# ATTACHMENT 1 – VENDOR RESPONSE CHECKLIST AND SUBMISSION FORM

**Amended 03/10/2015. All amendments are shown in red.**

All Bidders **must** complete and return this form with their response in order to be considered responsive. Completing **every section** of this document fully is mandatory unless instructions for specific questions state otherwise.

## 1. Vendor General Information

Provide the following information about your company:

Company Name: Enerwise Global Technologies, Inc. d/b/a CPower

Company Address: 111 Market Place, Suite 201, Baltimore, MD 21202

Commonwealth Vendor Customer Number: 00010437 Internet Address: William.Cratty@CPowerCorp.com

## 2. Designated Account Manager

Vendors must provide contact information requested below for the designated account manager who will be responsible for the overall management, reporting and ensuring adherence to the performance measures of this contract during normal business hours.

Account Manager Name: William E. Cratty Account Manager Address: 24 Pell Mell DR., Bethel, CT 06801

Account Manager Phone Number: 203-262-9444 Account Manager Fax Number:

Account Manager E-mail Address: William.Cratty@CPowerCorp.com

## 3. Evidence of ISO-NE Certification and cash reserves to support this bid

1. Bidders must attach evidence of being certified by the New England Independent System Operator (ISO-NE) to provide Demand Response Programs. The qualified Bidder must demonstrate that they have a Capacity Obligation with ISO for purposes of transferring any of the existing Customer Assets on this contract into. In addition, the qualified Bidder must demonstrate that they have a monitoring and verification plan filed for said obligation that is consistent assets to be transferred.

- ❑ **Response: Upload required documentation as one separate file. No more than five (5) first pages of the M&V plan may be included as proof of maintaining such plan.**

2. It is desirable that the EP provide a level of security for the claims made under this contract. Please provide a discussion as to how the potential payment stream developed under this contract is to be secured. It is understood that DCAMM cannot guarantee the long-term enrollment of any asset, notwithstanding that there may be a penalty for early withdrawal.

**Response: Please use this box to provide the required information. The box will expand to accommodate your response.**

Effective November 1, 2015, Enerwise Global Technologies, Inc. acquired Constellation New Energy's Load Response business and combined it with the Commercial and Industrial Load Response business of Converge, a wholly owned subsidiary, to form CPower Holdings, LLC d/b/a CPower now the second largest demand response services provider in the nation. CPower will provide security for the claims made under this contract by maintaining a quality assurance program for the Assets enrolled in the program and by CPower's financial strength as illustrated by the financial assurance CPower has on deposit with the ISO-NE.

***Quality Assurance***

CPower is committed to a process of continuously improving our demand response programs to include maximization of the kW curtailed at each customer Asset. A key component of this process is rigorous program

performance metrics, complete reporting, and a proactive program assessment process that ensures potential problems are identified before they become serious. If an Asset should fail to respond to an event due to CPower's failure to 1) ensure metering devices are reporting timely and accurate data, 2) notify the Asset when an event is called by ISO-NE, or 3) fail to transmit required meter interval data to the ISO-NE then CPower will continue the then existing monthly payment until the next event.

***Financial Assurances:***

CPower presently has on deposit $2.0 million of Financial Assurance with ISO-NE to ensure an adequate Capacity Supply Obligation for the contract hereof.

***Payment calculation:***

All payments pursuant to FAC89DesignatedDCAMM will be based on actual event kW performance to include the transmission and distribution gross-up.

## 4. Prior Experience and Operation of EP
## a. Experience in Coordinating Demand Response Program Participation

1. Bidders must include a narrative (no more than 10 pages) detailing their experience in enrolling and managing demand resource assets. The narrative must include statistics on assets and/or kilowatts enrolled in prior programs with ISO-NE or similar programs in other power pools. Emphasis should be placed on the level of penetration in the market sectors (by SIC Code) on a kW/square foot basis. Additional documentation in the form of spreadsheets may be attached to the response. This information is important to determine the level of expected results for the DCAMM market.

### Response: Please use this box to provide the required information. The box will expand to accommodate your response.

The new CPower combines two of the country's oldest, largest and most experienced non-utility providers of demand response services. Our fundamental objective is to develop and efficiently deliver, effective and sustainable load and energy reduction solutions that earn market payments for facility owners and operators. CPower's focus is on the commercial, industrial and institutional segments of utility and regional transmission organization load response markets. CPower operates on an aligned incentive business model via shared earnings and vendor independence.

We currently provide demand response solutions to over 1700 customer sites across the country, to include the major energy markets of New England, New York, California, the Mid-Atlantic Region, and Texas. CPower is currently managing 2,200 MW of dispatchable customer electric load. CPower currently has a full time staff of 108 with a very experienced executive management team and senior staff. Our people are experienced industry professionals, expert in working with end-use customers in every commercial, industrial and institutional setting to identify and develop opportunities to participate in demand response markets that maximize their revenue potential. We take an integrated Energy Management Approach, in which demand response revenues and incentive programs can help fund additional end user energy efficiency and peak demand management projects. We manage the entire process for our clients, from initial demand management assessments through event participation and ongoing measurement and monitoring.

CPower's Strategic Plan focuses on program specific opportunities in each ISO market. We do not track market penetration by SIC Code or on a kW/square foot basis as these metrics are not relevant to the stewardship of our business Plan. For example, we have over 220 MW of dispatchable load under contract in the ERCOT (Texas) market 10 minute Responsive Reserve Ancillary Service programs. Industrial and oil field producing assets comprise more than 90% of these loads.

In the NYISO markets, while we have significant capacity in the commercial and institutional sectors large multifamily housing complexes in New York City comprise a major portion of our portfolio. In the ISO New England market, however, the residential sector does not offer a significant enough business opportunity to justify pursuing as a priority. The ISO-NE demand response programs, however, facilitate a diverse DR marketing plan. Following is our December 2014 profile of ISO-NE Enrolled Capacity as categorized by ISO-NE in their Capacity Asset Management System ("CAMS"). The greater portion of this capacity is in the 30 minute real-time DR market. Depending on the nature of the facility DCAMM assets can listed in either the Commercial, Municipal or Other category.

| ISO-NE Asset Category | # of Assets | Profile |
|---|---|---|
| Commercial | 598 | 55.27% |
| Industrial | 213 | 19.69% |
| Municipal | 202 | 18.67% |
| Other | 64 | 5.91% |
| Residential | 5 | 0.46% |
| **Grand Total** | **1082** | **100.00%** |

***Market Enrollment***

While the Commonwealth of Massachusetts enrollments are predominately 30 minute Real-Time Demand Response assets, the continuing developments in energy efficiency, load management and distributed generation technologies will significantly increase the opportunity for the Commonwealth to earn revenues as On-Peak Hours Resources in the ISO-NE markets. CPower is experienced and well prepared to not only support the existing DCAMM On-Peak Hours Assets in the market but also to assist DCAMM in acquiring and optimizing On-Peak Hours revenue opportunities.

In the Forward Capacity Market ("FCM"), all capacity resources are required to deliver a level amount of capacity each month in order to earn revenues at a given amount of capacity. In other words, to receive payments year around at 1000 kW, a DR capacity resource must be able to deliver 1000 kW of DR in August and in January. Otherwise, if that resource can deliver 1000 kW of DR in the summer months but only 700 kW in the winter months due to there being no air conditioning load then that resource will be paid at the 700 kW amount year around. However, if that resource can supplement its winter DR capability with 300 kW of winter capacity via a Composite Offer with a generator having surplus winter generating capacity then that DR resource can receive payments at the rate of 1000 kW for eight months of the year and 700 kW for four months of the year thus significantly enhancing FCM revenues. CPower has extensive experience in managing Composite Offers.

Not only does CPower have the necessary experience enrolling and managing demand response assets in the FCM, we also are very cognizant and knowledgeable of the ISO-NE rules and on-going program changes as they continue to develop and affect FCM participants. We are continually looking down the road to where the ISO-NE programs and markets are going so that we can continuously ensure revenue optimization for our customers.

CPower's customer enrollment success has been achieved through sales and marketing outreach that positions CPower as a thought leader, an established direct sales force, and client service that creates enthusiastic advocates within our client base. CPower's sales and marketing initiative is augmented by our partner network, to include Constellation New Energy, who have their own powerful sales and marketing resources.

Complementing our sales outreach is CPower's use of technical and engineering expertise to provide an understanding of the potential demand reduction at a customer site. Our engineering staff approaches facilities with an open mind without any preconceived vendor or product biases to find the optimal demand response solutions for the customers to meet their needs of reducing their operating costs and increasing asset value. We have a strong customer focus with relationships ranging from the "boiler room to the boardroom," which helps us identify projects and bring them to fruition.

CPower sales and engineering personnel have significant experience in collaboratively developing curtailment protocols with the customer that result in an achievable and repeatable Demand Reduction Value ("DRV"). This is initiated by the sales team. After prospects are identified and pass initial desk reviews, CPower engineers visit the client site to assist in preparing a Curtailment Plan appropriate to the facility.

When preparing the Curtailment Plan, it is critical to understand the customer's operation including processes, operating hours, level of the building energy management automation, and the major electrical loads which can be curtailed. The customer's tolerance for interruption, including notice period requirements is thoroughly discussed with the customer. Impact on personnel, the customer's customer, critical processes, and safety are all reviewed. This understanding coupled with the sites utility electrical usage history is used to estimate the DRV.

***Event Notification, Data Management, Settlement:***

CPower has extensive experience in managing Demand Response events, which include notification of clients when

an event occurs, managing the data to measure performance, and settlement of accounts based on performance.

Once an event call notification is received, CPower executes a series of pre-defined actions to initiate, control and monitor the event. Practice event handling ensures that these processes are effective. CPower is able to guarantee that all enrolled customers that are subject to an event call will be notified according to the contracted parameters of the program, either by voice mail, text, email, and/or pager. Positive notification feedback is used to enable this guarantee whenever possible. For those clients who are automatically enabled with Direct Load Controls ("DLC"), CPower will activate the automatic load control process from the control software.

CPower monitors event performance to confirm that the expected load drop is in fact happening. If there is an appearance that a site is failing to perform, additional action may be taken to notify the customer contact of this. The event parameters are closely monitored by CPower. One of these will be the event duration. When the time is reached for the event to be completed, a second notification is sent by the agreed format (voice mail, email, text, etc.,) to the participating site managers, where manual load control is being performed. DLC control devices are reset automatically by CPower, according to the contracted protocols that are established when a customer enrolls in the program.

Upon receipt of the interval data, CPower will clean errant data using ISO-NE approved methods. Such cleaning will adjust interval data for missing or anomalous readings and ensure that all interval data is in a standardized format. CPower then transmits the cleaned data to ISO New England. ISO-NE then computes each site's event performance by comparing this data to the appropriate event baseline data.

***Metering and Verification:***

CPower has ISO-NE approved Measurement and Verification ("M&V") plans in place per Attachment 1, Section 3 above. Copies of these plans are available on request. CPower is very familiar with various measurement and verification protocols for measuring and verifying kW reductions achieved as a result of the activation of a demand response event. CPower bases its Measurement and Verification plans on the International Performance Measurement and Verification Protocol (IPMVP).

***Overall Management Approach and Experience:***

To date, CPower has successfully managed Demand Response for clients in markets overseen by NYISO, ISO-NE, PJM, ERCOT, and CAISO. Types of response have varied from providing reductions with 21 hours of notice. to providing reserves with only 5 minutes of notification Our DR assets range from simply turning off unnecessary lights in commercial buildings to shutdown of manufacturing equipment and commercial processes, and activation of generators at large institutions.

Management responsibilities for FAC89DesignatedDCAMM will be carried out principally by our New England office located in Wakefield, MA which in turn is supported by CPower corporate operations in Baltimore, MD for providing and administering necessary functional support. This support includes sales and marketing, metering, reporting, settlement, engineering, and monitoring relevant market changes. FCM Support Services will be managed and administered in the same manner.

The corporate function has standardized business processes for engineering and M&V as well as expertise in sales and market verticals like Industrial, Hospitality, Institutional, Public and Retail Sectors. The valuable nationwide best practices for sales and technical support functions helps in quickly providing the necessary tools for effective and efficient program design and implementation. In addition to enrollment, notification, performance verification, reporting and ISO-NE settlement for demand response events the Baltimore office maintains a 24/7 fully equipped operation for event monitoring and notification. Additionally, our sales partner, Constellation New Energy, will be working with the local sales team to develop and implement the sales initiative for achieving DCAMM's 30 MW new enrollment goal.

