

This rule was filed as 20 NMAC 7.9.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES
PART 9 COLONIAS WASTEWATER GRANT POLICIES

20.7.9.1 ISSUING AGENCY: New Mexico Environment Department.
[11/30/95; 20.7.9.1 NMAC - Rn, 20 NMAC 7.9.I.100, Recompiled 11/27/01]

20.7.9.2 SCOPE: This Part applies to local authorities seeking financial assistance to alleviate unsanitary wastewater conditions in the border area colonias in New Mexico.
[2/28/93; 20.7.9.2 NMAC - Rn, 20 NMAC 7.9.I.101, Recompiled 11/27/01]

20.7.9.3 STATUTORY AUTHORITY: Water Quality Act, NMSA 1978, 74-6-4.
[2/28/93, 11/30/95; 20.7.9.3 NMAC - Rn, 20 NMAC 7.9.I.102, Recompiled 11/27/01]

20.7.9.4 DURATION: Permanent.
[11/30/95; 20.7.9.4 NMAC - Rn, 20 NMAC 7.9.I.103, Recompiled 11/27/01]

20.7.9.5 EFFECTIVE DATE: November 30, 1995. This Part amends and replaces the Colonias Wastewater Construction Grant Program Policies and Procedures, NMED 93-1, filed January 29, 1993, as amended.
A. All references to NMED 93-1, or to the Colonias Wastewater Construction Grant Program Policies and Procedures in any other rule shall be construed as a reference to this Part.
B. The amendment and replacement of NMED 93-1 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any financial assistance provided pursuant to NMED 93-1.
[11/30/95; 20.7.9.5 NMAC - Rn, 20 NMAC 7.9.I.104, Recompiled 11/27/01]

20.7.9.6 OBJECTIVE: The objective of this Part is to establish policies to administer the Colonias Wastewater Construction Grant Program including compliance with Federal "cross-cutting authorities such as the National Environmental Policy Act, Davis-Bacon Act, etc. The New Mexico legislature created the Water Quality Control Commission ("Commission") to take all action necessary and appropriate to secure to the state the benefit of the Clean Water Act. NMSA 1978, 74-6-3.E. NMSA 1978, 74-6-4 states that the Water Quality Control Commission "may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purpose for which provided." The Commission is an unfunded agency of the state. The Commission has no budget or funds allocated to it, rather, it is administratively attached to, and receives staff support from, the Environment Department. NMSA 1978, 74-6-3.F and 9-7A-6.B. The Commission, therefore, exercises its independent functions while the Department provides budgeting, record-keeping, and related administrative functions for the commission. NMED is one of the Commission's constituent agencies. In 1983 and again in 1986, the Commission delegated to the NMED authority to administer the Wastewater Construction Grants Program.
[2/28/93, 11/30/95; 20.7.9.6 NMAC - Rn, 20 NMAC 7.9.I.105, Recompiled 11/27/01]

20.7.9.7 DEFINITIONS:
A. "Applicant" means a local authority designated as a colonias or acting on behalf of one or more colonias that meets the following criteria:
(1) placement on the current fiscal year priority list;
(2) financial capability to perform operation and maintenance and to maintain a replacement fund; and
(3) readiness to proceed.
B. "Colonias" means an identifiable unincorporated community that:
(1) is situated within 100 kilometers (approximately 62 miles) of the United States -- Mexico border;
(2) is designated by the State or county in which it is located as a colonia;
(3) is determined to be a colonia on the basis of objective criteria, including lack of adequate potable water supply, lack of adequate sewage systems and lack of decent, safe and sanitary housing, and
(4) was in existence before November 28, 1990.

- C. "Commission" or "WQCC" means the New Mexico Water Quality Control Commission.
 - D. "Department" or "NMED" means the New Mexico Environment Department.
 - E. "Force account" means that the local authority provides the materials, equipment, or labor necessary to design or construct the project.
 - F. "Local authority" means any colonia designated as a colonia by the county within which it is situated or county, district, cooperative, association, sanitation district acting on behalf of one or more colonia.
 - G. "Operate and maintain" means all necessary activities including replacement of equipment or appurtenances to assure the dependable and economical function of a wastewater facility in accordance with its intended purpose.
 - H. "Priority system" means the system for ranking colonias wastewater construction projects for which grant applications have been received.
 - I. "Project" means the planning, design, construction, repair, extension, improvement, alteration, or reconstruction of the wastewater facilities by the grantee as described in the grant agreement.
 - J. "Project completion" means the date that operation of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.
 - K. "Project engineer" means the NMED staff engineer assigned to the project.
 - L. "Wastewater facility" means a publicly owned system for treating and/or disposing of waste, either by surface or underground methods, and includes any equipment, plant, treatment works, structure, machinery, apparatus, land, or any combination thereof, which is acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or treatment of water or waste, or for the final disposal of residues resulting from the treatment of water or waste, and includes, but is not limited to: pumping and ventilating stations, facilities, plants and works, outfall sewer, interceptor sewers and collector sewers, and other real or personal property and appurtenances incident to their use or operation.
- [1/29/93, 2/28/93, 11/30/95; 20.7.9.7 NMAC - Rn, 20 NMAC 7.9.I.108, Recompiled 11/27/01]

