

US EPA ARCHIVE DOCUMENT

# Quarterly Project Progress Report

**Construction Storm Water Excellence Initiative 2007  
EPA Grant# EI-96489108-0**

**January 2010**

**U.S. EPA State Innovation Grant Program  
National Center for Environmental Innovation**

**Tennessee Department of Environment and Conservation  
University of Tennessee, Municipal Technical Advisory Service**



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## **Project Description**

### **Construction Stormwater Excellence Initiative**

(Tennessee's State Innovation Grant Project- 2007)

#### **Grantor:**

US EPA State Innovation grant Program, National Center for Environmental Innovation

#### **Grantee:**

Tennessee Department of Environment and Conservation (TDEC)  
University of Tennessee, Municipal Technical Advisory Service (MTAS)

#### **State Project Manager:**

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#### **Total Project Cost:**

The total amount funded was \$200,000. The State of Tennessee has committed a minimum of \$100,000 of in-kind funding for the same period. There are no other federal contributions to this program.

#### **Project Period:**

October 1, 2007 to September 30, 2013

**Key Milestones (Including Outputs),  
Reflecting The Projected Timelines For Completion<sup>1</sup>**

Objectives and Outputs	Projected Start Date	Completion Date/Projected Completion Date	Slippage Explanation/Other Comments
<b>Objective:</b> Stormwater group preliminary organizational meeting (pre-award) <b>Output(s):</b> TDEC/MTAS meetings to determine key MS4's for preliminary solicitation, etc.	September 2007	May 2008	This objective combined with the 3 <sup>rd</sup> objective while waiting for final signatures.
<b>Objective:</b> Execute contract with the University of Tennessee's Municipal Technical Advisory Service (MTAS) <b>Output(s):</b> Due to MTAS's unique status within the State, their ability to deliver training and technical support statewide to local governments and their history as a TDEC partner in the Stormwater program, MTAS will be the sole contractor for the initiative.	October 2007	Final Signatures May 2008	Final signatures were received by Contracts Division/TDEC May 2008
<b>Objective:</b> TDEC-MTAS project team meetings <b>Output(s):</b> Continuing identification of MS4's for Stormwater group. Identifying specific contacts from various other stake holder organizations. Scheduling venues for organizational meetings. Developing agenda's, informational literature, etc.	March 2008 Amended from October 2007	May 2008	As with Objective #1, TDEC-MTAS continued to work together on project and planning meetings during the delayed pre-award time. The final signatures were received by May 2008.
<b>Objective:</b> Establish stormwater group (Tennessee Stormwater Association) <b>Output(s):</b> Organize initial meeting of the state regional group representative at a state level. Formalize the group. Set up a calendar of regional and state meetings, etc.	March 2008 Amended from December 2007	June 2008	Due to delayed signatures for official contract award to MTAS, the development of the statewide Stormwater Association was not established until March 2008 (we established this group prior to MTAS receiving the contract) However, the legal incorporation was on June 10, 2008 upon the successful filing of the Charter with the Tennessee Secretary of State.
<b>Objective:</b> Establish stakeholder committee <b>Output(s):</b> Identify, contact, and obtain participation from representatives of the stakeholder groups. Set up and formalize the committee. Set mission, agenda, meeting calendar and milestones.	May 2008 Amended from December 2007	May 2008	Due to delayed signatures for official contract award to MTAS, and the delayed establishment of the TNSA, the Stakeholder Committee was not established until May 2008

