



FAQs

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Locally led TMDLs

Frequently Asked Questions about local entities contracting to do TMDLs

Water Quality, Impaired Waters1-11 • December 2006

Funding for Total Maximum Daily Load (TMDL) projects is available through state and federal sources.

The goal of this funding is to establish written TMDLs for waters on Minnesota's impaired waters list, and ultimately, to protect and improve the quality of Minnesota's water resources by restoring impaired waters. Local units of government, state agencies, and soil and water conservation districts with jurisdiction in the impaired watershed are eligible to enter into contracts for these funds under joint powers agreements.

There also is a pool of eight consultants under a [master contract](#) that are available to help with the projects, and there are water quality labs around the state that can do the analytical work and some monitoring equipment available from the MPCA for projects to use.

A work plan is required to enter into a contract for funds for a TMDL project. Guidance for preparing a TMDL work plan can be found at: www.pca.state.mn.us/publications/wq-iw1-01.pdf. This guidance is designed for locally led projects in particular. TMDL projects or portions of TMDL projects that will use a consultant under the master contract will need to develop a more detailed work plan or scope of work, using guidance developed for the master contract.

Can local entities contract with MPCA to do TMDL projects?

Local governments with jurisdiction in the watershed and experience with watershed management in the area, and who are willing and able to do the work, are preferentially selected to work on these

projects. Occasionally other entities with particular experience in the watershed may work on all or part of the project. TMDLs in watersheds without a local entity ready and willing to do the work, or impairments over an area larger than one local government, may choose to use one of the pre-qualified pool contractors available under the agency's master contract for impaired waters and stormwater work.

How is funding of TMDL projects determined?

Potential projects should work with MPCA watershed project managers to develop a work plan and budget estimates for the project. Proposed projects will be considered for funding each year in the fall along with other potential TMDL projects. Decisions for funding will be made by MPCA managers and will be based on the priority ranking of the listed waters and on state and local priorities, as well as the readiness of the project to get underway. Projects selected for funding will be submitted to Environmental Protection Agency (EPA) as part of our Section 319 grant application in January of each year. Once EPA approves the project work plans and grant application and MPCA receives the funds, the contract process can begin.

Where can I find the priority ranking for an impaired water?

Priority ranking of the 303(d) listed waters is indicated by the target start/completion dates for each impairment on the current list. The earlier the start date, the higher

the priority. In some circumstances, the priority order in which TMDLs are established may be modified as the schedule is implemented based on logistical efficiencies or data availability.

How are priorities determined for TMDL projects?

Project priorities are determined by looking at existing priorities in the basin that were set through the basin management process and at local priorities set through the local water-planning process. Other local, state or federal priority considerations are also taken into account. The target start/completion dates are set every two years when the 303(d) list is updated. Public input on the priority ranking occurs during the public notice process for the list and through regular contacts with state or local watershed managers.

How long does it take to get a TMDL started?

Projects selected for funding should have an initial work plan in place. Work plans are reviewed by MPCA and submitted to EPA as part of the agency's annual Section 319 grant application. EPA may have subsequent comments that may require more review and revision of the work plan. It can take a few months for the grant review process and for MPCA to receive the funds. Once that happens, work plans may have to be updated to change the dates of the project and/or tasks. When the work plan is finalized and approved by EPA and MPCA, it is sent to MPCA contract staff. They will write the contract and associated documents, and send it with the attached work plan to the local government for signature. The contract is final only after all parties have signed it. Until then, the project cannot begin work unless it has another funding source.

How are local projects paid for their work?

Projects are reimbursed for expenses incurred. Project sponsors submit an invoice with itemized expenses, including staff hours and staff salaries per hour for tasks related to the TMDL project, as well as other expenses. The invoices are sent to the MPCA project manager for review and approval, and then to the St. Paul office for payment. Payments are usually made electronically within a week to 10 days. TMDL projects may not receive payment for any work done outside the dates of the contract, e.g. either before the contract has been signed by all parties or after the end date of the contract.

Whom do I contact about doing a TMDL project?

Contact your MPCA regional office and ask for a watershed project manager or the basin manager for your area. Information and phone numbers for MPCA offices are on our Web site at <http://www.pca.state.mn.us/about/regions/index.html>.

How much money is available for locally led TMDL projects?

TMDL development projects are funded through an annual grant MPCA receives from EPA under Section 319 of the Clean Water Act. A portion of this grant is dedicated to developing TMDLs. The grant is also matched with state funds. Additional funds may also be available through Minnesota's Clean Water Legacy Act. Historically, about \$1,000,000 in state and federal funds are available each year for funding TMDL projects, which includes local contracts, consultant contracts, laboratory fees, and equipment costs. The grants are available over a period of four years, so projects are usually done in two to three years.

What other resources are available for locally led TMDL projects?

MPCA has a master contract with qualified contractors that can be used by local watershed groups to do parts of a TMDL project, such as data assessment, modeling, writing the TMDL, etc. There's also a master contract with eight labs around the state that can provide analytical services for monitoring samples collected; four of the labs can also provide sampling services. In addition MPCA has an ongoing contract with the Minnesota Department of Health for laboratory services for samples that can be delivered to MDH's lab in St. Paul. MPCA also has some monitoring equipment that projects can use, and an equipment budget we can use to purchase additional equipment if needed.

What is a Joint Powers Agreement?

From the Department of Administration's Contracts Manual: "Agreements with other governmental units are contracts (legal instruments). They may be for services, grants, or loans, but they should be treated like contracts. They are contracts because they contain all four elements of a contract (offer, acceptance, consideration, and performance) and because they commit resources, even if it is only employee time, which need to be carefully identified and defined. For the purposes of this manual, we will continue to refer to these legal instruments (contracts) as agreements."

What does this mean for local governments eligible to enter into JPA contracts for TMDLs?

The local governments eligible to enter into a joint powers agreement to conduct a TMDL project are cities, counties, watershed districts, watershed management organizations, and soil and water conservation districts. Refer to Minn. Statutes 471.59 for more information about joint powers and governmental units.

What other steps are necessary for the state to use a JPA for these watershed projects?

A Request for Proposal is required for a JPA if there is more than one unit of government capable of conducting the TMDL, but that issue will be resolved by soliciting partners that have local jurisdiction and expertise in the specific impaired watershed. Waters needing a TMDL have already been identified and published in the State Register, and local units of government in the watershed are the ones that need to be involved in the TMDL. Because the eligible list of local governments is limited to those listed in the previous question and which are in or close to the impaired watershed, it is appropriate to informally contact the local units of government near each TMDL water body and select the one that is willing, able and interested in doing the work.

For more information

For more information on locally led TMDLs, contact Celine Lyman, 651-296-7798 or celine.lyman@pca.state.mn.us