



COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF AGRICULTURAL RESOURCES
251 CAUSEWAY STREET, Suite 500
BOSTON, MA 02114**

REQUEST FOR RESPONSE (RFR)

RFR File No. AGR-AGENERGY-2010

FOR

Agricultural Energy Grant Projects

Initial responses due no later than 5:00 PM on December 10, 2009

Purchasing Department: **Massachusetts Department of Agricultural Resources**

Address: 251 Causeway Street

Suite 500

Boston, MA 02114

Telephone Number: (617) 626-1728

Fax Number: (617) 626-1728

Email: daniel.rhodes@state.ma.us

RFR File Name/Title: Agricultural Energy Grant Projects

Fund RFR File Number: AGR-AGENERGY-2010

Procurement Team Leader / RFR Contact Person: Mr. Daniel Rhodes

I. PURPOSE OF THE PROCUREMENT

The Massachusetts Department of Agricultural Resources (MDAR) requests MA agricultural operations to submit proposals to fund agricultural energy projects in an effort to improve energy efficiency and to facilitate adoption of alternative clean energy technologies by Massachusetts farms in order that farms can become more sustainable and the Commonwealth can maximize the environmental and economic benefits from these technologies. Reimbursement grants of up to \$30,000 will be awarded on a competitive basis. Farms with less access to Federal, State and electric and natural gas energy efficiency incentive rebate and grant programs are encouraged to apply. All projects must be completed by June 30, 2010. Project Proposals should focus on either of the following categories:

II. PROJECT CATEGORIES

CATEGORY ONE: Energy Efficiency: to include any conventional energy efficiency technology project but emphasis will be placed on projects that employ the following technologies:

1. Dairy Energy Efficiency including:
 - a. Dairy plate coolers and refrigeration heat recovery water tanks.
 - b. New replacement variable speed drive vacuum pumps.
 - c. Replacement high efficiency refrigeration equipment.

2. Greenhouses/Nurseries
 - a. Thermal Blankets. b. Roof Venting Modifications to eliminate mechanical ventilation needs.
 - b. Efficient Heating Distribution Modifications e.g. bench/soil in combination with overhead with staged control.
 - c. Electronic Controls.

3. Higher Efficiency Advanced Low Emissions Indoor Furnaces or Boilers including:
 - a. Condensing type, central or unit heater style utilizing conventional fuels..
 - b. Maple sap evaporator wood furnaces.

4. Other Preferred Technologies:
 - a. Walk-in Cooler High Efficiency Refrigeration replacements, optimally with heat recovery.
 - b. Reverse Osmosis equipment for maple sugaring operations.
 - c. Process Heat recovery.
 - d. Higher Efficiency Irrigation/Frost Protection Pumps.
 - e. High tunnels

CATEGORY TWO: Renewable Clean Energy Technologies: to include any proven technology but emphasis will be placed on projects employing:

1. Photovoltaics
2. Wind
3. Solar Thermal
4. Geothermal
5. Efforts to promote biofuel crops and bio-fuel production, preferably for on-farm use, optimally in a means to not take away from valuable food producing land by demonstration as either a crop rotation, resulting valuable by-products, or bio-crop production on non-food grade land. This can be in the form of either bio-diesel or cellulosic for transportation, electric generation or thermal end uses.
6. High Efficiency Advanced Gasification Biomass thermal boilers or furnaces intended for indoor use only utilizing wood pellets, wood chips or kernel corn, meeting all current federal, state and/or local construction, emission and efficiency standards, and regulations.
7. Advanced biomass (gasification) Outdoor Wood Boilers (OWB), meeting all current federal, state and/or local construction, emission and efficiency standards, and regulations. Requirements that must be met include a demonstration that the OWB system will:
 - a. meet the local Board of Health requirements
 - b. be allowed under Mass Department of Environmental Protection (DEP) regulations 310 CMR 7.26 (50) through (54) found at <http://www.mass.gov/dep/air/laws/regulati.htm#owb>

