

Request for Response



RFR Number: BRP 2012-01
RFR Name: FFY 12 604b Water Quality Management Planning

TO ALL INTERESTED PARTIES:

January 13, 2012

The Department of Environmental Protection (DEP), Bureau of Resource Protection, is pleased to issue this Request for Responses (RFR) for §604(b) Water Quality Management Planning Program Grants for Federal Fiscal Year 2012. MassDEP is seeking project proposals from eligible applicants that will identify water quality problems and provide preliminary designs for BMPs to address these problems.

For FFY 2012, the Department will continue to focus 604b grant funds towards watershed or subwatershed based nonpoint source assessment and planning projects leading to the: 1) development of updated watershed based plans for specific watersheds or subwatersheds, based on the current Massachusetts Watershed-based Plan; 2) determination of the nature, extent and causes of water quality problems; 3) assessment of impacts and determination of pollutant loads reductions necessary to meet water quality standards; 4) green infrastructure projects that manage wet weather to maintain or restore natural hydrology; 5) development of implementation plans that will address water quality impairments; and 6) development of assessment and remediation strategies in impaired watersheds in areas that are not regulated under MS4. Applicants considering development of a proposal for watershed based plans should contact Jane Peirce at (508) 767-2792, jane.peirce@state.ma.us

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

Respondents should note that MassDEP's Division of Watershed Management (DWM) will concentrate sampling efforts in western basins (Deerfield, Farmington, Housatonic, Hudson, and Westfield) during 2012 and in southeastern basins (Boston Harbor, Taunton, Cape Cod, Islands, South Coastal, Buzzards Bay and Narragansett/Mt. Hope Bay) during 2013. Further discussion of DWM's new basin arrangement along with a map of the basin alignment can be found at:

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

All questions and correspondence regarding this RFR must be directed to: Gary Gonyea, 604(b) RFR Coordinator, MassDEP, Bureau of Resource Protection, Division of Municipal Services, 1 Winter Street, Fifth Floor, Boston, MA. 02108 or Gary.Gonyea@state.ma.us and received no later than 5:00 P.M., February 3, 2012.

Please note revised proposal submission requirements. All proposals must be submitted to: Gary Gonyea, 604(b) RFR Coordinator, MassDEP, Bureau of Resource Protection, Division of Municipal Services, 1 Winter Street, Fifth Floor, Boston, MA 02108 no later than 1:00 P.M., March 16, 2012.

Sincerely,

Steven J. McCurdy, Director
Division of Municipal Services

REQUEST FOR RESPONSES
FFY 12 604(b) PROGRAM
WATER QUALITY MANAGEMENT PLANNING GRANTS
RFR #BRP 12-01

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REQUEST FOR RESPONSES
FFY 12 604(b) PROGRAM
WATER QUALITY MANAGEMENT PLANNING GRANTS

RFR #BRP 12-01
January 2012

1. INTRODUCTION

Eligible public organizations are invited to submit responses for Section 604(b) U.S. EPA federal grants. Section 604(b) of the federal Clean Water Act (CWA) authorizes the awarding of funds through the Environmental Protection Agency to states for water quality assessment and management planning grants. The 1987 amendments to the Clean Water Act mandated that 40% of each state's award be granted, or "passed through", to Regional Public Comprehensive Planning Organizations and Interstate Organizations. In Massachusetts, these funds are administered by the Department of Environmental Protection (MassDEP).

The Department expects to receive approximately \$195,000 in 604(b) disbursement funds from the U.S. Environmental Protection Agency (EPA) as the 40% pass-through allocation under 604(b) for FFY 12.

The 604(b) Grant Program is designed to assist regional planning agencies and other eligible recipients in providing water quality assessment and planning assistance to local communities. The Department has determined that the focus of these grants will be for: 1) development of updated watershed based plans for specific watersheds or subwatersheds, based on the current Massachusetts Watershed-based Plan; 2) determination of the nature, extent and causes of water quality problems; 3) assessment of impacts and determination of pollutant loads reductions necessary to meet water quality standards; 4) green infrastructure projects that manage wet weather to maintain or restore natural hydrology; 5) development of implementation plans that will address water quality impairments; and 6) development of assessment and remediation strategies in impaired watersheds in areas that are not regulated under MS4. It is expected that these assessment activities will provide the Commonwealth with information useful to develop recommendations relative to future nonpoint source pollution implementation projects, the management of the water withdrawal permitting process under the Water Management Act, planning for drinking water source protection, and developing management strategies for the restoration and protection of surface, groundwater and wetland resources.

