

Chapter NR 123

WELL COMPENSATION PROGRAM

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Note: Chapter NR 123 was created by emergency rule effective January 1, 1985. Chapter NR 123 was repealed and created by emergency rules effective January 1, 1986. Chapter NR 123 as it existed March 31, 1986, was repealed and a new chapter NR 123 was created effective April 1, 1986.

Subchapter I — General

NR 123.01 Purpose and duties of the department. (1) PURPOSE. The purpose of this chapter is to establish rules, under ss. 144.027 and 144.028, Stats., for the implementation and administration of a financial assistance program for the replacement of contaminated private water supplies.

(2) DUTIES. The department shall:

(a) Establish, by rule, procedures for the submission, review and approval of claims under this chapter.

(b) Assist claimants in submitting applications for compensation under this chapter.

(c) Establish casing and liner depth and other construction requirements for a new or reconstructed private water supply.

(d) Issue awards under this chapter.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.02 Applicability. This subchapter applies to contaminated private water supplies compensable under ss. 144.027 and 144.028, Stats. Subchapter 2 applies to awards granted under s. 144.027, Stats. Subchapter 3 applies to awards granted under s. 144.028, Stats. This chapter

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does not apply to contamination which is compensable under subch. II of ch. 107 or s. 144.855 (4), Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.03 Definitions. (1) "Advisory" means a written opinion, issued by the department, containing a specific descriptive reference to the well or private water supply and recommending that the well or private water supply not be used because of potential human health risks.

(2) "Alternate water supply" means a supply of potable water obtained in bottles, by tank truck or by other similar means, or a temporary connection to an existing private water supply, supplied at a capacity sufficient to satisfy water use functions impaired by the contaminated private water supply.

(3) "Approval" means a written approval of the department.

(4) "Connection to an existing private water supply" means a connection to an existing private water supply that tests free from coliform bacteria, and is not a contaminated private water supply.

(5) "Contaminated well" or "contaminated private water supply" means a well or a private water supply which:

(a) Produces water containing one or more substances of public health concern, other than bacteria or nitrates, in excess of a primary maximum contaminant level promulgated in the national drinking water standards in 40 C.F.R. 141 and 143; or

(b) Produces water containing one or more substances of public health concern, other than bacteria or nitrates, in excess of an enforcement standard established in ch. NR 140; or

(c) Is subject to an advisory for substances other than bacteria or nitrates; or

(d) Is a livestock water supply or is a residential water supply which is used as a source of potable water for livestock as well as for a residence, and;

1. Is used at least 3 months each year and while in use provides an estimated average of more than 100 gallons per day for consumption by livestock; and

2. Produces water containing nitrates in excess of 40 parts per million expressed as nitrate-nitrogen.

(6) "Department" means the department of natural resources.

(7) "Dwelling unit" means a principal or part-time residence such as a second home or vacation or recreation residence.

(8) "Force account work" means the use of the municipality's own employes or equipment for construction or construction-related activities of a municipal water supply.

(9) "Lessee" means:

(a) A claimant who has a lease with a property owner with provisions for the lessee to perform property improvements; or

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(b) A claimant who has a lease with a property owner and who has secured the property owner's permission for improvement of the private water supply through the owner's signature on the claim form or a letter from the owner.

(10) "Livestock" has the meaning specified in s. 95.80 (1) (b), Stats., and includes poultry.

(11) "Livestock water supply" means a well which is used as a source of potable water only for livestock and which is:

(a) Approved by the department of agriculture, trade and consumer protection for grade A milk production under s. 97.24, Stats.; or

(b) Constructed by boring or drilling.

(12) "Municipality" means a city, town, village, county, county or other utility district, or town sanitary district.

(13) "Municipal water supply" means a private or public water supply owned or operated by a municipality.

(14) "Not feasible" means not physically, mechanically or functionally possible.

(15) "Plumbing" means that portion of the water distribution piping extending from the well to the various distribution points of use.

(16) "Private water supply" means a residential water supply or a livestock water supply.

(17) "Public water supply" means a system used for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

(18) "Pump installer" has the meaning specified in ch. NR 112.

(19) "Records" means books, documents, papers, accounting records, other evidence relating to project work, and accounting procedures and practices.

(20) "Replacement water supply" means:

(a) Reconstruction of a contaminated private water supply;

(b) Construction of a new private water supply;

(c) Provision of a public water supply to replace the contaminated private water supply; or

(d) Connection to an existing private water supply.

(21) "Residential water supply" means a well which is used as a source of potable water for humans or humans and livestock and is connected to 14 or less dwelling units.

(22) "Sand point well" has the same meaning as a "driven point well" as defined in ch. NR 112.

(23) "Subagreement" means any contract or agreement a municipality has with another party to perform work on a project.

(24) "Well" means an excavation or opening in the ground made by boring, drilling or driving for the purpose of obtaining a supply of groundwater. "Well" does not include dug wells and springs.

(25) "Well driller" has the meaning specified in ch. NR 112.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.04 Determination of contamination. Contamination of a private water supply, as defined in s. NR 123.03 (5), shall be established by:

(1) The test analyses of at least 2 samples of water, taken at least 2 weeks apart and not more than 2 years apart. All samples shall be taken within 2 years prior to the date that the claimant's application is received by the department. The department may reject test results which are not sufficiently recent. The samples shall be analyzed by the state laboratory of hygiene or by a laboratory certified under s. 144.95, Stats. Samples shall be analyzed using a methodology specified in ch. NR 109 or from a reference authorized by rules promulgated pursuant to s. 144.95 (7) (b), Stats.; or

(2) An advisory issued or reviewed by the department after July 1, 1984.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.05 Allocation of funds. (1) The department shall allocate money for the payment of completed claims and amendments according to the order in which completed claims and amendments are received by the department. A list shall be compiled of completed claims and amendments in the order received. The department may conditionally approve a completed claim or amendment even if the appropriations are insufficient to pay the claim or amendment. The department shall allocate money for the payment of a claim or amendment which is conditionally approved as soon as funds become available. A claim or amendment shall be considered complete when:

(a) All eligibility requirements are met in s. NR 123.20 or 123.40;

(b) All forms required in s. NR 123.22 or 123.43 are submitted; and

(c) All information necessary for departmental evaluation and acceptance of the least costly feasible replacement water supply or the equipment to be used for treating the contaminated private water supply is provided. If the department does not approve the claimant's chosen solution, the reasons shall be communicated in writing to the claimant explaining why the solution is not acceptable. If the claim has been denied for reasons other than those specified in s. NR 123.06, the department shall assist the claimant in revising the claim to meet, if possible, the intent of s. 144.027 or 144.028, Stats.

