

# DEPARTMENT OF ENVIRONMENTAL CONSERVATION



18 AAC 73

## CONSTRUCTION GRANTS

As amended through November 24, 1994

**Walter J. Hickel**  
Governor

**John A. Sandor**  
Commissioner

**CHAPTER 73. CONSTRUCTION GRANTS****Section**

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**18 AAC 73.010. CONSTRUCTION GRANT PROJECT ELIGIBILITY.** (a) An Alaska municipality, or a combination of municipalities, may apply to the department, if money is available, for a grant for a public

- (1) water quality enhancement project;
- (2) water supply, treatment, or distribution system;
- (3) wastewater collection, treatment, or discharge system; or
- (4) solid waste processing, disposal, or resource recovery system.

(b) Grants administered under this chapter are available for new construction, including replacement, upgrade, expansion, and extension of service lines.

(c) Grants administered under this chapter are not available for

- (1) the operation, maintenance, and repair of an existing system; or
- (2) the construction of a storm sewer system, unless the system
  - (A) is part of an approved water quality enhancement project; or
  - (B) separates storm water runoff from a sanitary sewer system.

(d) A project to construct a public water supply system is eligible for a grant under this chapter only if the area to be served has either a sewage disposal system or a department-approved construction plan and schedule for a sewage disposal system. An approved sewage disposal system may include onsite disposal if the system conforms with standards established in 18 AAC 72.

(e) A project to construct sewage collection lines, trunk lines, interceptors, force mains, or pump stations is eligible for a grant under this chapter only if adequate sewage treatment facilities exist, or will exist, after the project is complete. For purposes of this subsection, an "adequate sewage treatment facility" is one that conforms, or is on an approved schedule to conform, with the standards established in 18 AAC 70 and 18 AAC 72 and that has sufficient capacity to treat the increase in flow that will result from the project for which a grant is sought.

(f) Grant-eligible costs may be incurred up to 120 days before the date of the state grant offer. Grant-eligible costs include construction, equipment, engineering, legal, and administrative expenses that are incurred as a direct result of the project, or that are otherwise directly attributable to the project, with the following conditions:

(1) if approved by the department, the costs of engineering design, construction management, inspections, and actual construction performed in-house are eligible for grant reimbursement; force account labor and equipment charge rates must be approved by the department before expenses are incurred against the grant; force account rates may include salaries except as provided in (g) of this section, benefits, and vacation and sick leave, and must be submitted in a format specified by the department;

(2) the capital costs of landfill operating equipment are eligible for grant reimbursement; the department will determine the eligibility of equipment costs, based on the size and type of equipment required to perform the work and the percentage of time the equipment is to be used for activities other than operation of the landfill;

(3) the costs of preparing project-specific facility plans and feasibility studies, planning reports, as-built drawings, and operation and maintenance manuals are eligible for grant reimbursement; and

(4) for a water quality enhancement project, the costs of preparing reports, testing, research, education, enforcement, and cleanup programs directed toward discovering or solving potential or existing water pollution problems are eligible; before a grant will be made for these expenditures, a grantee must have a department-approved program plan.

(g) Grant-ineligible costs include expenditures associated with acquisition of land and rights-of-way; purchase of privately-owned water, wastewater, and solid waste facilities; interest and financing; formation of local improvements districts; operation, maintenance, or system repair; preparation of grant applications; salaries of existing administrative staff working normally-scheduled hours; and vehicles used to collect and transport solid waste from its point of generation to a point of disposal. Notwithstanding the provisions of this subsection, the following costs are eligible for grant reimbursement:

(1) the cost of land when used for a solid waste landfill site or as an integral part of a treatment process;

(2) portable compaction units, if part of a solid waste transfer system, and the vehicles necessary to transport these units to a landfill or processing site;

(3) the cost of a one-time closure of a solid waste disposal site or conversion of a disposal site to a landfill that meets the standards in 18 AAC 60; eligible costs may include fencing, access roads, covering of waste, signs, scales, trenches, and monitoring wells, but not cover material in excess of the amount generated during construction of the facility; and

(4) water and sewer service connections, but only for those portions constructed on public property or within a utility easement reserved in the public domain. (Eff. 12/10/77, Register 64; am 6/11/81, Register 78; am 12/23/88, Register 108; am 11/24/94, Register 132)

**Authority:** AS 46.03.020(10)  
AS 46.03.030  
AS 46.03.090  
AS 46.03.720

**18 AAC 73.020. TERMS AND CONDITIONS OF GRANT AWARDS.** (a) The grantee shall submit plans and specifications that define a proposed project under this chapter to the department for review and approval before the start of construction. A project will not be eligible for a grant under this chapter if the grantee issues a notice to proceed with construction to a contractor before obtaining departmental approval of construction-ready plans and specifications.