One important reason CPower has been able to successfully manage clients having diverse needs and capabilities is because our customer service program is not limited to the weeks immediately before, during and after events. CPower provides year-round customer service and maintains a close relationship with our clients so that we understand the challenges and opportunities in their facility on a month to month basis.

In order to maximize reliable performance during DR events, our account managers Conduct webinars and review curtailment plans prior to likely event periods. They also keep in regular contact with their portfolio of customers in order to keep their awareness level high and to keep track of opportunities to improve performance during events, as well as track changes at the customer sites that may have an impact on performance. Because CPower has been one

of the pioneers in demand response, we have become adept at educating prospective customers and helping established customers work through the occasional challenges involved in launching and maintaining demand response at their facility.

Overall, our experience is second to none in understanding and implementing what is required to successfully market, enroll, and manage the assets of our customers in a cost-effective manner, so as to provide reliable MW's in DR programs around the country and to make sure our customers see the greatest benefits possible.

2. Confirm if your company or your company caused any client to be charged a penalty from any ISO. Provide an example of what occurred and the impact of the EP and the customer. Explain how this type of issue was address and how it could or could not occur in the future.

**Response: Please use this box to provide the required information. The box will expand to accommodate your response.**

A transaction closed, effective October 31, 2014, restructuring the ownership of Enerwise, and through which Enerwise acquired certain demand response assets from Constellation. The bidder is Enerwise doing business as CPower.

CPower is committed to full adherence to all market rules applicable to its demand response business. All CPower employees are expected to comply with all related regulatory requirements. CPower is committed to providing its employees the resources needed to enable full compliance.

By taking advantage of the combined experience of the Enerwise and Constellation personnel now comprising CPower, CPower is better able to conduct its demand business in a manner which reduces the likelihood of incidents such as those which will be described below.

CPower's response to the question regarding ISO charges will be limited to providing examples of ISO charges with respect to the demand response assets comprising CPower, and to events occurring during the period of March 2013 through the bid date. Each of the examples below occurred prior to the close of the transaction described above.

In ERCOT, a penalty was assessed against Constellation relating to a dispatch error that resulted in resources not performing to their prescribed curtailment amounts within the specified time frame. That matter was settled for an amount of $20,000 which was levied by the PUCT. The settlement is awaiting final disposition by the PUCT and payment.

ISONE assessed a charge against Constellation of approximately $360,000 for a meter data issue which had been self-reported to ISO-NE. It related to two customers for which meter pulse factor changes had not been appropriately captured. The result was an unintended inflation of metered kW values and thus an over-statement of each customer's demand response performance. The charge represented the total over-payments by the ISO for each customer's inflated performance. This issue had largely been detected prior to making customer payments, but not in time to provide ISONE with accurate resettlement data. As a result, the two customers received payments commensurate with their actual performance.

Demand response business is conducted in several RTOs via a forward capacity market. In PJM, a demand response provider must offer in capacity that it intends to deliver into the Reliability Pricing Module (RPM) which is PJM's forward capacity auction. The RPM is made up of four separate auctions for each delivery year; Base Residual Auction (BRA) and 3 incremental auctions. The capacity that was offered into the RPM consists of existing capacity, which is made up of customers already existing in their portfolio, and planned capacity, which is made up of new customers that the demand response provider intends to have in its portfolio for each delivery year. The capacity that clears the auction represents an obligation of the demand response provider that it must deliver prior to the start of that delivery year. If in any year it fails to sign up and register sufficient existing and planned capacity from its demand response customers it attempts to fulfill the obligation with replacement capacity that is either purchased in an incremental auction or via a bilateral transaction with another market participant. If it fails to fulfill its obligation by the start of the delivery year it is assessed a deficiency penalty from PJM for the shortfall MW at the rate of 20% of the cleared RPM price. Such a penalty is assessed to the demand response provider through normal PJM settlement procedures and is not passed on to any customers.

## b. Marketing Strategy to expand the potential enrollment of asset for DCAMM and other agencies in the Commonwealth

1. Bidders must include a narrative (no more than 10 pages) detailing their marketing strategy on how they will maximize the enrollment of the Customer Assets for DCAMM. The narrative must specify specific actions that will be taken within the first 60 days and 180 days after contract execution. Bidders must provide specific details about their plan for enrolling new assets into the program. Details shall be provided on strategy for immediate enrollment (if possible) through bilateral or reconfiguration auctions or with EP existing capacity to enroll new assets. Bidders must document their strategy for enrolling new resources through the FCA auctions starting with June 1, 2015 (for FCA 6 resources and for the upcoming FCA 9 auction). Include any details regarding incentive payments (either through a flat fee or % or revenue) that would be paid to the Enrolling Participant to accomplish earlier enrollment of new resources. (This relates to Attachment 2 Part 2)

**Response: Please use this box to provide the required information. The box will expand to accommodate your response.**

Beginning with the start of FACDesignated56DCAM, CPower has worked side by side with DCAMM and the Commonwealth to build the DCAMM demand response program and the associated revenues. Throughout the term of the contract, CPower has worked with DCAMM to identify entities with viable active and passive assets and market the Demand Response Program to those locations. With DCAMM's help, CPower has further worked to enroll these assets utilizing available CPower Capacity Supply Obligation ("CSO") and as well as the Commonwealth's CSO.

Using the knowledge gained over the past six years working with DCAMM on the Commonwealth of Massachusetts demand response program, CPower has put together a solid marketing plan to increase the total enrolled asset base. The plan has been developed taking several factors into consideration, including available CSO in each ISO-NE Commitment Period by dispatch zone, projected resolution of site engineering issues that are inhibiting asset enrollment, anticipated completion of on-site projects that will create or enable assets to be enrolled, origination or availability of required documentation, and, lastly, the evaluation of available CSO (by Commitment Period) against potential asset size and anticipated metering costs.

Due to the one (1) year term of the contract award, CPower's strategy is to prioritize and focus on two groups of assets that have previously been solicited by CPower. The first group of assets and sites are small in size, but they have metering already in place. In-place metering allows these sites to be considered by overcoming the issue of asset size versus potential earned revenue versus metering costs for a short 12 month contract term. The second group consists of those assets that present the best opportunity to generate enough revenue in a twelve month contract to cover the metering costs and still be "cash flow positive".

The first group consists of several sites that are identified in Attachment 2, Part 2 "Potential Enrollees" as retired assets. In each case, the sites have specific issues that are preventing enrollment from occurring. With corrective action, these sites stand a good chance of being enrolled for the June 1 start date of the 2015/2016 Commitment Period. The sites in this group include:

- MCI Norfolk
- Essex County Sheriff's Dept.
- Franklin County Jail
- DYS-Westboro Zara Cisco
- Salem State College

The second group of potential sites/assets consists of those with the largest MWs of potential demand response capability as identified in the Attachment 2, Part 2 "Potential Enrollee" list. The targeted sites have been ranked and prioritized from the largest DRV to smallest DRV as follows:

- MWRA
- MassPort
- Mass Information Technology Center
- Springfield Data Center
- UMass Medical School (Jamaica Plains)
- MassPort

- UMass Medical Center (Worcester)
- UMass Boston

In total, the assets shown above represent a potential of 32 MWs of demand response that is targeted for enrollment/addition to the DCAMM DR portfolio. However, CPower acknowledges that the DR load size will have to be balanced against available CSO in each dispatch zone to determine exactly when each site will be recognized by the ISO-NE as part of the regional DR portfolio for payment purposes. For example, prior to November 2014, the facilities manager at the Massachusetts Information Technology Center ("MITC") expressed the desire to enroll in time to participate in the coming winter market. At that time, there was enough CSO available in the Boston Zone to cover the asset's full curtailment capability. However, MITC did not move forward and the available capacity was filled by other customers. Nevertheless, we will strongly encourage MITC to enroll prior to the start of FCM 6 even though capacity is not currently available to the asset. If MITC enrolls by June 1, performs in the summer audit and the performance of the Boston Resource falls short of its CSO due to underperformance by other assets, MITC would earn revenues to the extent it's performance off-sets the short fall of other assets. The early enrollment would also reserve a full capacity allotment for MITC starting FCM 7.

CPower will continue the on-going process of uncovering additional DR assets around the Commonwealth that exist in the various department and agency locations throughout the state. We will actively market the state-wide DR contract to these locations, and work with DCAMM to qualify and enroll any new resources.

CPower will continue to aggressively research, identify, contact, educate and qualify regional and local institutions/assets on the benefits and merits of enrolling under the DCAMM state-wide demand response contract. As we have shown through past performance, the CPower team has the experience to find, qualify and enroll municipal assets. We will continue to aggressively identify and execute these opportunities.

CPower will continue to participate in the yearly MASS*buys* EXPO. This event has proved to be an integral part of the process of uncovering new state and local asset opportunities. MASS*buys* EXPO has also been instrumental in educating non-state governmental agencies about the state-wide contract.

CPower will continue to work with DCAMM on managing the Commonwealth's Capacity Supply Obligation. Currently, we are working with DCAMM to secure new capacity in FCA10 to cover the Norfolk-Walpole re-builds. For CPS reporting, we have managed the process for all of DCAM's existing resources, and have deferred any capacity termination as long as the rules would allow. Also, for annual M&V compliance auditing, we have always included DCAMM assets in our sampling each year at no cost to DCAMM. We have, and will continue, to use Sebesta Blomberg as our auditor to examine metering accuracy and compliance with other measurement and verification procedures.

CPower looks forward to continuing the ongoing relationship with DCAMM, and building the scope and breath of the program.

***60 Days after Contract Execution***

CPower will work to enroll MITC for FCM6 as stated above. Additionally CPower will commence solicitation of the following Group 1 assets to re-enroll in demand response effective with the start of FCM 6.

- MCI Norfolk - RTEG
- Essex County Sheriff's Dept. - RTEG
- Franklin County Jail - RTEG
- DYS-Westboro Zara Cisco - RTEG
- Salem State College - RTEG

Each of these assets has successfully participated in DCAMM's demand response program previously and has expressed a desire to re-enroll in the program. However, we will need DCAMM's assistance to overcome the hurdles they face as identified in Attachment 2, Part 2 in order for the enrollment to be successful.

CPower will also participate in the annual MASS*buys* EXPO with our sales partners Constellation New Energy and Carol's Lighting & Supply, our certified SDP Partner. We have found previous EXPOs to provide good opportunity to place our offerings before eligible non-state entities and to reinforce our message with other potential enrollees who have not yet made enrollment decisions.

***180 days after contract execution***

By 180 days, we expect to have all Group 1 potentials either enrolled or committed for enrollment once they

overcome the hurdles identified in Attachment 2, Part 2. We also expect to be in negotiations with eligible non-state entity leads that will be developed at the 2015 MASS*buys* EXPO.

Additionally, we will have commenced solicitation of the following Group 2 potentials:

- MWRA – RTEG
- MassPort – RTEG
- MITC – RTEG
- Springfield Data Center – RTEG
- UMass Medical School (Jamaica Plains) - RTEG
- MassPort – RTDR
- UMass Medical Center (Worcester) - RTEG
- UMass Boston – RTEG and RTDR

As the marketing process unfolds, CPower's experienced sales staff and sales partners will work directly with prospective client staff to provide them with the information they need to make the right decision for their facility. Where the opportunity is available, CPower believes that the facts will speak for themselves: the ability to earn revenues from being energy smart will result in client conversions, particularly when other DCAMM assets speak up about their positive experience. Once clients have a full appreciation for their ability to contribute to the sustainability of the grid, they should have further interest in participating in the DR program.

The most important step CPower takes to ensure the reliability of our demand response portfolio is to make sure that each customer participates at the level that is right for them. CPower does not try to sell "one size fits all" Demand Response programs. Instead, we take the time to understand the customers' business and technical capacity so that we can design appropriate demand response solutions. Once an enrollment decision has been made, we collaborate with our clients to create a curtailment plan that is based on their capabilities, fits into their business operations, and uses appropriate technology.

The advantage of using this process is that it will enable both CPower and our customers to mitigate the risk of pursuing opportunities that are not technically sound or financially feasible. In sum, by combining the collective direct sales force of CPower and our sales partners, deploying proven energy service sales techniques, and applying a responsible approach to assessing value for our existing and prospective assets, we will be able to enroll new assets while also investigating greater opportunities to assist in energy efficiency at enrolled facilities.

The final critical pieces in maximizing enrollment consist of an accurate engineering assessment of the customer facility and a mutual agreement about what the customer's tolerance for reduction may be. Engineering assessments will begin within 30 days of an enrollment commitment.