The United States Environmental Protection Agency (EPA) has instituted a new rule that replaces the existing Minority and Women Business Enterprise rules with a Disadvantaged Business Enterprise (DBE) rule. This rule requires that women and minority owned firms be both socially and financially disadvantaged to qualify as a DBE. While the new rule still requires the use of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE), these firms must also be certified as DBEs to be utilized to meet the revised DBE goals. The new goals are 3.40% D/MBE and 3.80% D/WBE. The Supplier Diversity Office (SDO),

formerly SOMWBA, has certified approximately 950 DBEs, which are acceptable for use by 604b grantees.

This RFR contains eligibility requirements, funding priorities, selection criteria, the RFR schedule and a checklist for a completed FFY 12 604 (b) Application. Additional information needed to complete the FFY 12 604 (b) Application including: RFR/Contract Requirements and Conditions, blank proposal forms, EEO/AA and DBE requirements, Standard Terms & Conditions, and Standard Contract forms are provided in the Attachments. Applicants are also encouraged to review the 604 (b) Questions and Responses in Attachment E that provides answers to many questions raised in previous years.

2. ELIGIBLE APPLICANTS

Pursuant to Section 604(b) of the Clean Water Act, eligible grant applicants must be either Regional Public Comprehensive Planning Organizations or Interstate Organizations. EPA defines eligible entities as regional planning agencies, council of governments, counties, conservation districts, cities and towns, and other substate public planning agencies and interstate agencies. Such organizations must be chartered with suitable powers as a unit of local government, an independent substate agency, or an interstate organization under an interstate agreement of which Massachusetts is a party.

3. FUNDING PRIORITIES

Respondents should note that MassDEP's Division of Watershed Management (DWM) recently made adjustments to its surface water monitoring program to more efficiently focus field and laboratory resources. Since 1992, DWM has carried out surface water monitoring activities during the second year of its five-year phased program for watershed-based assessment, TMDL development, permitting, outreach and nonpoint source pollution control. While DWM plans to continue monitoring in accordance with a five-year rotating schedule, the assemblage of noncontiguous river basins and coastal drainage areas that were the focus of monitoring each year will now be grouped according to region. Further discussion of this new arrangement along with a map of the basin alignment can be found at:

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

Assessment work performed under the 604 (b) program should coincide with and support the work planned by the Department in these basins during the next several years. Additional assessment information needs (pathogens, nutrients, metals, etc.) for river segments are contained in the Massachusetts Integrated List of Waters (303d List). The 2010 Integrated List of Waters and a listing of TMDL reports are available on the MassDEP Web Site at <http://mass.gov/dep/water/resources/tmdls.htm>. Additionally, DEP's Water Quality Assessment reports for select watersheds are available at <http://mass.gov/dep/water/resources/wqassess.htm>

Priority will also be given to assessment type activities that will result in information that can be used by MassDEP to support additional water quality assessment work and/or to help develop recommendations relative to future nonpoint source pollution BMP implementation projects, the water withdrawal permitting process, and management strategies for restoration and protection of

surface water and groundwater resources and wetlands restoration. Each project should include a public awareness component involving coordinated efforts with local boards, town officials and other appropriate interest groups and agencies working in the area. Additional consideration will be given to proposals that pursue innovative approaches to the problems identified and which will result in information and technology transfer to appropriate audiences.

Eligible Projects

Generally, the following types of assessment/planning projects that focus on watershed or sub-watershed based nonpoint source assessment efforts will be considered for funding.

