

ATTACHMENT E
WATER QUALITY MANAGEMENT PLANNING GRANTS
604(b) PROGRAM
DEPARTMENT OF ENVIRONMENTAL PROTECTION
FEDERAL FISCAL YEAR 2012
QUESTIONS AND RESPONSES
January 2012

The following are responses to commonly asked questions about the 604(b) Water Quality Management Planning Grants Program. This information is provided to all RFR recipients to help them better understand the 604 (b) program and its requirements. **Please note the new requirements for Disadvantaged Minority Business and Disadvantaged Women Business Enterprises that are discussed in Questions 66 to 74.**

CATEGORY: General

Question 1: Are 604 (b) projects limited to one-year duration?

Response: No. Project length will depend on scope and nature of project. However, it is expected that a project will not exceed two years.

Question 2: What specific activities are excluded from 604 (b) funding?

Response: Implementation activities, including construction and work specified in Phase 2 Stormwater permits, are ineligible for funding under the 604 (b) program. In NPDES regulated areas, 604b funding cannot be used for projects that address requirements of existing or draft NPDES stormwater permits. The following link can be used to help determine NPDES regulated areas.
<http://www.epa.gov/region1/npdes/stormwater/ma.html>

Question 3: Does a proposal that includes a local match provide an advantage in the proposal selection process?

Response: Local match is not required, but it is encouraged and may enhance the quality of the proposal and, by doing so, improve chances of selection. Local match commitment demonstrates a high degree of local support for the project and increases the amount of assessment or planning work that can be accomplished.

Question 4: Are applicants that received past 604 (b) funds at a disadvantage for 604 (b) grant funding this cycle?

Response: No. However, poor past performance of prior grant projects (including s.319, Water Conservation Grants, and other EOEEA Grant programs) may deter consideration for grant funding.

Question 5: Can results derived from 604 (b) funded assessment work be published in peer-reviewed journals?

Response: During the contractual period of the project, results cannot be published without MassDEP approval. After the contract is terminated and the contract deliverables accepted by MassDEP, the information is of public record and can be used if the MassDEP and EPA are properly acknowledged.

Question 6: If receipt of 604 (b) funds under this program triggers a federal audit for a town, will this expense be an eligible item for reimbursement under 604 (b)?

Response: No, not as a direct program expense item. Participation in the 604 (b) program is voluntary and expenses incurred not relative to fundable grant activities as described in the RFR cannot be reimbursed with 604 (b) grant funds.

Question 7: Can RFR recipients receive an example of a past 604 (b) proposal that was successful?

Response: The Department has not historically shared past 604 (b) proposals with potential respondents. Examples of previously funded projects will be available for review at the pre-RFR Informational meeting. Respondents, however, are encouraged to submit original proposals based on the assessment or planning needs of the basin. For more guidance on how to prepare a 604 (b) proposal refer to "Proposal Guidelines" included as Attachment B in the RFR.

Question 8: From past experience, how many applications does MassDEP expect to receive and how many grants, and in what range of funds granted, do you expect to disburse? Give examples from previous grant award periods.

Response: In the past twelve years MassDEP received over 225 eligible proposals and awarded seventy-one grants totaling \$3,416,948. Grant awards ranged from \$11,000 to \$150,000. Cost effectiveness is one of the criteria used in selecting proposals. However, clarity of proposed work and responsiveness of the proposal are the most important factors in the selection process.

Question 9: Who is the signatory authority for the contract if a conservation commission wants to propose a 604 (b) project?

Response: The signatory authority would be the Chairman of the Board of Selectmen or Mayor (if a city), other authorized official for the municipality (i.e., executive secretary, city manager, etc.), or for Regional Planning Agencies, the Executive Director. Please see new Signatory Form in Attachment C.

Question 10: Is there a limit to the length of the proposal and how much detail is required?

Response: MassDEP encourages respondents to keep proposals concise and no longer than ten (10) pages of narrative. You should provide as much detail as possible to describe all aspects of proposed project.

Question 11: Can 604 (b) funds be used to implement public outreach programs or for capacity building purposes?

