

Environmental Protection Agency

§ 35.536

(c) If funds from an environmental program are not included in a Performance Partnership Grant, an applicant is not required to meet the eligibility requirements for that environmental program grant in order to carry out activities eligible under that program as provided in § 35.535.

§ 35.533 Programs eligible for inclusion.

(a) *Eligible programs.* Except as provided in paragraph (b) of this section, the environmental programs eligible for inclusion in a Performance Partnership Grant are listed in § 35.101(a)(2) through (10) of this subpart. Funds awarded to tribes under Tribal Response Program Grants (§ 35.101(a)(10)) to capitalize a revolving loan fund for Brownfield remediation or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions may not be included in Performance Partnership Grants.

(b) *Changes in eligible programs.* The Administrator may, in guidance or regulation, describe subsequent additions, deletions, or changes to the list of environmental programs eligible for inclusion in Performance Partnership Grants.

[66 FR 3795, Jan. 16, 2001, as amended at 74 FR 28444, June 16, 2009]

§ 35.534 Eligible recipients.

(a) A Tribe or Intertribal Consortium is eligible for a Performance Partnership Grant if the Tribe or each member of the Intertribal Consortium is eligible for, and the Tribe or Intertribal Consortium receives funding from, more than one of the environmental program grants listed in § 35.501(a) in accordance with the requirements for those environmental programs.

(b) For grants to Tribes, a Tribal agency must be designated by a Tribal government or other authorized Tribal process to receive grants under each of the environmental programs to be combined in the Performance Partnership Grant.

§ 35.535 Activities eligible for funding.

(a) *Delegated, approved, or authorized activities.* A Tribe or Intertribal Consortium may use Performance Partnership

Grant funds to carry out EPA-delegated, EPA-approved, or EPA-authorized activities, such as permitting and primary enforcement responsibility only if the Tribe or each member of the Intertribal Consortium receives from the Regional Administrator the delegations, approvals, or authorizations to conduct such activities.

(b) *Other program activities.* Except for the limitation in paragraph (a) of this section, a Tribe or Intertribal Consortium may use Performance Partnership Grant funds for any activity that is eligible under the environmental programs listed in § 35.501(a) of this subpart, as determined by the Regional Administrator. If an applicant proposes a Performance Partnership Grant work plan that differs significantly from any of the proposed work plans approved for funding that the applicant now proposes to move into a Performance Partnership Grant, the Regional Administrator must consult with the appropriate National Program Managers before agreeing to the Performance Partnership Grant work plan. National Program Managers may expressly waive or modify this requirement for consultation in national program guidance. National Program Managers also may define in national program guidance “significant” differences from a work plan submitted with a Tribe’s or a Consortium’s application for funds.

§ 35.536 Cost share requirements.

(a) The Performance Partnership Grant cost share shall be the sum of the amounts required for each environmental program grant included in the Performance Partnership Grant, as determined in accordance with paragraphs (b) and (c) of this section, unless waived under paragraph (d) of this section.

(b) For each environmental program grant included in the Performance Partnership Grant that has a cost share of five percent or less under the provisions of §§ 35.540 through 35.718, the required cost share shall be that identified in §§ 35.540 through 35.718 of this subpart.

(c) For each environmental program grant included in the Performance Partnership Grant that has a cost share of greater than five percent