(2) If any department approvals other than the award or proceed notice need to be obtained by the claimant or other parties before installation of the replacement water supply or the equipment to be used for treating the contaminated private water supply can proceed, the claimant shall be informed in writing that they have been placed on the list of completed claims and amendments subject to the following conditions:

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(a) Within 60 days of the date of the written notice from the department, applications shall be submitted to receive any department approvals that need to be obtained.

(b) Within 60 days of the date of a municipal water supply approval by the department, the municipality shall submit bidding documents that include the tabulation of all bids, copies of the low bidder's proposals, and the municipality's proposed action on the bids.

(c) Within 60 days of the date of a public other than municipal water supply or private water supply approval by the department, the claimant shall submit bidding documents or finalized cost estimates. Any bidding documents shall include the tabulation of all bids, copies of the low bidder's proposals, and the claimant's proposed action on the bids.

(3) The department shall cancel the allocation of funds to a claimant if the claimant does not meet the requirements of sub. (2).

(4) If claim and amendment requests exceed funds available, the department shall determine those claims and amendments which will receive an award based on their ranking on the list. After claims and amendments are determined to be complete and eligible, awards shall be issued to the extent that funds are made available to the department. After funds become depleted, eligible completed claims and amendments shall be added to the list and conditionally approved. Proceed notices shall be issued to notify claimants of conditional approval. Awards shall be issued if and when additional funds become available.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.06 Denial of claims. (1) The department shall deny a claim if:

(a) The claim is not within the scope of this chapter as determined by the department.

(b) The claimant submits a fraudulent claim.

(c) The claim is for reimbursement of costs incurred before the date of issuance of an award or proceed notice except costs allowed under ss. NR 123.21 (1) (d) 3, 123.27, and 123.41 (1) (g).

(d) One or more of the contaminants upon which the claim is based was introduced into the well through the plumbing connected to the well.

(e) One or more of the contaminants upon which the claim is based was introduced into the well intentionally by a claimant or a person who would be directly benefited by payment of the claim, or a person who aids and abets the introduction of the contaminant, or a person who is a party to a conspiracy with another to commit, advise, hire, counsel or procure another to introduce the contaminants into the well.

(f) All of the contaminants upon which the claim is based are naturally occurring substances and the concentration of contaminants in water produced by the well does not significantly exceed the background concentration of the contaminants in groundwater at that location.

(g) Except as provided in s. NR 123.26, an award has been made under this chapter within the previous 10 years for the private water supply.

(h) A residential water supply is contaminated by bacteria or nitrates or both and is not contaminated by any other substance.

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(i) A livestock water supply is contaminated by bacteria and is not contaminated by any other substance.

(j) The claimant submits a claim to replace a contaminated public water supply that is connected to 15 or more dwelling units.

(2) The department may deny a claim if, under s. 144.028, Stats., the department has issued a preliminary determination of eligibility or has issued a municipal award or proceed notice to the municipality, and the municipality agrees to provide a municipal water supply to replace the contaminated private water supply.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.07 Variances. The department may approve variances from non-statutory requirements of this chapter upon the request of a claimant when it is determined that such variances are essential to effect necessary actions or department objectives, and where special circumstances make such variances in the best interests of the state. Before granting a variance, the department shall take into account such factors as good cause, circumstances beyond the control of the claimant, and financial hardship.

Note: Variances may not be obtained from statutory requirements.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.08 Termination of awards. An award may be terminated in whole or in part by the department.

(1) The department and a claimant may enter into an agreement to terminate the award at any time pursuant to this section. The agreement shall establish the effective date of termination of the project and award, the basis for settlement of award termination costs, and the amount and date of payment of any sums due either party.

(2) A claimant may not unilaterally terminate the work authorized in the award, except for good cause. The claimant shall promptly give written notice to the department of any complete or partial termination of the project work by the claimant. If the department determines that there is good cause for the termination of all or any portion of the project work, the department may enter into a termination agreement or unilaterally terminate the award pursuant to sub. (3), effective on the date of cessation of the project work by the claimant. If the department determines that a claimant has ceased work on the project without good cause, the department may unilaterally terminate the award pursuant to sub. (3).

(3) Awards may be terminated by the department in accordance with the following procedure:

(a) The department shall give not less than 10 days written notice to the claimant of its intent to terminate an award in whole or in part. Notice shall be served on the claimant personally or by mail, certified mail — return receipt requested.

(b) The department shall consult with the claimant prior to any termination. After the department has received any views expressed by the claimant, the department may terminate the award in whole or in part. Any such termination shall be in writing and shall state the reasons for

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terminating the award. Notices of termination shall be served on the claimant personally or by mail, certified mail — return receipt requested.

(c) The department may terminate an award for good cause if negotiations and payment of appropriate termination settlement costs are offered to the claimant.

(4) Upon termination, the claimant shall refund or credit to the state of Wisconsin that portion of any funds paid or owed to the claimant and allocable to the terminated project work, except such an amount as may be required to meet commitments which had become enforceable prior to the termination. The claimant may not make any new commitments without department approval. The claimant shall reduce the amount of outstanding commitments insofar as possible and report to the department the uncommitted balance of funds awarded.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.09 Enforcement. The following sanctions may be imposed for noncompliance with ss. 144.027 and 144.028, Stats., the provisions of this chapter or any award made under this chapter:

(1) The award may be terminated under s. NR 123.08;

(2) Project costs directly related to the noncompliance may be declared ineligible;

(3) Payment otherwise due to the claimant may be withheld under s. NR 123.47 (6);

(4) Other administrative or judicial remedies may be instituted as legally available and appropriate.

(5) The department may seek recovery of some or all payments.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

Subchapter II — Private Water Supply Awards

NR 123.20 Eligibility of claimant. (1) (a) A claim may be submitted for the replacement of a contaminated private water supply which is contaminated at the time the claim is submitted under s. NR 123.04, irrespective of the time the contamination is or could have been discovered in the private water supply.