The replacement equipment is listed at: <http://www.mass.gov/dep/air/community/certohh.htm>

III. ELIGIBILITY

A. Eligible responders: Include agricultural operations, agricultural commodity associations, agricultural support organizations, agricultural cooperatives, Massachusetts companies, individuals, public and non-public entities for the development and implementation of new procedures for energy conservation and efficiency, renewable and alternative energy sources to assist the commonwealth's agricultural community to grow and develop who:

1. are legally recognized entities within the Commonwealth of Massachusetts and have the ability to enter a legally binding agreement with the Commonwealth of Massachusetts,
2. have demonstrated the capacity to implement and administer projects and programs as defined in the responsive proposals to this RFR,
3. demonstrate evidence of a match of dollars or of in-kind support to the funding requested by the responsive proposal.

B. Eligible Projects:

1. Projects that support agricultural operations and/or who are themselves an agricultural operation as defined by M.G.L. 128-1A.

2. Optimally projects should include professional design and engineering support for materials and labor involved in building the project, as well as an energy efficiency assessment or audit documenting projected energy savings and project cost-benefit.
3. Projects recently submitted to USDA FY2009 REAP that received high scores and were not awarded are encouraged to apply. Projects receiving other program funds, such as MRET, USDA EQIP, or MFEP are also encouraged to apply. However, please state amount of award received and from which agency. It is also important to state the intended use of any Federal Investment Tax Credit (ITC) for the project in the form of the optional cash equity offered by ARRA.
4. Demonstration of balance of funding to complete the project implementation is necessary.
5. Cost Share is required either in the form of cash or in-kind services.
6. Projects ready to proceed to construction will be favored. Demonstration of site specific plans, specifications, bill of materials and quotes will be favored.

IV. INELIGIBLE PROPOSALS

- A. Proposals from responders or farming operations who are out of compliance with any federal, state or local laws or regulations.
- B. Proposals from individuals or groups failing to meet requirements for previous Agricultural Resources Standard Contracts and/ or assistance programs or from individuals or groups with poor past contract performance as determined by DAR.
- C. Requests for audits or feasibility studies.
- D. Requests for solely design-engineering development.

V.ACQUISITION METHOD: This is essentially a competitive reimbursement Grant program. However, at the discretion of MDAR, up to 30% funding may be provided upfront. Minimally, necessity and proof of an executed contract with vendor/installer/contractor is required. Awarded grants shall result in a contract between MDAR and the agricultural producer or agricultural operation.

VI.REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: Multiple contract(s) . The Department is interested in awarding multiple contracts for either of the Project Categories.

VII. ANTICIPATED DURATION OF CONTRACT: All projects must be completed by June 30, 2010.

VIII. USE OF A PROCUREMENT BY A SINGLE OR MULTIPLE DEPARTMENTS: This is a single Department procurement. Only the Department of Agricultural Resources may contract under this solicitation.

IX. PREFERENCE

- A. In general, funding preference will be given to construction related projects and to those projects that have completed design engineering, have quotes for materials and labor from qualified professionals engaged in the field of work specified, are ready to begin the construction / implementation stage and can demonstrate balance of funding to implement the proposed project.
- B. Additionally, preference will be given more so to projects proposed by entities that are actively engaged in farming for farming defined in M.G.L. 128-1A as "...one engaged in agriculture or farming as herein defined, on a farm..." than for entities that are engaged in farming also defined in M.G.L. 128-1A "...as an incident to or in

conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.”

X. EXPECTED DELIVERABLES FOR GRANT AWARDEES:

- A. As noted herein, in general, funding preference will be given to those projects that have completed design engineering, have site specific quotes for materials and labor from qualified professionals engaged in the field of work specified, are ready to begin the construction / implementation stage and can demonstrate balance of funding to implement the proposed project. The finalized expected deliverable will be either an energy efficiency or clean renewable energy project implementation. Completed schematic design, design development, or construction drawings shall be presented in the form of both drawings and written specifications.
- B. All construction must be completed and installed in accordance with all applicable federal, state and local codes and regulations.
- C. Awarded applicants must provide bi-monthly reporting of project progress and must have signage showing the project was funded in part by MDAR.