- ❖ **Water Quality Assessment** -Identification and characterization of a specific nonpoint source pollution problem site or resource of particular concern via water quality sampling. Results used to develop recommendations for BMP implementation projects and management strategies consistent with the Department's policies and programs.
- ❖ **Green Infrastructure & Low Impact Development** – Development of projects that manage wet weather to maintain and restore natural hydrology by infiltrating, evapotranspiring, capturing and using stormwater. Other project examples include: Green streets, water reuse projects, porous pavement, bioretention, street trees, hydromodification to establish or restore riparian buffers, floodplains, or wetlands, and retro fit programs including downspout disconnection to keep wet weather out of all types of storm sewers.
- ❖ **Assessment of Land use Activities** -Identification and mapping of current land use activities within a river basin or drainage area, including known and potential sources of nonpoint pollution and permitted water withdrawals and discharges.
- ❖ **Water Supply/Water Quality Source Protection Planning** -Development of water supply planning and protection strategies for communities with public water supplies within a sub-basin. These strategies could include development of BMPs to address potential sources of contamination to public water supplies identified in MassDEP SWAP reports.
- ❖ **Wetlands Assessment and Restoration Planning** -Identification and planning for potential wetlands restoration projects.
- ❖ **Assessment of Local Water Quality Protection Measures** -Analyses of the range and effectiveness of local control measures such as bylaws, regulations, and enforcement provisions within a river basin or drainage area. Any proposal that includes a review of Town bylaws task must include a letter from the Town indicating their consent to this review and their commitment to implement proposed changes.
- ❖ **Development of implementation plans** - Including conceptual drawings and engineering studies, which can be submitted for funding to other grant sources and that will lead to remediation of water quality impairments and restoration of beneficial uses.
- ❖ **Development of Watershed Based Plans** - Development of Watershed based Plans, consistent with EPA's guidelines that include the following nine elements:
 - a. An identification of the causes and sources or groups of similar sources that will need to be controlled to achieve the load reductions estimated in this watershed-based plan
 - b. An estimate of the load reductions expected for the management measures described below
 - c. A description of the NPS management measures that will need to be implemented to achieve the load reductions estimated under paragraph (b), and an identification of the critical areas in which those measures will be needed to implement the plan.

- d. An estimate of the amounts of technical and financial assistance needed, associated costs, and/or the sources and authorities that will be relied upon, to implement this plan.
- e. An information/education component that will be used to enhance public understanding of the project, and encourage their early and continued participation in selecting, designing and implementing the NPS management measures.
- f. A schedule for implementing the NPS management measures identified in this plan
- g. A description of interim, measurable milestones for determining whether NPS management measures or other control actions are being implemented.
- h. A set of criteria that can be used to determine whether loading reductions are being achieved over time and substantial progress is being made toward attaining water quality standards, and if not, criteria for determining if revisions are necessary.
- i. A monitoring component to evaluate the effectiveness of the implementation efforts based on paragraph h.

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

The types of projects that received 604(b) funding in previous years are provided in the Project Summaries which are available on the MassDEP web site <http://mass.gov/dep/water/grants.htm> or from the 604(b) Coordinator. Projects are expected to commence within approximately eight (8) months of the notice of grant award and be completed within two years of receipt of the Notice to Proceed letter.

4. SELECTION CRITERIA

Applications for funding will be evaluated by MassDEP according to the following criteria at a minimum:

- Extent to which the project, scope of services and targeted watersheds would further MassDEP water quality management priorities, or other suitable water quality management goals.
- Quality and responsiveness of the proposal including; completeness, organization, and conciseness.
- Technical approach including the logic of the plan, clarity of the proposal in problem identification and relevant objectives, discrete project deliverables and results identified, and realistic implementation schedule.

- Adequacy of the project to successfully address the problems identified in terms of the proposed tasks. Applicant's commitment and qualifications to solving the problems to be addressed by the grant. Applicant's past performance in conducting projects funded under this or other grant programs administered by MassDEP. Likelihood of success of the project, including usefulness of resulting products, and proposed implementation strategies.
- Cost effectiveness of the proposal.