(b) A claim may be submitted for the replacement of a contaminated private water supply which does not comply with ch. NR 112 at the time of submission of the claim.

(2) (a) Except as provided under sub. (4), a landowner or lessee of property on which a contaminated private water supply is located, or the spouse, dependent, heir, assignee or legal representative of the landowner or lessee may submit a claim under this chapter.

(b) The department shall consolidate claims if more than one claimant submits a claim to replace the same contaminated private water supply.

(c) The department may consolidate claims and recommend the replacement of several contaminated private water supply systems with a single water supply system if it deems the replacement to be the most

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cost effective solution and the claimants agree to a single system. Each original claimant shall be eligible for an award amount as established under s. NR 123.24 for their share of the cost of the replacement system.

(3) The department may delay approval of a claim if the department determines that a municipal water supply may be the most feasible solution to the problem of contaminated private water supplies in the area.

(4) The following may not submit a claim under this subchapter:

(a) The state;

(b) An office, department, independent agency, institution of higher education, association, society, or other body in state government;

(c) An authority created under ch. 231 or 234, Stats.;

(d) A city, village, town, county or special purpose district;

(e) A federal agency, department or instrumentality;

(f) An interstate agency.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.21 Eligible and ineligible costs. (1) **ELIGIBLE COSTS.** Eligible costs include the following items:

(a) Obtaining an alternate water supply for a maximum period of one year after the date of issuance of a proceed notice or an award as provided in s. NR 123.23, or until the replacement water supply or equipment used for treating the contaminated private water supply has been installed and completed, whichever is earlier. If it is determined by the secretary of the department that the contamination in the private water supply can be expected to be remedied in 2 years or less, an award or proceed notice may be issued for an alternate water supply for up to a 2 year period or until the well is no longer contaminated, whichever is earlier. At the end of this period, the department shall review water quality data for this water supply to determine if contamination has been remedied. If the well is still contaminated, the department shall request the claimant to submit any information necessary to complete his or her claim application. Once the claim is complete, the application review process will resume;

(b) A replacement water supply which includes new or reconstructed wells, providing for a public water supply or providing a connection to an existing private water supply. If the replacement water supply is to be providing for a public water supply to replace the contaminated private water supply, the eligible costs are listed in s. NR 123.41;

(c) Equipment used for treating the contaminated private water supply only if it is not feasible to remedy the contamination with a replacement water supply; and

(d) Other costs as deemed necessary by the department. These may include but are not limited to the following:

1. Purchasing and installing a pump, if a new pump is necessary for the new or reconstructed private water supply.

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2. The cost of abandoning a contaminated private water supply, if a new private water supply is constructed or if providing for a public water supply or if connection to an existing private water supply is obtained.

3. The cost of obtaining a maximum of 2 water sample analyses to show that the private water supply was contaminated if the cost of those tests was originally paid by the claimant. Payment will be made for analysis for additional parameters if these tests were requested by the department as part of the 2 tests demonstrating well contamination.

4. Replacement, relocation or installation of new piping, pitless adapters, pressure or booster tanks, or both, and any other appurtenances deemed necessary by the applicant and approved by the department to connect the replacement water supply to the buildings served by it.

5. Landscaping costs to restore the site to preconstruction conditions. Costs of improvement or decoration are not eligible. Landscaping costs include the costs of excavating and replacing portions of streets, sidewalks, driveways or other similar items to allow for the installation or relocation of piping.

(2) **INELIGIBLE COSTS.** Payment may not be made for ineligible costs. Ineligible costs include the following items:

(a) The replacement of a sand point well with a drilled well unless:

1. The department determines that replacement with another sand point well is not feasible; and

2. The department determines that the claimant had no knowledge or reason to believe the sand point well would become contaminated at the time it was constructed.

(b) Any costs incurred prior to the date of issuance of the award or proceed notice except for the costs described in sub. (1) (d) 3 and s. NR 123.27.

(c) A replacement well greater than 7 inches in outside diameter (O.D.).

(d) A replacement well screen greater than 10 feet in length.

(e) Any consulting, engineering or cost estimating fees.

(f) Any state, county or local permit fees.

(g) Relocation, replacement or abandonment of sewer piping, buried gasoline or fuel oil tanks, or other similar items.

(h) Any costs incurred in the installation of a replacement water supply or equipment used for treating the contaminated private water supply that are not approved by the department.

(i) Any costs incurred in the installation of equipment used for treating a replacement water supply, except as provided in s. NR 123.26.

(j) Mileage, phone, postage, and other miscellaneous costs incurred by the claimant.

(3) **FLAT RATE COST TABLES.** The following tables establish costs for well construction, pump installation and other costs. The tables include

costs for materials, labor and taxes. The tables shall be used to determine the eligible costs for the proceed notice or award.

(a) *Well construction costs.*

1. Setup and administrative costs = \$100.00

2. Drillhole with temporary outer casing in unconsolidated formations	Drillhole Diameter - Cost \$/Foot								
	2"	3"	4"	5"	6"	7"	8"	9"	10"
	-	-	\$6	\$7	\$8	\$9	\$10	\$11	\$13

3. Drillhole without temporary outer casing in unconsolidated formations	Drillhole Diameter - Cost \$/Foot								
	2"	3"	4"	5"	6"	7"	8"	9"	10"
	\$3	\$4	\$5	\$6	\$7	\$8	\$9	\$10	\$11

4. Drillhole in consolidated formations — Limestone (dolomite) Sandstone Shale Crystalline (granite, quartzite, etc.)	Drillhole Diameter - Cost \$/Foot								
	2"	3"	4"	5"	6"	7"	8"	9"	10"
Limestone (dolomite)	-	-	\$6	\$7	\$9	\$10	\$11	\$13	\$15
Sandstone	-	-	\$6	\$7	\$9	\$10	\$11	\$13	\$15
Shale	-	-	\$6	\$7	\$9	\$10	\$11	\$13	\$15
Crystalline (granite, quartzite, etc.)	-	-	\$10	\$12	\$16	\$18	\$20	\$22	\$26

5. Approved steel and polyvinyl chloride (PVC) well casing	Well Casing Diameter - Cost \$/Foot					
	2"	3"	4"	5"	6"	7" outside diameter (o.d.)
	\$4	\$5	\$6	\$7	\$8	\$9