20.7.9.8 to 20.7.9.105 [RESERVED]

20.7.9.106 CONSTRUCTION: This Part shall be liberally construed to effectuate the purposes of the Act. If any provision or application of this Part [20.7.9 NMAC] is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

[11/30/95; 20.7.9.106 NMAC - Rn, 20 NMAC 7.9.I.106, Recompiled 11/27/01]

20.7.9.107 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this Part [20.7.9 NMAC] does not relieve a person from the obligation to comply with other applicable state and federal regulations.

[11/30/95; 20.7.9.107 NMAC - Rn, 20 NMAC 7.9.I.107, Recompiled 11/27/01]

20.7.9.108 GENERAL POLICY DECLARATION:

A. Grants from the program may be offered for up to 100% of the total eligible project costs under state and federal statutes and regulations, subject to availability of grant monies. Two types of grants are available: planning grants and design/construction grants.

(1) Planning grants are intended to enable the applicant to identify: if the project is feasible, the most cost effective collection and treatment process, and reasonable design and construction costs. Generally, a grant increase would be provided for the design and construction phase if funds are available.

(2) The design/construction grant may include the cost of planning and design and may precede the design phase of the project if the planning and design periods are relatively short and if a reasonable estimate of construction costs is available.

B. A long-term commitment for future funding of a phased or segmented project will not be made; although, partial or phased funding for a project (without a guarantee of future funding) may be offered when deemed necessary to meet state water quality and public health objectives.

C. Grant funds shall be awarded to eligible applicants as soon as possible after the monies become available. The program will be managed so that a contingency reserve is held available. The amount of the reserve will be dependent on both available and committed monies. This contingency reserve may be used for administration of the program, and limited-purpose contingencies, including grant increases subject to federal and state statutes.

D. In the event project costs exceed the estimates in the grant agreement, the Grantee may request that the NMED consider an increase to the grant. Such requests will be evaluated in respect to available

uncommitted monies in the program, and other criteria set by the NMED. The NMED may follow any procedure deemed appropriate under the circumstances.

E. In the event project costs are less than the estimates in the grant agreement, then the grant amount shall be adjusted downward by a corresponding amount at the time the final project closeout is executed following completion of the project.

F. The NMED may waive or adjust any rule relative to the administration of the program where it is deemed that the waiver or adjustment is in the best interest of the State and the community, and the waiver or adjustment does not violate any state or Federal statute or regulation.

[2/28/93, 11/30/95; 20.7.9.108 NMAC - Rn 20 NMAC 7.9.I.109]

20.7.9.109 to 20.7.9.199 [RESERVED]

20.7.9.200 PROCEDURES FOR PRIORITY LIST PLACEMENT:

A. Application:

(1) Applicants for a grant shall submit a complete application to the NMED on a form specified by the NMED. Applications may be submitted at any time; although, generally an annual funding cycle is followed.

(2) The NMED shall review the applications for eligibility, technical merit and financial capability, and rank the applications based on the project priority system approved by the Commission WQCC and following NMED procedures for priority system and priority list.

B. Priority System and Priority List Procedures: Procedures for developing and handling the priority system and priority list under the Colonias Wastewater Construction Grant Program generally following existing procedures for the EPA/NMED construction grants program and State loan program which are briefly summarized here.

(1) A project must be on the current federal fiscal year priority list in order to receive a planning or design/construction grant. It is the policy of NMED to make grants to applicants in order of priority on the priority list to the extent reasonable considering the following:

(a) Willingness of a community to accept a grant;

(b) Financial capability of the community to perform operation and maintenance and to maintain a replacement fund; and

(c) Readiness to proceed.