XI. SCHEDULE:

- A. Projects must be completed by June 30, 2010 extensions may be provided at the Department’s discretion .
- B. A detailed schedule must be provided demonstrating project milestones and completion dates.
- C. As noted herein, the expected finalized scheduled deliverable for any of the above categories is a completed implementation project.

XII. FUNDING AMOUNT:

- A. Maximum funding per project will be \$30,000 and shall be for the direct costs associated with the materials and labor associated with implementing the project. Total program funding is \$250,000. Though there is no maximum percentage of total project cost funding that can be requested, it is desired that projects are able to demonstrate contributions from other sources, including in-kind matching (no percentage specified), rebates, grants and other sources for balance of funding. The more additional support leveraged will be a factor in project proposal ranking. It is the sole discretion of MDAR to determine which funding will be applied to any, all or none of the above categories. Based on the receipt of successful requests, MDAR reserves the right to re-post a solicitation for responsive proposals for these or other categories. As MDAR would like to fund as many credible and eligible projects as possible, MDAR encourages projects requesting less than the maximum \$30,000.
- B. Any incurred project costs that occur prior to an executed contract are not eligible for reimbursement.
- C. Funding requests can be for specific components of a project, not necessarily the entire project. However, an applicant must demonstrate that the result of such a request will still result in a complete functional and operable system.

XIII. REQUIRED APPLICATION INFORMATION:

A. Successful responders must complete in full and submit the Application Form found in Attachment A at the end of this document. The Department reserves the right to fund projects in part or in full. The response should have clear goals and objectives for addressing the objectives of this RFR. MDAR reserves the right to request further information and/or make field visits during the applicant review process. As part of the application form found in Attachment A at the end of this RFR, the responsive proposal shall include additional project information as a separate attached document with a cover page entitled "Project Detail Information" presented in the following format:

- Section 1 : Provide a clear description of the proposed project to be implemented and/or work within the responsive proposal that shall be undertaken to achieve the objectives of the RFP, including the category being applied under.
- Section 2: Provide any and all supporting energy calculations, energy audits, energy assessments, design engineering, plans and specifications, installer contractor proposals and pricing quotes for the proposed project.
- Section 3A: Project Economics - for energy efficiency projects. Also for renewable energy projects not able to take advantage of federal renewable(ITC) tax credits, MRET rebates, accelerated depreciation, and non-energy annual revenue streams such as RECs, etc.:
 1. Summarize the project economics including:
 - total project cost;
 - expected annual cost savings and other cost avoidances such maintenance/labor savings;
 - expected known rebates and/or grants such as electric or gas utility energy efficiency incentives, MA Farm Energy Program (MFEP) incentives, USDA REAP or USDA EQIP;
 - from this information provide a resulting Simple Payback (Years) = $(\$Total\ Project\ Cost - Known\ \$Rebates\ Incentives) / (\$Cost\ Savings\ \&\ Avoidances / Year)$.
 2. Provide a list of the balance of funding needed to complete the project and how it will be procured, including any amount requested from this MDAR RFR, personal cash or other in-kind matching funds/sources.
- Section 3B: Project Economics - for renewable energy projects able to take advantage of federal renewable(ITC) tax credits, MRET rebates, accelerated depreciation, and non-energy annual revenue streams such as RECs, etc. :
 1. Summarize the project economics utilizing a life cycle cash flow analysis including:
 - total project cost;
 - expected annual cost savings and other cost avoidances such as maintenance/labor savings;
 - other contributing known initial or on-going revenue streams such as MRET, USDA REAP/EQIP or MFEP rebates and/or grants, renewable energy credits (RECS), Federal Investment Tax Credit (ITC) (cash equity or credit option), accelerated depreciation, etc.;