Note: PVC nominal well casing size shall be at least 5 inches in diameter

6. Well screen - includes packer, etc.	Well Screen Diameter - Cost \$/Foot					
	2"	3"	4"	5"	6"	7" O.D.
	\$60	\$65	\$70	\$80	\$100	\$120

7. Sand point wells	Drive Pipe Diameter - Cost \$/Foot			
	1½"	2"	3"	4"
	\$6	\$7	\$8	\$10

8. Sand point screen	Sand Point Screen Diameter - Cost \$/Foot			
	1½"	2"	3"	4"
	\$18	\$21	\$25	\$35

9. Neat cement grout — 5-6 gallons water per 94 pound sack of cement = \$12/sack

10. Concrete grout — 5-6 gallons water per 94 pound sack of cement plus equal portion aggregate = \$12/sack

11. Grout shoe	Grout Shoe Diameter - Total Cost				
	3"	4"	5"	6"	7" O.D.
	\$200	\$200	\$250	\$300	\$300

12. Drive shoe	Drive Shoe Diameter - Total Cost				
	2"	3"	4"	5"	7" O.D.
	\$30	\$35	\$40	\$45	\$55

13. Well development (for wells developed in unconsolidated formations only) = \$70 Total Cost

14. Test pumping = \$70 Total Cost

15. Disinfecting and flushing well or plumbing system or both = \$70 Total Cost

(b) *Pump installation costs.*

1. Removal of an existing well pump = \$100 Total Cost

2. Re-installation of an existing well pump = \$100 Total Cost

3. Installation of a of a new well pump	Pump Horsepower - Total Cost							
	¼	½	¾	1	1½	2	3	5
	\$425	\$450	\$550	\$625	\$925	\$1250	\$1550	\$1850

4. Installation of pump wire including electrical conduit pipe = \$1/Foot	Pump Column and Discharge Piping Diameter - Cost \$/Foot						
	¾"	1"	1½"	2"	2½"	3"	
5. Installation of pump, column, discharge, suction, pressurized, or non-pressurized conduit piping							
Copper, brass, cast iron, or galvanized steel	\$1	\$2	\$3	\$4	\$5	\$6	\$7
Sch. 80 PVC or polyethelene	\$0.50	\$1	\$2	\$3	\$4	\$5	\$6

- 6. Excavation costs for installing piping from sub. (3) (b) 5. = \$4/Foot
- 7. Installation of a seal-cross or other approved pressure fitting = \$100 Total Cost
- 8. Installation of an ejector in well
 - a. Packer ejector unit = \$50 Total Cost
 - b. Two pipe ejector unit = \$75 Total Cost

(c) Other costs.

1. Installation of an overlapping metal well cap	Well Cap Diameter - Total Cost					
	2"	3"	4"	5"	6"	7" O.D.
	\$5	\$8	\$10	\$12	\$15	\$25

2. Installation of a well seal	Well Seal Diameter - Total Cost					
	2"	3"	4"	5"	6"	7" O.D.
	\$10	\$13	\$15	\$17	\$20	\$25

3. Installation of a weld-on pitless adapter	Weld-On Pitless Adapter - Total Cost				
	4"	5"	6"	7"	O.D.
	\$100	\$125	\$150	\$175	

4. Installation of a factory assembled pitless adapter	Factory Assembled Pitless Adapter - Total Cost					
	2"	3"	4"	5"	6"	7" O.D.
	\$250	\$275	\$300	\$325	\$350	\$375

5. Installation of an above-ground pressure tank including pressure switch	Pressure Tank - Size in Gallons - Total Cost			
	42	82	120	220
	\$175	\$275	\$425	\$525

6. Installation of a buried pressure tank including pressure switch and air unloader	Pressure Tank - Size in Gallons - Total Cost	
	120	220
	\$600	\$700

7. Installation of a pitless receiver tank including pressure switch and air unloader	Pressure Tank - Size in Gallons - Total Cost					
	40	60	95	145	260	
Well casing Diameter	4"	\$600	\$650	\$800	\$900	\$1150
	5"	\$650	\$700	\$850	\$950	\$1200
	6"	\$700	\$750	\$900	\$1000	\$1250
	7" o.d.	\$750	\$800	\$950	\$1050	\$1300

- | | Well Casing Diameter - Total Cost | | | | |
|---|-----------------------------------|-------|-------|-------|------|
| | 4" | 5" | 6" | 7" | O.D. |
| 8. Installation of a freeze proof above ground discharge unit | \$200 | \$225 | \$250 | \$275 | |
9. Installation of a pumphouse = \$200 Total Cost
10. Installation of a sampling faucet = \$10 Total Cost
11. Collection and test analysis of a water sample for coliform bacteria = \$30 Total Cost
12. Landscaping costs may include any combination of the following:
- Landscaping not including excavating and replacing portions of streets, sidewalks, driveways, or other similar items to allow for the installation or relocation of piping = \$100 Total Cost
 - Landscaping including excavating and replacing portions of sidewalks to allow for the installation or relocation of piping = \$200 Total Cost
 - Landscaping including excavating and replacing portions of streets and driveways to allow for the installation or relocation of piping = \$300 Total Cost
13. Alternate water supply
- Bottled water = \$1.00/gallon
 - Trucked water = \$0.10/gallon
14. Water sample analyses
- Organic analyses = \$100 Total Cost
 - Inorganic analyses = \$30 Total Cost
15. Equipment used for treating the contaminated private water supply = \$500 Total Cost

(4) EXCEPTIONS TO THE COST TABLES. (a) The department may establish eligible costs for replacement water supplies which are not covered by the cost tables on a case-by-case basis.

(b) The maximum eligible cost for installation of the replacement water supply or equipment used for treating the contaminated private water supply done on property owned by a licensed well driller, licensed pump installer or other contractors shall be limited to two-thirds of the cost table amounts or \$8,000, whichever is less, for all work that the licensed well driller, licensed pump installer or other contractors may legally and practically perform on the project.

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NR 123.22 Claim application. (1) In order to be considered for an award or proceed notice, a claimant shall submit a completed claim in accordance with s. NR 123.05, to the department. The department shall assist claimants in completing claims and revising claims in order to fulfill the purpose of s. 144.027, Stats.

