



Setting the Course for Improved Water Quality – Using Contracts for TMDL Studies

Minnesota Pollution Control Agency

Session 6d: A TMDL training program for local government leaders and other water resource managers



In this presentation

What is a TMDL contract?

Before you develop one

The process

Tips

Roles and responsibilities

Getting paid



What is a TMDL Contract?

A written agreement between two or more parties.

This agreement may include monetary dollars.





Several contract types may be used to complete a TMDL study

DNR Flow
Contract

MDH Lab
Contract

Master
Contract

Sampling and
Analysis Master
Contract

Stormwater
Master Contact



Before you develop a contract

Contact **MPCA Contracts Specialists** early in the process!

- Don't assume you know the answers!
- Develop a partnership right away





Contracts staff will help you

Together – brainstorm options and select the best approach for completing tasks





Before you meet

1st

Determine your funding source!

Funding dictates

- the kind of contract you will need
- the process that must be followed

Knowing the funding source will help
staff focus their assistance



Project Managers must actively manage financial aspects of TMDLs

- Technical work and stakeholder involvement are important – financial aspects of the program are equally important
- Contracts staff want detailed work plans and contracts for each project

It's all about the details!





Project Managers: **ACT EARLY!!**

Immediately, when given a TMDL contract assignment, fill out a:

Request for New Contract Form

or

Request for New Amendment Form

Do even if the contract start date or funding source are not known



Tips for Developing a Contract



Developing a contract

3 possibilities

1. Locally-led projects can develop **joint powers agreement** (JPA) contracts
2. Local projects can be completed using consultants through the **Master Contract**
3. **Both** a JPA and a Master Contract can be used on a single project



Joint Powers Agreement

- Is a contract (*a legal instrument*)
- May be for services, grants or loans
- Contains an offer, acceptance, consideration and performance
- Commits resources (*even if only for employee time*)



Joint Powers Agreements require a work plan

First: Develop a work plan and budget

Then: With approved work plan in place, organizations with jurisdiction are eligible to enter into a JPA contract with MPCA



Joint Powers Agreement

- Locally-led projects with a JPA can access services under the Master Contract
- Master Contract includes a pool of 8 consultants
- In addition, MPCA has a Master Contract with 8 state labs to provide analytical services
- MPCA also has contracts with the MN Dept. of Health for lab services



Master Contract

- Has unique requirements
- Used for both Impaired Waters and Stormwater Programs
- Provides a wide range of services
- Awards work through a competitive proposal process



Master Contract

- Currently, local governments cannot use Master Contractors directly
(they must go through MPCA)
- Under the Master Contract, projects can be broken into different phases using different consultants



Master Contract Process

- Step 1** Identify the project or parts of a project that need to be done by consultants
- Step 2** Work with your technical team to develop plan
- Step 3** Identify goals, schedules and deliverables (products)
- Step 4** Develop and finalize project-specific work plan



Master Contract Process

- Step 5** Send final work plan to Jayne Stilwell Lamb
- Step 6** Develop Request for Proposal (RFP)
- Step 7** Send RFPs to consultants in Master Contract Pool
- Step 8** Technical team reviews proposals and selects the best



About **subcontracting**

- Contractors may subcontract tasks if approved by the MPCA Contract Specialist
- Written proposals are required for all subcontracted work



About **single source contracts**

- The entire contracts team reviews single source requests
- Assume a request for proposals will be required
- The burden of proof is on the requesting agency to justify single source procurements
- Thorough documentation of need is required



Contracting Roles and Responsibilities



Project Manager roles and responsibilities

Assemble
technical team

Complete *New
Contract
Request Form*

Meet with
Contracts staff
to determine
contract type(s)

Prepare draft
and final work
plan

Review
proposals

Select
consultants with
your team

Develop work
order

Approve change
orders (minor
changes)

Review and
approve
progress reports

Review and
approve
deliverables

Approve/withhol
d payments

Review and
approve final
reports



Contracts Specialists

roles and responsibilities

Liaison between
MPCA and
Dept. of
Administration

Verify funding
sources with
Division Fiscal
Coordinator

Ensure funds
are encumbered
for each
contract

Negotiate costs
and contract
terms

Assure contract/
documents are
in compliance

Execute
contract



Getting paid

No payments

without a fully executed contract in place!

“An employee authorizing or making the payment and the person receiving any part of the payment are jointly and severally liable to the state for the amount paid and the violation is just cause for the employee’s removal”

MN Rules Ch.XXXX

(Be careful!)





Summary

- Contact **MPCA Contracts Specialists** early in the process
- Determine your funding source, work plan and budget
- Attend to details
- Fulfill your roles and responsibilities
- No contract? No money!



Contracts contacts

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