<sup>1</sup> Please see Revised Timeline Schedule in Appendix B

**Key Milestones (Including Outputs),  
Reflecting The Projected Timelines For Completion<sup>1</sup>**

Objectives and Outputs	Projected Start Date	Projected Completion Date	Slippage Explanation/Other Comments
<b>Objective:</b> Facilitate meetings to establish criteria <b>Output(s):</b> Set venue, agenda, etc., and facilitate meetings in order to achieve stakeholder input on the criteria for qualifying a local program.	June 2008  (Began)  Amended from  January 2008	June 2010	Start date amended due to grant development delays but meetings have been held every quarter since the Kickoff meeting held August 15, 2008. Although the Incentives are finalized (December 2009), the meetings will continue in order to develop formal application materials for MS4s to apply to become a QLP.
<b>Objective:</b> Develop and promote guidelines and incentives <b>Output(s):</b> With the information from the stakeholder committee meetings, develop guidance material and an incentive program for qualifying local programs.	September 2008  (Began)	December 2009	Start date amended due to grant development delays but meetings to develop incentives/criteria have been held every quarter since the Kickoff meeting held August 15, 2008. Although the final list of incentive was finalized in December 2009, working out the details on some of these incentives will continue. (Such as the need for rule-making)
<b>Objective:</b> Develop excellence recognition program <b>Output(s):</b> With the information from additional stakeholder committee meetings, input from additional groups such as the Tennessee Municipal League, etc., develop excellence recognition program	December 2009 (Began) - Amended from October 2009	September 2010	Began initial discussion at the December 2009 meeting, and after amending the project timeline, we will have two more quarterly meetings to discuss & finalize Excellence Recognition Program by September 2010.
<b>Objective:</b> Pilot the qualification of a MS4 <b>Output(s):</b> Work with select MS4(s) volunteer(s) program(s) to work through guidance materials and document achieving the various elements involved in becoming a qualified program. Monitor the designated Qualified Program.	June 2012	June 2013	In order to provide the MS4s with enough time to adhere to the new MS4 permit requirements, we requested a grant extension of two years. This new timeline projects the QLP Pilot start date for June 2012 and the QLP Program to go live in June 2013. Please see Timeline in Appendix B.
<b>Objective:</b> Develop and deliver workshops across the state <b>Output(s):</b> Based on the results of the pilot program, update the guidance materials. With the updated guidance materials and pilot program case history/histories, develop workshops lesson plans. Deliver workshops and guidance materials statewide.	June 2013	August 2013	The timeline was adjusted by two additional years to provide the MS4s with enough time to adhere to the new MS4 permit requirements; we requested a grant extension of two years. This new timeline projects the QLP Pilot start date for June 2012 and the QLP Program to go live in June 2013. Please see Timeline in Appendix B.

**Key Milestones (Including Outputs),  
Reflecting The Projected Timelines For Completion<sup>1</sup>**

Objectives and Outputs	Projected Start Date	Projected Completion Date	Slippage Explanation/Other Comments
<b>Objective:</b> Deliver a replicable solution to other states <b>Output(s):</b> <i>With updates to workshop lesson plans and materials based on participant feedback, develop final guidance materials, workshop lesson plans, case histories etc., for delivery to EPA.</i>	September 2013	September 2013	The timeline was adjusted by two additional years to provide the MS4s with enough time to adhere to the new MS4 permit requirements; we requested a grant extension of two years. This new timeline projects the QLP Pilot start date for June 2012 and the QLP Program to go live in June 2013. Please see Timeline in Appendix B.

## **Part 1 – Synopsis of Accomplishments during the Reporting Period**

During the eighth reporting period (ending December 31, 2009, 4th quarter, 2009), several project milestones were either accomplished or initiated:

- The QLP Stakeholder Advisory Committee held its sixth meeting on December 8, 2009. TDEC and MTAS finalized the remaining feasible and agreed-upon program incentives and Minimum Requirements to be a QLP and presented them at the meeting.<sup>2</sup>
- During the December 8, 2009, QLP Stakeholder Advisory Committee Meeting, we initiated the group discussion on the development of a Recognition and Excellence Program to acknowledge high achievement and success in the Pilot Phase and Live Qualified Local Program initiative.
- EPA provided direction on our QAPP requirements. We continued working with an EPA contractor, Michael Crow, during this period to assist us in developing a non-numeric based QAPP that will evaluate the data received through timely distributed survey instruments.<sup>3</sup>
- TDEC has continued to support the establishment of the Tennessee Stormwater Association (TNSA) with efforts outside the scope and funding of this grant. During this reporting period, TDEC facilitated a grant along with the Tennessee Department of Agriculture and Tennessee Department of Transportation to provide TNSA with an Educational Coordinator. The contract with Middle Tennessee State University's WaterWorks Stormwater Education Program was approved and awarded during this 4<sup>th</sup> quarter.

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<sup>2</sup> Appendix A includes meeting notes, handouts, etc.

<sup>3</sup> Appendix B includes relevant correspondence.



## Part 2 – Narrative Discussion

### A. December 8, 2009, Stakeholder Advisory Committee Meeting

The QLP Stakeholder Advisory Committee, which includes MS4 representatives from the Tennessee Stormwater Association (TNSA) and non-MS4 stakeholders such as Road Builders Association, Home Builders Association, Water Quality Interest Groups, Chamber of Commerce, etc., met on December 8, 2009, in Nashville, Tennessee.

During this 4<sup>th</sup> quarterly meeting, the opening conversation revolved around the new MS4 permit which was originally scheduled to be issued June 2009, but is now scheduled to be on Public Notice in February 2010 and issued June 2010. The group was concerned that the delay of permit issuance would be a time constraint in the ability of the MS4 to successfully integrate QLP requirements and become Pilots. We recognize that it is important to the success of this grant to provide the MS4 time to revise their programs and enable a full pilot period. We explained that we would speak with EPA to discuss our options; potentially a time extension.

The ensuing discussion then turned to our efforts at assessing QLP Grant Project Effectiveness. We discussed the process we've taken to develop the QAPP with EPA's assistance and explained that the QAPP will include a survey that may be delivered multiple times. In an effort to collect the most beneficial data, the group recommended that we perform a preliminary, interim, and final survey.