(2) The claim shall contain:

(a) A claim form available from the department.

(b) 1. Two water sample analyses results, analyzed by the state laboratory of hygiene or by a laboratory certified under s. 144.95, Stats., which show that the private water supply is contaminated as defined in s. NR 123.03 (5); or

2. An advisory issued by the department.

(c) A description of the proposed replacement water supply,

1. The description shall include an analysis of each of the following options:

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- a. Reconstruction of the contaminated private water supply;
- b. Construction of a new private water supply;
- c. Providing for a public water supply to replace the contaminated private water supply; or,
- d. Providing a connection to an existing private water supply.

2. The analysis shall include a detailed description of each replacement water supply alternative or an explanation of why any of the replacement water supply alternatives are considered not feasible. The claimant shall propose the replacement water supply. If the proposed replacement water supply is to be providing for a public water supply to replace the contaminated private water supply, the department may request the owner or operator of the public water supply to submit information requested in s. NR 123.43 (1) (c). If it is not feasible to remedy the problem of the contaminated private water supply with a replacement water supply, then a detailed description of the equipment to be used for treating the contaminated private water supply shall be supplied. The department shall approve the least costly feasible replacement water supply which will remedy the contamination.

(d) A copy of a plat map indicating the location of the well and the legal description of the property.

(e) A copy of an inspection report of the contaminated private water supply completed by the department.

(f) An affidavit by the claimant verifying that the information in the claim is true to the best of his or her knowledge.

Note: Claim forms are available from any Department of Natural Resources District Office or from the Department of Natural Resources, Bureau of Water Grants, P.O. Box 7921, Madison, Wisconsin 53707.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.23 Issuance of an award or proceed notice. (1) **ISSUANCE OF A PROCEED NOTICE.** (a) Upon receipt of a claim, the department shall issue a proceed notice if the department determines that the claim is complete in accordance with s. NR 123.05, the department concurs with the claimant's choice of replacement water supply or the equipment to be used for treating the contaminated private water supply and the funds left in the program appropriation are not sufficient to pay the claim. The proceed notice shall allow the claimant to begin incurring costs. The department shall issue an award as soon as funds become available.

(b) The proceed notice shall specify:

1. The department approved replacement water supply or the equipment to be used for treating the contaminated private water supply;
2. All eligible itemized costs; and
3. The conditions to which an award, when issued, will be subject.

(2) **ISSUANCE OF AN AWARD.** If the department determines that the claim is complete in accordance with s. NR 123.05, the department concurs with the claimant's choice of replacement water supply or the equipment to be used for treating the contaminated private water supply and

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funds are available, the department shall issue an award. The award shall specify:

- a. The department approved replacement water supply or the equipment to be used for treating the contaminated private water supply.
- b. The cost for each eligible item as set forth in s. NR 123.21 (3).
- c. The cost for any eligible items not set forth in s. NR 123.21 (3).

(3) AWARD CONDITIONS. Payment of a claim may be denied if award conditions are not met. The award will be subject to the following conditions:

(a) That all eligible work be completed in accordance with the award and a payment request, which includes items specified in s. NR 123.25 (1), be submitted within one year of the date of issuance of the award. This condition does not apply to cases where the secretary of the department has made a determination as provided in s. NR 123.21 (1) (a).

(b) That the claimant notify the department at least 48 hours prior to the commencement of the installation of the replacement water supply or equipment used for treating the contaminated private water supply.

(c) That the contaminated well shall be permanently abandoned in accordance with ch. NR 112 before any payment will be made. This condition is not applicable if the award is for the reconstruction of a contaminated private water supply, for the installation of equipment used for treating the contaminated private water supply or if the claimant is informed in writing by the department that the contaminated well is not to be abandoned so that it may be used for groundwater monitoring.

(d) That the replacement water supply up to and including any pressure tanks or reservoirs or the equipment to be used for treating the contaminated private water supply shall be in compliance with chs. NR 112 or NR 111 and ILHR 84, whichever apply, before any payment may be made.

(e) That the claimant obtain any permits or approvals required by law to install the replacement water supply or to install any equipment to be used for treating the contaminated private water supply.

(f) That the department is not responsible if the replacement water supply or if the installation of equipment used to treat the contaminated private water supply is not acceptable to the well owner or operator.

(g) That the department is not responsible if the quality of the water from the replacement water supply or after installation of equipment used to treat the contaminated private water supply is not acceptable to the well owner or operator.

(h) That if the award is for reconstruction of a private water supply or construction of a new water supply, the well drilling work shall be performed by a well driller, except that a sand point well may be installed by a pump installer.

(i) That the installed system shall be inspected and approved by the department before payment is made.

(j) That the claimant shall request reimbursement only for work approved in the award.

(k) That the claimant shall provide copies of the award and proceed notice, if one was issued, to any well driller, pump installer or other contractors that are performing work on the replacement water supply or the equipment used to treat the contaminated private water supply.

(4) AWARD AMENDMENTS. The department may approve changes in the award amount from that established in the award when it deems such changes are necessary to meet the objectives of this chapter. Any request for a change in the amount shall be made and fully documented by the claimant and reviewed and approved by the department. Approval of amendment requests shall be subject to the availability of funds.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.24 Amount of award. (1) (a) The award shall pay up to 80% of the eligible costs.

(b) The award may not provide for payment of any portion of eligible costs in excess of \$12,000. Therefore, the maximum payment that can be made is \$9,600.

(2) The claimant shall be responsible for paying a minimum of \$250 of eligible costs and all eligible costs not paid under sub. (1) in excess of \$250.

(3) (a) The award shall specify a cost of each eligible item associated with the approved replacement water supply or the equipment to be used for treating the contaminated private water supply. The costs for each eligible item are established in the flat rate cost tables in s. NR 123.21 (3).

(b) If the contamination cannot be remedied by a new or reconstructed private water supply, the maximum award for connection to an existing private or public water supply may not exceed 150% of the cost of the construction of a new private water supply. If the new construction costs cannot be established as determined by the department, the maximum eligible costs will be the total cost of the project, not to exceed \$12,000. The maximum eligible costs for connection to an existing private or public water supply are subject to all other limitations in this section.

(c) The award shall specify a cost for each eligible item not specifically listed in s. NR 123.21 (3).