5. RESPONDENTS SCHEDULE FOR FFY 12 604(b) COMPETITIVE PROCESS

| | |
|--|---------------------------------|
| RFR issued | January 13, 2012 |
| Written Questions Due | February 3, 2012 |
| Proposals due | March 16, 2012 (1:00 PM) |
| Evaluation of Responses | March – April 2012 |
| MassDEP Project Selection | May 2012 |
| Anticipated Contract Start Date | September 2012 |

6. PROPOSAL CHECKLIST

Requirements for Submitting a 604 (B) Proposal

- Completed **Administrative Summary**
- Project Narrative** - including statement of problem and approach to addressing the problem.
- Scope of Services** - including task by task description of objectives, deliverables and costs.
- Project Budget** - including a breakdown of costs by expense category.
- Project Milestone Schedule**
- Statement of Qualifications** - including resumes of key personnel and examples of similar work (if available).
- One (1) copy of Letter(s) of support.**
- Provide ONE original signed copy with all the forms listed below.**

- Provide **SEVEN** copies of Proposal Narrative, Scope, Budget, and Timeline. Do not include forms with these copies. Letters confirming access to potential project areas, whether public or privately owned, should be included with these copies.
- All copies must be printed DOUBLE-SIDED.**
- Provide **ONE** copy of Proposal narrative, Scope, Budget, and Timeline in MicroSoft WORD format on a CD.

Forms That Must Be Submitted With The Original Copy Of Your Proposal Include:

- Completed and executed **Commonwealth Terms and Conditions**
- Contactors Authorization Signatory Listing Form**
- W-9 Form with DUNS number**
- Electronic Funds Transmittal Form**
- Affirmative Action Policy Statement**
- A Statement on the Respondent's letterhead acknowledging that respondents shall comply with DBE requirements.**

ATTACHMENT A
RFR - Required Specifications

Procuring Bureau/Office/Region: Bureau of Resource Protection

Address: One Winter Street, 5th Floor, Boston, MA 02108

Telephone #: 617.556.1152

Fax #: 617.292.5696

E-Mail or Internet Address: gary.gonyea@state.ma.us

RFR File Name/Title: FFY 12 604b Water Quality Management Planning Grants

RFR File Number: BRP 2012-01

Procurement Team Leader/RFR Contact Person: Gary Gonyea

Procurement Management Team (PMT)/Category: Federal Grant

1. DESCRIPTION OR PURPOSE OF PROCUREMENT:

The Department of Environmental Protection (DEP), Bureau of Resource Protection, is pleased to issue this Request for Responses (RFR) for §604(b) Water Quality Management Planning Program Grants for Federal Fiscal Year 2012. MassDEP is seeking project proposals from eligible applicants that will identify water quality problems and provide preliminary designs for BMPs to address these problems.

For FFY 2012, the Department will continue to focus 604b funds towards watershed or subwatershed based nonpoint source assessment-type grant projects leading to the: 1) development of updated watershed based plans for specific watersheds or subwatersheds, based on the current Massachusetts Watershed-based Plan; 2) determination of the nature, extent and causes of water quality problems; 3) assessment of impacts and determination of pollutant loads reductions necessary to meet water quality standards; 4) green infrastructure projects that manage wet weather to maintain or restore natural hydrology; 5) development of implementation plans that will address water quality impairments; and 6) development of assessment and remediation strategies in impaired watersheds in areas that are not regulated under MS4.

2. ACQUISITION METHOD TO BE USED FOR CONTRACT(S):

Outright Purchase Fee For Service License Tax Exempt Lease Purchase (TELP)
 Term Lease Rental (not to exceed 6 months) Other (specify):

3. SINGLE OR MULTIPLE CONTRACTORS FOR CONTRACT PERFORMANCE:

Single Contractor Multiple Contractors

4. SINGLE OR MULTIPLE DEPARTMENTS MAY CONTRACT UNDER THIS RFR:

Only Procuring Department May Contract Under RFR
 Option to Allow Other Departments\Political Subdivisions to Contract Under RFR
 Statewide Contract - All Departments may purchase under terms of RFR
 Multiple Un-identified Additional Departments may purchase under terms of RFR
 Multiple Identified Departments Listed in RFR may purchase under terms of RFR

5. TOTAL ANTICIPATED DURATION OF CONTRACT(S):

Initial Contract Duration (Indicate Number): One-Time Purchase Month(s); 2 Year(s)

Options to Renew (Indicate numbers):

2 Option(s) to Renew not to exceed: Month(s); 1 Year(s), each option

6. TOTAL ANTICIPATED EXPENDITURES FOR TOTAL ANTICIPATED DURATION OF CONTRACT(S): (Amounts indicated are only estimates. Contract amounts during the period of any contract are

subject to a selected Bidder's response, and may increase or decrease based upon contract negotiation, performance selected, appropriation or availability of funds.)