Response: No. Implementation of public outreach or capacity building projects are not eligible under 604(b) but are considered fundable activities as a nonpoint source implementation project under MassDEP's 319 grant program. Outreach, as part of the assessment and planning process (e.g., a workshop to disseminate the results of a study) is eligible for 604(b).

Question 12: Would a project that reviews and updates an existing Lake Management Plan or Diagnostic-Feasibility Study be eligible for 604(b) funding?

Response: Yes, a project that updates an existing Lake Management Plan or a Diagnostic-Feasibility Study is eligible. A Quality Assurance Project Plan (QAPP) is required if the collection of new water quality or biological data is proposed and should be included as a task in the proposed scope of services. Additionally, a QAPP may be required for collection of secondary data too, if use of that data would potentially affect future MassDEP or EPA decision-making.

Question 13: Can a proposal seek to assess the adequacy of a municipality's regulations, policies and resources in responding to Phase II requirements?

Response: Bylaw review and development of proposed revisions to these bylaws is eligible for 604 (b) **as long as the work proposed is not part of Phase 2 Stormwater permit**. The Department, however, requests that any proposal that includes a review of Town bylaws task include a letter from the Town indicating their consent to this review and their commitment and plan to implement proposed changes.

Question 14: Can 604(b) funds be used to support preliminary design and engineering plans?

Response: Yes. 604(b) funds can support preliminary conceptual design and engineering of BMPs as part of an assessment and planning project but not final design.

Question 15: Can 604 (b) funds be used for surveying work for preliminary design of BMPs?

Response: Yes, 604 (b) funds can support surveying work to help select BMPs and better prepare preliminary BMP design plans for specific sites.

Question 16: Should applicants present a breakdown of local contributions associated with each task identified in their proposal?

Response: No. We need to know in general how the local cost-share will be used. Applicants should submit estimated costs for each task and a total project cost. The local contribution should be clearly specified for the total project cost only.

CATEGORY: Eligibility

Question 17: Can a Grant recipient contract with an out-of-state entity to do work in Massachusetts?

Response: Yes, a grant recipient can subcontract with an out-of-state entity to do work in Massachusetts so long as that company is licensed to do business in Massachusetts. Normal bidding practices must be followed in procuring the subcontractor. M/WBE requirements apply to subcontracted work.

If the work is located in part of a watershed in another state, this work may be fundable. Any assessment work must be coordinated with the other states' agencies and adjacent towns. A letter of endorsement from the other state agency and abutting towns must be submitted with the application.

Question 18: Which organizations are eligible for 604 (b) funding?

Response: Eligible entities have been defined by EPA as: regional planning agencies, cities, towns, counties, conservation districts, council of governments, interstate organizations of which Massachusetts is a party (such as New England Interstate Water Pollution Control Commission). If a respondent still has a question as to whether they would qualify as an eligible entity as stated above they should submit a complete description of their organization to the Department's 604 (b) RFR coordinator no later than February 3, 2012. Legal interpretation of the organization's eligibility as it relates to EPA's definition of "eligible entities" will be requested from MassDEP's Office of General Counsel.

Question 19: If municipalities collaborate on a joint proposal, with whom does the state contract with for the work?

Response: The contract will be executed with only one eligible grantee, in this case, one municipality must represent the group as the signatory authority. All other municipalities, if described as participants in the proposed project, must submit letters of support to be included with the proposal. Further, the Department may require that a Memorandum of Understanding (MOU) be signed by the grantee and any participating organization and/or agency prior to execution of the contract. An MOU is an agreement between the grantee and each participating organization and/or agency that lists the specific project responsibilities of these participating groups.

Question 20: Are regional water supply districts eligible to apply?

Response: Possibly. They must be chartered with suitable powers as a unit of local government. See response #18 above for process to determine this.

Question 21: Should eligible respondents from watersheds in years three to five of the EOEEA/MassDEP basin cycle bother to apply for 604 (b) funds?