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.25 Payment. (1) After an award is made, and if all the conditions of the award are met, payment of the state share of the eligible costs shall be made by the department upon receipt, review and determination of completeness of the following:

(a) An itemized payment request worksheet available from the department for each well driller, pump installer, and other contractors to complete who performed eligible work. Each payment request worksheet shall list all quantities associated with the installation of the approved replacement water supply or the equipment used for treating the contaminated private water supply.

(b) A copy of the well constructor's report completed by the well driller or the pump installer if a pump installer constructed a sand point well if the award was for a new or reconstructed well.

(c) Copies of the water sample analysis reports for samples collected by the well driller and pump installer for bacteriological analysis.

(d) A copy of the well abandonment report if the award was for the construction of a new private water supply, providing for a public water supply to replace the contaminated private water supply or a connection to an existing private water supply.

(e) A copy of an inspection report of the replacement water supply or the equipment used for treating the contaminated private water supply completed by the department.

(f) Information identifying the amount and source of any funds received from other parties to defray the costs of installing the replacement water supply or the equipment used for treating the contaminated private water supply. The department may reduce the payment if other funds received exceed 20% of the eligible costs specified in the award.

(2) Costs based on s. NR 123.21 (3) shall be determined eligible and payment shall be made without review of receipts, invoices or cancelled checks to document that costs were incurred or paid.

(3) Payment shall be made within 30 days of receipt of the information specified in sub. (1).

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.26 Additional claims. (1) **FAILURE TO ELIMINATE CONTAMINATION.** A claimant who receives an award for the purpose of constructing or reconstructing a private water supply or connecting to an existing private water supply may submit a new claim if the contamination is not eliminated and, if the award was for a new or reconstructed private water supply, the well was constructed properly. Only one additional claim may be submitted under this subsection within 10 years after an award is made.

(2) **NEW CONTAMINATION.** If contamination from a new source occurs, a claimant who has received an award for the purpose of constructing or reconstructing a private water supply or connection to an existing private water supply may submit a new claim. If the previous award was for a new or reconstructed private water supply, a new claim may be submitted only if the well was constructed properly.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.27 Emergency. The department may authorize expenditures before a claim is submitted, if the department determines that an emergency situation exists. An emergency determination and expenditure authorization prior to submitting a claim does not waive the department's authority to evaluate and approve or deny the claim for other than the authorized emergency expenditures. An emergency determination only assures the claimant that their claim will not be denied due to incurring costs prior to claim submission. A claimant seeking to qualify for emergency status and approval to incur costs, shall contact the department to explain the situation and describe a proposed replacement water supply. The claimant's well shall be determined to be contaminated under s. NR Register, March, 1986, No. 363

123.04 prior to incurring costs other than those allowed under s. NR 123.21 (1) (d) 3. The department shall confirm authorization to incur expenditures in writing. A completed claim shall be submitted to the department within 30 days of such written authorization.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

Subchapter III — Municipal Water Supply Awards

NR 123.40 Eligibility of claimant. A claim may be submitted by a municipality if all the following conditions are met:

(1) Three or more private water supplies in the area to be served by the municipality are contaminated and eligible for compensation under s. NR 123.20.

(2) The municipality agrees to provide a municipal water supply to replace contaminated private water supplies within 2 years from the date of the proceed notice or award.

(3) The owners of the contaminated private water supplies have not received a previous award under s. 144.027, Stats., except as provided in s. NR 123.26, and the municipality has not received a previous award to serve the same owners of the contaminated private water supplies under s. 144.028, Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.41 Eligible and ineligible costs. (1) **ELIGIBLE COSTS.** Eligible costs include the following items:

(a) Obtaining an alternate water supply for persons with contaminated private water supplies for a maximum period of 2 years after the date of issuance of a proceed notice or an award as provided in s. NR 123.44, or until the municipal water supply has been installed and completed, whichever is earlier.

(b) The municipality's direct capital costs in providing a municipal water supply to the persons with the contaminated private water supplies. These direct capital costs may include the installation of surface water inlet piping, treatment and appurtenances, new wells, pumps, pump controls, pumphouses, water storage facilities, distribution mains, water meters, auxiliary power, valves and other appurtenances, test wells, and continuous chlorination. The costs are limited to the fundable capacity as described in s. NR 123.42.

(c) The cost of installing the lateral connection from the distribution main to the dwelling units with contaminated private water supplies.

(d) The costs of connecting the lateral connection to the internal plumbing of the dwelling units with contaminated private water supplies.

(e) The costs of water meters installed at the dwelling units with contaminated private water supplies.

(f) The costs of abandoning the contaminated private water supplies being replaced by connection to a municipal water supply.

(g) The cost of providing for or reimbursing for a maximum of 2 water sample analyses to show that the private water supply was contaminated

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if the cost of those tests was originally paid by the claimant or the owner of a contaminated private water supply. Payment will be made for analysis for additional parameters if these tests were requested by the department as part of the 2 tests demonstrating well contamination.

(h) Landscaping costs to restore the site to preconstruction conditions. Costs of improvement or decoration occasioned by the construction or reconstruction of a well are not eligible. Landscaping costs include the costs of excavating and replacing portions of streets, sidewalks, driveways or other similar items to allow for the installation or relocation of piping.

(i) Other costs as deemed necessary by the department.

(2) **INELIGIBLE COSTS.** Payment may not be made for ineligible costs. Ineligible costs include the following items:

(a) Any costs incurred prior to the date of issuance of the award or proceed notice except for the costs described in sub. (1) (g).

(b) The connection of the distribution main to any dwelling units or businesses not eligible under s. NR 123.20.

(c) Distribution mains that are not necessary to provide a municipal water supply to dwelling units eligible under s. NR 123.20.

(d) Any land acquisitions, administrative costs, laboratory facilities, fire protection, and water treatment facilities other than for continuous chlorination, or treatment of surface water supplies.

(e) Any consulting, engineering, or cost estimating fees.

(f) Any state, county or local permit fees.

(g) Relocation, replacement or abandonment of sewer piping, buried gasoline or fuel oil tanks, or other similar items.

(h) Any cost incurred in the installation of the municipal water supply that are not approved by the department.

