**Section 360.801 Determination of Allowable Costs**

a) The grantee will be paid, upon request, in accordance with General Condition Section 360.804, (Grant Payment Schedule) hereof, for the state share of all necessary costs within the scope of the approved project not to exceed the total grant offer and determined to be allowable in accordance with the following criteria:

b) Allowable project costs.

Allocable project costs of the grantee which are reasonable and necessary are allowable. Necessary costs may include, but are not limited to:

1) Costs of salaries, benefits, and expendable material incurred by the grantee for the project, except as provided in Section 360.801(c)(7) below.

2) Costs under construction contracts;

3) Professional and consultant services;

4) Facility planning directly related to the treatment works;

5) Sewer system evaluation;

6) Project feasibility and engineering reports;

7) Preparation of construction drawings, specifications, estimates, and construction contract documents;

8) Landscaping;

9) Supervision of construction work;

10) Removal and relocation or replacement of utilities for which the grantee is legally obligated to pay;

11) Materials acquired, consumed, or expended specifically for the project;

12) A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations;

13) Development and preparation of an operation and maintenance manual; and

14) Project identification signs.

15) Flood plain insurance

c) Unallowable costs

Costs which exceed the total amount of the grant offer or are not necessary for the construction of a treatment works project are unallowable. Such costs include, but are not limited to:

1) Basin or areawide planning not directly related to the project;

2) Bonus payments not legally required for completion of construction in advance of a contractual completion date;

3) Personal injury compensation or damages arising out of the project, whether determined by adjudication, arbitration, negotiation, or otherwise;

4) Fines and penalties resulting from violations of, or failure to comply with, federal, state, or local laws;

5) Costs outside the scope of the approved project;

6) Interest on bonds or any other form of indebtedness required to finance the project costs;

7) Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, or city attorney, except as provided in Section 360.801(e) below;

8) Site acquisition (for example, sewer rights-of-way, sewage treatment plant sites, sanitary landfills and sludge disposal areas) except as otherwise provided in Section 360.801(d)(1) below;

9) Costs for which payment has been or will be received under another state or federal assistance program;

10) Costs of equipment or material procured in violation of any provisions of these General Conditions;

11) Costs of special funds (i.e., industry advancement funds; funds to reimburse bidding costs to unsuccessful offerors, etc.) financed by contractors, contributions in the construction industry for methods and materials research, public and industry relations, market development, labor-management matters, wage negotiations, jurisdictional disputes, defraying of all or part of unsuccessful offerors bidding costs, or similar purposes;

12) Costs under construction contracts which costs are incurred after the expiration of the applicable contractual completion date, even if the contractual completion date is subsequently extended by the grantee, unless such extension has been approved by the Agency in accordance with General Condition Section 360.402, (Project Changes) hereof;

13) Personal and professional services costs (including professional engineering costs) arising under a cost-plus-percentage of cost type of agreement (including the multiplier contract where profit is included in the multiplier) or a percentage-of-construction-cost type of contract;

14) Personal and professional services costs (including professional engineering costs) when the Agency has been refused access to the books and records of the contractor or the contractor has refused to renegotiate a personal or professional services contract in accordance with the provisions of General Condition Section 360.303, (Contracts for Personal and Professional Services − Consulting Engineering Agreements) hereof; and

15) Increases in personal and professional services contract fees which are based solely on a percentage of an increased construction cost notwithstanding the contractual liabilities of the grantee under such contract.

d) Costs allowable, if approved.