(Optional) Estimated Value of Procurement (Including Anticipated Renewal Options):\$ 200,000_____

Contract(s) will have a Maximum Obligation Amount.

_____ Contract(s) will NOT have a Maximum Obligation Amount (Rate Contract).

_____ Compensation will be Subject to Quotes by List of Qualified Contractors (Maximum Obligation or Rate Contract).

Will Federal Funds be used to fund and part of Contract(s)? _____ NO, YES (If YES, to what extent?) Up to 100% of Contract amount, local contribution will vary by applicant's proposal and contract.

7. INDICATE CONTRACT AND PERFORMANCE SPECIFICATIONS:

Contract and performance specifications will be determined upon review and selection of proposals from eligible entities as outlined in preceding sections of this RFR.

8. INSTRUCTIONS FOR SUBMISSION OF RESPONSES: (Content Requirements for Responses, Where and How to Submit Responses, # Copies of Responses, Format Requirements)

All proposals must be submitted to: **Gary Gonyea, 604(b) RFR Coordinator, MassDEP, Bureau of Resource Protection, Division of Municipal Services, 1 Winter Street, Fifth Floor, Boston, MA 02108** no later than **1:00 P.M., March 16, 2012**.

Applicants must provide ONE original signed copy with all the forms, SEVEN copies of Proposal Narrative, Scope, Budget, and Timeline. Do not include forms and resumes with these seven copies. All copies must be printed DOUBLE-SIDED.

9. DEADLINE FOR RESPONSES Or PROCURMENT CALENDAR:

Indicate **Deadline Date:** March 16, 2012 and Time: 1 P.M. (a.m./ p.m.)

Will a Bidders Conference be offered? NO _____ YES (Indicate Date, Time and Place): One Pre-RFR meeting was conducted in the Concord Room at MassDEP's Central Regional Office in Worcester on **Wednesday, November 9, 2011 from 10:00 AM to Noon.**

Will Opportunity for Written Questions be Offered: _____ NO YES (Indicate Deadline Date, Time and place for submission):

All questions and correspondence regarding this RFR must be directed to: **Gary Gonyea, 604(b) RFR Coordinator, MassDEP, Bureau of Resource Protection, Division of Municipal Services, 1 Winter Street, Fifth Floor, Boston, MA. 02108** or Gary.Gonyea@state.ma.us and received no later than **5:00 P.M., February 3, 2012**.

Estimated procurement calendar dates:

| | |
|--|--------------------------------------|
| Release of RFR | January 13, 2012 |
| Submission of written inquiries | February 3, 2012 at 5 P.M. |
| Response to written inquiries | (Estimated) February 10, 2012 |
| Submission of responses deadline date | March 16, 2012 1 P.M. EST |
| Notification to bidders of award | (Estimated) June 2012 |
| Start date of contract | (Estimated) September 1, 2012 |

10. Requirements and Conditions

Words used in this RFR shall have the meanings defined in 801 CMR 21.00. Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All responses must be submitted in accordance with the specific terms of this RFR.

1. **All correspondence** regarding this RFR shall be addressed in writing to:

**Gary Gonyea
604(b) RFR Coordinator
Department of Environmental Protection
Division of Municipal Services
One Winter Street, 5th Floor
Boston, MA 02108.**

2. After the RFR is issued on January 13, 2012, any questions that change or substantially clarify this RFR and which MassDEP receives **in writing** no later than February 13, 2012 will receive a response from MassDEP. The Department will not respond to written or oral questions received after this date. **All responses to questions will be posted exclusively on CommPASS. Bidders are prohibited from communicating directly with any employee of the Procuring Department except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR unless otherwise noted.** Responses to past questions about the 604(b) program are included in Attachment E of this RFR.
3. **One original signed with all forms, seven (7) paper copies without forms, and one CD with a Word version of the proposal, prepared in accordance with the format prescribed in this RFR, must be received no later than 1 P.M. on Friday, March 16, 2012. All proposal copies must be printed Double-sided.** The proposals should be mailed or hand delivered to:

**Gary Gonyea
604(b) RFR Coordinator
Department of Environmental Protection
Division of Municipal Services
One Winter Street, 5th Floor
Boston, MA 02108**

Postmarks will not be accepted in meeting the proposal deadline. A facsimile proposal shall not qualify as a submission for deadline purposes in advance of or in lieu of a hard copy submission.

