of a Step 2 + 3 grant in accordance with the availability of federal funding if necessary to obligate the reserve set aside for projects utilizing innovative or alternative wastewater conveyance and treatment systems.
- c) If the facilities plan and supporting application materials are not complete and approvable, the Agency shall issue a letter of review to the applicant identifying the deficiencies in the application which must be corrected prior to certification of the Step 2 + 3 grant. Subject to federal appropriation, the Agency will certify a Step 2 + 3 project where a facility plan is incomplete if the requirements of 40 CFR 35, Subpart I pertaining to facility planning exceptions are met.
- d) Issuance of a Step 2 + 3 grant shall constitute approval of a facility plan (except where issued under a facility planning exception) and authorization to initiate the preparation of design engineering and specifications under the allowance provision.
- e) Prior to authorization to advertise for building bids under Step 3 of the Step 2 + 3 grant, the applicant shall submit to the Agency application information required for issuance of Step 3 grants, together with a user charge system, and sewer use ordinance. The Agency shall authorize the advertising for building bids upon a determination that the submitted information meets the requirements of 40 CFR 35, Subpart I.

<BSection 362.202 Review and Approval of Step 3 Grants>>

- a) Each application for a Step 3 grant shall include the information required under 40 CFR 35, Subpart I, together with a sewer use ordinance and user charge system that meet the requirements of 40 CFR 35, Subpart I. The Agency shall review the application to determine if it is complete and approvable.
- b) If the application materials are complete and approvable the Agency shall certify the project to the USEPA for issuance of a Step 3 grant in accordance with the availability of federal funding.
- c) If the application materials are not complete and approvable, the Agency shall issue a letter of review to the applicant, identifying the deficiencies in the application which must be corrected prior to certification of the Step 3 grant.
- d) Subject to federal appropriation, the Agency will certify a Step 3 project where a facility plan is incomplete if the requirements of 40 CFR 35, Subpart I, pertaining to facility planning exceptions and segmentation of projects are met.
- e) Issuance of a Step 3 grant shall constitute approval of a facility plan (except where issued under a facility planning exception), final design, and authorization to advertise for building bids.

**SUBPART C: PROCEDURES FOLLOWING THE ADVERTISEMENT
FOR BUILDING BIDS**

<BSection 362.301 Bid Proposal and Proposed and Executed Contract>>

- a) After advertisement for and receipt of building bids, the applicant shall submit to the Agency for review those documents necessary to determine compliance with 40 CFR 33 including: the bid tabulation, bid analyses, the bid proposal, and the proposed contract and any request for amendment to the Step 3 grant or Step 3 portion of the Step 2 + 3 grant. If a grant amendment is necessary and approvable in accordance with 40 CFR 35 and this Part, the Agency shall issue a certification of the grant amendment in a transmittal of the request to the USEPA. Final approval by the Agency or the USEPA of the bid proposal and proposed contract shall be authorization by the Agency to the applicant to award the contract to the lowest responsible, responsive bidder.
- b) The executed contract between the grantee and contractor shall be

submitted to the Agency within 10 days after execution.

<BSection 362.302 Addenda and Change Orders>>

- a) The grantee shall submit addenda and change orders to the Agency for review and approval of any project changes.
- b) The Agency will review all addenda and change orders to determine whether or not there is an alteration of the design, location, size, capacity, quality or equipment, and to determine whether or not a supplemental permit to construct and/or operate is necessary.
- c) The Agency will not approve costs of addenda or change orders unless such costs are costs for work which is within the approved scope of work for which the grant was offered and unless the requirements of Section 361.302(d) are satisfied.
- d)
 - 1) The Agency will approve change orders if the cumulative worth of the change orders is less than 3% of the approved bid amount.
 - 2) Notwithstanding Section 362.302(d)(1), the Agency will approve change orders whose cumulative worth is greater than 3% but less than or equal to 5% of the approved bid amount, for work which is consistent with the scope of the grant project, but could not have been foreseen at the time of contract approval despite the exercise of due diligence by the grantee.
 - 3) The Agency will not approve change orders whose cumulative worth is greater than five percent of the approved bill amount.

<BSection 362.303 Operation and Maintenance Manuals>>

The final plan of operation and the operation and maintenance manual shall be submitted to the Agency for review and approval in accordance with Agency rules entitled "Requirements for Plans of Operation and Operation and Maintenance Manuals." (35 Ill. Adm. Code 371)

<BSection 362.304 Requests for Payment>>

- a) Requests for partial payment shall be sent directly to the Agency.
- b) Requests for final payment shall be sent directly to the Agency. The Agency issues a payment in accordance with 40 CFR 30 which

may be up to, but not including, that percentum of the grant which is equal to that percent of the contract price which the applicant withholds from the contractor, pending final inspection and final audit.

- 1) The Agency shall conduct an on-site inspection to determine whether or not final payment is approvable. The inspection shall be made within 60 days of notification by the applicant that the building of the project is complete. The Agency shall not approve final payment unless verification is received that:
 - A) The project was built in accordance with permitted plans and specifications.
 - B) For projects to improve at a sewage treatment plant, the hydraulic and organic loads to the plant are less than plant capacity.
 - C) For projects to improve a sewage treatment plant, the removal efficiencies are within the design criteria.
 - D) Operation of the facility is under the direct and active supervision of operators properly certified by the Agency under 35 Ill. Adm. Code 380.
- 2) The Agency shall either approve the release of final payment or issue a letter to the applicant identifying any deficiencies in the building and/or operation of the completed project.
- 3) Final approval of the request for final payment is issued by the Agency, following the completion of the final inspection by the Agency.