(2) A specific cap of \$1,000,000 on an individual grant amount is established by the NMED so that the program will be able to assist several applicants.

(3) This policy serves to maintain the flexibility of the program by not excluding higher cost projects from participation, yet ensures that several worthwhile projects will be funded.

(4) Fundable applicants will be notified by the NMED following approval of the final priority list and a preplanning conference will be held with the applicant and its consulting engineer to identify the procedures and requirements which must be met prior to execution of the grant agreement.

[2/28/93, 11/30/95; 20.7.9.200 NMAC - Rn, 20 NMAC 7.9.II.200 and 201, Recompiled 11/27/01]

20.7.9.201 to 20.7.9.299 [RESERVED]

20.7.9.300 PROJECT AND ADMINISTRATIVE REQUIREMENTS:

A. Preplanning Conference: At NMED or the applicant's request, a preplanning conference will be scheduled. The applicant's representatives and possibly the applicant's consulting engineer will meet with the NMED project engineers to discuss the project. Items that may be discussed are:

(1) Review of Colonias Grant Program procedures;

(2) Enforceable requirements, water quality and public health concerns;

(3) Eligibility of project components;

(4) Procurement of A/E services;

(5) Appropriate technology;

(6) User charges in relation to financial capability of applicant being able to operate and maintain the facility;

(7) Environmental impacts;

(8) The importance of public participation; (Citizen involvement will be an asset in the development of plans that reflect the needs and value of your community. Informing the public early on can result in issues being

resolved before delay and additional costs occur. Citizen support is necessary for capital and user charge systems to fund a project.) and

(9) Project schedule.

B. Grant Agreement: A grant agreement will be prepared by the NMED and executed by the grantee for projects which can be financed with available grant funds and which have completed requirements set by the NMED. Projects which are not ready to proceed to the grant agreement stage within six months of allocation of available funds will be bypassed by projects lower on the priority list which are ready to proceed. The grant agreement contains several conditions and certifications including:

(1) Certification that the Grantee is a legal entity with authority to execute a grant agreement by ordinance. Certification that a resolution designating signatory authority has been passed.

(2) Copies of all executed contracts, subcontracts, agreements, and related amendments entered into by the grantee prior to the grant agreement, but related to this project.

(3) Request for proposals (RFP) documentation and an engineering agreement, or letter of certificate if employing staff engineers.

C. Allowable and Unallowable Costs:

(1) Allowable costs shall be limited to those costs which are necessary, reasonable, and directly related to the efficient achievement of the objectives of the project. Costs incurred by the Grantee for work performed on the project prior to execution of the grant agreement, but which received NMED prior approval, may be considered as allowable costs. The Grantee must justify all expenditures for which it requests a disbursement of grant funds according to accepted NMED criteria and procedures. NMED may withhold disbursement of funds and may reclaim improperly documented disbursements until the Grantee provides sufficient justification.

(2) All unallowable costs, including but not limited to overhead charges, indirect costs, and noneligible construction costs shall be paid by the Grantee from sources other than the Colonias Wastewater Construction Grant Program.

(3) The Grantee agrees that it will implement, in all respects, the project outlined in the grant agreement.

(4) The Grantee agrees to make no change in the project description without first submitting a written request to the NMED and obtaining the NMED approval of the required change.

D. Accounting: Funds received by the Grantee from the NMED and those funds which are contributed by the Grantee shall be deposited in separate bank accounts or in a separate, identifiable ledger account. In addition, the Grantee shall establish and maintain accounting procedures which will ensure strict accountability for all funds received and disbursements made by the Grantee in connection with the grant agreement. The NMED shall be responsible for examining the Grantee's accounting procedures for purposes of this agreement, and their adequacy in accordance with generally accepted government accounting standards. These standards are usually defined as those contained in the U.S. General Accounting Office (GAO) publication, "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," dated 2/27/81.

E. Records: The Grantee shall maintain books, records, documents, and other evidence sufficient to reflect properly all costs of whatever nature claimed to have been incurred for the performance of this agreement. Such books, records, documents, ledgers, and other evidence shall be preserved and made available to the NMED, State Auditor, US Governmental Accounting Office, and USEPA Office of the Inspector General during the grant agreement period and for a period of six (6) years from date of final payment. If upon termination of the grant agreement, questions exist concerning proper expenditure of funds, then the Grantee shall preserve and make available all books, records, documents, ledgers and other evidence relating to the grant agreement until such questions are settled and the Grantee has received written notification to that effect from NMED.