Complementing the initial outreach to potential customers is our use of engineering expertise to provide an understanding of the potential for demand reduction at a customer site. Our engineering staff approaches facilities with an open mind without any preconceived vendor or product biases to find the optimal demand response solutions for each customer. We have a strong customer focus with relationships that span from the "boiler room to the boardroom," which helps us identify projects and bring them to fruition.

CPower sales and engineering personnel have significant experience in collaboratively developing curtailment protocols with our clients that result in an achievable and repeatable DRV. Based on the identified curtailment loads, a Curtailment Plan illustrating the curtailment measures and the potential kW associated with each measure is developed.

In preparing the Curtailment Plan, it is critical to understand the customer's operation including processes, security requirements, operating hours, level of the building energy management automation, and the major electrical loads which can be curtailed. The customer's tolerance for interruption, including notice period requirements is thoroughly discussed with the customer. Impact on personnel, the customer's customer, critical processes, and safety are all reviewed. This understanding coupled with the sites utility electrical usage history is used to estimate the DRV.

***30 MW Goal***

It is CPower's intention to achieve the goal of enrolling 30MW of new capacity over the 5 year duration of the contract hereof. Timing for achieving the goal in concert with CPower's existing qualified CSO position is projected in Attachment 3, Part 2. However, no assurance can be given that the goal can be readily achieved due to the initial

1 year term and 1 year renewal terms and the condition that metering cost will be paid by deduction from ISO-NE payments.

In order to recoup metering cost from the ISO-NE revenue stream an asset of a size that could curtail enough kW to generate the needed revenue must fully participate in both summer and winter seasons. This requires that the asset be enrolled and metered in time to be declared ready-to-respond by ISO-NE on June 1 of the relevant Commitment Period. As a result, unless contract renewals are granted by March 1 for the ensuing Commitment Period there is no assurance that expenditures for metering to meet the June 1, ready-to-respond date will be recouped.

Additionally, while CPower currently has qualified capacity positions available for new DCAMM assets as projected in Attachment 3, Part 2, when considering forfeiture of Financial Assurance due to not fully subscribing to our committed CSO, the 1 year renewal terms inhibits reserving any portion of this capacity for DCAMM assets. This being the case, due to the Financial Assurance risk, CPower's available capacity positions must be filled on a first come first serve basis.

2. Bidders must also provide a marketing and outreach strategy for non-DCAMM assets and how this work would be coordinated with DCAMM to allow for minimal administrative burden on DCAMM personnel. (This relates to Attachment 2 Parts 3)

**Response: Please use this box to provide the required information. The box will expand to accommodate your response.**

Non-DCAMM assets will be marketed using the same overall strategy outlined above for DCAMM assets. However, since many of the assets have unknown potential, and decision-makers may have had even less exposure to some of the previous marketing efforts discussed, they will more closely resemble potential customers in a new market who are generally unaware of DR, ISO-NE, and the DR programs available to them.

CPower will work in consultation with DCAMM/DOER personnel to develop and prioritize an initial listing of Non-DCAMM Commonwealth facilities to target for enrolling in the demand response programs. CPower expects the DCAMM/DOER administrative roll in this process to be limited to identifying key contacts at the targeted facilities and serving as a program reference for verifying CPower's official contract status with the Commonwealth.

In addition to direct sales, CPower will take advantage of the Strategic Sales Partnerships it has with Constellation and energy efficiency contractors to reach out to municipalities. We expect DCAMM's administrative roll in this process to be limited to serving as a program reference for verifying CPower's official contract status with the Commonwealth.

CPower anticipates obtaining viable leads for Non-DCAMM Commonwealth entities and municipalities as an exhibitor at MASS*buys* EXPO. Most remaining elements in enrollment should follow the same plan as outlined above for DCAMM assets. Some DCAMM personnel may be required during the preparation and signing of contracts with non-DCAMM facilities in order to ensure that the contract language is agreeable. However, we would anticipate that that workload would drop to zero as more such contracts are written and an effective, agreed-upon procedure developed.

## c. Technical Strategy to maximize payments for DR and ODR to DCAMM

1. Bidders must include a narrative (no more than 10 pages) detailing their technical strategy on how they will maximize the Customer payment stream from the Customer Assets and eliminate or minimize any ISO penalties. The narrative must specify specific actions that will be taken within the first 60 days and 180 days after contract execution. It is understood that any backup generation will only operate within the then current site-specific DEP limitations. It is further understood that any payments for metering and monitoring will be paid from the savings derived by this contract and that DCAMM and the EP will negotiate these costs on a case-by-case basis. (This relates to Attachment A Part 2)

**Response: Please use this box to provide the required information. The box will expand to accommodate your response.**

***Proven Track Record***

CPower has been performing as a DCAMM Enrolling Participant ("EP") for the ISO-NE Capacity Market since

2006. This experience, along with our extensive knowledge of the Forward Capacity Market "FCM" programs and rules, positions CPower as the best EP to ensure that Commonwealth of Massachusetts Assets will earn maximum revenues from the FCM. CPower currently represents 36 MW of enrolled demand response capacity for 87 DCAMM assets. CPower clearly understands not only the challenges associated with state, county and municipal facilities but also the additional opportunities available in the FCM 30 Minute Real-Time Demand Resources and On-Peak Hours Resources programs. This experience will enable us to maximize FCM revenues to DCAMM at not only currently enrolled demand response assets, but also at new facilities joining the DCAMM Demand Response Program as well as the Commonwealth CSO Assets currently enrolled and to be enrolled in the coming FCM. Current Commonwealth CSO Assets participate in the FCM as On-Peak Hours Resources.

***Understanding the Needs of DCAMM facilities:***

During the past six years of enrolling DCAMM sites, CPower uncovered a number of DCAMM-specific site constraints and side-benefits vis-à-vis demand response:

- Unique qualities of DCAMM facilities such as labor costs associated with 2nd shift performance, notification through EPABX systems and security clearance at DOC sites require a customized service approach for DCAMM compared to typical institutional, commercial and industrial facilities.
- Engineering Site assessments uncovered emergency preparedness gaps especially with the utilization of emergency generation assets and helped DCAMM and facility staff prioritize infrastructure investments and planning to address them.
- Based on availability of trained resources and critical needs of the facilities some DCAMM facilities prefer remote deployment of demand response resources where as other preferred that the staff implement DR manually.
- The time interval based data collected by the metering device and the data analysis tools available on CPower's VirtuWatt web portal can be effectively utilized to bench mark facility energy usage and trends. This tool can be effectively used to optimize energy cost for opportunities beyond demand response such as energy management / efficiency upgrade and energy procurement
- Site staff valued on-going access to our account team and prompt feedback on their performance during tests / events.

A recent performance analysis of the DCAMM assets over the past 4 years on and asset-by-asset basis has revealed numerous opportunities for improvement. This analysis lays the groundwork for an effective performance improvement initiative. DCAMM and DOER active support will be essential to the success of the performance improvement program.

***First Sixty Day of Program Implementation:***

The program emphasis during the first 60 days and continuing thereafter will be to work with site personnel to identify conditions that have caused deterioration in or have inhibited Demand Response Performance.

1. ***Improve the performance rating of existing DR assets***
   - Existing demand response curtailment plans will be reviewed and the identified curtailment kW will be compared against the curtailment achieved during past ISO-NE demand response events. Facilities for which the average performance ratings achieved during demand response events are below 90% of the enrolled kW will be reviewed for any performance dependency such as for example:
     - Curtailment implementation sequence,
     - Ambient temperature and humidity on the day of the curtailment event,
     - Day of week - Ability to curtail for individual facilities may differ due to schedule changes to "Day of Week", and
     - Relationship between event performance and event duration.
   - A detailed step by step sequence of operation for curtailment will be provided if applicable.
2. ***Improve reliability of the event dispatch***
   - The contact information for the facility staff responsible for implementing the curtailment plan will be updated for phone, text, email and other appropriate event notification means.
   - Where feasible work with DCAMM to install remote start/stop of RTEG assets.

- Where feasible work with DCAMM to install VirtuWatt Link to automate DR response via the building energy management system at RTDR assets.
- Where feasible work with DCAMM to install visible notification devices at appropriate locations within a facility to signal start of an event when dispatched for demand response.

***3. Identify additional opportunities for demand response at existing facilities***

CPower technical staff will work with facility personnel at appropriate facilities currently participating in demand response to identify and quantify additional demand response opportunities. This effort will include an overview of major facility energy assets which contribute to the electric load, analysis of the electric load profile with respect to trends and potential cost reduction opportunities, and identification of any site specific constraints for participating in demand response.

***4. Addressing of facility specific issues to increase demand response curtailment kW***

The facility specific issues which result in lower kW due to improper execution of the curtailment plan resulting to inadequate training, program exhaustion and designing a proper communication protocol to fit the facility needs will be addressed by individual facility visits by CPower technical staff.

***Performance Improvement Options - First 180 days***

Within the first 180 days after contract signing and continuing thereafter CPower will:

- Focus on maximizing demand response performance at all facilities, new and old, as described above. Automating DR event response using VirtuWatt Link will greatly improve both response reliability and the amount of kW curtailed.
- Consult with facility staff to identify additional curtailment opportunities where appropriate.
- Compare event specific curtailment with historical performance ongoing. The facilities where the performance falls below a certain threshold will be flagged for counseling and corrective action where feasible.
- Work with DCAMM to improve the reliability and timeliness of the meter data collection and reporting for Commonwealth CSO assets.

The combination of all the improvements discussed above will result in higher event performance, better reliability, more curtailment kW per facility.

***Actions to Conclude an Event***

The event parameters are closely monitored by CPower. One of these is event duration. When the time is reached for the event to be completed, a second notification is sent by the agreed format (voice, text, email, etc.) to the participating site managers, where manual load control is being performed. Remote Dispatch control devices are reset automatically by VirtuWatt Link according the contracted protocols that are established when a customer enrolls in the program.

2. Vendors must include a narrative as to its operational strategy for:
   a. The transfer of the currently Enrolled Assets under contract with a current vendor to the Bidder CSO and who owns the CSO, if different from Bidder (Attachment 2 Part 1)
   b. The maximization of DR at each site that is not currently an Enrolled Asset (Attachment 2 Part 2 and Part 3)
   c. [Deleted]

## Response: Please use this box to provide the required information. The box will expand to accommodate your response.

**a. The transfer of the currently Enrolled Assets under contract with a current vendor to the Bidder CSO and who owns the CSO, if different from Bidder (Attachment 2 Part 1):**

CPower will follow the ISO-NE established procedure for transferring assets from one Enrolling Participant (EP) to another EP. This procedure is simple and straight forward. All it takes to transfer assets between EPs is for the incumbent EP to retire the asset and the new EP to enroll that asset to be effective on the same date. Additionally, CPower will apply the 60 day and 180 day technical strategy set forth in 4.c. above to maximize payments to DCAMM for all such Assets regardless of when they are transferred to CPower. If the currently Enrolled Asset is under contract to another vendor and the end date of that contract has not been reached at the time of the contact award pursuant to this solicitation, then the transfer would not take effect until the contract

between the other vendor and the asset has terminated. Regardless of when the transfer takes effect, CPower has been awarded enough new capacity in the FCM to accept all such assets at their full Enrolled kW amounts and ensure that the assets will continue earning revenues.

**b. The maximization of DR at each site that is not currently an Enrolled Asset (Attachment 2 Part 2 and Part 3)**

CPower will apply the 60 day and 180 day technical strategy set forth in 4.c. above to maximize payments at all facilities that elect to join the DCAMM program.

During the first 30 days we will focus our sales efforts in accordance with our ***Marketing Strategy to expand the potential enrollment of asset for DCAMM and other agencies in the Commonwealth*** (4.b. above). Once these assets commit to participating, CPower will apply the 60 day and 180 day technical strategy set forth in 4.c. above to maximize payments to DCAMM. (As a point of information Bridgewater State College is now a CPower 500 kW RTDR Asset).

# ATTACHMENT 2 – ASSETS

## Part 1. Currently Enrolled Assets

The following list is an itemization of currently enrolled Commonwealth Demand Response Assets that are enrolled under an Enrolling Participants Capacity Supply Obligation.

