



Minnesota
Pollution
Control
Agency

Metro District,
Major Facilities
Section,
Expedited
Permit Program

Answers to Questions Potential Contractors may have about the Expedited Permit Program

Air Quality/Expedited Permit Program/#2.13b/September 2001

Persons wishing to construct or expand an emission facility in Minnesota must first, in most cases, obtain a permit from the Minnesota Pollution Control Agency (MPCA). Such permits incorporate requirements from both state and federal regulations. Due to the highly technical nature of most of the regulations, issuance of construction-related permits generally require at least two months and may take several months. During peak construction periods, a backlog of construction-related permit applications can develop.

In several cases, permittees with pending urgent projects had asked if they could reimburse the MPCA for costs relating to expediting the review and issuance of their air quality permit(s). Other states had similar programs and the MPCA supported the expedited approach.

The Expedited Permit Program was signed into law on May 10, 1994, Minn. Stat. § 116.07, subd. 4d (1992). The program allowed the MPCA to meet a permit applicant's requested schedule using either:

- 1) MPCA staff working overtime, or
- 2) consulting firms with expertise in MPCA permitting, where staff overtime was unavailable.

In summer 1994, the MPCA sought the assistance of three contractors to help design the consulting firm option. These contractors assisted with the tasks of surveying MPCA stakeholders and designing cost-estimating procedures. The contractors also provided advice on the

general flow of work products under the program and communication procedures.

In the 2000-2001 session, legislation was passed enabling the MPCA to expand the scope of the Expedited Permit Program to include other permits. In addition to air quality, the MPCA is now able to accept reimbursements from permit applicants for the purpose of expediting the review and issuance of water quality, hazardous waste, above-ground storage tank, and solid-waste permits.

The Expedited Permit Program may only be used when an applicant's *reasonable* schedule cannot be met with existing MPCA staff resources under the existing workload. Under the program, expedited permit reviews occur either by use of staff overtime or by the use of an outside contractor.

Use of the program is available for the following types of projects:

- permits for modification or expansion of an existing stationary source, when the construction and/or operation may not occur until a permit is issued;
- permits for construction of a new stationary source; total facility permits, if construction is requested and the total facility permit is needed before construction;





- applicability reviews, if applicants request reviews of their determinations on whether a permit is required for construction (A complete analysis leading up to the applicant's determination must be submitted.); and
- other supporting documents for time-sensitive projects which may result in a MPCA permit or other regulatory approval being issued.

How many contractors will be chosen to assist the MPCA in expediting permits?

The MPCA staff will probably select more than one contractor for each type of permit.

Can a contractor be considered for more than one type of permit?

Contractors can choose which types of permits they wish to be considered for and include only those types in their response. For example, if a contractor's response included information specific to writing just air quality and water quality permits, they would only be considered for those two types.

How much work has been let under the previous contracts?

Four expedited permits and one Air Toxics Review have been completed by contractors. Two were stationary source air permits, and two were indirect source permits (ISPs). One of the stationary source air permits was paid for by the MPCA, as a trial to see how the system would work.

What is the total volume of expedited permits?

From June 1, 1995 through September 1, 2001, 72 projects were completed under the Expedited Permit Program. This included 66 stationary source air permits completed using the staff overtime option, and six projects using the contractor option. As of September 1, 2001, there were an additional six permits in progress under the Expedited Permit Program using the staff overtime option.

What is the difference in cost (between the staff overtime and the contractor options)?

The cost is a function of the estimated hours to complete the project and the estimated hourly cost. The estimated cost is written into a contract and must be paid by the applicant prior to work beginning on an individual project. On average, the contractor option is approximately \$80.00 per hour, and the staff overtime option is approximately \$30.00 per hour.

Will permit applicants be given two quotes?

When applicants request that a permit be written under the Expedited Permit Program, they are asked to indicate whether they are willing to pay only the costs of staff overtime, or if they are also willing to incur the cost of hiring a contractor. Even if they are willing to incur the contractor costs, we first determine if their schedule can be met using the staff overtime option. If so, then the staff overtime option is used (the applicant is not given the option of choosing to have a consultant work on the project instead of MPCA staff). If the schedule cannot be met using the staff overtime option, then a rough cost of hiring a consultant is developed, and the applicant is given the option of choosing which route to take.

What was the financial impact for the projects done by the consultants?

The first stationary source project done by a consultant was completed on September 9, 1994, at a total cost to the MPCA of \$10,620.79. The second was completed on January 17, 1996, at a total cost to the permittee of \$7,285.29 (includes contractor costs and staff overtime costs). The costs for the two expedited permits done for indirect sources were about \$5,000.00 and \$6,000.00. The air toxics analysis done by a consultant was completed in December 1998 at a total cost to the permittee of \$19,176.54. In general, larger projects are more likely to go to a consultant, since staff is more likely to volunteer for overtime on shorter-term projects. Also, the cost of an ISP will vary depending on the application and review required (see Minn. R. 7002.0055, ISP fees).