F. Audit and Inspection: The project sites and Grantee facilities which are in any part the subject of the grant agreement, and Grantee records as defined elsewhere herein, shall be subject at all reasonable times to inspection and audit by the NMED, State Auditor, US Governmental Accounting Office, and USEPA Office of the Inspector General during the period of the grant agreement and for a period of six (6) years following final payment hereunder. All subcontracts let by the Grantee, the cost of which are included in the grant agreement, shall include the substance of this audit and inspection clause.

G. Occupation Health and Safety: The Grantee covenants that it will take affirmative action to ensure that the project shall be conducted in conformance with federal and state laws and regulations relating to occupational health and safety. In addition, the Grantee shall assure that any contract entered into by the Grantee for the performance of work on this project shall contain language by which the contractor and the Grantee agree that authorized representatives of the NMED Occupational Health and Safety Bureau shall have free access to the project site, and shall not be impeded in any way from performance of their duties.

H. Nondiscrimination:

(1) During the performance of the grant agreement, the Grantee shall not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, handicap or national origin. The Grantee shall take affirmative action to ensure nondiscrimination in employee recruitment advertising, hiring, upgrading, promotion, and selection for training (including apprenticeship).

(2) The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitation or advertisement for employees placed by or on behalf of the Grantee shall state that all qualified applicants will receive consideration without regard to race, color, age, religion, sex, handicap, or national origin. The Grantee shall comply with all provisions of Title VI of the Civil Rights Act of 1964, Executive Order 11246, dated September 24, 1965, and all relevant rules, regulations, and orders of the U.S. Secretary of Labor. The Grantee shall include the provisions of the clause in all project subcontracts.

I. Termination: NMED shall have the right to terminate the grant agreement if at any time in the judgment of NMED the terms of the grant agreement have been violated or the activities described in the project description are not progressing satisfactorily. The Grantee may terminate the grant agreement with sufficient reason. Such termination must be in writing.

J. Procurement: The Procurement Code, NMSA 1978, Section 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kick-backs. The Grantee shall comply with 40 CFR Part 31, Federal regulations governing procurement which include requirements for the participation of minority and women owned businesses (MBE/WBEs).

K. Environmental Review: The Grantee shall comply with the requirements of the National Environmental Policy Act as implemented by the Environmental Review Procedures adopted by NMED.

L. Davis-Bacon Act Wage Rates: Federal wage rates provisions pursuant to 29 CFR, Part 5 shall be paid by the Grantee for construction projects in conformance to the prevailing wage rates established for the locality by the U.S. Department of Labor under the Davis-Bacon Act.

M. Federal Cross-Cutting Authorities: Several cross-cutting federal laws and authorities apply, by their own terms, to all activities assisted with federal funds. Colonias Wastewater Construction Grant projects are funded by a USEPA grant to NMED and therefore must comply with these federal "cross-cutters", three of which are described in the paragraphs above.

[2/28/93, 11/30/95; 20.7.9.300 NMAC - Rn, 20 NMAC 7.9.III.300 through 312, Recompiled 11/27/01]

20.7.9.301 to 20.7.9.399 [RESERVED]

20.7.9.400 PAYMENT REQUIREMENTS:

A. Interim Payments:

(1) For satisfactory performance of all work and services required to be performed under the terms of the grant agreement, NMED shall reimburse the Grantee its actual costs incurred. The Grantee may submit requests for reimbursement as often as every month. NMED shall disburse funds to the Grantee when NMED determines, in its sole discretion, that expenditures have been properly documented, as provided for in the general requirements for allowable and unallowable costs, accounting procedures, and record keeping. Copies of all pay request vouchers shall be submitted to the NMED with request for payment. Two copies of all requests shall be submitted on the appropriate form furnished by NMED and shall be accompanied by appropriate documentation to assure that those costs are correct and within the approved scope of work and attached budget form. Requests shall include expenditures to date by category.

(2) Unless good cause exists which would justify a higher amount, the NMED shall withhold five percent of payments due and owing a contractor from the Grantee until fifty percent of the contract has been billed. Unless good cause exists, the NMED shall not withhold any additional retainage from billings after fifty percent of the contract has been billed by the Grantee and approved by the NMED.

(3) Such retainage shall be held by NMED pending its final project inspection and acceptance, which shall be performed promptly and the results of which convey to the Grantee in writing. The project will not be considered complete until the work as defined in the grant agreement and the State approved plans and specifications has been fully performed and finally and unconditionally accepted by the Grantee and NMED.