- from this information provide a project cashflow showing breakeven point and ROI.
- 2. Provide a list of the balance of funding needed to complete the project and how it will be procured, including any amount requested from this MDAR RFR, personal cash or in-kind matching funds/sources.
- Section 4: Provide a listing of all necessary permits and/or approvals necessary to implement the project and explain how and when each of these permits will be secured.
- Section 5: Provide as detailed schedule of implementation as possible, including key milestones such as finalization of design-engineering, securing of all required permits, finalization of equipment selection, site mobilization, materials ordering and delivery to the site, installation schedule, punch-list, system commissioning, start-up and operation, and customer training.
- Section 6: Provide any schedule of as-built documentation and identify all project material and labor warranties and guarantees.
- Section 7: Provide documentation of any on-going operation and maintenance (O&M) necessary to maintain proper operation of the project equipment and whether such O&M is included in the project cash flow or will needed to be provided from other funds.
- Section 8: Describe the team members involved in implementing the project and provide a clear description and satisfactory evidence of capacity and ability to administer the funding requested and project(s) proposed to achieve the objectives of this RFP.

B. PROJECT SELECTION/SCORING CRITERIA:

- a. Project application is in compliance with the submission requirements and format presentation for this response.
- b. Adequate supporting project documentation in the form of energy audits, assessments, contractor quotes and plans and specifications.
- c. Adequate project economics for either energy efficiency or renewable energy as defined herein.
- d. Adequate project implementation schedule.
- e. Adequate identification of permit needs.
- f. Adequate identification of any on-going operation & maintenance and/or periodic replacement needs and how they will be accomplished to ensure project longevity.
- g. Project has a realistic opportunity to be a successful long term implementation given the expected life of the equipment and the resulting cost savings, cost avoidance and other revenue streams contributing to the project cash flow.
- h. Project has a realistic opportunity to be a successful implementation given the scope, budget, necessary permits and timeline.
- i. Team make-up and past experience and demonstrated capacity and ability to administer projects of the scope and value described by the responsive proposal to this RFP.
- j. Project demonstrates funding from other or in-kind sources.
- k. All project preferences stated herein.

- I. Amount and type of match provided (cash, in-kind, etc)

C. SUBMISSION DATE

All proposals must be submitted in hard copy to MDAR's Boston Office no later than December 9, 2009 the close of business 5:00 P.M. to the following attention and address:

MA Department of Agricultural Resources
251 Causeway Street
Suite 500
Boston, MA 02114
Attention: Mr. Daniel Rhodes, Grants Manager

D. CALENDAR

Grant Solicitation Begins: November 5, 2009
Question and Answer Period*: Begins November 5, 2009, ends December 1, 2009
Submission Deadline (see above): December 10, 2009
Tentative Award Date: January 15, 2010

Expected date for contracts to be signed: January 29, 2010

*NOTE: ALL QUESTIONS MUST BE SENT VIA EMAIL TO DANIEL.RHODES@STATE.MA.US. NO QUESTIONS ARE TO BE POSED VIA TELEPHONE.

Attachment A: Massachusetts Agricultural Energy Grant Application Form

AGRICULTURAL ENERGY GRANT APPLICATION FORM (Fiscal Year 2010)

All of the information on this application must be completed or identified as Not Applicable.

1. Agricultural Operation Information:			
Name:	_____	Owner: <i>(if different)</i>	_____
Operation Name:	_____	Legal Structure <i>(e.g. Trust, LLC)</i>	_____
Farm Location:	_____		
Municipality:	_____	Zip Code: _____	County: _____
Home telephone:	_____	Cell phone: _____	Email: _____
Involved with Other DAR Programs?	AEEP ____	FVEP ____	APR ____ MFEP ____
Proposed Project Involved with Other State/Federal Funding Programs?	MRET ____	USDA REAP ____	USDA NRCS ____ Elec/Nat Gas Utilities ____