Response: Absolutely, all eligible respondents are encouraged to submit proposals. Respondents should note that MassDEP's Division of Watershed Management (DWM) will concentrate sampling efforts in western basins (Deerfield, Farmington, Housatonic, Hudson, and Westfield) during 2012 and in southeastern basins (Boston Harbor, Taunton, Cape Cod, Islands, South Coastal, Buzzards Bay and Narragansett/Mt. Hope Bay) during 2013. Further discussion of DWM's new basin arrangement along with a map of the basin alignment can be found at: <http://www.mass.gov/dep/water/resources/swmonadj.htm>

Question 22: How will proposals from watersheds in different phases of the five-year basin cycle be ranked?

Response: Eligible proposals will be ranked based on their merit and in accordance with the general selection criteria outlined in RFR, and MassDEP's final proposal evaluation criteria.

Question 23: What role does EPA perform in the selection of eligible proposals for funding?

Response: The Department evaluates and prioritizes the proposals and makes recommendations for funding to EPA for final approval. In the past the EPA has concurred with the MassDEP's recommendations for funding. However, funding for 604 (b) projects is ultimately subject to the availability of 604 (b) funds from EPA for each fiscal year.

Question 24: How will the 604 (b) funds be distributed for this grant period?

Response: Projects will be selected and ranked based on eligibility and merit in accordance with the general selection criteria outlined in the RFR, and MassDEP's final proposal evaluation criteria.

Question 25: Will proposals that involve assessment work by volunteer monitoring groups or watershed groups be given consideration? How can these groups improve their proposals?

Response: Proposal selection will be based on the quality and responsiveness of proposals for eligible applicants. Also, refer to the definition of eligibility in the RFR, and the responses to the previous questions. The Department expects that competition for 604(b) funding will be high. In order to make proposals of this nature more competitive, respondents may enhance their projects by including several types of assessment/planning tasks. These tasks may involve the participation of other groups or agencies that have expertise in these additional assessment/planning activities that a volunteer group may not have.

Question 26: Are proposals to develop Watershed based plans eligible under 604 (b)?

Response: Yes. A proposal to develop a Watershed based Plan would be eligible for 604 (b). The Plans must be consistent with EPA's guidelines and include the following nine elements:

- a. An identification of the causes and sources or groups of similar sources that will need to be controlled to achieve the load reductions estimated in this watershed-based plan.
- b. An estimate of the load reductions expected for the management measures described below.
- c. A description of the NPS management measures that will need to be implemented to achieve the load reductions estimated under paragraph (b), and an identification of the critical areas in which those measures will be needed to implement the plan.
- d. An estimate of the amounts of technical and financial assistance needed, associated costs, and/or the sources and authorities that will be relied upon, to implement this plan.
- e. An information/education component that will be used to enhance public understanding of the project, and encourage their early and continued participation in

- selecting, designing and implementing the NPS management measures.
- f. A schedule for implementing the NPS management measures identified in this plan
 - g. A description of interim, measurable milestones for determining whether NPS management measures or other control actions are being implemented.
 - h. A set of criteria that can be used to determine whether loading reductions are being achieved over time and substantial progress is being made toward attaining water quality standards, and if not, criteria for determining if revisions are necessary.
 - i. A monitoring component to evaluate the effectiveness of the implementation efforts based on paragraph h.

The existing 2006 Watershed-based Plan should be reviewed by applicants and used as the basis for updated, detailed plans at the watershed/sub-watershed, HUC 12, HUC 10, or basin scale. The resulting WBP will serve as the basis for future implementation work to remediate water quality impairments, and will particularly be used to direct the awarding of 319 implementation funds. Therefore, proposals for watershed-based plans outside of MS4-regulated areas, particularly in FFY 12 priority basins, are requested. The grantee will be expected to work in close communication with MassDEP to ensure consistency with program needs and EPA requirements. EPA's guidelines for Watershed-based plans are found at: <http://www.epa.gov/fedrgstr/EPA-WATER/2003/October/Day-23/w26755.htm> (see Section III.D). To assist with proposal preparation, MassDEP resources for development of WBPs can be seen at the Central Regional Office or otherwise accessed by contacting Jane Peirce, jane.peirce@state.ma.us, 508-767-2792.

Question 27: If a proposal is eligible for two different MassDEP grant programs, should I submit an application to one or both programs?