(b) The department will review plans and specifications based on generally accepted engineering design standards, including those specified in 18 AAC 60, 18 AAC 72, and 18 AAC 80. The department will, in its discretion, waive the requirements to prepare project-specific facility plans and feasibility studies, planning reports, as-built drawings, and operations and maintenance manuals for less complex projects.

(c) The grantee shall obtain the services of a registered engineer to inspect work performed under contract and to supervise or direct work performed under force account procedures approved by the department under 18 AAC 73.010(f)(1).

(d) The plans and specifications for a construction project receiving grant assistance under this chapter must be prepared and signed by a registered engineer.

(e) The grantee shall submit copies of all change orders to the department for approval. Change orders need not be submitted before work begins. A change order is eligible for grant reimbursement only if approval is obtained before the department conducts the project field audit.

(f) Construction contracts for work that is estimated to exceed \$50,000 in cost may be awarded only through a competitive bidding process with at least 30 days advertising before award, unless an alternative method is approved by the department. Construction contracts for less than \$50,000 may be negotiated if the department approves the grantee's solicitation and negotiating procedures.

(g) The grantee shall submit to the department, for review and concurrence, a tabulation of all bids received, a complete copy of the lowest bid, a copy of the notice to proceed with construction, and a copy of the construction contract. The contract must be awarded to the lowest responsive, responsible bidder, unless the department waives this requirement. The department will withhold grant payments pending review of and concurrence with the bid tabulation, the notice to proceed, and construction contract.

(h) Project sites, materials, and records are subject to inspection and audit by the department. The department will give adequate notice to the grantee and will schedule inspections at a reasonable time.

(i) A grantee shall maintain project accounts and records supporting the grant eligibility of project expenditures. These records must clearly separate eligible and ineligible project costs. The grantee shall maintain project accounts and records until the project field audit has been performed and the findings of and exceptions to the audit have been resolved.

(j) The grantee, by accepting grant assistance under this chapter, agrees to construct and operate a system or construct a project awarded a grant under this chapter in accordance with the approved plans and specifications. Failure to meet the requirements of this subsection may result in withdrawal of grant assistance.

(k) The department will, in its discretion, include other terms and conditions in a grant offer that it considers necessary to ensure compliance with this chapter.

(l) The grantee shall submit to the department for review and concurrence copies of all professional services contracts associated with the project. A professional services contract need not be submitted before work begins under that contract. A professional services contract is eligible for grant reimbursement only if concurrence is obtained before the department conducts the project field audit. (Eff. 12/10/77, Register 64; am 6/11/81, Register 78; am 11/24/94, Register 132)

**Authority:** AS 46.03.020(10)  
AS 46.03.030  
AS 46.03.090  
AS 46.03.720

**18 AAC 73.030. APPLICATION PROCEDURES.** (a) A grantee shall submit a grant application package that consists of the following:

- (1) a completed grant application request on a form provided by the department;
- (2) a narrative statement of the general nature of the project that identifies project scope, location, and costs;
- (3) a copy of any other state or federal grant application or notice of grant award to be used for financing the project;
- (4) a copy of a contract between the grantee and the architectural and engineering consultant who will be performing work on the project if available; this contract may be submitted at a later date and is not required to receive a grant; and
- (5) for a water quality enhancement project, a program plan that describes
  - (A) the project to be funded;
  - (B) why the project is needed;
  - (C) how the project will enhance the waters involved;
  - (D) how the project will be accomplished;
  - (E) an estimate of project cost, with a projection of future costs caused by or related to the project; and
  - (F) the specific results expected from the project.

(b) Repealed November 24, 1994.

- (c) The department will make a grant offer for eligible project costs after it
- (1) reviews and approves the grant application under the criteria established in this chapter;
  - (2) determines that the costs for which a grant is requested are reasonably necessary to complete the project; and
  - (3) determines that there is enough financing to complete the project.

(d) The grantee shall submit a resolution accepting the grant offer, adopted by the governing body of the municipality, or by the governing body of each municipality if the project is a joint venture of municipalities. In the resolution, the municipality must agree to accept responsibility to operate and maintain the proposed water, wastewater, or solid waste processing, disposal, or resource recovery system or to conduct the water quality enhancement project and must agree to the terms and conditions of the grant offer. No action by the department will be considered as creating a contractual obligation on the part of the state until the resolution has been submitted to the department.

(e) The department will, in its discretion, withdraw any grant offer that is not accepted within 180 days after the date the grant offer is extended.

(f) The department will, in its discretion, withdraw an accepted grant if construction has not been started within one year after the date the grant offer was extended.

