

(13) **FUNDABLE CAPACITY.** That the eligible costs do not include costs allocable to the transportation and/or treatment of sewage in excess of the fundable capacity as determined in NR 128.06 (1) and (2).

(14) **LIMITATIONS ON PROJECT COSTS PRIOR TO AWARD.** That costs of project construction work performed prior to the approved date of initiation of construction established in the grant agreement shall not be eligible, provided, however, that costs of pre-award professional and consultant services and bid advertisement publication, as approved by the department, shall be eligible.

(15) **WATER CONSERVATION PROGRAM.** That for a step 3 grant, an approvable plan and schedule for implementing the flow reduction measures deemed to be cost-effective in accordance with NR 110.09 (2) (k) has been submitted by the applicant. This requirement only applies to projects for which state or federal step 1 grant was awarded after May 12, 1978.

**History:** Cr. Register, December, 1978, No. 276, eff. 1-1-79; r. and rec. (14), August, 1979, No. 284, eff. 9-1-79.

**NR 128.12 Grant conditions.** Each treatment works grant shall be subject to the following conditions:

(1) **NON-STATE CONSTRUCTION COSTS.** The grantee agrees to pay the non-state or federal costs of treatment works construction associated with the project and commits itself to complete the construction of the treatment works.

(2) **SERVICE AREAS.** The grantee agrees to provide timely sewerage service to all users within the delineated service area except in areas where annexation is refused, pursuant to s. 144.07 (1m), Stats.

(3) **PROCUREMENT.** The grantee and party to any subagreement shall comply with all applicable provisions of NR 128.14. The department may make appropriate review of grantee procurement methods from time to time.

(4) **ACCESS.** The grantee must insure that department representatives will have access to the project work whenever it is in preparation or progress. The grantee must provide proper facilities for such access and inspection. The grantee must 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 transcriptions. The grantee must insure that a party to a subagreement will provide access to project work, sites, documents, and records.

(5) **CONSTRUCTION INSPECTION.** In the case of any project involving step 3, the grantee will provide and maintain adequate construction inspection of the project to insure that the construction conforms with the approved plans and specifications.

(6) **PROJECT INITIATION AND COMPLETION.** The grantee agrees to expeditiously initiate and complete the project or cause it to be constructed and completed in accordance with the grant agreement and application, including any project schedule approved by the department. Failure of the grantee to promptly initiate step 1, 2, or 3 project construction may result in termination of the grant.

(7) COPIES OF CONTRACT DOCUMENTS. In addition to notifying the department of any project changes, the grantee shall promptly submit to the department a copy of any prime contract or modification of it and of revisions to plans and specifications.

(8) PROJECT CHANGES. (a) The grantee shall obtain prior written approval by the department for:

1. Project changes which may:
  - a. Substantially alter the design and scope of the project;
  - b. Alter the type of treatment to be provided;
  - c. Substantially alter the location, size, capacity, or quality of any major item of equipment; or
  - d. Increase the amount of state funds needed to complete the project.
2. Change orders amounting to more than \$100,000 or 5% of the grant agreement, whichever is less, for which department reviews are required.

(b) Prior department approval is not required for changes to correct minor errors, minor changes, or emergency changes.

(c) No approval of a project change shall obligate the state of Wisconsin to increase the amount of the grant or payments made under a grant agreement unless a grant increase is also approved under NR 128.18. This does not preclude submission or consideration of a request for a grant amendment.

(9) OPERATION AND MAINTENANCE. (a) The grantee must make provisions satisfactory to the department for assuring economic and effective operation and maintenance of treatment works. The grantee must follow a plan of operation approved by the department.

(b) As a minimum, such plan shall include provision for:

1. An operation and maintenance manual for each facility;
2. An emergency operating and response program;
3. Properly trained management, operation and maintenance personnel;
4. Adequate budget for operation and maintenance;
5. Operational reports;
6. Provisions for laboratory testing and monitoring adequate to determine influent and effluent characteristics and removal efficiencies as specified in the terms and conditions of the WPDES permit for the facility; and
7. An operation and maintenance program for the sewer system.

(c) The department shall not pay:

1. More than 50% of the state share of any step 3 activities unless the grantee has furnished either a draft of the operation and maintenance manual for review or adequate evidence of timely development of such a draft; or