

## Environmental Protection Agency

## § 35.9045

Administrator evaluates recipient performance to ensure compliance with all conditions of the assistance award.

(d) The Regional Administrator may use funds not awarded to an applicant to supplement awards to other recipients who submit a score of work approved by the management conference for NEP funds.

(e) The EPA Assistant Administrator for Water may approve National Program awards as provided in § 35.9070.

### § 35.9020 Planning targets.

The EPA Assistant Administrator for Water develops planning targets each year to help each Management Conference develop an Annual Work Plan. These targets are broad budgetary goals for total expenditures by each estuary program and are directly related to the activities that are to be carried out by each Management Conference in that year as specified in the Five-Year State/EPA Conference Agreement. The planning targets also are based on the Director's evaluation of the ability of each Management Conference to use appropriated funds effectively.

### § 35.9030 Work program.

The work program is part of the application for financial assistance and becomes part of the award document. It is part of the basis for an award decision and the basis for management and evaluation of performance under an assistance award. The work program must specify the level of effort and amount and source of funding estimated to be needed for each identified activity, the outputs committed for each activity, and the schedule for delivery of outputs.

### § 35.9035 Budget period.

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

### § 35.9040 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 applicable requirements contained in 40 CFR part 30 or 31, a complete application must contain a discussion of performance to

date under an existing award, the proposed work program, and a list of all applicable EPA-approved State strategies and program plans, with a statement certifying that the proposed work program is consistent with these elements. The annual workplan developed and approved by the management conference each fiscal year must demonstrate that non-Federal sources provide at least 25 percent of the aggregate costs of research, surveys, studies, modeling, and other technical work necessary for the development of a CCMP for the estuary. Each application must contain a copy of the Annual Work Plan as specified in § 35.9065(c) (2) and (3) for the current Federal fiscal year. The funding table in the workplan must demonstrate that the 25 percent match requirements is being met, and the workplan table of project status must show the sources of funds supporting each project.

### § 35.9045 EPA action on application.

The Regional Administrator will review each completed application and should approve, conditionally approve, or disapprove the application 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 requirements of CWA section 320; the terms, conditions, and limitations of this subpart; and the applicable provisions of 40 CFR parts 30, 31, and other EPA assistance regulations. The Regional Administrator must also determine that the proposed outputs are consistent with EPA guidance or otherwise demonstrated to be necessary and appropriate; and that achievement of the proposed outputs is feasible, considering the applicant's past performance, program authority,

## § 35.9050

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 award will include the conditions 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, reduce the assistance amount, or make any other changes necessary for approval. If negotiation fails, the Regional Administrator will disapprove the application in writing.

### § 35.9050 Assistance amount.

(a) *Determining the assistance amount.* In determining the amount of assistance to an applicant, the Regional Administrator will consider the Management Conference 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 determines that the proposed outputs do not justify the level of funding requested, he 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.

### § 35.9055 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

## 40 CFR Ch. I (7-1-00 Edition)

Regional Administrator will provide the evaluation findings to the recipient and will include these findings 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 sanctions under the applicable provisions of 40 CFR part 30 or 31.

### § 35.9060 Maximum Federal share.

The Regional Administrator may provide up to 100 percent of the approved work program costs for a particular application provided that non-Federal sources provide at least 25 percent of the aggregate costs of research, surveys, studies, modeling, and other technical work necessary for the development of a comprehensive conservation and management plan for the estuary as specified in the estuary Annual Work Plan for each fiscal year.

### § 35.9065 Limitations.

(a) *Management conferences.* The Regional Administrator will not award funds pursuant to CWA section 320(g) to any applicant unless and until the scope of work and overall budget have been approved by the Management Conference of the estuary for which the work is proposed.

(b) *Elements of annual workplans.* Annual Work Plans to be prepared by estuary Management Conferences must be reviewed by the Regional Administrator before final ratification by the Management Conference and must include the following elements:

(1) *Introduction.* A discussion of achievements in the estuary, a summary of activities undertaken in the past year to further each of the seven purposes of a Management Conference specified in section 320(b) of the CWA, the major emphases for activity in the upcoming year, and a schedule of milestones to be reached during the year.

(2) *Funding sources.* A table of fund sources for activities in the new year, including a description of the sources and types (e.g., in-kind contributions to be performed by the applicant) of funds comprising the contribution by