

element, including any outputs required under an authorization or delegation agreement, a schedule for accomplishment of outputs, and an identification of the agency responsible for each of the elements and outputs.

§ 35.135 Budget period.

An applicant may choose its budget period in consultation with and subject to the approval of the Regional Administrator.

§ 35.140 Application for assistance.

Each applicant should submit a complete application at least 60 days before the beginning of the budget period. In addition to meeting the requirements contained in part 30, a complete application must contain a discussion of performance to date under the existing award, the proposed work program, and a list of all applicable EPA-approved State strategies, program plans, and delegation or authorization agreements with a statement certifying that the proposed work program is consistent with them.

§ 35.141 EPA action on application.

The Regional Administrator will review each completed application and should approve, conditionally approve, or disapprove it within 60 days of receipt. When funds are available, the Regional Administrator will award assistance based on an approved or conditionally approved application. For a continuation award made after the beginning of the approved budget period, EPA will reimburse the applicant for allowable costs incurred from the beginning of the budget period, provided that such costs are contained in the approved application and that the application was submitted before the expiration of the prior budget period.

(a) *Approval.* The Regional Administrator will approve the application only if it satisfies the terms, conditions, and limitations of this subpart, 40 CFR part 30, and relevant statutes and program regulations; if the proposed outputs are consistent with EPA guidance or otherwise demonstrated to be necessary and appropriate; and if achievement of the proposed outputs is feasible, considering the applicant's existing problems, past performance, pro-

gram authority, organization, resources, and procedures.

(b) *Conditional approval.* The Regional Administrator may conditionally approve the application, after consulting with the applicant, if only minor changes are required. The Regional Administrator will include in the award the conditions which the applicant must meet to secure final approval and the date by which those conditions must be met.

(c) *Disapproval.* If the application cannot be approved or conditionally approved, the Regional Administrator will negotiate with the applicant to change the output commitments, to reduce the assistance amount, or to make any other changes necessary for approval. If negotiation fails, the Regional Administrator will disapprove the application in writing.

§ 35.143 Assistance amount.

(a) *Determining the assistance amount.* In determining the amount of assistance to an applicant, the Regional Administrator will consider the State's planning target, the extent to which the applicant's work program is consistent with EPA guidance, and the anticipated cost of the applicant's program relative to the proposed outputs.

(b) *Reduction of assistance amount.* If the Regional Administrator's evaluation of the applicant's work program indicates that the proposed outputs do not justify the level of funding requested, the Regional Administrator will reduce the assistance amount. If the evaluation indicates that the proposed outputs are not consistent with the priorities contained in EPA guidance, the Regional Administrator may reduce the assistance amount.

§ 35.145 Consolidated assistance.

Any applicant eligible to receive and administer funds from more than one assistance program may submit an application for consolidated assistance, following the process described in § 35.140. For consolidated assistance, the applicant prepares a single budget and work program covering all programs included in the application. The consolidated budget must identify each assistance program's funds. The consolidated work program must identify

Environmental Protection Agency

§ 35.155

the extent to which each assistance program's funds support each program element. Insular Areas which choose to consolidate program assistance may be exempted from requirements of this subpart in accordance with Title V of Pub. L. 95-134.

§ 35.150 Evaluation of recipient performance.

The Regional Administrator will oversee each recipient's performance under an assistance agreement. In consultation with the applicant, the Regional Administrator will develop a process for evaluating the recipient's performance. The Regional Administrator will include the schedule for evaluation in the assistance agreement and will evaluate recipient performance and progress toward completing the outputs in the approved work program according to the schedule. The Regional Administrator will provide the evaluation findings to the recipient and will include them in the official assistance file. If the evaluation reveals that the recipient is not achieving one or more of the conditions of the assistance agreement, the Regional Administrator will attempt to resolve the situation through negotiation. If agreement is not reached, the Regional Administrator may impose any of the sanctions in 40 CFR part 30.

§ 35.155 Reallocation.

EPA has responsibility and authority for managing all financial assistance funds effectively. To better achieve the goals of the Clean Water Act, 205(g) reserves which have not been awarded will be returned to the State's construction grant allotment to support eligible construction activities except as provided in paragraph (c) of this section; 205(j) reserves which have not been awarded during the period of availability to the State will be reallocated to other States as construction grant funds. These funds are administered under § 35.2010 of this subchapter and are not available for reallocation under this section. For the other environmental programs, EPA will consider reallocating any unawarded funds to achieve the objectives for which Congress appropriated them.

(a) *Funds remaining after initial award.* Funds remaining in a State's allotment after an initial assistance award and commitment to that State for that year may be awarded by the Regional Administrator to any eligible applicant during the Federal fiscal year. At the end of the year, funds not awarded by the Regional Administrator will be reallocated by the Administrator to accomplish the objectives of that program.

(1) The Regional Administrator may use such funds to make supplementary awards to that State for that program.

(2) Subject to any limitations contained in appropriations acts, the Regional Administrator may use such funds to support a Federal program required by law in that State in the absence of an acceptable State program.

(3) The Regional Administrator may also use such funds to supplement awards for that program to other eligible applicants within the Region.

(b) *Funds available because of no award.* Funds remaining in a State's allotment because there is no assistance award to that State in that year may be used in two ways.

(1) First, subject to any limitations contained in appropriations acts, the Regional Administrator may use such funds to support a Federal program required by law in that State in the absence of an acceptable State program.

(2) Otherwise, the Administrator will reallocate any available program funds to accomplish the objectives of that program.

(c) Public Water System Supervision and Underground Water Source Protection funds reserved for use on Indian lands which are not awarded to specific Indian Tribes by February 1 of a fiscal year, may be reallocated by the Administrator for supplementary awards to eligible Indian Tribes or to EPA regions for purposes of direct implementation on Indian lands.

(d) Beginning in FY 1990, on July 1 of each fiscal year, funds reserved under sections 106, 205(j)(1), 205(j)(5), and 319 of the Clean Water Act for eligible Indian Tribes, which have not been awarded by the Regional Administrator, shall be reallocated nationally by the Administrator for awards to other eligible Indian Tribes. Section