2. Mailing Address for Farm (if different from above):		
Address:	_____	
Municipality:	_____	Zip Code: _____

3. Eligibility:

- Eligible Responder – please describe eligible responder type and required capabilities per Section III.A. Eligibility.
- Eligible Project – please describe eligible project type per Section III.B. Eligibility

4. Agricultural Operation Details:

Type of Operation: _____

Acreage Owned: _____ Acreage in Production: _____ Cropland rented / leased : _____

Crops Grown and Acreage: _____

Livestock Type

Number of Livestock

5. Project Details:

Project Type

Energy Efficiency

Renewable Energy

A. Required Project Information:

Submit as a separate document attached to this application form the following project information in the stated sectional format with a cover page entitled "Project Detail Information":

- Section 1: Provide a clear description of the proposed project to be implemented and/or work within the responsive proposal that shall be undertaken to achieve the objectives of the RFP, including the category being applied under.
 - Section 2: Provide any and all supporting energy audits, energy assessments, design engineering, plans and specifications, installer contractor proposals and pricing quotes for the proposed project.
 - Section 3A: Project Economics - for energy efficiency projects: Also for renewable energy projects not able to take advantage of federal renewable (ITC) tax credits, MRET rebates, accelerated depreciation, and non-energy annual revenue streams such as RECs, etc.:
 1. Summarize the project economics including:
 - total project cost;
 - expected annual cost savings and other cost avoidances such maintenance/labor savings;
 - expected known rebates and/or grants such as electric or gas utility energy efficiency incentives, MA Farm Energy Program (MFEP) incentives, USDA REAP or USDA EQIP;
 - from this information provide a resulting Simple Payback (Years) = $(\$Total\ Project\ Cost - Known\ \$Rebates\ Incentives) / (\$Cost\ Savings\ \& Avoidances / Year)$.
 2. Provide a list of the balance of funding needed to complete the project and how it will be procured, including any amount requested from this MDAR RFR, personal cash or other in-kind matching funds/sources.
 - Section 3B: Project Economics - for renewable energy projects: able to take advantage of federal renewable (ITC) tax credits, MRET rebates, accelerated depreciation, and non-energy annual revenue streams such as RECs, etc. :
 1. Summarize the project economics utilizing a life cycle cash flow analysis including:
 - total project cost;
 - expected annual cost savings and other cost avoidances such as maintenance/labor savings;
 - other contributing known initial or on-going revenue streams such as MRET, USDA REAP/EQIP or MFEP rebates and/or grants, renewable energy credits (RECS), Federal Investment Tax Credit (ITC) (cash equity or credit option), accelerated depreciation, etc.;
 - from this information provide a project cashflow showing breakeven point and ROI.
 2. Provide a list of the balance of funding needed to complete the project and how it will be procured, including any amount requested from this MDAR RFR, personal cash or in-kind matching funds/sources.
 - Section 4: Provide a listing of all necessary permits and/or approvals necessary to implement the project and explain how and when each of these permits will be secured.
 - Section 5: Provide as detailed schedule of implementation as possible, including key milestones such as finalization of design-engineering, securing of all required permits, finalization of equipment selection, site mobilization, materials ordering and delivery to the site, installation schedule, punch-list, system commissioning, start-up and operation, and customer training.
 - Section 6: Provide any schedule of as-built documentation and identify all project material and labor warranties and guarantees.
 - Section 7: Provide documentation of any on-going operation and maintenance (O&M) necessary to maintain proper operation of the project equipment and whether such O&M is included in the project cashflow or will needed to be provided from other funds.
- Section 8: Describe the team members involved in implementing the project and provide a clear description and satisfactory evidence of capacity and ability to administer the funding requested and project(s) proposed to achieve the objectives of this RFP.

6. Amounted Requested:

Supported by the information provided in item 5, above, please state your requested Agricultural Grant Energy funding request. The Department has the option to negotiate the requested amount before entering into a contract with the applicant.