Certain direct costs are sometimes necessary for the construction of a treatment works and are allowable if reasonable and approved by the Agency in the grant offer or a grant amendment. Such costs include, but are not limited to:

1) Land acquired after October 17, 1972, that will be an integral part of the treatment process or that will be used for ultimate disposal of residues resulting from such treatment (for example, land for spray irrigation of sewage effluent); and

2) Rate determination studies required pursuant to determination of user charges under General Condition Section 360.602, (User Charges) hereof.

e) Indirect costs

Indirect costs of the grantee shall be allowable in accordance with an indirect cost agreement negotiated and incorporated in the grant agreement. An indirect cost agreement must identify those cost elements allowable pursuant to Section 360.801(a) above. Where the benefits derived from an applicant's indirect services cannot be readily determined, a lump sum for overhead may be negotiated based upon a determination that such amount will be approximately the same as the actual indirect costs that may be incurred. Procedures for development of an indirect cost agreement are included as Appendix D to these General Conditions.

f) Disputes concerning allowable costs

The grantee shall seek to resolve any questions relating to cost allowability or allocation at its earliest opportunity (if possible, prior to execution of the grant agreement). Final determinations by the Agency concerning the allowability of costs shall be conclusive unless appealed within 30 days in accordance with General Condition Section 360.306, (Disputes) hereof.

g) Limitation upon project costs incurred prior to grant award

Payment will not be authorized for costs incurred prior to the date of the grant award except as in accordance with paragraphs (1), (2), and (3) of this Section 360.801.

1) Step 1 or 2 projects:

A) No prior approval or prior grant award is required for Step 1 or Step 2 project work initiated on or before October 31, 1974; payment for all such allowable costs incurred after the approved date of initiation of construction will be authorized in conjunction with the first award of grant assistance.

B) In the case of Step 1 or Step 2 project work initiated on or after November 1, 1974, no payment is authorized for:

i) Step 1 costs incurred prior to the date of approval of a plan of study by the Agency; and

ii) Step 2 costs incurred prior to the date of approval by the Agency of a facilities plan;

iii) Payment for Step 1 or Step 2 costs incurred after such dates of approval by the Agency will be authorized in conjunction with the first award of grant assistance.

C) Where Step 1 or Step 2 project work is initiated after June 30, 1975, no grant for the Step 1 or Step 2 project work may be awarded unless such award precedes initiation of the project work.

2) Step 3 projects: No grant offer for a Step 3 project will be awarded unless such award precedes initiation of the Step 3 construction. Advance acquisition of major equipment items requiring long lead times, or advance construction of minor portions of treatment works, in emergencies or instances where delay could result in significant cost increases, may be approved by the Agency, but only:

A) If the grantee submits a written and adequately substantiated request for approval; and

B) If written approval by the Agency is obtained prior to the initiation of the advance acquisition or advance construction.

3) The approval of a plan of study, a facilities plan, or of advance acquisition of equipment or advance construction will not constitute a commitment for approval of grant assistance for a subsequent treatment works project, but will allow payment for the previously approved costs as allowable project costs only upon subsequent award of grant assistance, if requested prior to grant award. In instances where such approval is obtained, the applicant proceeds at its own risk, since payment for such costs will not be made until grant assistance for the project is awarded.

h) Sewage collection systems.

1) No project costs will be allowed for the construction of any sewage collection system until the Agency has made a determination in writing prior to initiation of construction that:

A) There is a waste treatment works of sufficient existing or planned capacity to adequately treat the sewage collected by the proposed sewage collection system; and

B) That such project work is either for a new sewage collection system in a previously unsewered community and that the community was in existence on October 18, 1972, or is for replacement or major rehabilitation of an existing sewage collection system and such replacement or rehabilitation has been determined by the Agency to be necessary in accordance with the provisions of General Condition Section 360.202, (Sewer System Evaluation and Rehabilitation) hereof.

2) No project costs will be allowed for the replacement or major rehabilitation of an existing sewage collection system if the sewage collection system average dry weather flow design capacity exceeds 150 percent of the average dry weather flow design capacity of the sewage collection system existing on October 18, 1972.

3) Project costs allowable for the construction of new sewage collection systems are limited to the design and construction of a system with flow design capacity through the system equal to 150 percent of the waste waters originating from the community as it existed on October 18, 1972.