Response: If the proposal meets all the eligibility requirements for both programs, it is up to the Applicant to decide which program they respond to.

Question 28: Is there an advantage for Towns to file an application either separately or jointly? Would either way receive higher priority for funding?

Response: There is no advantage given to a respondent based on an application submitted by a regional organization for work in multiple towns versus a single municipality. Depending on the nature of the project, however, there may be significant cost savings and efficiencies for a comprehensive approach that addresses regional concerns. Project selection is based on the quality and comprehensiveness of the proposal.

Question 29: What level of final design can be funded under 604 (b)? For example, would 50% final design be eligible?

Response: Typically 604 (b) funds support assessment and preliminary conceptual design and engineering. For example, surveying, determination of ownership, and feasibility analysis are 604 (b) eligible preliminary design work. Final design, engineering plans and specifications, and bid specifications are eligible for 319 funding.

CATEGORY: Phase II Stormwater

Question 30: Are assessment activities for Phase II stormwater work eligible for a 604 (b) grant?

Response: Projects that address assessment of stormwater impacts on water quality, such as stormwater mapping or identification and management of Best Management Practices, are eligible for a 604 (b) grant as long as that work is carried out for the purpose of water quality management planning and is not specifically identified in the Phase 2 Stormwater permit.

Question 31: How will NPDES MS4 and RDA Stormwater Permits Impact 604b grant eligibility?

Response: 604b funds can be used to determine the nature, extent and causes of point and non-point pollution problems in a watershed and to develop plans to resolve these problems. In NPDES-regulated areas, 604b funding cannot be used for projects that address requirements of existing or draft NPDES stormwater permits. Watershed based surface water quality assessment and planning projects in MS4 areas, however, remain eligible for 604b funding.

Question 32: Where can I find out about the regulated areas in my town?

Response: Go to the EPA web site for Regulated Communities in Massachusetts, <http://www.epa.gov/ne/npdes/stormwater/ma.html>. **Scroll down** to the town you are interested in. Click on the '303d/305b' map. Areas in green represent the regulated areas affected by the permit. Areas in yellow are not affected by the permit.

Question 33: Could 604 (b) fund volunteer surveys to detect illicit discharges?

Response: Assessment work along a tributary to identify "hot spots" is eligible for 604 (b) as long as this assessment work would be used as part of an overall water resource planning effort.

Question 34: Can we sample stormwater outfalls for nonpoint source assessment projects?

Response: Yes, projects may include sampling of outfalls in cases where that data would provide necessary information for a broader water resource planning effort but not solely to meet requirements of draft or final MS4.

Question 35: Would GIS mapping and other activities to help a town meet Stormwater Phase II requirements be eligible for 604 (b) funding?

Response: These activities are not eligible under 604 (b) if the purpose is to meet Stormwater Phase II permit requirements.

CATEGORY: Subcontracting

Question 36: Can eligible respondents subcontract with a private consulting company?

Response: Yes.

Question 37: When subcontracting, are cities and towns required to follow bidding procedures as required by state law?

Response: Yes. Also see following responses.

Question 38: Is there a limit to the amount of money that can be subcontracted out for each project?

Response: Although there is no limit to the amount of 604 (b) grant funds that can be subcontracted out from each project's total grant amount, it is expected that if subcontracting services are proposed, they are justified and will be cost-effective for the project. However, MassDEP does not prefer 100% pass through and expects the Grantee to be actively involved in the project.

Question 39: Are subcontractors that are hired to perform work under the 604 (b) program grants required to adhere to the requirements and conditions of the 604 (b) grant program as described in the RFR?

Response: Yes, particularly be aware of items: 5, 7A, and 7B in the Requirements and Conditions section of the RFR.

Question 40: The RFR states: "The Department reserves the right to approve the selection of all consultants." Provide details regarding the Department's criteria for selection of a consultant, how long this approval process is likely to take, and any recommendations the Department has for how an applicant should approach the issue of selection of a consultant when preparing an application.

Response: Consultants selected by grant recipients to perform work funded under this program must provide documentation (i.e., statement of qualifications) that they are qualified to perform the work. Consultants that are unqualified to perform the work as specified in the RFR and the proposal will not be approved by the Department. This approval process will be included as part of the proposal evaluation, during the contract negotiation process, and/or the contract period.