Our attention was then directed to the finalized versions of the following summarized QLP Incentives:

- a. **Construction General Permit fee split with QLP – Finalized**
  - b. **QLP status considered equivalent to program effectiveness monitoring – Finalized**
  - c. **Standardized TDEC/ QLP Enforcement Protocol – Finalized**
  - d. **MS4's applying for QLP Status will have to show that the necessary resources will be provided - Finalized <sup>4</sup>**
  - e. **QLP Status Requirements guaranteed Static – Finalized**
  - f. **Streamlining QLP Procedures - Finalized**
- a. **Construction General Permit fee split with QLP Incentive**  
Coverage equivalent to coverage under the construction general permit (CGP) may be obtained from a QLP. If a construction site is within the jurisdiction of and has obtained a notice of coverage from a QLP, the operator of the construction activity is authorized to discharge storm

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<sup>4</sup> These Minimum Requirements will be correlated with the final issued MS4 permit requirements. Projected Date: June 2010

water associated with construction activity under the CGP without the submittal of an NOI to the division.

CGP permit coverage fees are specified in the TDEC Rules, Chapter 1200-4-11, and range from zero for sites less than 1 acre to \$7,500 for sites greater than or equal to 150 acres. Our goal with this incentive is to change the Rule such that seventy (70) percent of the total permit coverage fee would be paid to the coverage issuing QLP for costs associated with plan review, coverage review and issuance, inspections, enforcement, program administration and database management. The remaining thirty (30) percent would be paid to TDEC for costs associated with the administration and oversight of the QLP program. In the event that the QLP waives the right to collect the 70% portion of the fee, the entire fee amount must be paid to TDEC.

TDEC is currently evaluating available Rule change options. If successful, TDEC will draft the rule change and propose it to the Water Quality Control Board for approval. Once approved by the Board, the final rule change will be submitted to Attorney General's office for legal review and then the Secretary of State's office for authorization. Our experience has been that this process can take up to 18 months to complete, depending on the complexity of the proposal

**b. QLP status considered equivalent to program effectiveness monitoring – Finalized Incentive**

To attain QLP status, the MS4 must demonstrate that it has met the minimum resource and programmatic requirements of the QLP program. QLP programs are expected to be beneficial to long term water quality by effectively minimizing the discharge of construction activity related siltation through the stormwater system. Therefore, TDEC will consider an appropriately maintained QLP status as equivalent to the biological stream sampling referenced above. However, QLP's will still be required to perform the visual stream survey and impairment inventory referenced above to evaluate if non-construction related sources of siltation are being conveyed through the stormwater system, or if the general condition of the stormwater system itself is generating siltation.

**c. Standardized TDEC/ QLP Enforcement Protocol Incentive**

MS4s are required to develop and implement an Enforcement Response Plan (ERP) that includes policies and procedures for stormwater ordinance enforcement. An MS4 that attains the status of a Qualified Local Program (QLP) may include steps in the ERP that allow for cooperative enforcement with TDEC. Our expectations are that this approach will increase construction activity compliance and establish a cooperative partnership between TDEC and the QLP.

When a QLP has proceeded through their ERP and the construction site activity remains in non-compliance, the QLP will be able to submit an Enforcement Assistance Request (EAR) form to the local TDEC Environmental Field Office (EFO). After a review for completeness, the EFO will submit this EAR to the Enforcement Section and an Order may be expeditiously issued using the documentation submitted by the QLP. The enforcement will be based upon the facts, photographs, and enforcement actions and assessed penalties documented by the QLP and issued under TDEC's authority to assess penalties up to \$10,000 a day as well as require corrective action.

The EAR will be a form approved by the State's Forms Committee and will include guidance.

**d. MS4's applying for QLP Status will have to show that the necessary resources will be provided.**

MS4's applying for QLP Status will have to complete the Level of Service exercise to show the resources necessary for their program to support, at a minimum, the following requirements in their jurisdiction:

1. Procedures for site inspection and enforcement: The MS4 must have procedures in place for its inspectors to evaluate construction site compliance. The ERP must include specific enforcement steps to ensure construction sites are in compliance with the MS4's program.
2. Recognition of priority construction activity, including at a minimum, those construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired or Exceptional Tennessee Waters; Pre-construction meetings with construction-site operators for priority construction activities; and Inspections by the MS4 of priority construction sites at least once per month.
3. Specific procedures for SWPPP review and approval: These procedures must include an evaluation of SWPPP completeness and overall BMP effectiveness.
4. Procedures for managing public input on projects: The MS4 must have mechanisms for providing notice of projects and receiving and considering comments from the public.
5. Procedures for the issuance, tracking and reporting of Notice of Coverage for construction activities performed within the QLP jurisdiction.

