

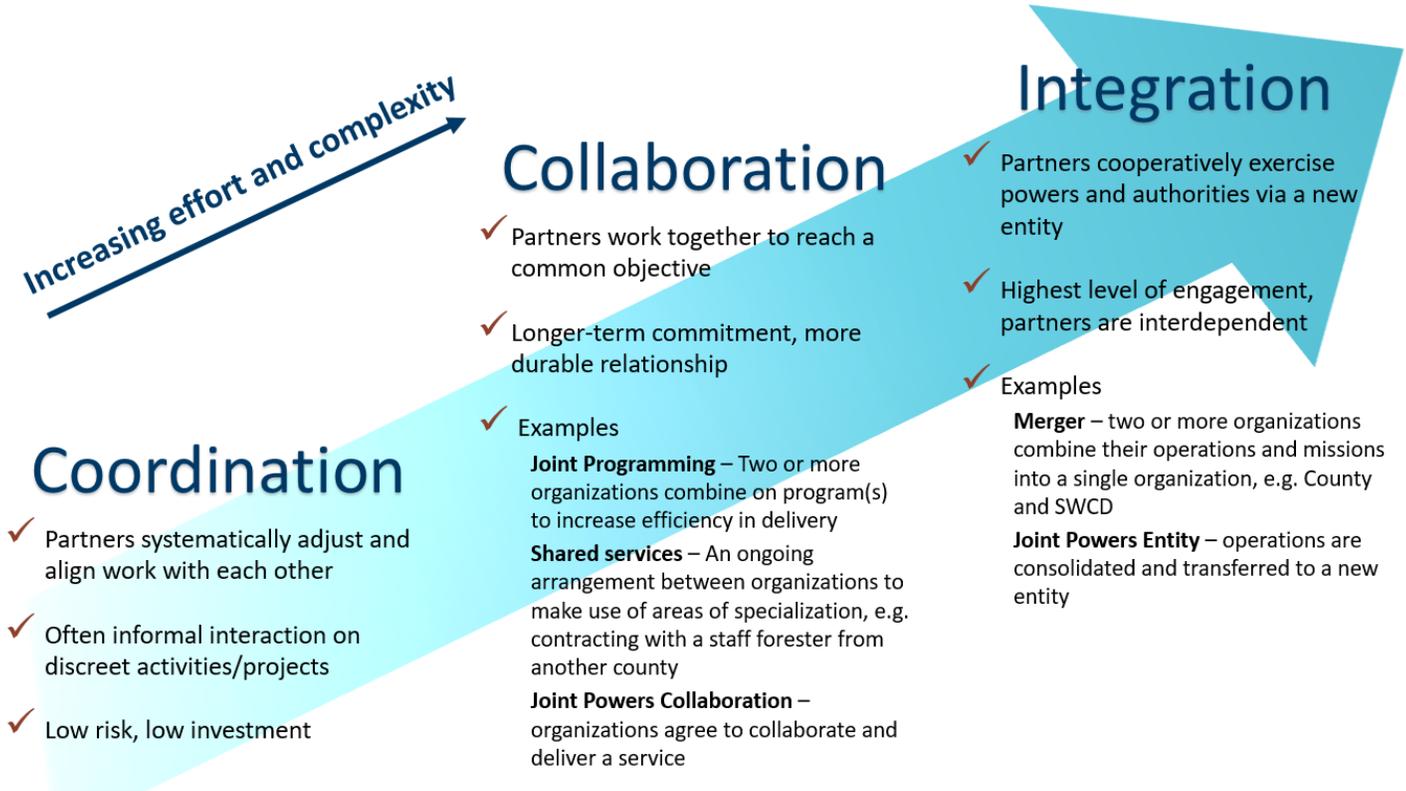


Organizational Structures for Water Management

Supporting information for Section III of the 1W1P Operating Procedures and Section III.G.1 of the 1W1P Plan Content Requirements

This document provides considerations for local government units working as a partnership and defines different levels of collaboration. The last page includes a table that outlines the types of formal agreements and recommendations for their use in relation to the One Watershed, One Plan program.

Partnerships vary in level of effort (commitment to working together) and integration (formality of agreement). The purpose for working together should drive the type of partnership that gets established. The following graphic illustrates the continuum of these working relationships and does not indicate a desired progression. In other words, integration is simply the far end of the spectrum, not necessarily an end goal.