In comparison, costs of the 66 projects completed by MPCA staff on overtime during the time frame from June 1, 1995 to September 1, 2001, ranged from \$65.36 to \$5008.21, with an average close to \$1500.

Are there plans to pay consultants for the time they spend preparing a bid?

No. In the past, the MPCA has sent out quite a few requests, and consultants spend a fair amount of time (20 hours or more) on proposals, and later they get a letter saying MPCA staff is available to do the permitting. While we understand the “time is money,” we have no mechanism for paying consultants for the time spent on preparing bids. This process of soliciting bids also takes a fair amount of staff time (coordinator time is also not reimbursed by the applicant). By the time we get to the point of requesting detailed bids, we have made very sure that there is no staff interested in overtime, and we have every expectation that the applicant will follow through with the project. Once we get that far, it is generally the applicant that either cancels the project or decides against incurring the contractor costs.

Are individual projects offered to all consultants on contract, or only to one at a time?

A project is offered to all, unless there is a conflict of interest. The state must solicit competitive bids. The applicant is asked to identify any potential conflicts of interest with any of the consultants. For instance, if a particular consultant was employed by the applicant to prepare the permit application, that consultant is considered ineligible to work on the permit under the Expedited Permit Program.

Is this a task order contract?

No. For each individual project, a bidding process is used. We also ensure no conflicts of interest exist.

Who selects the consultant for an individual project?

The MPCA staff selects the consultants, since the MPCA is contracting the services.

Does the MPCA plan to “spread the work around” among the consultants chosen?

The MPCA anticipates being able to spread the work around. The two stationary source permits issued through the program were done by different consultants. The MPCA staff will look at the following factors: the type of project, the amount of work involved, project timelines, consultant experience with the type of project, costs, and what the applicant is willing to pay. No one is guaranteed a minimum level of work.

If a consultant has specific experience with a certain type of permit, would he or she be more likely to be awarded the individual project?

It would be a factor in your favor.

Do the consultants chosen for contracts need to be based in a Minnesota office?

Not necessarily, but they do need to be available to come into the MPCA office to review materials prior to preparing bids for individual projects, to do site visits, to meet with applicants and MPCA staff, etc.

Is there a typical turnaround time for projects?

The applicants generally tell us when they need a permit issued. For stationary sources, it is generally very quickly, three to six months. (Two months would be considered an absolute minimum, since most permits need to be placed on public notice.)

Will the consultants chosen be used for anything besides expedited permits or other regulatory approvals?

Possibly, especially if the technical services may result in the issuance of a permit required by the construction or expansion. Examples include human health risk assessments and air toxics reviews.



When is the MPCA going to make the final selections?

Our goal is to select consultants by the end of November or December. It will then take several weeks to get contracts in place.

Why is the MPCA seeking new contractors at this time?

The existing contracts have expired and the Expedited Permit Program was expanded to include other media in addition to air quality permits. The new contracts will be for two years, with the possibility of up to three one-year extensions. Thus, the next RFP for expedited permit contractors will likely be in place for four or five years.

Will the decentralization of the MPCA affect the quantity of permits going through the Expedited Permit Program?

The MPCA permit staff is regionalized at this time, and it has not affected the number of expedited permits. While our goal is to have staff work on projects within their regions, regional staff may work on permits for projects in the metro area, and central office staff may work on permits for projects in the regions, depending on the workload in any one area.

The RFP refers to the “team process.” What is that?

A permit may be written by a team of MPCA staff, not just the permit writer. There will always be compliance and Enforcement Section (CES) staff involved. When a consultant works on an expedited permit, he or she replaces only the permit writer. At a minimum, the permit team will still consist of the consultant, CES staff, and a MPCA staff permit writer as a coordinator/project manager.

Will there be meetings with other MPCA staff on the permit team?

Yes. The consultant will be expected to take part in meeting, phone calls, and joint site visits. In addition, other MPCA staff will write portions of the permit and will have input on the portions completed by the contractor.

In the case of permits written in Delta (the database system for permits), consultants currently do not have access to Delta. They will need to provide information for MPCA data entry staff. Examples of correct language will be made available. The MPCA staff is currently working on help files which will list standard language to be used in standard situations. The MPCA is currently considering whether or not to have applicants pay for a consultant to be trained to use Delta.

Who do I call for more information?

For more information about the Expedited Permit Program, call Dan Sullivan, MPCA, Metro District, Major Facilities Section at (651) 296-7600.

MPCA Web site: <http://www.pca.state.mn.us>