(i) Mileage, phone, postage, and other miscellaneous costs incurred by the claimant.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.42 Fundable capacity. The fundable capacity of a municipal water supply shall be that capacity necessary to provide a municipal water supply to dwelling units with contaminated private water supplies. The fundable capacity does not include capacity for fire protection, residential and industrial growth, or dwelling units not having a contaminated private water supply.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.43 Claim application. (1) In order to be considered for an award or proceed notice, a claimant shall submit a completed claim in accordance with s. NR 123.05 to the department. As part of the review of the claim, the department shall make a preliminary determination of eligibility. The department shall assist municipalities in completing and revising claims in order to fulfill the purpose of s. 144.028, Stats. The claim shall contain:

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(a) A claim form available from the department.

(b) 1. Two water sample analysis results, analyzed by the state lab of hygiene or by a laboratory certified under s. 144.95, Stats., for each affected household, which shows that the private water supply is contaminated as defined in s. NR 123.03 (5); or

2. An advisory issued by the department to individuals for each contaminated private water supply to be replaced by the municipal water supply.

(c) An engineering study that includes:

1. A history and description of the contamination problem.

2. Maps of the contaminated area, and a map of the area to be served by the proposed municipal water supply.

3. A feasibility study comparing replacement water supply alternatives.

4. A general description of the proposed municipal water supply, including the well.

5. A municipality shall provide 2 cost estimates:

a. A breakdown of the cost of the fundable capacity described in s. NR 123.42, including the cost to each person with a contaminated private water supply; and

b. A breakdown of the cost of the entire system to be installed, including the cost to each person with a contaminated private water supply.

6. A list of contaminated and uncontaminated private water supply users to be connected to the proposed municipal water supply.

7. A resolution from the municipality stating that they will construct the municipal water supply.

8. A proposed time schedule for construction of the municipal water supply.

(d) A copy of an inspection report for each contaminated private water supply completed by the department.

(e) A resolution by the governing body of the municipality authorizing a representative to sign claim and award documents for the municipality.

(f) An affidavit by the authorized representative of the municipality verifying that the information in the claim is true to the best of their knowledge.

(2) (a) Within 30 days after receipt of the items in sub. (1), the department shall hold a public hearing in the area proposed to be served to allow each person having a contaminated private water supply to comment on the municipality's proposal. The department shall notify, by 1st class mail, each person whose private water supply has been determined to be contaminated of the date, time and place of the public hearing.

(b) If the department determines that the conditions under s. NR 123.40 are satisfied and that a municipal water supply is the most feasi-

ble solution to the problem of contaminated private water supplies in that area, the department may issue a preliminary determination of eligibility to the municipality. In determining feasibility, the department shall consider the risk of future contamination to private water supplies, the cost of the project in relation to the cost of replacing private water supplies, the speed with which the municipality can construct a municipal water supply, the projected residential and industrial need for water in the area and the auxiliary benefits of a municipal water supply, including fire protection benefits.

(c) The department may withdraw a preliminary determination of eligibility if it determines that the municipality is not proceeding expeditiously with the design and construction of a municipal water supply.

Note: Claim forms are available from any Department of Natural Resources District Office or from the Department of Natural Resources, Bureau of Water Grants, P.O. Box 7921, Madison, Wisconsin 53707.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.44 Issuance of an award or proceed notice. (1) **ISSUANCE OF A PROCEED NOTICE.** (a) Upon receipt of a claim, the department shall issue a proceed notice if the department determines that the claim is complete in accordance with s. NR 123.05, concurs with the claimant's choice for a municipal water supply and the funds left in the program appropriation are not sufficient to pay the claim. The proceed notice shall allow the claimant to begin incurring costs. The department shall issue an award as soon as funds become available.

(b) The proceed notice shall specify:

1. The department approved municipal water supply;
2. All eligible itemized costs; and
3. The conditions to which an award, when issued, will be subject.

(2) **ISSUANCE OF AN AWARD.** If the department determines that the claim is complete in accordance with s. NR 123.05 and the department concurs with the claimant's choice for a municipal water supply and funds are available, the department shall issue an award. The award shall specify:

- a. The department approved municipal water supply;
- b. A maximum cost for each eligible item.

(3) **AWARD CONDITIONS.** Payment of a claim may be denied if award conditions are not met. The award will be subject to the following conditions:

(a) That all eligible work be completed in accordance with the award and a payment request, as specified in s. NR 123.47, be submitted within 2 years of the date of issuance of the award.

(b) That the claimant notify the department at least 48 hours prior to the commencement of the installation of the municipal water supply.

(c) That the contaminated wells shall be permanently abandoned in accordance with ch. NR 112 before any payment will be made. This condition is not applicable if the claimant is informed in writing by the de-Register, March, 1986, No. 363

partment that the contaminated well is not to be abandoned so that it may be used for groundwater monitoring.

(d) That the municipal water supply shall be in compliance with chs. NR 111 and ILHR 84, before any payment may be made.

(e) That the claimant obtain any permits or approvals required by law to install the municipal water supply.

(f) That the department is not responsible if the municipal water supply is not acceptable to the claimant or persons served by the municipal water supply.

(g) That the department is not responsible if the quality of the water from the municipal water supply is not acceptable to the claimant or persons served by the municipal water supply.

(h) That the installed system shall be inspected and approved by the department before payment is made.

(i) That the claimant shall request reimbursement only for work approved in the award.

(j) That the claimant agrees to pay the costs of construction of the municipal water supply which are not paid for under this chapter. This does not restrict the ability of the claimant to recover costs through means available to the municipality.

(k) The claimant and party to any subagreement shall comply with all applicable provisions of s. NR 123.46. The department may make appropriate review of claimant's procurement methods from time to time.

(l) The claimant shall insure that department representatives will have access to project work whenever it is in preparation or progress. The claimant shall provide proper facilities for such access and inspection. The claimant shall allow the department or any authorized representative to have access to any books, documents, plans, reports, papers, and other records of the contractor which are pertinent to the project for the purpose of making audit, examination, excerpts, copies and transcripts. The claimant shall insure that a party to a subagreement will provide access to project work, sites, documents, and records.

(m) The claimant shall provide and maintain adequate construction inspection of the project to insure that the construction conforms with the approved plans and specifications.

(n) The claimant shall promptly submit to the department a copy of any contract or modification of it and of revisions of plans and specifications.