The approximate MW enrollment by Dispatch Zone is as follows:

Boston- 7.4 MW
Central- 8.2 MW
Lower SEMA- 4.1 MW
NEMA- .53 MW
North Shore- .052 MW
SEMA- 3.13 MW
Springfield- 2.25 MW
WCMA- 1.4 MW
Western MA- 4.7 MW

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone |
|---|---|---|---|---|
| 40309 | On Peak | MWRA Chelsea Creek Headworks | 0.230 | Boston |
| 40306 | On Peak | MWRA Columbus Pk Headworks | 0.190 | Boston |
| 40303 | On Peak | MWRA Ward Street Headworks | 0.180 | Boston |
| deleted | deleted | deleted | deleted | deleted |
| 36217 | On Peak | North Shore Community College - McGee Building | 0.027 | NEMA |
| 42576 | On Peak | North Shore CC - Berry | 0.038 | NEMA |
| 36903 | On Peak | MCI Concord, DOC | 0.027 | NEMA |
| 36153 | On Peak | South Middlesex CC, DOC | 0.025 | NEMA |
| 36493 | On Peak | Chelsea Soldiers Home | 0.025 | NEMA |
| 40042 | On Peak | Salem State University | 0.076 | NEMA |
| 39963 | On Peak | MCI Northeast Correctional, DOC | 0.059 | NEMA |
| 42579 | On Peak | Framingham State University - Athletic Center | 0.047 | NEMA |
| 42582 | On Peak | Framingham State University - Student Center | 0.024 | NEMA |
| 39669 | On Peak | Mass Water Resource Authority - Loring Road Facility | 0.185 | NEMA |
| 39709 | On Peak | MCI Norfolk #1 WWTP, DOC | 0.086 | SEMA |
| 40183 | On Peak | MCI Bay State Correctional, DOC | 0.043 | SEMA |
| 42586 | On Peak | Chickatawabut Hill, DCR | 0.025 | SEMA |

| | | | | |
|---|---|---|---|---|
| 43807 | On Peak | MWRA Nut Island | 0.500 | SEMA |
| 39568 | On Peak | Mount Wachusett Community College | 0.800 | WCMA |
| 39966 | On Peak | MCI Shirley, DOC | 0.121 | WCMA |
| 42566 | On Peak | Berkshire Community College | 0.203 | WCMA |
| 42570 | On Peak | Fitchburg State University | 0.042 | WCMA |
| 42589 | On Peak | Greenfield Community College | 0.038 | WCMA |
| 42573 | On Peak | Springfield Recycling Facility Complex, DEP | 0.055 | WCMA |
| 42659 | On Peak | UMass Lowell - Costello | 0.035 | WCMA |
| 42662 | On Peak | UMass Lowell - Dugan | 0.042 | WCMA |
| 42671 | On Peak | UMass Lowell - Bourgeois & Leitch | 0.046 | WCMA |
| 46891 | RTDR | MWRA Carroll facility | 1.5 | Central MA |
| 18050 | RTDR | McCormack Building, DCAMM | 0.500 | Boston |
| 18047 | RTDR | State House, BSB | 0.150 | Boston |
| 18056 | RTDR | Lindamann Building and Hurley, DCAMM | 0.500 | Boston |
| 28820 | RTDR | Framingham Campus (Mass Bay Community College) | 0.100 | Boston |
| 30506 | RTDR | Mass College of Art & Design - DR | 0.406 | Boston |
| 36900 | RTDR | Brockton Trial Court | 0.150 | Boston |
| 36969 | RTDR | Edward Brooks Court House | 0.295 | Boston |
| 37158 | RTDR | Suffolk Superior Court | 0.234 | Boston |
| 36912 | RTDR | Plymouth Trial Court | 0.114 | Boston |
| 46349 | RTDR | John Adams Court House | 0.310 | Boston |
| 46343 | RTDR | West Roxbury District Court | 0.073 | Boston |
| 46340 | RTDR | Roxbury District Court | 0.090 | Boston |
| 46337 | RTDR | Brighton District Court | 0.034 | Boston |
| 46346 | RTDR | Dorchester District Court | 0.100 | Boston |
| 43541 | RTDR | Fitchburg State College | 0.450 | Central MA |
| 43541 | RTDR | Holyoke Community College | 0.500 | Central MA |
| 35253 | RTDR | UMass- Dartmouth | 1.500 | Lower SEMA |
| 36972 | RTDR | Newburyport District Court | 0.052 | North Shore |
| 36975 | RTDR | Fall River Trial Court | 0.075 | SEMA |
| 39134 | RTDR | Fall River Judicial Center | 0.150 | SEMA |
| 35261 | RTDR | Holyoke Soldiers Home - DR | 0.120 | Springfield MA |
| 36966 | RTDR | Fenton Judicial Center | 0.045 | WCMA |
| 40551 | RTDR | UMass - Amherst - Incremental Gen | 2.527 | Western MA |
| 42169 | RTDR | UMass - Amherst - Curtailment | 0.600 | Western MA |
| 19727 | RTEG | Lemuel Shattuck Hospital, DPH | 0.624 | Boston |
| 19739 | RTEG | Boston Pre-Release Ctr, DOC | 0.288 | Boston |
| 19742 | RTEG | S Middlesex Corr Ctr, DOC | 0.040 | Boston |
| 19745 | RTEG | Northeastern Corr Ctr, DOC | 0.108 | Boston |
| 35694 | RTEG | Wellesley Hills Campus (Mass Bay Community College) | 0.645 | Boston |
| 29810 | RTEG | MA State Police Headquarters | 0.290 | Boston |
| 30761 | RTEG | Suffolk Cty Sheriffs | 1.000 | Boston |
| 31991 | RTEG | MCI Framingham, DOC | 0.400 | Boston |
| 32504 | RTEG | Chelsea Soliders Home | 0.241 | Boston |
| 40239 | RTEG | Office of the Chief Medical Examiner | 0.120 | Boston |
| 19700 | RTEG | MCI Shirley, DOC | 1.123 | Central MA |
| 19706 | RTEG | Souza Baranowski Corr. Fac., DOC | 1.548 | Central MA |
| 19724 | RTEG | Tewksbury State Hospital, DPH | 0.800 | Central MA |
| 19736 | RTEG | DYS Leahy | 0.280 | Central MA |
| 25586 | RTEG | UMass Lowell - North Campus | 0.535 | Central MA |

| | | | | |
|---|---|---|---|---|
| 25589 | RTEG | UMass Lowell - South Campus | 0.300 | Central MA |
| 28874 | RTEG | Middlesex County House of Corr Sheriff | 1.085 | Central MA |
| 24266 | RTEG | Bristol County Sheriff's Dept | 0.723 | Lower SEMA |
| 27086 | RTEG | Barnstable County Jail, Sheriff | 0.850 | Lower SEMA |
| 28412 | RTEG | Plymouth County Jail 1, Sheriff | 0.800 | Lower SEMA |
| 28415 | RTEG | Plymouth County Jail 2, Sheriff | 0.250 | Lower SEMA |
| 19703 | RTEG | MASAC, DOC | 0.110 | SEMA |
| 19712 | RTEG | Bridgewater Admin, DOC | 1.000 | SEMA |
| 19718 | RTEG | Bay State Correctional, DOC | 0.170 | SEMA |
| 19721 | RTEG | Pondville Corr. Center, DOC | 0.175 | SEMA |
| 28622 | RTEG | Wrentham Development Center, DDS | 0.800 | SEMA |
| 24110 | RTEG | Holyoke Soldiers Home - EG | 0.300 | Springfield MA |
| 37007 | RTEG | Dept. Youth Services, Westfied | 0.175 | Springfield MA |
| 29510 | RTEG | Hampshire County Sheriff 1 | 0.090 | Springfield MA |
| 29513 | RTEG | Hampshire County Sheriff 2 | 0.025 | Springfield MA |
| 43986 | RTEG | Hampden County Sheriff - Chicopee | 0.300 | Springfield MA |
| 40264 | RTEG | Hampden County Sheriff (Ludlow) | 1.240 | Springfield MA |
| 19730 | RTEG | Mass State Police Academy | 0.450 | Western MA |
| 43978 | RTEG | N. Central Correctional Inst., DOC | 0.632 | Western MA |
| 32171 | RTEG | Berkshire County Sheriff | 0.501 | Western MA |
| Municipal Entities | RTEG | Town of Burlington DPW | 0.700 | Boston |
| | RTEG | Town of North Andover DPW-WTP | 0.600 | Western MA |
| | RTEG | Pittsfield WWTF | 0.850 | Western MA |
| | **TOTAL** | | **34MW** | |

## Part 2. Potential Enrollees

The Following is a list of Assets not currently enrolled but identified as potential participants in the program.

| Asset ID | Site | MW potential | Dispatch Zone |
|---|---|---|---|
| Retired | MCI Norfolk - emissions | 0.800 | SEMA |
| Retired | Essex County Sheriffs Dept - mechanical | 0.657 | North Shore |
| Retired | Mass Hospital School - mechanical | 0.447 | SEMA |
| Retired | Franklin County Jail - emissions | 0.435 | Western MA |
| Retired | DYS Metro-Dorchester - emissions | 0.170 | Boston |
| Retired | DYS-Westboro Zara Cisco - emissions | 0.150 | Central MA |
| Retired | Worcester State Hospital - Mechanical | 0.600 | Central MA |
| Retired | Salem State College - Cat Cove - emissions | 0.140 | North Shore |
| 37271 | Salem State College - O'Keefe - emissions | 0.326 | North Shore |
| | National Guard HQs - Milford | 0.200 | SEMA |
| | UMass Boston | 1.000 | Boston |
| | UMass Medical School - Jamaica Plains | 1.865 | Boston |
| | Massachusetts Information Tech | 4.200 | Boston |
| | MassPort -RTDR | 1.500 | Boston |
| | MassPort - RTEG | 8.900 | Boston |
| | MWRA -RTEG | 9.200 | Boston |
| | Mass DEP - Wall Experimental Station | 0.400 | Springfield MA |
| | Mass College of Liberal Arts | 0.250 | Western MA |
| | Bristol State College | 0.100 | Lower SEMA |
| | Mass Emergency Management Bunker | 0.250 | Boston |

| | | | |
|---|---|---|---|
| | Western MASS Hospital | 0.250 | Springfield MA |
| | UMass Medical School - Shrewsbury | 0.700 | Central MA |
| | Umass Medical School - Wocester | 1.100 | Central MA |
| | Westfield State College | 0.500 | Springfield MA |
| | State Archives | 0.200 | Boston |
| | Springfield Data Center | 2.000 | Springfield MA |
| | Worcester Trial Court | 0.059 | Central MA |
| | Salem Trial Court | TBD | North Shore |
| | Springfield Hall of Justice | TBD | Springfield MA |
| | Worcester State College | TBD | Central MA |
| | Berkshire Community College | TBD | Western MA |
| | North Shore Community College | TBD | North Shore |
| | Roxbury Community College | TBD | Boston |
| | Quinsigamond Community College | TBD | Western MA |
| | Middlesex Community College | TBD | Central MA |
| | Bridgewater State College | TBD | SEMA |
| | Northern Essex Community College | TBD | North Shore |
| | Springfield Tech Community College | TBD | Springfield MA |
| | Massasoit Community College | TBD | SEMA |
| | Framingham State College | TBD | Boston |
| | Deer Island M/W | 0.077 | NEMA |
| | Deer Island ROC | 0.035 | NEMA |
| | DEP Wall Laboratory | 0.020 | NEMA |
| | Middlesex DOC | 0.028 | WCMA |
| | Massasoit Community College - SC | 0.057 | SEMA |
| | Massasoit Community College - LA | 0.038 | SEMA |
| | Massasoit Community College - HB | 0.035 | SEMA |
| | Massasoit Community College - TB | 0.023 | SEMA |
| | Massasoit Community College - SB | 0.023 | SEMA |
| | UMass Boston - CAF Ice Rink & Lobby | 0.037 | NEMA |
| | UMass Dartmouth - Woodland Common Dorms | 0.063 | SEMA |
| | UMass Dartmouth Tripp Athletic Ctr | 0.063 | SEMA |
| | Westfield State College - Wilson Hall & Bates Hall | 0.052 | WCMA |
| | MWRA - Deer Island Conventional | 0.152 | Boston |
| | MWRA - Deer Island FloDesign | 0.190 | Boston |
| | MWRA - Charlestown | 0.050 | Boston |
| | UMASS Dartmouth | 0.375 | SEMA |
| | **Total** | **37.7 MW** | |

## Part 3. Other On-peak Demand Response Assets.

The following is a list of Passive On-peak Demand Response assets enrolled under the Commonwealth of Massachusetts Capacity Supply Obligation with the ISO New England:

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone |
|---|---|---|---|---|
| TBD | On Peak | NCCI Gardner Wind | 1.100 | Western MA |
| 33414 | On Peak | Mass Maritime Academy | 0.150 | Lower SEMA |
| 33402 | On Peak | Bridgewater Correctional CHP, DOC | 1.500 | SEMA |
| 33449 | On Peak | Norfolk/Walpole DG 1, DOC | 0.790 | SEMA |
| 36397 | On Peak | Tewsbury State Hospital, DPH | 0.595 | Central |

| | | | | |
|---|---|---|---|---|
| 36785 | On Peak | MCI Cedar Junction - Industrial Buildings, DOC | 0.083 | SEMA |
| 42148 | On Peak | MCI Cedar Junction - Industrial Buildings #2, DOC | 0.054 | SEMA |
| 36849 | On Peak | Mass Maritime Academy | 0.034 | Lower SEMA |
| 36906 | On Peak | Bridgewater Correctional, DOC | 0.048 | SEMA |
| 36376 | On Peak | Mount Wachusett CC | 0.041 | Western MA |
| 36478 | On Peak | Worcester State College | 0.043 | Central MA |
| 36403 | On Peak | Springfield Tech CC | 0.037 | Springfield MA |
| 36906 | On Peak | MCI Bridgewater / MCI Norfolk | 0.086 | SEMA |
| **Total** | | | **4.5 MW** | |

# ATTACHMENT 3 – PROPOSAL PAYMENT FORM

## Instructions:

Provide a bid for Enrolled Assets and Non-enrolled assets separately. Each price must be a stand alone price. . It is understood that DCAMM may hire multiple vendors, one for Enrolled Assets and one for Non-Enrolled Assets. Additionally, DCAMM may hire a more than one vendor based on resources in a specific Dispatch Zone as noted below.

