§ 35.2250 Determination of allowable costs.

The Regional Administrator will determine the allowable costs of the project based on applicable provisions of laws and regulations, the scope of the approved project, §39.765 of this subchapter, and appendix A of this subpart.
the Regional Administrator and the grantee.

(d) Payment of costs incurred under the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Notwithstanding the provisions of the introductory paragraph of this section, if the Regional Administrator determines it is necessary for the expeditious completion of a project, he may make advance payment after grant award for the Federal share of the eligible cost of any payment of relocation assistance under §4.502(c) of this chapter by the grantee. The requirements in part 30 of this subchapter apply to any advances of funds for assistance payments.

(e) Payment under grants to States for advances of allowance—(1) Advance payment to State. Notwithstanding the provisions of the introductory paragraph of this section, the Regional Administrator, under a State grant for advances of allowance (see §35.2025), may make payments on an advance or letter-of-credit payment method in accordance with the requirements under part 30 of this chapter. The State and the Regional Administrator shall agree to the payment terms.

(2) Assignment. If the State chooses to assign its payments to a potential grant applicant, it shall execute an agreement with the potential grant applicant authorizing direct payment from EPA and establishing appropriate terms for payment. The State shall provide a copy of the agreement to EPA.

(f) Design/build projects. For design/build projects, the Regional Administrator shall not pay more than 95 percent of the grant amount until completion of building and the RA’s final project approval (see §35.2036(a)(6)).

(Approved by the Office of Management and Budget under control number 2040–0027)

[49 FR 6234, Feb. 17, 1984, as amended at 55 FR 27098, June 29, 1990]

§35.2350 Subagreement enforcement.

(a) Regional Administrator authority. At the grantee’s request the Regional Administrator may provide technical and legal assistance in the administration and enforcement of any subagreement related to treatment works for which an EPA grant was made and to intervene in any civil action involving the enforcement of such subagreements, including subagreement disputes which are the subject of either arbitration or court action.

(b) Priority of subagreement. The Regional Administrator’s technical or legal involvement in any subagreement dispute will not make EPA a party to any subagreement entered into by the grantee.

(c) Grantee responsibilities. The provision of technical or legal assistance under this section in no way releases the grantee from its obligations under §35.2214, or affects EPA’s right to take remedial action, including enforcement, against a grantee that fails to carry out those obligations.

Appendix A to Subpart I of Part 35—
Determination of Allowable Costs

(a) Purpose. The information in this appendix represents Agency policies and procedures for determining the allowability of project costs based on the Clean Water Act, EPA policy, appropriate Federal cost principles under part 30 of this subchapter and reasonableness.

(b) Applicability. This cost information applies to grant assistance awarded on or after the effective date of this regulation. Project cost determinations under this subpart are not limited to the items listed in this appendix. Additional cost determinations based on applicable law and regulations must of course be made on a project-by-project basis. Those cost items not previously included in program requirements are not mandatory for decisions under grants awarded before the effective date. They are only to be used as guidance in those cases.

A. Costs Related to Subagreements

1. Allowable costs related to sub-agreements include:

a. The costs of subagreements for building the project.

b. The costs of complying with the procurement requirements of part 33 of this subchapter, other than the costs of self-certification under §31.110.

c. The cost of legal and engineering services incurred by grantees in deciding procurement protests and defending their decisions in protest appeals under subpart G of 40 CFR part 33.

d. The costs for establishing or using minority and women’s business liaison services.

e. The costs of services incurred during the building of a project to ensure that it is built in conformance with the design drawings and specifications.