TOTAL COST REQUESTED FOR FUNDING THROUGH AG-ENERGY GRANT	
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7. Attestation:

By signing this application you attest to the Massachusetts Department of Agricultural Resources (MDAR) that the above information is accurate and true. You also give permission to have a site visit by MDAR staff which will be necessary before a funding decision is made. All site visits will be arranged with you in advance. For commercial horse operations, you agree to have available your IRS Tax Schedule C or F to be reviewed by appropriate MDAR staff.

Signature _____ Date _____

Please complete and return this application form along with attaching as a separate document the additional project information required per item 5.A – Required Project Information, by the appropriate deadline.

Required Specifications

In general, most of the required contractual stipulations are referenced in the *Standard Contract Form and Instructions* and the *Commonwealth Terms and Conditions* (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

The terms of *801 CMR 21.00: Procurement of Commodities and Services* (and *808 CMR 1.00: Compliance, Reporting and Auditing for Human and Social Services*, if applicable) are incorporated by reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00, if applicable). Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All responses must be submitted in accordance with the specific terms of this RFR.

Items with the text, "*☞ Required for POS Only*" specify a requirement for Purchase of Service (POS) human and social services procured under *801 CMR 21.00, Procurement of Commodities or Services, Including Human and Social Services* and *808 CMR 1.00, Compliance, Reporting and Auditing for Human and Social Service*.

Affirmative Market Program (AMP). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Affirmative Market Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All bidders must follow the requirements set forth in the AMP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Bidders are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of this section and encourage bidder's participation of AMP objectives, the Affirmative Market Program (AMP) Plan for large procurements greater than \$50,000 will be evaluated at 10% or more of the total evaluation. Once an AMP Plan is submitted, negotiated and approved, the agency will then monitor the contractor's performance, and use actual expenditures with SOMWBA certified contractors to fulfill their own AMP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size, however, submission of an AMP Plan is mandated only for large procurements over \$50,000.

This RFR will contain some or all of the following components as part of the Affirmative Market Program Plan submitted by bidders:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR,
- Growth and Development activities to increase M/WBE capacity,
- Ancillary use of certified M/WBE firms,
- Past Performance or information of past expenditures with certified M/WBEs and
- Additional incentives for bidders to commit to at least one certified MBE and WBE in the submission of AMP plans.

A Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), M/Non-Profit, or W/Non-Profit, is defined as such by the State Office of Minority and Women Business Assistance (SOMWBA). All certified businesses that are included in the bidder's AMP proposal are required to submit an up to date copy of their SOMWBA certification letter. The purpose for this certification is to participate in the Commonwealth's Affirmative Market Program for public contracting. Minority- and Women-Owned firms that are not currently certified but would like to be considered as an M/WBE for the purpose of this RFR should submit their application at least two weeks prior to the RFR closing date and submit proof of documentation of application for consideration with their bid proposal. For further information on SOMWBA certification, contact their office at 1-617-973-8692 or via the Internet at mass.gov/somwba.

Affirmative Market Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a bidder's Affirmative Market Program (AMP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

Agricultural Products Preference (only applicable if this is a procurement for Agricultural Products) - Chapter 123 of the Acts of 2006 directs the State Purchasing Agent to grant a preference to products of agriculture grown or produced using locally grown products. Such locally grown or produced products shall be purchased unless the price of the goods exceeds the price of products of agriculture from outside the Commonwealth by more than 10%. For purposes of this preference, products of agriculture are defined to include any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products, the raising of livestock, including horses, raising of domesticated animals, bees, fur-bearing animals and any forestry or lumbering operations.

Best Value Selection and Negotiation. The Procurement Management Team (PMT) may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The PMT and a selected bidder, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected bidder's or contractor's response which results in lower costs or a more cost effective or better value than was presented in the selected bidder's or contractor's original response.

Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department or any member of the PMT regarding this RFR except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through Comm-PASS.

Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at www.comm-pass.com. Information contained in this document and in each tab of the Solicitation, including file attachments, and information contained in the related Bidders' Forum(s), are all components of the Solicitation.