(4) Interim payments will be made as the work progresses. Said payments will be based upon requests for payment prepared and certified by the Grantee or the Grantee's engineer to include value of work performed, materials on hand, and materials in place in accordance with the contract. Interim payments for

engineering, inspection, legal services, or other approved services shall be made in accordance with the approved contracts or agreements.

(5) Any portion of funds paid by NMED to the Grantee which remain unexpended after completion of the project shall revert to Colonias Wastewater Construction Grant Program.

(6) The Grantee shall furnish the NMED with an estimated disbursement schedule at the beginning of the project.

B. Final Payment: Upon completion of the project, final payment shall be made after final inspection has been conducted and the following have been provided, reviewed, and approved by the NMED:

(1) The Grantee's certified request for payment prepared by the engineer and approved by the NMED.

(2) A statement by the project engineer that work has been satisfactorily completed and the contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called," an acceptable close-out settlement to the Grantee and contractors shall be submitted to the NMED for review and approval.

(3) Final engineering statement and recap of all engineering services, legal, administrative, and other eligible and ineligible expenses and final request for disbursement.

(4) Certification by the Grantee that the labor standards contract provisions have been met.

(5) Final project inspection report prepared by the engineer.

(6) Record drawings and, if applicable, an operation and maintenance manual.

(7) Final budget showing all funding sources utilized for costs incurred for the project by designated budget categories.

(8) Written consent of the surety, if any, to final payment is prepared and submitted.

(9) For projects which receive planning grants but do not proceed to the design/construction phase, completion of the project is defined as substantial completion of the project description in the Grant agreement as determined by the NMED.

(10) The final payment to the consultant will be made after the one year performance period has ended and the granted has provided project performance certification.

[2/28/93, 11/30/95; 20.7.9.300 NMAC - Rn, 20 NMAC 7.9.III.400 and 401, Recompiled 11/27/01]

20.7.9.402 to 20.7.9.499 [RESERVED]

20.7.9.500 PROJECT PLANNING GUIDELINES, DESIGN REQUIREMENTS AND CONSTRUCTION REQUIREMENTS:

A. Planning Guidelines:

(1) Facilities planning consists of those necessary plans and studies that directly relate to the collection system and treatment works needed to comply with the Federal Clean Water Act and New Mexico Water Quality Act. Facilities planning will substantiate the need for the proposed facilities. It is a systematic evaluation of alternatives in regard to unique demographic, topographic, hydrologic, and institutional characteristics of the area that demonstrates that the selected alternative is cost effective in meeting the applicable effluent, groundwater and surface water quality, and public health requirements over the design life of the facility (while recognizing environmental and other nonmonetary considerations).

(2) The selection of the best wastewater and sludge management alternative is the most important outcome of the planning process.

(3) The facilities plan (feasibility report or engineer's report) should include:

(a) A description of the proposed project and the complete system of which it is a part.

(b) A cost-effective analysis of the project in providing wastewater services to meet existing Colonias residents' wastewater needs. Costs to be considered must include the present worth or equivalent annual value of all capital costs as well as operation and maintenance costs. Population forecasts should be consistent with county or state planning assessments.

(c) Cost information on total capital costs and annual O&M as well as estimated annual or monthly costs to residential and commercial users.

(d) An adequate evaluation of the environmental impacts of alternatives.

(e) For the selected alternative, a concise description that details:

(i) Relevant design parameters;

(ii) Estimated capital construction cost and operation and maintenance costs identifying sources of funds and local share; and

(iii) Cost impact on users.

(f) Demonstration that the Grantee has the legal, institutional, managerial, and financial capability to ensure adequate construction and operation and maintenance of the treatment works throughout the service area.

(g) Summary of public participation in the development of the facilities plan.

(4) If any of the above information has been developed separately, it may be incorporated by reference rather than duplication.

B. Design Requirements:

(1) Before beginning the design of the project, the following requirements must be completed and submitted by the Grantee to the NMED and approved by the NMED.

(a) Engineering Report/Facilities Plan: When real property is to be acquired as part of the project and within the project period submit documentation of the acquisition, including legal description, the date the property was acquired, a certified copy of title to the property, and an appraisal report by a qualified appraiser.

(b) Proof of adequate property, liability, and fidelity insurance coverage to the project as shall be required by NMED. Fidelity insurance shall be for Grantee employees who are responsible for handling grant monies.