It is understood that DCAMM is encouraging payments from the ISO to the EP, such that DCAMM is provided a clear understanding that the payments made by the ISO and the percentage afforded to DCAMM are transparent. Please provide a summary as to how this can be accomplished.

**Asset Payment Calculations:**

CPower will pay DCAMM its share of the ISO-NE payments in accordance with the following calculations:

**Payments for current enrolled assets**: Each month for each Asset *multiply* that month's kW Capacity Rating as determined in accordance with the ISO-NE Market Rule 1 by that month's T&D Gross-up to obtain the Asset's UCAP kW Value for that month. Then *multiply* the UCAP kW Value by the then current ISO-NE $/kW-month Payment Rate to obtain the Gross ISO-NE Payment Value. Then *multiply* the Gross ISO-NE Payment Value by the "EP Percentage of ISO-NE payment" set forth in Part 1 below to obtain CPower's share of that month's Gross ISO-NE Payment Value. Then subtract CPower's share from that month's Gross ISO-NE Payment Value to obtain DCAMM's share of the Gross ISO-NE Payment Value for that month.

Please see the attached *"Calculations"* Excel workbook for details supporting the EP and DCAMM revenue values set forth below in Part 1 "Payments for Current Enrolled Assets". For the sake of simplicity the T&D Gross-up has been applied to the ISO-NE $/kW-month Payment Rate as displayed in the ISO-NE Pricing tab of the file.

Please note that responses in these sections should reflect all costs. The standard contract allows for the following reimbursable expenses (unless pre-approved):

## Attachment 3, Part 1: Payments for Current Enrolled Assets:

Vendor to fill out the blank sections. Provide percentage split (to Enrolling Participant) for currently enrolled assets in the columns below starting with FCA Auction 6 commencing on June 1, 2015.

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone | % split to EP (FCA Auction 6 pricing) | % split to EP (FCA Auction 7 pricing) | % split to EP (FCA Auction 8 pricing) | Total EP revenue | Total DCAMM revenue |
|---|---|---|---|---|---|---|---|---|---|
| 40309 | On Peak | MWRA Chelsea Creek Headworks | 0.230 | Boston | 28% | 28% | 28% | $20,943 | $53,853 |
| 40306 | On Peak | MWRA Columbus Pk Headworks | 0.190 | Boston | 28% | 28% | 28% | $17,301 | $44,487 |
| 40303 | On Peak | MWRA Ward Street Headworks | 0.180 | Boston | 28% | 28% | 28% | $16,390 | $42,146 |

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone | % split to EP (FCA Auction 6 pricing) | % split to EP (FCA Auction 7 pricing) | % split to EP (FCA Auction 8 pricing) | Total EP revenue | Total DCAMM revenue |
|---|---|---|---|---|---|---|---|---|---|
| 36797 | On Peak | MWRA Carroll facility | 1.500 | Central MA | 28% | 28% | 28% | $74,088 | $190,512 |
| 36217 | On Peak | North Shore CC - McGee Building | 0.027 | NEMA | 28% | 28% | 28% | $1,639 | $4,215 |
| 42576 | On Peak | North Shore CC - Berry | 0.038 | NEMA | 28% | 28% | 28% | $2,307 | $5,932 |
| 36903 | On Peak | MCI Concord | 0.027 | NEMA | 28% | 28% | 28% | $1,639 | $4,215 |
| 36153 | On Peak | South Middlesex CC | 0.025 | NEMA | 28% | 28% | 28% | $1,518 | $3,902 |
| 36493 | On Peak | Chelsea Soldiers Home | 0.025 | NEMA | 28% | 28% | 28% | $1,518 | $3,902 |
| 40042 | On Peak | Salem State College | 0.076 | NEMA | 28% | 28% | 28% | $4,614 | $11,863 |
| 39963 | On Peak | MCI Northeast Correctional | 0.059 | NEMA | 28% | 28% | 28% | $3,582 | $9,210 |
| 42579 | On Peak | Framingham State College - Athletic Center | 0.047 | NEMA | 28% | 28% | 28% | $2,853 | $7,337 |
| 42582 | On Peak | Framingham State College - Student Center | 0.024 | NEMA | 28% | 28% | 28% | $1,457 | $3,746 |
| 39669 | On Peak | Mass Water Resource Authority - Loring Road Facility | 0.185 | NEMA | 28% | 28% | 28% | $16,845 | $43,317 |
| 39709 | On Peak | MCI Norfolk #1 WWTP | 0.086 | SEMA | 28% | 28% | 28% | $2,832 | $7,282 |
| 40183 | On Peak | MCI Bay State Correctional | 0.043 | SEMA | 28% | 28% | 28% | $1,416 | $3,641 |
| 42586 | On Peak | Chickatawabut Hill, DCR | 0.025 | SEMA | 28% | 28% | 28% | $823 | $2,117 |
| 43807 | On Peak | MWRA Nut Island | 0.500 | SEMA | 28% | 28% | 28% | $16,464 | $42,336 |
| 39568 | On Peak | Mount Wachusett CC | 0.800 | WCMA | 28% | 28% | 28% | $39,514 | $101,606 |
| 39966 | On Peak | MCI Shirley | 0.121 | WCMA | 28% | 28% | 28% | $3,984 | $10,245 |
| 42566 | On Peak | Berkshire Community College | 0.203 | WCMA | 28% | 28% | 28% | $6,684 | $17,188 |
| 42570 | On Peak | Fitchburg State College | 0.042 | WCMA | 28% | 28% | 28% | $1,383 | $3,556 |
| 42589 | On Peak | Greenfield Community College | 0.038 | WCMA | 28% | 28% | 28% | $1,251 | $3,218 |
| 42573 | On Peak | Springfield Recycling Facility Complex | 0.055 | WCMA | 28% | 28% | 28% | $1,811 | $4,657 |
| 42659 | On Peak | UMass Lowell - Costello | 0.035 | WCMA | 28% | 28% | 28% | $1,152 | $2,964 |
| 42662 | On Peak | UMass Lowell - Dugan | 0.042 | WCMA | 28% | 28% | 28% | $1,383 | $3,556 |
| 42671 | On Peak | UMass Lowell - Bourgeois & Leitch | 0.046 | WCMA | 28% | 28% | 28% | $1,515 | $3,895 |
| 18050 | RTDR | McCormack Building | 0.500 | Boston | 28% | 28% | 28% | $45,528 | $117,072 |
| 18047 | RTDR | State House | 0.150 | Boston | 28% | 28% | 28% | $13,658 | $35,122 |
| 18056 | RTDR | Lindamann Building and Hurley | 0.500 | Boston | 28% | 28% | 28% | $45,528 | $117,072 |
| 28820 | RTDR | Framingham Campus (Mass Bay College) | 0.100 | Boston | 28% | 28% | 28% | $9,106 | $23,414 |
| 30506 | RTDR | Mass College of Art & Design - DR | 0.406 | Boston | 28% | 28% | 28% | $36,969 | $95,062 |
| 36900 | RTDR | Brockton Trial Court | 0.150 | Boston | 28% | 28% | 28% | $13,658 | $35,122 |

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone | % split to EP (FCA Auction 6 pricing) | % split to EP (FCA Auction 7 pricing) | % split to EP (FCA Auction 8 pricing) | Total EP revenue | Total DCAMM revenue |
|---|---|---|---|---|---|---|---|---|---|
| 36969 | RTDR | Edward Brooks Court House | 0.295 | Boston | 28% | 28% | 28% | $26,862 | $69,072 |
| 37158 | RTDR | Suffolk Superior Court | 0.234 | Boston | 28% | 28% | 28% | $21,307 | $54,790 |
| 36912 | RTDR | Plymouth Trial Court | 0.114 | Boston | 28% | 28% | 28% | $10,380 | $26,692 |
| 46349 | RTDR | John Adams Court House | 0.310 | Boston | 28% | 28% | 28% | $28,227 | $72,585 |
| 46343 | RTDR | West Roxbury District Court | 0.073 | Boston | 28% | 28% | 28% | $6,647 | $17,093 |
| 46340 | RTDR | Roxbury District Court | 0.090 | Boston | 28% | 28% | 28% | $8,195 | $21,073 |
| 46337 | RTDR | Brighton District Court | 0.034 | Boston | 28% | 28% | 28% | $3,096 | $7,961 |
| 46346 | RTDR | Dorchester District Court | 0.100 | Boston | 28% | 28% | 28% | $9,106 | $23,414 |
| 43541 | RTDR | Fitchburg State College | 0.450 | Central MA | 28% | 28% | 28% | $22,226 | $57,154 |
| 43541 | RTDR | Holyoke Community College | 0.500 | Central MA | 28% | 28% | 28% | $24,696 | $63,504 |
| 35253 | RTDR | UMass- Dartmouth | 1.500 | Lower SEMA | 28% | 28% | 28% | $74,088 | $190,512 |
| 36972 | RTDR | Newburyport District Court | 0.052 | North Shore | 28% | 28% | 28% | $2,568 | $6,604 |
| 36975 | RTDR | Fall River Trial Court | 0.075 | SEMA | 28% | 28% | 28% | $3,704 | $9,526 |
| 39134 | RTDR | Fall River Judicial Center | 0.150 | SEMA | 28% | 28% | 28% | $7,409 | $19,051 |
| 35261 | RTDR | Holyoke Soldiers Home - DR | 0.120 | Springfield MA | 28% | 28% | 28% | $5,927 | $15,241 |
| 36966 | RTDR | Fenton Judicial Center | 0.045 | WCMA | 28% | 28% | 28% | $2,223 | $5,715 |
| 40551 | RTDR | UMass - Amherst - Incremental Gen | 2.527 | Western MA | 28% | 28% | 28% | $124,814 | $320,949 |
| 42169 | RTDR | UMass - Amherst - Curtailment | 0.600 | Western MA | 28% | 28% | 28% | $29,635 | $76,205 |
| 19727 | RTEG | Lemuel Shattuck Hospital | 0.624 | Boston | 28% | 28% | 28% | $47,049 | $120,982 |
| 19739 | RTEG | Boston Pre-Release Ctr | 0.288 | Boston | 28% | 28% | 28% | $25,808 | $66,363 |
| 19742 | RTEG | S Middlesex Corr Ctr | 0.040 | Boston | 28% | 28% | 28% | $3,584 | $9,217 |
| 19745 | RTEG | Northeastern Corr Ctr | 0.108 | Boston | 28% | 28% | 28% | $9,678 | $24,886 |
| 35694 | RTEG | Wellesley Hills Campus (Mass Bay College) | 0.645 | Boston | 28% | 28% | 28% | $57,799 | $148,627 |
| 29810 | RTEG | MA State Police Headquarters | 0.290 | Boston | 28% | 28% | 28% | $25,987 | $66,824 |
| 30761 | RTEG | Suffolk Cty Sheriffs | 1.000 | Boston | 28% | 28% | 28% | $89,611 | $230,429 |
| 31991 | RTEG | MCI Framingham | 0.400 | Boston | 28% | 28% | 28% | $35,844 | $92,172 |