The QLP application will contain the results of this exercise along with a signature blank for the Mayor (or responsible party) to sign, signifying that he/she is committing that the MS4 guarantees that the resources to support the minimum requirements for QLP Status will be provided.

**e. QLP Status Requirements guaranteed Static Incentive**

The QLP requirements will be static during a given permit cycle.

**f. Streamlining QLP Procedures Incentive**

Streamlining efforts during the QLP program development process has minimized the additional number of responsibilities that the MS4 must perform to become a QLP.

After the QLP Incentives discussion, we initiated the development of a “QLP Recognition and Awards” program. Multiple examples were discussed, included recognition ceremonies by the Commissioner with their Mayors, or additional points being added to state grant or loan applications. Committee members were tasked to submit other awards/ideas before the next meeting.

It is expected that the QLP Stakeholder Advisory Group will continue, at a minimum, to help with the development of the QLP program through the pilot phase and final rollout. In addition, we intend for the Committee to provide stakeholder representation on future stormwater permits and guidance development efforts.

**B. Quality Assurance Project Plan (QAPP)**

In response to the QAPP directive received during the previous period, we continued working with an EPA contractor, Michael Crow, during this period to assist us in developing a non-numeric based QAPP that will evaluate the data received through survey instruments. Michael was available to us through November 12, 2009. The assistance provided to us from EPA with Mr. Crow, along with invaluable input from Gerald Filbin, Sean Flynn, and others, is greatly appreciated.

A copy of the most recent QAPP draft is provided under Appendix B.

**C. Tennessee Stormwater Association**

As provided for in this innovation grant, we have continued to support the TNSA during this reporting period. The following are highlights of relevant TNSA activities:

- The second TNSA Annual State Conference was held October 24-27, 2009. Two full day stormwater tracks offered several educational opportunities. The conference was a success and well attended.<sup>5</sup>
- The TNSA website full launch was presented at the Annual Conference. The website is: <http://tnstormwater.org/>.

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<sup>5</sup> Please see Appendix C for Conference schedule

- TDEC has also continued to support the establishment of the TNSA with efforts outside the scope and funding of this grant. During this reporting period, TDEC facilitated a grant along with the Tennessee Department of Agriculture and Tennessee Department of Transportation to provide TNSA with an Educational Coordinator. The contract with Middle Tennessee State University's WaterWorks Stormwater Education Program was approved and awarded during this 4<sup>th</sup> quarter. The goal is for the Educational Coordinator to attend all TNSA quarterly regional meetings to determine what general and specific educational tools are needed by the state's MS4s. Product materials will be developed and distributed as needed.

### Part 3 – Projection of Activities, Accomplishments, and Major Expenditures for Next Quarterly Report

The QLP Stakeholder Advisory Committee is scheduled to meet again in the second quarter to further develop a "QLP Recognition and Awards" program, finalize minimum QLP requirements (post MS4 re-issuance), and to plan the logistics of the Pilot Phase implementation. We also intend to submit a request to EPA for a timeline revision to accommodate the constraints identified above in Part 2A. Finally, efforts will be made to finalize the QAPP and survey instrument.

### Part 4 – Financial Report

The project budget is on track for the goals and milestones of this project. Information Technology set up an internal account at MTAS under which project reporting continues to capture the Grant related hours. An invoice for July-Sept 2009 for \$20,773.88 was submitted to TDEC by MTAS on October 28, 2009, of this Quarter. TDEC, likewise, set up an internal tracking mechanism and continues to capture TDEC hours to apply toward the in-kind match.

Budget Category	Total Approved EPA Project Budget	Current Invoice: July 1, 2010 –September 30, 2010	Cumulative to Date
Professional Salaries	\$80,000	\$13,985.37	\$49,252.77
Fringe Benefits/Insurance	\$24,000	\$3,910.86	\$16,151.85
Travel	\$10,000	\$168.01	\$4,844.28
Printing/Supplies	\$15,000	\$0	\$131.58
Training/Special Services	\$15,000	\$4,450.00	\$5,363.01
Fixed and Administrative Costs	\$56,000	\$2,709.64	\$10,691.15
<b>Totals</b>	<b>\$200,000</b>	<b>\$20,773.88</b>	<b>\$86,434.64</b>

# APPENDIX “A”

- A-1 December 8, 2009, Meeting Agenda
- A-2 December 8, 2009, Meeting Summary
- A-3 Meeting Handouts: Final QLP Incentives
- A-4 Meeting Handouts: Minimum Resources for QLPs
- A-5 Meeting Handouts: TDEC Minimum Requirements for Qualified Local Program Certification
- A-6 Meeting Handouts: Enforcement Assistance Request Form
- A-7 QLP Stakeholder Advisory Committee Contact List