4. **One (1) copy of a Letter of support** from all participant towns, organizations, and agencies must be submitted with the proposal on **March 16, 2012.**

5. Respondents are required to submit as part of their proposals a statement of their qualifications and those of their subcontractors, as applicable, to perform the proposed project. Such statements should resumes of key personnel and examples of similar work, if available. Respondents are encouraged to provide a link/URL for Company Profile materials.
6. Proposals should include a brief **narrative** to explain the objective(s) of the project and describe the activities. Proposals must also include a **scope of services** with tasks/activities, discrete deliverables, a **milestone schedule**, and a **budget**. Proposal forms (Attachment B) should be used when preparing the narrative, scope of services, budget, and milestone schedule. **The complete proposal must be submitted in Word format on a CD.**
- 7.A. In order for their proposals to be considered complete and responsive to this RFR, **respondents must provide with their proposals** the appropriate Equal Employment Opportunity/Affirmative Action (EEO/AA) and Disadvantaged Minority/Women Business Enterprise (D/MBE or D/WBE) information listed below.

EEO/AA Proposal Requirements

For proposals, each Respondent **must** provide a **signed EEO/AA Policy Statement** on the organization's letterhead, which outlines its company's/agency's commitment to EEO/AA as a company/agency objective of equal importance to other company/agency objectives. Please refer to the EEO/AA Requirements and EEO/AA Policy Guidance Statement in Attachment C.

DBE Utilization Requirements

Regardless of the dollar value of a project awarded a Grant pursuant to this RFR, the Federal s. 604(b) Grant Program requires that any prime contracts or subcontracts for services, construction, goods or equipment procured by a Grantee to implement the project funded from the Grant must contain the applicable Federal "Fair Share" DBE Utilization Goals.

In May 2008 a new United States Environmental Protection Agency (EPA) rule became effective that changed the Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Program to a Disadvantaged Business Enterprise (DBE) Program.

For firms to qualify under the old MBE/WBE program they needed to be socially disadvantaged and had to be certified by the State Office of Minority and Women Business Assistance (SOMWBA), recently renamed the Supplier Diversity Office (SDO). Under the new DBE rule, the firms must be both **socially** and **economically** disadvantaged, citizens of the United States, and certified as a DBE either by the state or the federal

government. Women and certain minorities are presumed to be socially disadvantaged. The economic disadvantage is measured by the owner's initial and continuing personal net worth of less than \$1,320,000.

Because the Clean Water Act requires the use of MBEs and WBEs, these firms can still be utilized, but they must also be certified as DBEs. **In essence, the new regulations mean that only a subset of the universe of MBEs and WBEs can be used – those who are also certified as DBEs.**

The **new DBE utilization goals are 3.4% D/MBE and 3.8% D/WBE**, respectively for any subcontract for services, construction, goods or equipment.

SDO (formerly SOWMBA) will continue to be the certifying agency for DBEs.

For the purposes of being awarded a Grant pursuant to this RFR, all respondents must include a written statement in their proposals (on their organization's letterhead) which clearly acknowledges that the respondent, as Grantee, shall comply with the DBE utilization requirements contained in this RFR, during the implementation of its project. The proposed project budget contained in the respondent's proposal must also identify specific expense categories (with associated dollar amounts) that the respondent expects to procure to meet or exceed the applicable D/MBE and D/WBE goals during project implementation.

All Respondents must clearly indicate in their proposed budgets the specific tasks with dollar amounts that will be used to meet or exceed the DBE "Fair Share" requirement described above.

7.B. **If and only if a Respondent is selected** by the Department to perform the services of this project, and after execution of a Standard Contract with the Department, the Respondent (now Contractor) must comply with the following requirements and must submit to the Department the documents listed below when selecting its subcontractors. In addition, the Federal Grant Program requires that, in awarding subcontracts, the prime Contractor must take the six affirmative steps stated in 40 CFR 31.36(e), and it requires the Department to submit reports to the EPA on the utilization of DMBEs/DWBEs under the federal grant. The Department requires all Contractors to report their DMBE/DWBE utilization quarterly. Please refer to Attachment C for a description of the six steps and a copy of the Contractors DMBE/DWBE Activity reporting form.