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone | % split to EP (FCA Auction 6 pricing) | % split to EP (FCA Auction 7 pricing) | % split to EP (FCA Auction 8 pricing) | Total EP revenue | Total DCAMM revenue |
|---|---|---|---|---|---|---|---|---|---|
| 32504 | RTEG | Chelsea Soliders Home | 0.241 | Boston | 28% | 28% | 28% | $21,596 | $55,533 |
| 40239 | RTEG | Office of the Chief Medical Examiner | 0.120 | Boston | 28% | 28% | 28% | $10,753 | $27,651 |
| 19700 | RTEG | MCI Shirley | 1.123 | Central MA | 28% | 28% | 28% | $52,184 | $134,189 |
| 19706 | RTEG | Souza Baranowski Corr. Fac. | 1.548 | Central MA | 28% | 28% | 28% | $71,934 | $184,972 |
| 19724 | RTEG | Tewksbury State Hospital | 0.800 | Central MA | 28% | 28% | 28% | $37,175 | $95,593 |
| 19736 | RTEG | DYS Leahy | 0.280 | Central MA | 28% | 28% | 28% | $13,011 | $33,458 |
| 25586 | RTEG | UMass Lowell - North Campus | 0.535 | Central MA | 28% | 28% | 28% | $24,861 | $63,928 |
| 25589 | RTEG | UMass Lowell - South Campus | 0.300 | Central MA | 28% | 28% | 28% | $13,941 | $35,847 |
| 28874 | RTEG | Middlesex County House of Corr | 1.085 | Central MA | 28% | 28% | 28% | $50,419 | $129,648 |
| 24266 | RTEG | Bristol County Sheriff's Dept | 0.723 | Lower SEMA | 28% | 28% | 28% | $33,597 | $86,392 |
| 27086 | RTEG | Barnstable County Jail | 0.850 | Lower SEMA | 28% | 28% | 28% | $39,498 | $101,568 |
| 28412 | RTEG | Plymouth County Jail 1 | 0.800 | Lower SEMA | 28% | 28% | 28% | $37,175 | $95,593 |
| 28415 | RTEG | Plymouth County Jail 2 | 0.250 | Lower SEMA | 28% | 28% | 28% | $11,617 | $29,873 |
| 19703 | RTEG | MASAC | 0.110 | SEMA | 28% | 28% | 28% | $5,112 | $13,144 |
| 19712 | RTEG | Bridgewater Admin | 1.000 | SEMA | 28% | 28% | 28% | $46,469 | $119,491 |
| 19718 | RTEG | Bay State Correctional | 0.170 | SEMA | 28% | 28% | 28% | $7,900 | $20,314 |
| 19721 | RTEG | Pondville Corr. Center | 0.175 | SEMA | 28% | 28% | 28% | $8,132 | $20,911 |
| 28622 | RTEG | Wrentham Development Center | 0.800 | SEMA | 28% | 28% | 28% | $37,175 | $95,593 |
| 24110 | RTEG | Holyoke Soldiers Home - EG | 0.300 | Springfield MA | 28% | 28% | 28% | $13,941 | $35,847 |
| 37007 | RTEG | Dept. Youth Services, Westfld | 0.175 | Springfield MA | 28% | 28% | 28% | $8,132 | $20,911 |
| 29510 | RTEG | Hampshire County Sheriff 1 | 0.090 | Springfield MA | 28% | 28% | 28% | $4,182 | $10,754 |

| Asset ID | DR Class | Site | MW enrolled | Dispatch Zone | % split to EP (FCA Auction 6 pricing) | % split to EP (FCA Auction 7 pricing) | % split to EP (FCA Auction 8 pricing) | Total EP revenue | Total DCAMM revenue |
|---|---|---|---|---|---|---|---|---|---|
| 29513 | RTEG | Hampshire County Sheriff 2 | 0.025 | Springfield MA | 28% | 28% | 28% | $1,162 | $2,987 |
| 43986 | RTEG | Hampden County Sheriff - Chicopee | 0.300 | Springfield MA | 28% | 28% | 28% | $13,941 | $35,847 |
| 40264 | RTEG | Hampden County Sheriff (Ludlow) | 1.240 | Springfield MA | 28% | 28% | 28% | $57,621 | $148,169 |
| 19730 | RTEG | Mass State Police Academy | 0.450 | Western MA | 28% | 28% | 28% | $20,911 | $53,771 |
| 43978 | RTEG | N. Central Correctional Inst. | 0.632 | Western MA | 28% | 28% | 28% | $29,368 | $75,518 |
| 32171 | RTEG | Berkshire County Sheriff | 0.501 | Western MA | 28% | 28% | 28% | $23,281 | $59,865 |
| | | Town of Burlington DPW | 0.700 | | 28% | 28% | 28% | $62,728 | $161,300 |
| | | Town of North Andover DPW-WTP | 0.600 | | 28% | 28% | 28% | $27,881 | $71,695 |
| | | Pittsfield WWTF | 0.850 | | 28% | 28% | 28% | $39,498 | $101,568 |

## Attachment 3, Part 2. Payments for Potential Enrollees

Based on the list of potential enrollees listed in Table 2-1 provide a % split to EP in the table below.

Fill in the percentage split in the table below based on aggregation of assets enrolled by Dispatch Zone based on total MW enrolled. Fill in expected enrollment in the year 1 of the contract commencing on June 1, 2015 and for each year following expected for enrollment and based on the Marketing plan provided.

| Dispatch Zone | Total MW enrollment Year 1 (FCA 6) | % payment to EP FCA6 | Total MW enrollment Year 2 (FCA 7) | % payment to EP FCA7 | Total MW enrollment Year 3 (FCA 8) | % payment to EP FCA8 | Total MW enrollment Year 4 (FCA 9) | % payment to EP FCA9 | Total MW enrollment Year 5 (FCA 10) | % payment to EP FCA10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Boston | | | 10.900 | 28% | 4.200 | 28% | 10.400 | 28% | | |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| NEMA | | | | | | | | | | |
| Central MA | 0.150 | 28% | 1.100 | 28% | | | | | | |
| WCMA | | | | | | | | | | |
| SEMA | 0.800 | 28% | | | | | | | | |
| Lower SEMA | | | | | | | | | | |
| North Shore | 1.030 | | | | | | | | | |
| Springfield | | | | | 2.000 | 28% | | | | |
| Western MA | 0.450 | 28% | | | | | | | | |
| | | | | | | | | | | |
| Total | 2.430 | 28% | 12.000 | 28% | 6.200 | 28% | 10.400 | 28% | | |

# Attachment 3, Part 3. Pricing for FCM Support Services

Provide **both** types of pricing below for services listed in RFR Section 3.2.5. Following proposal evaluation, the SSST will determine which of the two types of pricing will be used for the contract.

**Pricing Type 1: Hourly Rate:**

| Employee level | Hourly rate |
|---|---|
| Executive | $200 |
| Manager | $145 |
| Sr Engineer | $145 |
| Engineer | $125 |
| Jr engineer | $105 |
| Accounting | $80 |
| Clerical | $50 |

**Pricing Type 2: Percentage of Asset Earnings:**

____% share of asset earnings

9% - 6/1/2015 through 5/31/2016

9% – 6/1/2016 through 5/31/2017

5% – 6/1/2017 through 5/31/2018

4% – 6/1/2018 through 5/31/2019

4% – 6/1/2019 through 5/31/2020

# Supplier Diversity Program (SDP) Plan Commitment - SDP Plan Form #1
## (To be submitted with Bid Response)

## Contract/RFR Document Number: FAC89DesignatedDCAMM

**Instructions:** Completing all parts of this form is mandatory. Please read instructions in the SDP section of the solicitation. **Complete one form and submit with Bid.**

**Part I** **Bidder/Contractor Information (Required)**

| | | | |
|---|---|---|---|
| **Business Name: Enerwise Global Technologies, Inc. d/b/a CPower** | **Contact Name: William Cratty** | **Phone #** (203) 262 - 9444 | **Email address:** William.Cratty@CPowerCorp.com |

**Part II** **Financial Commitment (Required)**

**Provide a specific percentage committed (as a percentage of Bidder/Contractor sales derived from this contract for the life of the contract) to be spent with all certified SDP Partners that the Bidder will propose if awarded a Contract. Please note that prime bidders who are SDO-certified must also submit an SDP Plan Form.**

| | |
|---|---|
| **SDP Percentage Committed in Bid Response for Life of Contract:** | **0.75%** |

**Supplier Diversity Program (SDP) Resources:**

- Resources available to assist Prime Bidders in finding potential **Minority Business Enterprises (MBE)** and **Women Business Enterprises (WBE)** partners can be found on the Supplier Diversity Program Webpage (www.mass.gov/sdp).
- Resources available to assist Prime Bidders in finding potential **Service-Disabled Veteran-Owned Business Enterprise (SDVOBE)** partners can be found on the Supplier Diversity Office Webpage (www.mass.gov/sdo).
- The Supplier Diversity Program offers training on the SDP Plan requirements. The dates of upcoming trainings can be found on the OSD Training & Outreach Webpage. In addition, the SDP Webinar can be located on the Supplier Diversity Program Webpage (www.mass.gov/sdp).

# *COMMONWEALTH OF MASSACHUSETTS*

## *Prompt Pay Discount Form*
***(Invoice discounts for receiving fast payments)***

*Revised 3/9/07*

**Bidder Name:** Enerwise Global Technologies, Inc. d/b/a CPower .
**Vendor Code (VCUST):** 00010437 .
**Contract/RFR Number(s)**: FAC89DesignatedDCAMM .

Prompt Payment Discounts (PPD). All contractors/vendors doing business with the Commonwealth must provide a Prompt Payment Discount (PPD) for receiving early payments unless the Contractor/vendor can provide compelling proof that providing a prompt pay discount would be unduly burdensome. Contractors benefit from PPD by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Contractors who agree to accept Electronic Funds Transfer (EFT) increase the prompt pay benefit by ensuring that funds are paid directly to their designated bank accounts, thus eliminating the delay of check clearance policies and traditional mail lead time. Payments processed through the state accounting system (MMARS) can be tracked and verified through the Comptroller's Vendor Web system using the Vendor/Customer Code assigned to you by a Commonwealth department.

The Commonwealth benefits because contractors reduce the cost of products and services through the applied discount. While Bidders/Contractors have flexibility in determining the actual % discount(s) offered to the Commonwealth, the discount(s) must be identified for 10, 15, 20 and/or 30 days for payment issuance in the column entitled "% Discount Off Proposed Price" below. The Commonwealth may use the prompt pay discounts submitted as a basis for selection and may negotiate discounts as deemed in the best interest of the Commonwealth. The requirement to offer PPD discounts may be waived by the Commonwealth on a case-by-case basis if participation in the program would be unduly burdensome, provided the specific reason for the hardship is outlined below.

All discounts offered will be taken in cases where the payment issue date is within the specified number of days listed below and in accordance with the Commonwealth's Bill Paying Policy. Payment days will be measured **from** the date goods are received and accepted / performance was completed OR the date an invoice is received by the Commonwealth, whichever is later **to** the date the payment is issued as an EFT (preferred method) or mailed by the State Treasurer. The date of payment "issue" is the date a payment is considered "paid" not the date a payment is "received" by a Contractor.

If internal Bidder/Contractor systems require an alternate method of measuring payment issue dates, the Bidder/Contractor must note the issues below or on an attached page if necessary to be considered by the PMT. In cases where the Bidder/Contractor considers that offering a Prompt Payment Discount would be a hardship, the Bidder must clearly define the issues and reasons for said hardship. *Providing volume discounts or other discounts on prices is not considered a hardship, since the PPD provides the additional benefit of early cash flow for the Contractor.*

Enter the Prompt Payment Discount percentage (%) off the invoice payment, for each of the payment issue dates listed, if the payment is issued within the specified Payment Issue days. For example:

**5% - 10 Days**
**4% - 15 Days**
**3% - 20 Days**
**2% - 30 Days**

If no discount is offered enter 0%

| Prompt Payment Discount % | Payment Issue Date w/in |
|---|---|
| 2% | 10 Days |
| % | 15 Days |
| % | 20 Days |
| % | 30 Days |

The Contractor is unable to provide a prompt payment discount due to the following hardship:

Contractor/Bidder Authorized Signature Joseph Gatto Date: March 16, 2015

Contractor/ Bidder Authorized Signatory Print Name and Title: Vice President

# BUSINESS REFERENCE FORM

Bidder Company Name: Enerwise Global Technologies, Inc. d/b/a CPower Date: March 16, 2015
The bidder must provide (indicate a number) 4 business references.