In the selection process, it is recommended that the grant recipient obtain examples of qualified potential consultants' past work if possible and/or recommendations from other clients of the potential consultants' ability to perform the work relative to the proposed project. For example, be aware that relative to water quality assessment projects the RFR states: "All analysis of samples must be performed by a laboratory that is approved by MassDEP and EPA as part of their QAPP. Proposals involving water quality sampling must include documentation that the work will be performed by qualified personnel that have had adequate training in water sampling techniques."

In addition, the grant recipient must follow all applicable federal "Fair Share" M/WBE and state Non-discrimination and Affirmative Action requirements as outlined in the RFR (items 7A and & 7B of the requirements and conditions in Attachment A) when selecting a consultant for any portion of a 604(b) funded project.

CATEGORY: Water Supply

Question 41: What types of projects are eligible under the water supply protection category?

Response: Proposals for water supply source protection planning projects should be for work with systems and/or in communities that have not received funding within the last two (2) grant periods unless the project involves communities that share recharge areas and are pursuing new cooperative agreements. MassDEP encourages projects that address small public water supply systems (serving under 3,300 people).

Question 42: Are small public water supplies prioritized for the "water supply/water quality source protection planning" grants? Define small.

Response: No. Small public water supplies are not given priority, however priority will be given to communities with shared drinking water resources. Some of these drinking water resources may be classified as small. MassDEP defines "small public water supplies" as a public water supply that serves a population fewer than 3,300 people.

CATEGORY: Assessment Activities

Question 43: What kind of assessment type activities does MassDEP do that a 604 (b) project could support?

Response: MassDEP generally performs the following types of activities to assess water quality in watershed: water quality sampling, assessment of impacts from water withdrawals to water quality and aquatic biota, biomonitoring, land-use assessment, historical data reviews (including NPDES discharge monitoring records), and collects information from other agencies and local groups about water quality issues in the basin. MassDEP uses the assessment data to develop TMDLs (total maximum daily load) for selected contaminants within watershed, support NPDES and Water Management Act permit program decisions, formulate recommendations for Nonpoint source management and BMP implementation through local action and/or the s.319 program. The Integrated List of Waters is available on the MassDEP Web Site at: <http://mass.gov/dep/water/resources/tmdls.htm>. MassDEP's Water Quality Assessment reports for select watersheds are available at: <http://mass.gov/dep/water/resources/wqassess.htm> and a listing of TMDL reports is available at: <http://mass.gov/dep/water/resources/tmdls.htm>. Watershed assessment and planning needs identified in the Watershed Action plans and Watershed Assessment Reports are available at: <http://www.mass.gov/dep/water/resources/envmonit.htm>. Additional data needs are identified in the Massachusetts watershed based plans available at: <http://public.dep.state.ma.us/watershed/intro.aspx>

Question 44: Provide or reference copies of currently available documents that describe in some detail EOEEA/MassDEP basin wide water quality management activities including: a) water resource assessment, b) implementation of the Water Management Act, c) administration of the Massachusetts Nonpoint Source Program, and d) water supply source protection planning.

Response: MassDEP's responsibilities of water resources assessment, implementation of the Water Management Act, and administration of the Nonpoint Source Program are all closely integrated into a watershed based approach to water quality management. Each year a

certain number of basins are scheduled for various actions so as to cover the entire state in five years. The basic actions within this schedule are defined as follows:

- 1) WQA (water quality monitoring and assessment) - Activities include but are not limited to: water sampling, biomonitoring, toxicity testing, site reconnaissance, land-use inventory, review of historical data, gathering and review of other sources of current data, and gathering other state, local, and regional information and input, and assessments.
- 2) TMDL (Total Maximum Daily Load Analysis) - quantification or estimation of selected contaminant loading from nonpoint sources to the basin based on the assessment work.
- 3) WMA (Water Management Act) - ground and surface water withdrawals of over 100,000 gallons per day are regulated by the WMA. Withdrawals sought after 1985 require a permit. Permit application review follows the DEP schedule and includes an analysis of the potential local impacts that may result from the proposed withdrawal.
- 4) NPDES (National Pollutant Discharge Elimination System Permits) - all NPDES permits within a basin will be reviewed and re-issued in the same year. Permit revisions will be based on results of #1 and #2 above.
- 5) Nonpoint Source Program (NPS) - the five year plan of activities relative to NPS are integrated with #1, #2, and if applicable, #3 and #4 above. In addition, activities in phases 1, 2, and 3 of the attached DEP schedule include: NPS "hot spot" identification and targeting, NPS education and outreach, BMP implementation to "hot spots" via s.319 demonstration projects, technology transfer, and enforcement.

Activities of item 3 above do not necessarily follow the basin schedule and are conducted by MassDEP. MassDEP implements wellhead protection regulation [310 CMR 22.21 (2)] for new wells pumping >100,000 gallons per day and those subject to Water Management Act Permits. These regulations require the delineation of the well recharge area, Zone II. MassDEP maintains a library of planning materials, local bylaws and relevant fact sheets in the Boston office of MassDEP. MassDEP recommends that communities adopt these same controls for all wells and provides technical assistance and bylaw reviews. MassDEP also offers some monitoring waivers to public water supply sources that have met specified levels of source protection. MassDEP conducts training relative to this requirement and reviews applications.

Question 45: Can a proposal be for work within a subwatershed as opposed to an entire watershed? Will priority be given to proposals for work in an entire watershed?

Response: Proposals for work in a subwatershed or subwatersheds are appropriate. Selection will be based on the quality and responsiveness of the proposal. Proposals for work in entire watersheds will not necessarily receive a higher priority.

Question 46: Will the Department assist grantees for certain assessment and monitoring activities called for in the project?

Response: The Department will work with the grantee to develop a specific scope of work for the project based on the proposal. The Department will provide technical assistance and

work closely with the grantee(s) as well as coordinate assessment activities within the watershed(s) under study. The Department will not be available to conduct or participate in assessment and monitoring work that the grantee intends to conduct as part of the scope of work for the project.

Question 47: Should 604 (b) proposals focus on broad-based monitoring and assessment work within a watershed or be more directed to specific problem areas within a subwatershed?

Response: Proposals should focus on specific and clearly identified problems or other monitoring and assessment needs on a watershed or subwatershed. The size of the study area is not as important as the ability of the project to effectively assess or address the proposed problem or needs and provide useful information to the Department.

Question 48: Relative to land-use assessment using GIS, what scale maps are preferred by MassDEP?

Response: The scale of land-use maps (GIS or otherwise) will be dependent on the nature of the project. The scale should be such that the information conveyed is readable and can be easily related to other maps or data relative to the project, if applicable. GIS work should also be compatible with the GIS database system used by MASS GIS.

Question 49: What basins are scheduled for outreach, reconnaissance, and data gap identification work in calendar year 2012?

Response: Please note MassDEP has changed the grouping of basins. Further discussion of the new arrangement and a map of the basin alignment can be found at:

<http://www.mass.gov/dep/water/resources/swmonadj.htm>

For 2012 DWM will concentrate sampling efforts in Western basins (Deerfield, Farmington, Housatonic, Hudson, and Westfield)

Question 50: What basins are scheduled for environmental monitoring in calendar 2013?

Response: Southeastern basins (Boston Harbor, Taunton, Cape Cod, Islands, South Coastal, Buzzards Bay and Narragansett/Mt. Hope Bay).

Question 51: Why are the watersheds now grouped in this manner?

Response: MassDEP's Division of Watershed Management (DWM) is making adjustments to its surface water monitoring program in an effort to more efficiently focus limited resources in the field and laboratory, and to respond to evolving requirements from the Environmental Protection Agency (EPA) for surface water data and related information to support reporting under the Clean Water Act (CWA).

Question 52: What does the "assessment of local and regional environmental awareness" entail?

