

June 17, 1999

MEMORANDUM

SUBJECT: Eligibility of Indoor Plumbing Under Alaska
Sanitation Infrastructure Grant Program

FROM: Gary W. Hudiburgh, Chief /s/
Municipal Assistance Branch (4204)
Municipal Support Division

TO: Richard Albright, Director
Alaska Operations Office
Region X

This memorandum responds to questions raised by Debra Verrelli, on behalf of staff in the Village Safe Water (VSW) Program of Alaska Department of Environmental Conservation (ADEC). The questions relate to: (1) whether indoor plumbing of homes, as part of a wastewater construction project, is an eligible cost item under the EPA Alaska Sanitation Infrastructure Grant Program, and (2) if so, what is the Federal interest in case of disposition of property.

After seeking counsel from the headquarters Office of General Counsel (OGC), we have determined that EPA funding via the Alaska Sanitation Infrastructure Grant can be used to pay for indoor plumbing for projects constructed for Alaska rural and Native Village residents. The authority for these grants are the various Appropriations Acts. The statutory language itself provides no specific restriction of this nature and the legislative history suggests this money to be broadly interpreted to provide for Alaska rural and Native Village sanitation needs. Prior to this decision, we had provided guidance, based upon past practice in the Colonias program, that the EPA portion of the Sanitation Grant can be used to pay for laterals and hook-ups to the homes only, and that the Alaska match for the grant could be used to pay for indoor plumbing. After clarification from OGC, we are now saying that EPA funds can be used for indoor plumbing, laterals and hookups.

In terms of the Federal interest, 40 CFR Part 31 applies to the use of grant funds provided to the State of Alaska and the subsequent disposition of acquired property. The three provisions of Part 31 that may be relevant are: Real Property (31.31), Equipment (31.32), and Supplies (31.33).

We believe the provision that has the most applicability is “Supplies.” They are defined as “all tangible personal property other than equipment.” In particular, Part 31.33(a) provides that title to supplies acquired under the grant will vest, upon acquisition, with the grantee (i.e., ADEC). In other words, there is no Federal interest in these supplies (i.e., plumbing fixtures) once purchased by ADEC under the grant.

Another provision which might be applicable under Part 31 is “Equipment.” Equipment is defined in Part 31.32 as “tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. [It is presumed the cost of indoor plumbing for each home would cost less than \$5,000 (FOB either Anchorage or Fairbanks). The cost of transporting the plumbing fixtures to the job sites is a separate expense.] A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.” We are uncertain whether ADEC has its own definition of “equipment” that references plumbing supplies for procurement purposes. If so, this definition would have had to be consistently used in all procurement initiated by ADEC.

In the event ADEC does have an equipment definition that is inclusive of plumbing fixtures, then Part 31.32(b) provides “that States will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures.” We presume that ADEC would, upon completion of the project, provide that the plumbing fixtures become the property of the homeowner or Native Village resident.

Lastly, we do not believe these plumbing fixtures to be “real property” as described in Part 31.31. At the time the grantee acquires them they are not real property. Rather, they are considered tangible pieces of personal property, just like ones stocked at any local hardware or supply store.

In summary, indoor plumbing is an eligible cost under the Sanitation Infrastructure Grant Program, and the appropriate provision of Part 31 needs to be applied. If you have any questions, please give me a call at (202) 260-4926 or Sylvia Bell at (202) 260-7255.

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