- A **Statement of Intent to Subcontract to DBE Firms**, listing the services, supplies and equipment the Contractor proposes to obtain from DBE firms, and a **Letter of Intent**, for each D/MBE and D/WBE to be utilized, describing the work to be performed and its dollar and percentage value,

signed by both the D/MBE and/or D/WBE, and by an authorized signatory for the organization, as applicable.

- Alternatively, the Contractor must submit a written statement that it is unable to meet the full percentage DBE utilization requirement and is requesting a waiver from such requirement. In the event of a waiver request, the Contractor must submit a completed waiver request Form EEO-BMF-490 to the Department no later than five (5) business days after the Contractor's selection of its subcontractor(s). **All such waiver requests must document to the Department's satisfaction the good faith efforts made by the Contractor to meet the above stated DBE Fair Share percentages. A copy of Form EEO-BMF-490C is included in Attachment C. Failure to demonstrate a good faith effort can significantly delay the execution of the contract.**
 - The Department requires evidence of state approval of D/MBEs and D/WBEs before it will consider firms having such status. State certification of D/MBEs and D/WBEs is provided by the Supplier Diversity Office (SDO) - formerly called State Office of Minority and Women Business Assistance (SOMWBA). SDO is located at The McCormack Building One Ashburton Place, Room 1313 Boston, MA 02108 and can be contacted for assistance at (617) 502-8831 or at wado@state.ma.us. A business must either be certified by SDO as a D/MBE or D/WBE or have applied for such certification at the time the Respondent's proposal is submitted, and must be certified by the time the contract is awarded by the Department.
 - Respondents are further advised that failure to comply with DBE requirements under the contract, including all reporting requirements, shall be considered a major breach of the contract and may be grounds for suspension, cancellation of the contract, or other appropriate penalty and result in sanctions against the Contractor.
8. Projects are expected to commence within approximately eight (8) months of notice of grant award and be completed within two years of receipt of a Notice to Proceed. The Department retains the option to renew the contracts developed under this RFR for an additional two years.
 9. All materials, software, maps, reports and other products produced through the grant program shall be considered in the public domain and thus available at the cost of production.
 10. During the project, title to any and all real and personal property, equipment and accessories purchased and used for the project scope of work and funded in whole or part by this grant program shall be in the name and control of the grantee.

11. After termination of the project, the manner of use and disposition of any equipment and accessories purchased and used for the project and funded in whole or in part under this grant program shall be determined by the Department.
12. Contract Expansion. If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.
13. Costs. Costs which are not specifically identified in the bidder's response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.
14. Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. EFT applications can be found on OSD forms page (<http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>)
15. Additional information about EFT is available on the [VendorWeb](http://www.mass.gov/osc) site (www.mass.gov/osc click on MASSfinance). Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronics Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and any information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the Department on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The Department will consider such requests on a case-by-case basis and communicate the findings with the bidder.
16. The Department will retain ten percent (10%) of the total maximum obligation of 604(b) funds or the final invoice submitted by the Contractor, whichever is greater, until all contract provisions are satisfied and final reports and other products are delivered and accepted. This 10% retainage shall be reflected on each invoice submitted by the Grantee and will be cumulative.

