

**§ 404.35**

**43 CFR, Subtitle B, Ch. I (10-1-10 Edition)**

**§ 404.35 Is there a different non-Federal cost-share requirement for feasibility studies that involve a community greater than 50,000 inhabitants?**

Yes. If the feasibility study involves a rural water supply system that will serve a community with a population in excess of 50,000 inhabitants, pursuant to the exception provided in § 404.8, you may be required to pay more than 50 percent of the costs of the study. Determination of the appropriate amount of the non-Federal cost-share will be based on the same criteria used to evaluate your capability to pay the non-Federal share of construction costs, set forth in § 404.39.

**§ 404.36 Will Reclamation reimburse me for the cost of an appraisal investigation or a feasibility study that was not completed under § 404.11(a) or (b)?**

No. The cost-share provisions described in this rule only apply to appraisal investigations and feasibility studies that are completed under the program pursuant to § 404.11(a) or (b). Reclamation will not reimburse you or provide program funding for any expenses related to an appraisal investigation or a feasibility study that is completed without assistance from Reclamation.

**§ 404.37 How will Reclamation determine the appropriate non-Federal share of construction costs?**

Reclamation will determine the appropriate non-Federal share of construction costs in the process of developing the feasibility report. The non-Federal cost-share will be:

(a) At least 25 percent of the total construction costs; and

(b) An additional amount based on your capability to pay, as appropriate, to be determined by Reclamation based on the factors in § 404.39.

**§ 404.38 Are there different requirements for determining the appropriate non-Federal share of construction costs to be paid by Indian tribes?**

Yes. The appropriate non-Federal share of construction costs to be paid by Indian tribes will be based on:

(a) Consideration of an Indian tribe's capability to pay at least 25 percent of the construction costs, to be determined in accordance with the factors in § 404.39; and

(b) If Reclamation determines, based on the analysis in § 404.38(a), that an Indian tribe is not capable of paying at least 25 percent of the construction costs, Reclamation may recommend in its feasibility report that the collection of all or part of the non-Federal construction costs apportioned to an Indian tribe be deferred, unless or until Reclamation determines that the Indian tribe should pay all or a portion of those costs.

**§ 404.39 What factors will Reclamation consider in evaluating my capability to pay 25 percent or more of the construction costs?**

Reclamation will consider the following factors:

(a) Economic factors for the project area, relative to the state average, including:

- (1) Per capita income;
- (2) Median household income; and
- (3) The poverty rate;

(b) The ability of the project sponsor to raise tax revenues or assess fees such as user fees and ad valorem taxes or issue bonds;

(c) The strength of the project sponsor financial statements in comparison to other similar entities over the previous 4 years, including a review of:

- (1) Current (includes cash and inventory) and non-current assets (property, plants etc.);
- (2) Net Assets (total assets minus total liabilities);
- (3) Changes to net assets;
- (4) Operating revenues (water and power sales);
- (5) Operating expenses (variable costs and depreciation, maintenance and repair);
- (6) Cash flow from operating activities (positive value from water sales minus payments to supplies and employees);
- (7) Current (current bonds payable and accounts payable) and non-current liabilities (long term debt payable);
- (8) Outstanding debts and all other financial obligations;
- (9) Collateral/equity as appropriate;