Reference name: Madison Paper Industries Contact: David Lovley

Address: 3 Main Street, Madison, ME 04950 Phone: # (207) 696-1225

Fax/Internet address: david.lovley@upm.com

Description and date(s) of commodities and services provided: Madison Paper Industries has been a CPower demand response customer since January 2010.

Reference name: Providence Place Mall Contact: Mark Dunbar

Address: One Providence Place, Providence RI 02903 Phone: # (401) 270-1012 x7010

Fax/Internet address:Mark.Dunbar@generalgrowth.com

Description and date(s) of commodities and services provided: Providence Place Mall has been a demand response customer of CPower since June 2010.

Reference name: Rhode Island Hospital Contact: Marc Leduc

Address: 593 Eddy Street, Providence, RI 02903 Phone: # (401) 444-8800

Fax/Internet address: mleduc@lifespan.org

Description and date(s) of commodities and services provided: Rhode Island Hospital has been a demand response customer of CPower since October 2007

Reference name: Williams College Contact: Don Clark

Address: 60 Latham Street, Williamstown, MA 01267 Phone: # (413) 597-2019

Fax/Internet address: dclark@williams.edu

Description and date(s) of commodities and services provided: Williams College has been a demand response customer of CPower since February 2008

References will be contacted to confirm the bidder's abilities and qualifications as stated in the bidder's response. The department may deem the bidder's response unresponsive if a reference is not obtainable from a listed reference after reasonable attempts.

# ADDITIONAL ENVIRONMENTALLY PREFERABLE PRODUCTS / PRACTICES

Bidder Company Name: Enerwise Global Technologies, Inc. d/b/a CPower Date: March 16, 2015

In line with the Commonwealth's efforts to promote products and practices which reduce our impact on the environment and human health, Bidders are encouraged provide information regarding their environmentally preferable/sustainable business practices as they relate to this contract wherever possible.

Bidders who can demonstrate such initiatives (referencing, but not limited to, the items listed below) will be eligible to receive evaluation points. In order to receive evaluation points, Bidders **must** complete this form and submit it with their RFR Response.

Bidders **must** submit appropriate documentation to support the items for which the Bidder indicated a "Yes" (and/or include information in the box following each question). *(See page 2 for additional guidance on completing this form)*

**1. Packaging**

Has the Bidder implemented any of the following environmental initiatives? **(A checkmark indicates "Yes")**

____ Use of corrugated materials that exceeds the required minimum of 35% post-consumer recycled content
____ Use of other packaging materials that contain recycled content and are recyclable in most local programs
____ Promotes waste prevention and source reduction by reducing the extent of the packaging and/or offering packaging take-back services, or shipping carton return
____ Reduces or eliminates materials which have been bleached with chlorine or chlorine derivatives
____ Eliminates any packaging that may contain polyvinyl chloride (PVC), or polystyrene or heavy metals

**If yes, documentation of practices must be included in the box below, which will expand to accommodate your response.**

**2. Business Practices / Operations / Manufacturing**

Does the bidder engage in practices that serve to reduce or minimize an impact to the environment, including, but not necessarily limited to, the following items? **(A checkmark indicates "Yes")**

**YES** Recycles materials in the warehouse or other operations
____ Use of alternative fuel vehicles or vehicles equipped with diesel emission control devices for delivery or transportation purposes
____ Use of energy efficient office equipment or signage or the incorporation of green building design elements
____ Use of recycled paper (that meets federal specifications) in their marketing and/or resource materials
**YES** Other sustainable initiative

**If yes, documentation of practices must be included in the box below, which will expand to accommodate your response.**

All CPower offices have recycling programs. The CPower VirtuWatt metering platform incorporates algorithms to facilitate energy management at all customer facilities. VirtuWatt provides real-time energy usage and weather data and can alert facility personnel when electricity usage approaches pre-set limits of acceptability. All CPower customers are continually advised to take advantage of the energy conservation features available to them with VirtuWatt

**3. Training and Education**

Does the bidder conduct/offer a program to train or inform customers of the environmental benefits of the products to be offered under this contract, and/or does the bidder conduct environmental training of its own staff? ☐ Yes ☐ No

**If yes, bidders must attach a description of the training offered and the specific criteria targeted by the training in the box below which will expand to accommodate your response.**

**4. Certifications**

Has the bidder or any of its manufacturers and/or subcontractors obtained any of the following product/industry certifications?

____ ISO 14000 or adopted some other equivalent environmental management system
____ Other industry environmental standards (where applicable), such as the CERES principles, LEED Certification, C2C Protocol, Responsible Care Codes of Practice or other similar standards
____ Third Party product certifications such as Green Seal, Scientific Certification Systems, Smartwood, etc.

**A check = "yes"; Bidders must indicate certificate name in the box below and attach a (scanned) copy with their response.**

**5. Other Environmental Criteria**

Bidders are encouraged to respond to criteria specifically indicated in this RFR as “desirable environmental criteria” to receive consideration in the evaluation. **(Please provide information in the box which will expand to accommodate your response.)**

# Purpose of the Form

## Additional Environmentally Preferable Products / Practices

The Additional Environmentally Preferable Products / Practices form is a standard evaluation tool included with virtually all OSD Requests for Response (RFR) that will result in a Statewide Contract. It applies to the operations of the Bidder (not any manufacturer or other company represented by the Bidder).

**Purpose of the Form**

**The primary purpose** for incorporating this language into RFRs is to encourage potential Bidders to adopt business practices that foster a sustainable approach to conducting their operations. Such an approach may include one that has a reduced impact on the environment or public health, such as, but not limited to, creating less waste by using less packaging; eliminating the use substances and/or materials that are considered toxic during the manufacturing process, at time of product use, or upon disposal; or utilizing vehicles in the delivery fleet that operate on alternative fuels for the purpose of reducing air pollution and greenhouse gas emissions.

**Other purposes for the form that may be beneficial to the Bidder include**:

- The form alerts Bidders to the fact that the Commonwealth considers such initiatives part of the "best value" of a procurement.
- The form provides Bidders with an opportunity to receive "preference" in the evaluation phase of the RFR for the environmental initiatives they have instituted. It is important for Bidders to provide a statement (or other documentation) along with their response to substantiate or better explain how those initiatives are implemented in their operations in order to receive a preference or points.

**Guidance on Completing the Form**

1) **Packaging** – Many forms of corrugated containers now contain 60% or more post-consumer recycled content and are comparable in cost; in addition, several alternatives to using polystyrene as a packaging cushion are now available. Bidders should check with their box manufacturers to learn about the recycled content they use and include information about that in their RFR Response. Companies are also encouraged to research the EPP alternative products and practices indicated on the form and convert to their use wherever possible.

2) **Business Operations** – This section refers to things the Bidder does within their own operations to create a smaller "environmental footprint" in the marketplace by reducing the impact of their operations through energy conservation, waste and toxics reduction and other sustainable practices.

3) **Training and Education** – If Bidders offer a product or service that involves an environmentally preferable component and they train their staff to inform customers of these features, such training should be mentioned in conjunction with this form to receive credit. If Bidders provide materials (brochures, info on websites, etc.) on the environmental attributes of their products/services, they can also receive credit in the evaluation process if a brief explanation is included with the form. It is preferable if such training materials and other information are included with the Response.

4) **Certifications** – Bidders should familiarize themselves with the various certifications for products and processes that are available within the industry in which they operate, with particular attention to those concerning environmental issues. Providing information with the EPP form on such certifications and/or attaching a copy of the actual certificate is important to receive credit in the evaluation process.

5) **Other Environmental Criteria** – If Bidders are already doing something indicated in the RFR as a "desirable" criteria and they include a statement with their RFR that they have implemented such measures, this will be considered in the evaluation phase as well. In addition, any initiative untaken by the Bidder that may be considered an environmental benefit, should be mentioned as part of this section in the RFR.

# PARTICIPATION IN THE ANNUAL OPERATIONAL SERVICES DIVISION (OSD) MASS*BUYS* EXPO

OSD hosts an annual marketing and training trade show aimed at educating public purchasers and contract end-users on the commodities and services available on statewide contracts, highlighting innovative environmentally preferable (green) products and providing marketing and networking opportunities to the business community.

**The MASS*buys* EXPO** takes place in the spring (April or May) of each year and has grown to be the largest business to government event in the Commonwealth. There are several options to exhibit and sponsor. The cost to exhibit is approximately $1,000 and up. The event is well attended by public purchasers representing all Commonwealth agencies, cities and towns across the Commonwealth, independent authorities, higher education and eligible not for profit human and social service organizations. The venue for MASSbuys has significant marketing value and is extremely cost effective as it provides exceptional opportunities for statewide contractors to market directly to thousands of attendees.

This one-day event is held in a central Massachusetts location and the exhibitors are limited to statewide contractors or multiple department contractors. OSD believes that the MASS*buys* EXPO event is important for two reasons:

1. It provides public purchasers with an opportunity to meet over 350 statewide contractors at one event and receive important information on new products, services and technology; and
2. For a statewide contractor, it provides an opportunity to meet and renew business relationships with existing customers and to market their business to approximately 2,000 attendees, many of whom represent potential new customers.

Please note that exhibiting at the MASS*buys* EXPO is not required and no points will be awarded to those Bidders who commit to participate. However, Bidders who indicate their willingness to exhibit at MASS*buys* in their RFR Response will be required to honor their commitment for the duration of their contract, if awarded a contract.

Please indicate whether, if awarded a statewide contract, your company will commit to exhibiting at the annual MASSbuys EXPO:

[X] Yes, I will commit to exhibit at the annual MASS*buys* EXPO

□ No, I cannot commit at this time

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM

This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under Guidance For Vendors - Forms or www.mass.gov/osd under OSD Forms.

| | |
|---|---|
| **CONTRACTOR LEGAL NAME:** Enerwise Global Technologies, Inc. d/b/a CPower | **COMMONWEALTH DEPARTMENT NAME:** Division of Capital Asset Management<br>**MMARS Department Code:** |
| **Legal Address:** (W-9, W-4,T&C): 111 Market Place, Suite 201, Baltimore, MD 21202 | **Business Mailing Address:** 1 Ashburton Place, Boston, MA. 02108 |
| **Contract Manager:** William E. Cratty | **Billing Address** (if different): |
| **E-Mail:** William.Cratty@cpowercorp.com | **Contract Manager:** Dave Lewis |
| **Phone:** 203-262-9444 Fax: | **E-Mail:** Dave.lewis@state.ma.us |
| **Contractor Vendor Code:** 00010437 | **Phone:**857-204-1472 Fax: |
| **Vendor Code Address ID** (e.g. "AD001"): __.<br>(Note: The Address Id Must be set up for EFT payments.) | **MMARS Doc ID(s):**<br>**RFR/Procurement or Other ID Number:**PO-16-1019-DCP08-ENR01-00000006357 |

| ___ NEW CONTRACT | x CONTRACT AMENDMENT |
|---|---|
| **PROCUREMENT OR EXCEPTION TYPE: (Check one option only)**<br>_ Statewide Contract (OSD or an OSD-designated Department)<br>__ Collective Purchase (Attach OSD approval, scope, budget)<br>__ Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation)<br>__ Emergency Contract (Attach justification for emergency, scope, budget)<br>__ Contract Employee (Attach Employment Status Form, scope, budget)<br>__ Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget) | Enter **Current Contract End Date *Prior*** to Amendment: **May 31_, 2016_.**<br>Enter **Amendment Amount:** $ _____. (or "no change")<br>**AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.)**<br>__ Amendment to Scope or Budget (Attach updated scope and budget)<br>__ Interim Contract (Attach justification for Interim Contract and updated scope/budget)<br>__ Contract Employee (Attach any updates to scope or budget)<br>__ Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget) |

**The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract.**

X Commonwealth Terms and Conditions __ Commonwealth Terms and Conditions For Human and Social Services

**COMPENSATION:** (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00.

X Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) RFR Response is attached, rate is a percentage of revenue generated.

__ Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or ***new*** Total if Contract is being amended). $ _____.

**PROMPT PAYMENT DISCOUNTS (PPD):** Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting **accelerated** payments must identify a PPD as follows: Payment issued within 10 days __% PPD; Payment issued within 15 days __ % PPD; Payment issued within 20 days __ % PPD; Payment issued within 30 days __% PPD. If PPD percentages are left blank, identify reason: __agree to standard 45 day cycle __ statutory/legal or Ready Payments (G.L. c. 29, § 23A); __ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)

**BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:** (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) This is a contract renewal to extend the term of FAC89 contract.

**ANTICIPATED START DATE:** (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:

x__ 1. may be incurred as of the Effective Date (latest signature date below) and **no** obligations have been incurred **prior** to the Effective Date.

__ 2. may be incurred as of _____, 20___, a date **LATER** than the Effective Date below and **no** obligations have been incurred **prior** to the Effective Date.

__3. were incurred as of __, , a date **PRIOR** to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.

**CONTRACT END DATE:** Contract performance shall terminate as of May 31, 20 18, with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.

**CERTIFICATIONS:** Notwithstanding verbal or other representations by the parties, the **"Effective Date"** of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions, this Standard Contract Form including the Instructions and Contractor Certifications, the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

| AUTHORIZING SIGNATURE FOR THE CONTRACTOR: | AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: |
|---|---|
| X: William E. Cratty. Date: 12/21/2015<br>(Signature and Date Must Be Handwritten At Time of Signature) | X: _____. Date: 12/28/15.<br>(Signature and Date Must Be Handwritten At Time of Signature) |
| Print Name: William E. Cratty. | Print Name: Jenna Ide. |
| Print Title: Senior Technical Sales Principal. | Print Title: Director. |

## INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

**CONTRACTOR LEGAL NAME (AND D/B/A):** Enter the **Full Legal Name** of the Contractor's business as it appears on the Contractor's W-9 or W-4 Form (Contract Employees only) **and** the applicable Commonwealth Terms and Conditions If Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

**Contractor Legal Address:** Enter the Legal Address of the Contractor as it appears on the Contractor's W-9 or W-4 Form (Contract Employees only) **and** the applicable Commonwealth Terms and Conditions, which must match the legal address on the 1099I table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

**Contractor Contract Manager:** Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on COMMBUYS, the name of the Contract Manager must be included in the Contract on COMMBUYS.

**Contractor E-Mail Address/Phone/Fax:** Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

**Contractor Vendor Code:** The Department must enter the MMARS **Vendor Code** assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned. The Department is responsible under the Vendor File and W-9s Policy for verifying with authorized signatories of the Contractor, as part of contract execution, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the state accounting system.

**Vendor Code Address ID:** (e.g., "AD001") The Department must enter the MMARS Vendor Code Address Id identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the Bill Paying and Vendor File and W-9 policies.

**COMMONWEALTH DEPARTMENT NAME:** Enter the full Department name with the authority to obligate funds encumbered for the Contract.

**Commonwealth MMARS Alpha Department Code:** Enter the three (3) letter MMARS Code assigned to this Commonwealth Department in the state accounting system.

**Department Business Mailing Address:** Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

**Department Billing Address:** Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

**Department Contract Manager:** Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

**Department E-Mail Address/Phone/Fax:** Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

**MMARS Document ID(s):** Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

**RFR/Procurement or Other ID Number or Name:** Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

## NEW CONTRACTS (left side of Form):

**Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)**

**PROCUREMENT OR EXCEPTION TYPE:** Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See State Finance Law and General Requirements, Acquisition Policy and Fixed Assets, the Commodities and Services Policy and the Procurement Information Center (Department Contract Guidance) for details.

**Statewide Contract (OSD or an OSD-designated Department).** Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

**Collective Purchase approved by OSD.** Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

**Department Contract Procurement.** Check this option for a Department procurement including state grants and federal sub-grants under 815 CMR 2.00 and State Grants and Federal Subgrants Policy, Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

**Emergency Contract.** Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

**Contract Employee.** Check this option when the Department requires the performance of an Individual Contractor, and when the planned Contract performance with an Individual has been classified using the Employment Status Form (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

**Legislative/Legal or Other.** Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

## CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) "See Amendments, Suspensions, and Termination Policy.)

**Enter Current Contract End Date:** Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

**Enter Amendment Amount:** Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

**AMENDMENT TYPE:** Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. **Amendment to Scope or Budget.** Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

**Interim Contracts.** Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

**Contract Employee.** Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

**Legislative/Legal or Other.** Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly

posted.

## COMMONWEALTH TERMS AND CONDITIONS

Identify which Commonwealth Terms and Conditions the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See Vendor File and W-9s Policy.

## COMPENSATION

Identify if the Contract is a **Rate Contract** (with no stated Maximum Obligation) or a **Maximum Obligation Contract** (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as available and encumbered prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

## PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth Bill Paying Policy for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under G.L. c. 29, s. 23A). See Prompt Pay Discounts Policy. PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments (G.L. c. 29, § 23A); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for *all* payments under a Contract. Initial grant or contract payments may be accelerated for the *first* invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

## BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the Expenditure Classification Handbook) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

## ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the Effective Date (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default Effective Date (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the Settlement and Release Form when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the Effective Date for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the Effective Date under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to G.L. c.4, § 9.

## CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. **If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here.** A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to G.L. c.4, § 9.

## CERTIFICATIONS AND EXECUTION

See Department Head Signature Authorization Policy and the Contractor Authorized Signatory Listing for policies on Contractor and Department signatures.

**Authorizing Signature for Contractor/Date**: The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "Anticipated Contract Start Date". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable**. Proof of Contractor signature authorization on a **Contractor Authorized Signatory Listing** may be required by the Department if not already on file.

**Contractor Name /Title:** The Contractor Authorized Signatory's name and title must appear legibly as it appears on the **Contractor Authorized Signatory Listing**.

**Authorizing Signature For Commonwealth/Date:** The Authorized Department Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "Anticipated Start Date". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See Department Head Signature Authorization. The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an approved Interdepartmental Service Agreement (ISA). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

**Department Name /Title:** Enter the Authorized Signatory's name and title legibly.

## CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

**Commonwealth and Contractor Ownership RIghts.** The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

**Qualifications.** The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the Secretary of State's website as licensed to do business in Massachusetts, as required by law.

**Business Ethics and Fraud, Waste and Abuse Prevention.** The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

**Collusion.** The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

**Public Records and Access** The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under Executive Order 195 and G.L. c. 11, s.12 seven (7) years beginning on the first day after the final payment

under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under 950 C.M.R. 32.00.

**Debarment**. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, Executive Order 147; G.L. c. 29, s. 29F G.L. c.30, § 39R, G.L. c.149, § 27C, G.L. c.149, § 44C, G.L. c.149, § 148B and G.L. c. 152, s. 25C.

**Applicable Laws.** The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable Massachusetts General Laws; the Official Code of Massachusetts Regulations; Code of Massachusetts Regulations (unofficial); 801 CMR 21.00 (Procurement of Commodity and Service Procurements, Including Human and Social Services); 815 CMR 2.00 (Grants and Subsidies); 808 CMR 1.00 (Compliance, Reporting and Auditing for Human And Social Services); AICPA Standards; confidentiality of Department records under G.L. c. 66A; and the Massachusetts Constitution Article XVIII if applicable.

**Invoices**. The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth Bill Paying Policy. Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15th for performance made and received (goods delivered, services completed) prior to June 30th, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15th or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

**Payments Subject To Appropriation**. Pursuant to G.L. c. 29 § 26, § 27 and § 29, Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by G.L. c. 29, § 9C. A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

**Intercept.** Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to G.L. c. 7A, s. 3 and 815 CMR 9.00. Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

**Tax Law Compliance**. The Contractor certifies under the pains and penalties of perjury tax compliance with Federal tax laws; state tax laws including but not limited to G.L. c. 62C, G.L. c. 62C, s. 49A; compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under G.L. c. 62E, withholding and remitting child support including G.L. c. 119A, s. 12; TIR 05-11; New Independent Contractor Provisions and applicable TIRs.

**Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts**. The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing **at least 45 days prior** to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is **any risk** to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

**Federal Anti-Lobbying and Other Federal Requirements.** If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including 31 USC 1352; other federal requirements; Executive Order 11246; Air Pollution Act; Federal Water Pollution Control Act and Federal Employment Laws.

**Protection of Personal Data and Information**. The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under G.L. c. 93H and c. 66A and Executive Order 504. The Contractor is required to comply with G.L. c. 93I for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) Information Technology Division (ITD) Protection of Sensitive Information, provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the Payment Card Industry Council Standards and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to G.L. c. 214, s. 3B.

**Corporate and Business Filings and Reports.** The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the Secretary of the Commonwealth, the Office of the Attorney General or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

**Employer Requirements.** Contractors that are employers certify compliance with applicable state and federal employment laws or regulations, including but not limited to G.L. c. 5, s. 1 (Prevailing Wages for Printing and Distribution of Public Documents); G.L. c. 7, s. 22 (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); minimum wages and prevailing wage programs and payments; unemployment insurance and contributions; workers' compensation and insurance, child labor laws, AGO fair labor practices; G.L. c. 149 (Labor and Industries); G.L. c. 150A (Labor Relations); G.L. c. 151 and 455 CMR 2.00 (Minimum Fair Wages); G.L. c. 151A (Employment and Training); G. L. c. 151B (Unlawful Discrimination); G.L. c. 151E (Business Discrimination); G.L. c. 152 (Workers' Compensation); G.L. c.153 (Liability for Injuries); 29 USC c. 8 (Federal Fair Labor Standards); 29 USC c. 28 and the Federal Family and Medical Leave Act.

**Federal And State Laws And Regulations Prohibiting Discrimination** including but not limited to the Federal Equal Employment Oppurtunity (EEO) Laws the Americans with Disabilities Act,; 42 U.S.C Sec. 12,101, et seq., the Rehabilitation Act, 29 USC c. 16 s. 794; 29 USC c. 16. s. 701; 29 USC c. 14, 623; the 42 USC c. 45; (Federal Fair Housing Act); G. L. c. 151B (Unlawful Discrimination); G.L. c. 151E (Business Discrimination); the Public Accommodations Law G.L. c. 272, s. 92A; G.L. c. 272, s. 98 and 98A, Massachusetts Constitution Article CXIV and G.L. c. 93, s. 103; 47 USC c. 5, sc. II, Part II, s. 255 (Telecommunication Act; Chapter 149, Section 105D, G.L. c. 151C, G.L. c. 272, Section 92A, Section 98 and Section 98A, and G.L. c. 111, Section 199A, and Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities, and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also MCAD and MCAD links and Resources.

**Small Business Purchasing Program (SBPP).** A Contractor may be eligible to participate in the SBPP, created pursuant to Executive Order 523, if qualified through the SBPP COMMBUYS subscription process at: www.commbuys.com and with acceptance of the terms of the SBPP participation agreement.

**Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized).** The Information Technology Mandatory Specifications and the IT Acquisition Accessibility Contract Language are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the Expenditure Classification Handbook or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term

"other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of $100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

**Northern Ireland Certification**. Pursuant to G.L. c. 7 s. 22C for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

**Pandemic, Disaster or Emergency Performance**. In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**Consultant Contractor Certifications** (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to G.L. Chapter 29, s. 29A). Contractors must make required disclosures as part of the RFR Response or using the Consultant Contractor Mandatory Submission Form.

**Attorneys.** Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to G.L. c. 30, s. 65, and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

**Subcontractor Performance.** The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors. .

## EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable Executive Orders (see also Massachusetts Executive Orders), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

**Executive Order 481.** Prohibiting the Use of Undocumented Workers on State Contracts. For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

**Executive Order 130.** Anti-Boycott. The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See IRC § 999(b)(3)-(4), and IRS Audit Guidelines Boycotts) or engages in conduct declared to be unlawful by G.L. c. 151E, s. 2. A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

**Executive Order 346.** Hiring of State Employees By State Contractors Contractor certifies compliance with both the conflict of interest law G.L. c. 268A specifically s. 5 (f) and this order; and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

**Executive Order 444.** Disclosure of Family Relationships With Other State Employees. Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

**Executive Order 504.** Regarding the Security and Confidentiality of Personal Information. For all Contracts involving the Contractor's access to personal information, as defined in G.L. c. 93H, and personal data, as defined in G.L. c. 66A, owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth **Information Technology Division's Security Policies.** Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "Security Policies") (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the Commonwealth's Terms and Conditions, withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under G.L. c. 214, § 3B for violations under M.G.L c. 66A.

**Executive Orders 523, 524 and 526.** Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes Executive Order 478). Executive Order 524 (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390). Executive Order 523 (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.