(Eff. 12/10/77, Register 64; am 6/11/81, Register 78; am 12/13/88, Register 108; am 11/24/94, Register 132)

**Authority:** AS 46.03.020(10)  
AS 46.03.030

**18 AAC 73.040. STATE GRANT SHARE.** (a) For the purpose of calculating grant share percentages under AS 46.03.030(e), the department will use population figures determined by the Department of Community and Regional Affairs, based on the most recent figures available from the United States Bureau of the Census or other reliable population data. If a grant application is made by a borough or unified municipality on behalf of a city, service district, or other entity within the borough or unified municipality, the grant percentages will be based on the population of the borough or unified municipality.

(b) If the award of a grant under AS 46.03.030(e) would result in a grantee obtaining financing in excess of 100 percent of eligible costs, the state grant will be limited to the amount required to complete 100 percent financing of eligible project costs.

(c) A grantee may match the state grant share with any combination of

(1) local money;

(2) federal money; and

(3) state money other than money received under this chapter or AS 37.06. (Eff. 12/10/77, Register 64; am 6/11/81, Register 78; am 12/23/88; Register 108; am 11/24/94, Register 132)

**Authority:** AS 46.03.020(10)  
AS 46.03.030

**18 AAC 73.050. GRANT PAYMENT PROCEDURES.** (a) The department will make progress payments in conformity with the procedures established in this section. The grantee shall request payments on forms provided by the department and shall include supporting documentation as part of each payment request.

(b) A request for final payment of the grant must be accompanied by a final cost statement and certification by the grantee that the system is complete and operable or that the project is complete. Expenses incurred or reported after this certification will not be eligible for reimbursement under the grant. After reviewing a request for final payment, the department will process a payment equal to 90 percent of total eligible reported costs, less any progress payments made under (a) of this section. The department will withhold 10 percent of the grant payment pending an audit under (c) of this section. For good cause shown, the department will, in its discretion, waive the requirement to withhold the final 10 percent of a grant.

(c) Final payment of the grant will be based upon actual eligible project costs, as determined by audit and will be limited to those costs reported on the final payment request. The department will, in its discretion, waive the requirement for an audit under this subsection.

(d) Before final payment is made,

(1) the grantee shall submit to the department a copy of the as-built drawings of the completed project prepared by the grantee under 18 AAC 60, 18 AAC 72, or 18 AAC 80; and

(2) the department will, in its discretion, conduct a final project inspection to determine construction compliance with the as-built drawings submitted under (a) of this section. (Eff. 12/10/77, Register 64; am 6/11/81, Register 78; am 11/24/94, Register 132)

**Authority:** AS 46.03.020(10)  
AS 46.03.030  
AS 46.03.090  
AS 46.03.720

**18 AAC 73.060. DEFINITIONS.** Unless the context indicates otherwise, in this chapter

(1) "as-built drawings" means the original plans and specifications prepared for construction or installation and approved by the department, corrected to reflect how a facility was actually constructed or installed;

(2) "change order" means a written order to the contractor authorizing

(A) an addition, deletion, or revision in the work within the scope of the contract documents; or



(B) an adjustment in contract price or time;

(3) "construction-ready" means plans and specifications that are signed and sealed by a registered engineer and are ready for bidding purposes;

(4) "department" means the Department of Environmental Conservation;

(5) "eligible project costs" means those project costs that conform to the requirements of AS 46.03.030(d) and this chapter;

(6) "final cost statement" means an itemized list of all eligible and ineligible project costs and a statement of total funding for the project;

(7) "force account" means work performed by the grantee with its employees;

(8) "grantee" means a municipality, or combination of municipalities, that has received a construction grant offer under this chapter;

(9) "registered engineer" means an engineer registered under AS 08.48.211;

(10) "sanitary sewer system" means pipelines or conduits, pumping stations, and force mains, and all other appurtenant construction, devices, and appliances used to convey human or industrial waste to a point of treatment and discharge;

(11) "start of construction" means the effective date set out in a notice to proceed with construction issued to a contractor;

(12) "storm sewer system" means pipelines or conduits, pumping stations, and force mains, and all other appurtenant construction, devices, and appliances used for conveying storm water drainage and runoff to a point of ultimate disposal or discharge;

(13) "water supply system" means any source of water, intake works, collection system, treatment works, storage facility, or distribution system from which potable water is available for two or more individual dwellings or business establishments.  
(Eff. 12/10/77, Register 64; am 6/11/81, Register 78; am 12/23/88, Register 108; am 11/24/94, Register 132)

**Authority:** AS 46.03.020(10)  
AS 46.03.030  
AS 46.03.090  
AS 46.03.720

**Editor's notes.** - AS 46.03.900 contains additional definitions that apply to this chapter.