Bidders are solely responsible for obtaining all information distributed for this Solicitation via Comm-PASS, by using the free Browse and Search tools offered on each record-related tab on the main navigation bar (Solicitations and Forums). Forums support Bidder submission of written questions associated with a Solicitation and publication of official answers. All records on Comm-PASS are comprised of multiple tabs, or pages. For example, Solicitation records contain Summary, Rules, Issuer(s), Intent or Forms & Terms and Specifications, and Other Information tabs. Each tab contains data and/or file attachments provided by the Procurement Management Team. All are incorporated into the Solicitation.

It is each Bidder's responsibility to check Comm-PASS for:

- Any addenda or modifications to this Solicitation, by monitoring the "Last Change" field on the Solicitation's Summary tab, and
- Any Bidders' Forum records related to this Solicitation (see Locating a Online Bidders' Forum for information on locating these records.

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders who submit a Response based on an out-of-date Solicitation or on information received from a source other than Comm-PASS.

Comm-PASS SmartBid Subscription. Bidders may elect to obtain an optional SmartBid subscription which provides value-added features, including automated email notification associated with postings and modifications to Comm-PASS records. When properly configured and managed, SmartBid provides a subscriber with:

- A secure desktop within Comm-PASS for efficient record management
- A customizable profile reflecting the subscriber's product/service areas of interest
- A customizable listing in the publicly accessible Business Directory, an online "yellow-pages" advertisement
- Full-cycle, automated email alert whenever any record of interest is posted or updated
- Access to Online Response Submission, when allowed by the Issuer, to support:
 - paperless bid drafting and submission to an encrypted lock-box prior to close date
 - electronic signature of OSD forms and terms; agreement to defer wet-ink signature until Contract award, if any
 - withdrawal of submitted bids prior to close date
 - online storage of submitted bids

Every public purchasing entity within the borders of Massachusetts may post records on Comm-PASS at no charge. Comm-PASS has the potential to become the sole site for all public entities in Massachusetts. SmartBid fees are only based on and expended for costs to operate, maintain and develop the Comm-PASS system.

Contract Expansion. If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

Costs. Costs which are not specifically identified in the bidder's response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.

Debriefing. ☞ *Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful bidders may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS bidders aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Debriefing/Appeals: Administrative Appeals to Departments. ☞ *Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures may be found in the RFR.

Debriefing/Appeals: Administrative Appeals to OSD. ☞ *Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the department appeal process and remain aggrieved by the selection decision of the department may appeal the department decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the policies in the OSD Procurement Information Center, subsequent policies and procedures issued by OSD and the specifications of the RFR; or
2. There was a fundamental unfairness in the procurement process. The allegation of unfairness or bias is one that is easier to allege than prove, consequently, the burden of proof rests with the bidder to provide sufficient and specific evidence in support of its claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the State Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above. OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

The decision of the State Purchasing Agent shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the State Purchasing Agent shall not prohibit the department from proceeding with executing contracts.

Electronic Communication/Update of Bidder's/Contractor's Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current the email address of the bidder's contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the PMT, including requests for clarification. The PMT and the Commonwealth assume no responsibility if a prospective bidder's/awarded contractor's designated email address is not current, or if technical problems, including those with the prospective bidder's/awarded contractor's computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the PMT to be lost or rejected by any means including email or spam filtering.

Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. A link to the EFT application can be found on the [OSD Forms](#) page (www.mass.gov/osd). Additional information about EFT is available on the [VendorWeb](#) site (www.mass.gov/osc). Click on MASSfinance.

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronic Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and all information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the bidder.

Environmental Response Submission Compliance. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all responses submitted should comply with the following guidelines:

- All copies should be printed double sided.
- All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.

- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
- Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.
- Bidders are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, bidders should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

Filing Requirements. ☞ *Required for POS Only. Not applicable to non-POS bidders.* Successful bidders must have filed their Uniform Financial Statements and Independent Auditor's Report (UFR), as required for current contractors, with the Operational Services Division via the Internet using the UFR eFiling application for the most recently completed fiscal year before a contract can be executed and services may begin. Other contractor qualification/risk management reporting requirements and non-filing consequences promulgated by secretariats or departments pursuant to 808 CMR 1.04(3) may also apply. In the event immediate services are required by a department, a contract may be executed and services may begin with the approval of OSD and the appropriate secretariat. However, unless authorized by OSD and the appropriate secretariat, the contractor will not be paid for any such services rendered until the UFR has been filed.

HIPAA: Business Associate Contractual Obligations. Bidders are notified that any department meeting the definition of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will include in the RFR and resulting contract sufficient language establishing the successful bidder's contractual obligations, if any, that the department will require in order for the department to comply with HIPAA and the privacy and security regulations promulgated thereunder (45 CFR Parts 160, 162, and 164) (the Privacy and Security Rules). For example, if the department determines that the successful bidder is a business associate performing functions or activities involving protected health information, as such terms are used in the Privacy and Security Rules, then the department will include in the RFR and resulting contract a sufficient description of business associate's contractual obligations regarding the privacy and security of the protected health information, as listed in 45 CFR 164.314 and 164.504 (e), including, but not limited to, the bidder's obligation to: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information (in whatever form it is maintained or used, including verbal communications); provide individuals access to their records; and strictly limit use and disclosure of the protected health information for only those purposes approved by the department. Further, the department reserves the right to add any requirement during the course of the contract that it determines it must include in the contract in order for the department to comply with the Privacy and Security Rules. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Bid Duration. Bidders responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.

Pricing: Federal Government Services Administration (GSA) or Veteran's Administration Supply. The Commonwealth reserves the right to request from the successful bidder(s) initial pricing schedules and periodic updates available under their GSA or other federal pricing contracts. In the absence of proprietary information being part of such contracts, compliance for submission of requested pricing information is expected within 30 days of any request. If the contractor receives a GSA or Veteran's Administration Supply contract at any time during this contract period, it must notify the Commonwealth contract manager.

Pricing: Price Limitation: The bidder must agree that no other state or public entity customer within the United States of similar size and with similar terms and conditions shall receive a lower price for the same commodity and service during the contract period, unless this same lower price is immediately effective for the Commonwealth. If the Commonwealth believes that it is not receiving this lower price as required by this language, the bidder must agree to provide current or

historical pricing offered or negotiated with other state or public entities at any time during the contract period in the absence of proprietary information being part of such contracts.

Prompt Payment Discounts (PPD). All bidders responding to this procurement must agree to offer discounts through participation in the Commonwealth Prompt Payment Discount (PPD) initiative for receiving early and/or on-time payments, unless the bidder can provide compelling proof that it would be unduly burdensome. PPD benefits both contractors and the Commonwealth. Contractors benefit by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Participation in the Electronic Funds Transfer initiative further maximizes the benefits with payments directed to designated accounts, thus eliminating the impact of check clearance policies and traditional mail lead time or delays. The Commonwealth benefits because contractors reduce the cost of products and services through the applied discount. Payments that are processed electronically can be tracked and verified through the Comptroller's Vendor Web system. The PPD form can be found under the Forms and Terms tab of this solicitation.

Bidders must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the PMT. The PMT will review, negotiate or reject the offering as deemed in the best interest of the Commonwealth.

The requirement to use PPD offerings may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Provider Data Management. *☞ Required for POS Only. Not applicable to non-POS bidders.* The Executive Office of Health and Human Services (EOHHS) has established a Provider Data Management (PDM) business service that is integrated into the Virtual Gateway. PDM is accessible by providers with current POS contracts. Departments may require that bidders with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, bidders are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Bidders are required to include the signed PDM Documentation Summary in their RFR response.

Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A bidder requesting accommodation must submit a written statement which describes the bidder's disability and the requested accommodation to the contact person for the RFR. The PMT reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law.

Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Human and social service subcontractors are also required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.