(c) Draft plan of operation which outlines staffing in compliance with the New Mexico Utility Operator Certification Act with start-up procedures that assure efficient operation and maintenance for the facilities.

(d) Project schedule.

(e) Proposed sewer use ordinance.

(f) Proposed User Charge System: The user charge system represents revenue for good operation and maintenance and replacement of worn-out equipment (O M & R). One basis for the system is actual use which is measured in terms of water meter readings, measurement of sewer flow, etc. The rates are uniformly applied to each class (residential, commercial, or industrial) of user in proportions. If there is no existing user charge system, the first year rates should be based on the estimates of O&M costs and then adjusted annually thereafter to reflect actual O&M and replacement costs.

(g) Number and name of NPDES permit and/or state groundwater permit.

(h) Sludge management plan which assures compliance with 40 CFR Parts 257 and 503, and New Mexico Water Quality Control Commission Groundwater Discharge Regulations 20 NMAC 6.2. Process Design Manual -- Land Application of Sludge (EPA-625/1-83-016) & EPA BGM77 may be referenced in the development of the plan.

(2) Design of the project shall be done by a consulting engineer who is registered in New Mexico.

(a) Designs should adhere to sound construction practice using materials, methods, and equipment of proven dependability.

(b) Buildings shall be economical to operate and maintain and should be assessable to the handicapped.

(c) Designs shall insure nonviolation of the NPDES permit or state groundwater discharge permit as appropriate.

(d) Safety shall be a prime consideration in design.

C. Construction Requirements:

(1) All plans and specifications and related addenda for the project must be submitted to NMED for review and approval before the project is advertised for sealed construction bids.

(2) All work relating to easements, rights-of-way, other property rights, and financing provisions shall be completed prior to advertising for construction sealed bids.

(3) Certified bid tabulation, recommendation of award, and evidence of full project financing should be submitted to NMED for review and approval prior to construction contract award.

(4) Competitive bidding, in accordance with 40 CFR Part 31 and applicable state laws (including local wage determinations as provided for in NMSA 1978, 13-4-11), shall be used for awarding of contracts. Contracts shall be awarded to the responsive and responsible bidder who submits the lowest acceptable bid, or as provided for by 40 CFR Part 31.

(5) Following NMED approval of the proposed award the Grantee shall provide for each contract: 1) notice of award, 2) notice of preconstruction conference, 3) executed copies of previously approved contract form documents, and 4) notice to contractor to proceed. Performance, and payment bonds in the amount of 100 percent of the project bid will be required of each contractor and copies of said documents will be filed with NMED. A copy of bid bond (for 5% of the construction cost) for the selected contractor will be filed with the NMED.

(6) The contractor shall be required to submit a schedule for construction at the preconstruction conference for that contract.

(7) The Grantee shall submit all modifications to plans, specifications, and contract change orders to NMED's project engineer promptly for approval prior to implementation of such modification or change. The NMED's decision shall be rendered promptly in writing. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written notification.

(8) The Grantee shall arrange for the services of a qualified resident project inspector, unless waived by NMED, during construction of the project. The Grantee shall provide NMED with a summary of the inspector's qualifications and training to be approved by NMED prior to the preconstruction conference.

(9) Notwithstanding those inspections performed by the Grantee and its engineer, NMED shall have the right to examine all installations comprising the project, including materials delivered and stored on site for use on the Project.

(10) After completion of the project, the Grantee shall obtain from its engineer and provide NMED record drawings for the project.

(11) The Grantee shall provide for NMED review and approval, unless waived by NMED, an operation and maintenance manual for the project prior to 90% construction completion. The operation and maintenance manual shall conform to NMED requirements.

(12) If this assistance is awarded for construction of collection lines, the Grantee shall assure NMED that the existing population will connect to the collection system within a reasonable time after project completion. This shall be accomplished by adoption and annual review of an ordinance and user charge system requiring such connection to the system.

(13) On the date one year after the completion of construction and initial operation of the project, the Grantee shall certify to NMED whether or not the project meets the project performance standards. If the Grantee cannot certify that the project meets such project performance standards, any failure to meet such project performance standards shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

[2/28/93, 11/30/95; 20.7.9.500 NMAC - Rn, 20 NMAC 7.9.V.500 to 502, Recompiled 11/27/01]

20.7.9.503 to 20.7.9.599 [RESERVED]

HISTORY OF 20.7.9 NMAC: [RESERVED]

History of Repealed Material: [RESERVED]