Response: MassDEP believes it is necessary, as an integral part of an assessment of the watershed, to identify and open lines of communication with local and/or regional groups that are active or have been active in the watershed. In large or complex urban systems, a complete assessment of this information is especially difficult to obtain. These groups have inside knowledge and experience in the watershed, especially relative to local

nonpoint source problems, that is very valuable in targeting additional assessment work if necessary, or developing specific BMP implementation projects. MassDEP sees a need for coordination of these groups to achieve common goals and share information.

Question 53: Is implementation of outreach, education or technical assistance a fundable activity under 604 (b)?

Response: No, it is not fundable. However, this activity is considered fundable as a nonpoint source implementation project under the s.319 grant program.

Question 54: Is it too late to propose monitoring and assessment work in non-priority watersheds that have already gone through the DEP assessment?

Response: No, it's not too late to propose monitoring and assessment work in the non-priority watersheds. Well-crafted proposals from eligible respondents in non-priority watersheds will be considered.

Question 55: Can a proposal include work that falls under both the assessment category and water supply category?

Response: Yes. It is understood that since nonpoint source pollution problems occur in water supply watersheds as well as non-water supply watersheds it is likely that there will be some overlap. In fact, the Department encourages proposals that combine these elements.

Question 56: What activities relative to bylaw development and implementation are eligible for 604 (b) funding?

Response: Activities fundable under 604 (b) relative to bylaws would include: assessment of existing bylaws in a watershed or subwatershed and evaluation of their effectiveness, and evaluation of the need for new or revised bylaws and development or revision of these bylaws/ordinances, and recommendations for their enactment. Respondents should include a plan that shows how the revised/new bylaws will be implemented. Activities that work toward **implementation** of these controls would be ineligible under 604 (b).

Question 57: Is MassDEP interested in quantitative assessment work, i.e., water quality modeling?

Response: Yes. Application of appropriate mathematical models to estimate pollutant loading to a watershed or subwatershed may be proposed as part of a 604 (b) assessment project.

Question 58: How can applicants ensure that the information they collect will be helpful to begin the process of removing a water body from the 303d List of Impaired Waters? What does a proponent need to do to ensure that the data will meet DEP standards?

Response: Applicants need to collect data following an EPA/MassDEP approved Quality Assurance Project Plan (QAPP) that meets MassDEP's data quality needs and standards. The U.S. EPA requires that all federally funded projects involving environmental monitoring shall not be undertaken without an approved QAPP. To comply with this order, project responses that contain conventional water quality monitoring,

biomonitoring, and modeling must include provisions for the formulation of QAPPs.

Question 59: What 303d list should we use to determine water quality impairment?

Response: The Department has released the **Massachusetts Year 2010 Integrated List of Waters**. (Available at <http://mass.gov/dep/water/resources/tmdls.htm>) Any water body in a category that identifies a need for monitoring and assessment will be eligible for 604 (b).

Question 60: How is a water body removed from the list?

Response: The process for listing and delisting a water body from the 303d list is described in MassDEP's TMDL strategy "TMDLs – Another step to cleaner waters" which is posted on MassDEP's Web site <http://mass.gov/dep/water/resources/tmdls.htm>.

Question 61: If MassDEP collected the information that led to the impairment listing, can MassDEP participate in the applicant's proposal by providing acceptable protocols and standards?

Response: MassDEP can provide the protocols and standards but a project specific QAPP must be prepared. Additionally, MassDEP cannot be a party to a 604 (b) application or participate in the proposed sampling.

Question 62: If the watershed is in year 2 (research (WQA)) or year 3 (assessment (TMDL)) could this work be prioritized for funding?

Response: Any proposal that will address monitoring or assessment needs for 303d listed waters or TMDL development will be a MassDEP priority.

Question 63: Is land use mapping for GIS on a sub basin or catchment area basis eligible?

Response: Yes. GIS products should meet MassGIS data documentation standards.

CATEGORY: Wetlands Restoration

Question 64: What is Wetlands Restoration?

Response: Wetlands restoration is the act, process, or result of returning a wetland or a former wetland to a close approximation of its condition prior to disturbance. Type #1 restoration is re-establishing a wetland in a former wetland site that is presently non-wetland. Type #2 restoration is returning a damaged, degraded, or otherwise functionally impaired wetland to its prior (pre-disturbance) condition.