(o) That the claimant shall provide copies of the award and proceed notice, if one was issued, to any well driller, pump installer or other contractors that are performing work on the municipal water supply.

(4) AMENDMENTS. The department may approve changes in the amount from that established in the award when it deems such changes are necessary to meet the objectives of this chapter. Any request for a change in the amount shall be made and fully documented by the claim-

ant and reviewed and approved by the department. Approval of amendment requests shall be subject to the availability of funds.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.45 Procurement. (1) **GENERAL.** Procurement of construction contracts by municipalities for a municipal water supply shall be in accordance with state and local laws and is subject to review by the department for eligibility, allowability and reasonableness.

(2) **MUNICIPALITY RESPONSIBILITY.** The municipality is responsible for the administration and successful completion of the project for which state assistance is awarded in accordance with sound business judgment and good administrative practice under state and local laws.

(3) **FORCE ACCOUNT WORK.** (a) The municipality shall secure prior written approval from the department for utilization of the force account work method in lieu of a subagreement for any professional services or construction activities in excess of \$5,000. The municipality shall comply with all other state and local requirements concerning use of the force account work.

(b) The department's approval shall be based on the municipality's demonstration that it has the necessary competence required to accomplish such work and that the work can be accomplished more economically or expeditiously, or both, by the use of the force account method.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.46 Amount of award. (1) The award shall pay an amount not to exceed 60% of the eligible costs.

(2) The claimant shall be responsible for paying all costs not paid for under sub. (1).

(3) In no case may payment be made by the department that would allow the claimant to recover more than 100% of actual eligible costs.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.47 Payment. (1) **GENERAL.** The claimant shall be paid the state share of eligible project costs incurred within the scope of an approved project up to the amount set forth in the award. Payment shall be requested on forms provided by the department.

(2) **INTERIM REQUESTS FOR PAYMENT.** The claimant may submit requests for payments for eligible costs in accordance with the payment schedule included in the award. Upon receipt of a request for payment, subject to the limitations set forth in this chapter, the department shall disburse from available funds such amounts as are necessary. The total amount of necessary state payments to the claimant for the project shall be equal to the state share of the actual or estimated eligible project costs incurred to date as the claimant certified in its most recent request for payment.

(3) **ADJUSTMENT.** At any time before final payment under the award, the department may cause any request for payment to be reviewed or audited. Based on such review or audit any payment may be reduced for prior overpayment or increased for prior underpayment.

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(4) **REFUNDS, REBATES, AND CREDITS.** The state share of any refunds, rebates, credits or other amounts, including interest, that accrue to or are received by the claimant or owner of contaminated private water supplies replaced by the municipal water supply for the project, and that are properly allocable to costs for which the claimant has been paid under an award, shall be paid to the state of Wisconsin.

(5) **FINAL PAYMENT.** After completion of final inspection by the department, approval of the request for payment, which the claimant designates as the "final payment request" and the claimant's compliance with all applicable requirements of this chapter and the award, the department shall pay to the claimant any balance of the state share of the eligible project costs which have not already been paid. The final payment request shall be submitted by the claimant promptly after final inspection. Before final payment under the award, the claimant shall execute and deliver an assignment to the state of Wisconsin, of the state share of refunds, rebates, credits or other amounts, including interest, properly allocable to costs for which the claimant has been paid by the state under the award. The claimant shall also execute and deliver a release discharging the state of Wisconsin, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project or under the award, subject only to the exception specified in the release.

(6) **WITHHOLDING OF FUNDS.** (a) It is department policy that full and prompt payment be made to the claimant for eligible project costs. The department may only authorize the withholding of payment where it determines in writing that a claimant has failed to comply with this chapter or award conditions. Such withholding shall be limited to only that amount necessary to assure compliance.

(b) The department shall withhold payment to the extent of any indebtedness to the state of Wisconsin, unless it determines that collection of the indebtedness will impair accomplishment of the project objectives and that continuation of the project is in the best interest of the state of Wisconsin.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

NR 123.48 Claimant accountability. (1) FINANCIAL MANAGEMENT. The claimant is responsible for maintaining a financial management system which shall adequately provide for:

(a) Accurate, current and complete disclosure of the financial results of each award in accordance with department reporting requirements. Accounting for project funds shall be in accordance with generally accepted accounting principles and practices, consistently applied, regardless of the source of funds.

(b) Records which identify adequately the source and application of funds for activities authorized by the award. These records shall contain information pertaining to awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all project funds, property, and other assets.

(d) Comparison of actual with budgeted amounts for each award.

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(e) Procedures for determining the eligibility and allowability of costs in accordance with the provisions of s. NR 123.41.

(f) Accounting records which are supported by source documentation.

(g) One separate project account for the award.

(h) Accurate and complete time reports for all employees working on the project and funded in the award under s. NR 123.45 (3).

(i) Accurate and complete time records and charges for equipment used on the project and funded in the award under s. NR 123.45 (3).

(2) RECORDS. The following record and audit requirements are applicable to awards and subagreements under this subsection:

(a) The claimant shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly:

1. The amount, receipt, and disposition by the claimant of all assistance received for the project, including both state assistance and any matching share or cost sharing; and

2. The total costs of the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the award has been issued. In addition, contractors of claimants shall also maintain books, documents, papers, and records which are pertinent to a specific state award.

(b) The claimant's records and the records of its contractors shall be subject at all reasonable times to inspection, copying, and audit by the department.

(c) The claimant and contractors of claimants shall preserve and make their records available to the department:

1. For 3 years after the date of final payment; or

2. For a longer period, if required by statute, rule or contract; or

3. For 3 years after the date of termination of an award. If an award is partially terminated, the records relating to the work terminated shall be preserved for a period of 3 years after the date of final settlement of the award.

4. Records which relate to appeals, disputes, litigation on the settlement of claims arising out of the performance of the project for an award, or costs and expenses of the project to which exception has been taken by the department, shall be retained until any appeals, litigation, claims or exceptions have been finally resolved.

(3) AUDIT. (a) Audits on claims and awards may be performed at any time.

(b) The department shall conduct a final audit after the submission of the final payment request. The department shall determine the time of the final audit. Any payments made prior to the final audit are subject to adjustment based on the audit.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

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