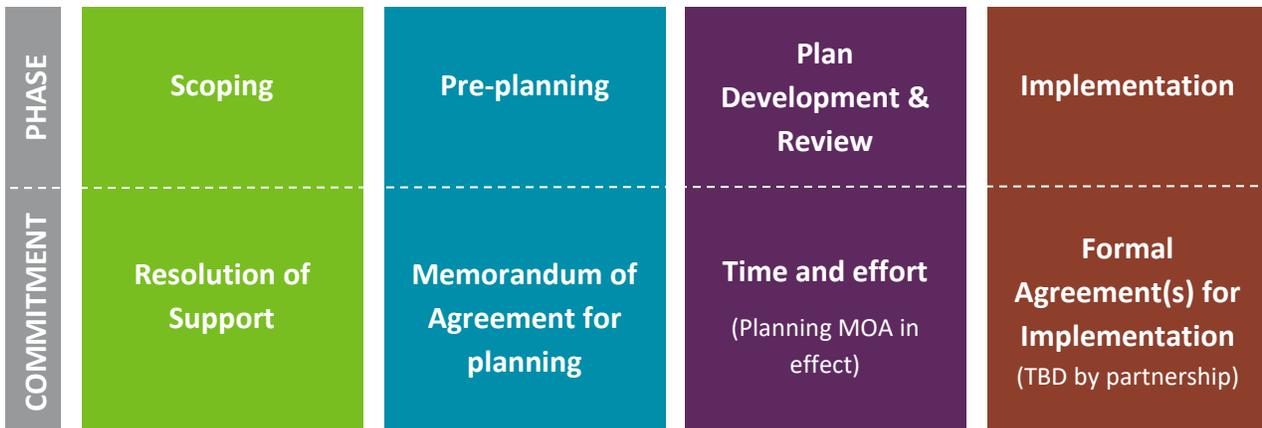
Through the One Watershed, One Plan program, partnerships of local governments come together to develop comprehensive watershed management plans. There are many benefits of being in partnership together:

- Improved efficiency in service delivery
- More consistent application of regulations
- Leverage of diverse strengths among the partners

- Distribution of workload
- More specialization in areas where staff are limited (through shared services)
- Shared risk in major capital projects

Planning Phases and Commitments

The planning partnership will likely enter into at least two agreements throughout the different phases of the One Watershed, One Plan process. As a first step, individual local governments may wish to pass a resolution of support as a signal of intent to participate in the program. This is not a requirement of 1W1P, but is considered a best practice. During the pre-planning phase, participating partners *must* enter into a Memorandum of Agreement (MOA) or other type of formal agreement (see section III.A of the One Watershed, One Plan Operating Procedures). The planning agreement will be in effect for the duration of the plan development and review process. Once the plan has been approved by the BWSR Board: if the planning partnership wishes to access BWSR’s watershed-based funding, they will need to establish one or more formal agreements for plan implementation, the details of which should be driven by the actions included in the plan (e.g. shared services, collaborative grant-making) and the partnership’s need to manage risk.



Formal Agreement Types and Recommended Uses

The One Watershed, One Plan program requires partnerships to establish a formal agreement during the plan development phase. BWSR suggests a formal agreement for the purposes of implementing their plan together (formal agreements are required for BWSR watershed-based funding). Formal agreements help manage risk and protect individual local governments from potential liabilities that could be associated with working in a partnership (see [MN Statute §471.59](#)). Note that a Joint Powers Agreement (JPA) only establishes a new entity if a Joint Powers Entity (JPE) is specifically formed. Both JPAs and JPEs are governed by [MN Statute §471.59](#).

The information in the following table should not be considered legal advice; legal counsel of the participating organizations should be involved in crafting any new formal agreement. *The ABCs of JPEs* is a useful reference from the Minnesota Counties Intergovernmental Trust: <https://www.mcit.org/resource/the-abcs-of-jpes-joint-powers-entities/>.

	Formal Agreement Type	Considerations for One Watershed, One Plan (1W1P)
Coordination	<p>Memorandum of Agreement (MOA) / Memorandum of Understanding (MOU)</p> <ul style="list-style-type: none"> Does not create a new entity (layer of government) Formal and outward commitment to work together as a partnership Specifies mutually-accepted expectations and guidelines between partners Not legally enforceable (if not being used as a contract or when MN Statute §471.59 is not referenced) 	<ul style="list-style-type: none"> Signals intent of partners to work together; establishes roles and expectations. Recommended formal agreement type for planning; meets minimum 1W1P program requirements for planning. A partnership established with an MOA cannot receive funds directly (one member must be designated as a fiscal agent). Places risk associated with grant agreements – and control of dollars – on the grantee instead of legally sharing among the partners. (The risk for developing a plan is low; risks associated with implementation are higher. A JPA is recommended for implementation grants.)
Collaboration	<p>Joint Powers Agreement (JPA) establishing a Joint Powers Collaboration (JPC)</p> <ul style="list-style-type: none"> Agreement to jointly deliver a service or product or manage or own property without creating a new entity (any board associated with a JPA is advisory only) Legally binding Must meet requirements of MN Statute §471.59 	<ul style="list-style-type: none"> An existing JPA can be used as a formal agreement for plan development, provided it covers the elements required in the 1W1P Operating Procedures and all the required partners are involved. A JPA is recommended for implementation grants and shared services. How the partners distribute risk and dollars depends on the structure of the agreement and any other agreements between partners. (One partner acts as a grantee and fiscal agent, as with MOA/MOU).
Integration	<p>Joint Powers Agreement (JPA) establishing a Joint Powers Entity (JPE)</p> <ul style="list-style-type: none"> Establishes a new entity or board that operates autonomously from the members Risk and liability are transferred to the new entity Legally binding Must meet requirements of Minnesota Statute §471.59 	<ul style="list-style-type: none"> The decision to use a JPE for plan implementation depends on the activities that will be pursued and the amount of risk and liability acceptable to the partners; consult legal counsel. A JPE can accept grant funds (and associated risk for contracts) and hire staff.