Question 65: What types of wetland restoration activities are eligible for 604 (b) funding?

Response: Projects that undertake wetland restoration planning and project development activities (including but not limited to wetland resource delineation, field survey, functional assessments, hydrologic studies, alternatives analyses, conceptual plans and preliminary site design, permit and land ownership identification, and development of a monitoring

plan) to prepare an individual wetland restoration project for implementation are eligible for 604(b).

CATEGORY: Fair Share, M/WBE, And Affirmative Action

Question 66: Is there a difference between the Fair Share requirements from previous RFRs?

Response: Yes. The United States Environmental Protection Agency (EPA) has instituted a new rule that replaces the existing Minority and Women Business Enterprise rules with a Disadvantaged Business Enterprise (DBE) rule. This rule requires that women and minority owned firms be both socially and financially disadvantaged to qualify as a DBE. While the new rule still requires the use of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE), these firms must also be certified as DBEs to be utilized to meet the revised DBE goals. The new goals are 3.40% D/MBE and 3.80% D/WBE. The Supplier Diversity Office (SDO - <http://www.somwba.state.ma.us/>), formerly SOMWBA, has certified approximately 950 DBEs, which are acceptable for use by 604b grantees.

Question 67: Do we need to identify specific DBE's in our proposal?

Response: Applicants should identify the specific budget categories they will use to meet the D/MBE and D/WBE goals of 3.4% and 3.8% respectively, but do not have to identify specific DBE vendors until after the contract is approved. See answers provided below.

Question 68: After the RFR is issued can respondents contact the Department's Compliance Unit if they have any questions about these issues or any of their program requirements?

Response: After the RFR is released any additional questions regarding these requirements, which the Department receives **in writing** no later than close-of-business February 3, 2012, will receive a response from the Department. All responses will be posted on CommPASS only. The Department will not respond to questions received after February 3, 2012.

Question 69: Are the D/MBE and D/WBE % requirements calculated as a percentage of the entire project cost or of the federally funded portion of the project cost or of the amount to be subcontracted only?

Response: The "Fair Share" requirement is calculated as a percentage of the entire project cost - including any local match or cost share portion.

Question 70: If an RFR respondent proposes to perform all services of the project "in house" and has no need to subcontract, how will the "Fair Share" requirements apply if the respondent is awarded a 604 (b) grant?

Response: The "Fair Share" requirement applies to the full amount of the grant awarded to a selected respondent. Therefore, if it is proposed to use the grant to fund the salaries of in-house personnel who will implement the project, following the contract award and the solicitation process used for subcontractor selection, the grantee must obtain a waiver from the Department for such requirement. All grantees will need to demonstrate to the Department's satisfaction that the funding of such staff is essential to the successful

implementation of the proposed project, and document what good faith efforts have been made to utilize DBEs for non-salary costs (e.g., water quality sampling and analyses; printing and other administrative costs).

Question 71: What types of waivers are available for DBE compliance?

Response: Full or partial waivers are granted for either D/MBE or D/WBE participation or both. Waiver requests must be in writing and fully document to the Department's satisfaction the "good faith" efforts made to meet the M/WBE goal. Grantees must follow the six good faith efforts set forth in the federal EPA's fair share procurement regulations. See Page A5, Section 7B and Page C1 of the RFR.

Question 72: How do the Fair Share requirements apply in a situation where a grantee contracts all work to be performed by a subcontractor? Would the grantee have to request a Waiver?

Response: Fair Share requirements are achievable in the areas of Goods, Supplies, Equipment, Construction and subcontracting. An entire subcontract could be with a D/MBE or D/WBE and/or portions of a subcontract designated for D/MBE or D/WBE Fair Share participation.

Question 73: In a case where multiple parties apply for a grant, who is responsible for meeting the Fair Share requirements, and to which portions of the project cost do the Fair Share requirements apply?

Response: Whoever is the authorized signatory on the contract will responsible for any and all of the contractual obligations.

Question 74: Will DBE utilization requirements apply to projects that cost less than \$50,000?

Response: Yes. The federal D/MBE and D/WBE utilization goals of 3.4% and 3.8% respectively apply to all projects regardless of costs.