17. Matching funds are not required, but respondents may enhance their proposals by offering additional cash or in-kind matches as demonstration of local support.
18. The Department reserves the right to fund a portion, change the scope of the proposal and add or delete tasks to more closely meet the purposes of the program. The Department reserves the right to approve the selection of all consultants. Respondents will have the option of rejecting the grant award if the revised scope does not meet their aims. The Department retains the option to modify the contracts issued under this RFR to increase the maximum obligation to include additional related tasks required by the Department at the same rates as was accepted in the original contracts.
19. All respondents must complete, execute and return the **COMMONWEALTH TERMS AND CONDITIONS** attached to this RFR. (See <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>). If the Respondent has already executed and filed the Commonwealth Terms and Conditions, please indicate this in your response. The Commonwealth Terms and Conditions shall be incorporated by reference into any Contract for Commodities and Services executed pursuant to this RFR. A respondent is required to execute the Commonwealth Terms and Conditions only once.
20. Assuming a Respondent is selected by the Department to perform the services of this project, the Respondent will be required to complete and execute a **Standard Contract Form**. (See <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>) The Department may require that a Memorandum of Understanding (MOU) be prepared and signed by the grantee and any participating organization and/or agency prior to execution of the contract. A MOU is an agreement between the grantee and each participating organization or agency which lists the specific project responsibilities of these participating groups.
21. 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.
22. The Department may, at any time and without penalty, reject any or all proposals whenever the Department determines that such action is in the best interests of the Commonwealth.
 23. At a minimum, quarterly reports will be required for all projects selected for 604 (b) funding. All selected projects will be required to submit a final project report.
 24. The Department shall have the option to offer a Respondent an opportunity to provide a "Best and Final Offer", and it may limit the number of respondents for this option.
 25. Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 7, Subsection 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.
 26. The payment procedure for §604 (b) projects is reimbursement for costs incurred for the project during the contractual period. Advanced payments shall not be made. Reimbursement is generally made within 30 days subsequent to a grantee submitting a correctly executed invoice with appropriate backup. No payments shall be made for Massachusetts sales tax. **No payments will be made without receipt of a quarterly DBE Activity reporting form.**
 27. The Department must be immediately notified of the loss or reassignment of a Project Officer, and the Department requires that a replacement Project Officer be assigned within sixty (60) days. The Department reserves the right to approve all replacement Project Officers. The Department also reserves the right to terminate the contract if the grantee fails to replace a project officer within this time frame.
 28. **Quality Assurance Project Plan (QAPP) Requirements** - U.S. EPA Administrative Order 5360.1 requires that all projects involving environmental monitoring performed by or for the U.S. EPA shall not be undertaken without an adequate QAPP. To comply with this order, project responses that contain conventional water quality monitoring, biomonitoring, modeling, etc. must include provisions for the formulation of QAPPs. Preparation of QAPPs must be identified as a "Task" in the response, along with a corresponding budget and schedule for completion. U.S. EPA QA/QC requirements must be followed when developing the plan; the Department can provide applicants with copies of these requirements. Once a Notice to Proceed for the contract has been issued to the contractor from the Department, the QAPP must be submitted in accordance with the milestone schedule for the project. **In no case shall any project monitoring proceed before the QAPP is approved by the U.S. EPA and the Department.**
 29. **Geographic Information System (GIS) Requirements** - All materials, software, maps, reports and other products produced shall be considered in the public domain and thus available at the cost of production. If GIS products are produced, a copy of any spatial

data developed and full meta-data documentation must be provided to MassDEP as part of the project deliverables. A template for meta-data documentation is available from MassGIS. **Data should be provided in either an ESRI file geo-database or shapefile.**

30. The Americans with Disabilities Act requires that alternate formats of public documents be made available upon request. Bidders requiring such accommodations shall submit their requests in writing, with supporting documentation to the RFR Contact Person. In addition, the Contractor will be required to make provisions to supply reports and other materials in alternative formats (including Braille, sign language or tape), upon request.
31. This RFR has been distributed electronically using the Commonwealth's Procurement Access and Solicitation System (Comm-PASS). RFR attachments that are referenced will be found either as part of this RFR file or are found in the vendor "Forms and Information" section at: <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html> **Bidders are solely responsible for obtaining and completing required attachments that are identified in this RFR and for checking Comm-PASS for any addenda or modifications that are subsequently made to this RFR or attachments.** The Commonwealth and its subdivisions accept no liability and will provide no accommodation to Bidders who fail to check for amended RFRs and submit inadequate or incorrect responses. Potential Bidders are advised to check the "last change" field on the summary page of RFRs for which they intend to submit a response to ensure that they have the most recent RFR files.
32. Bidders may not alter (manually or electronically) the RFR language or any RFR component files. Modifications to the body of this RFR, specifications, terms and conditions, or which change the intent of this RFR are prohibited. Any unauthorized modifications may disqualify a Response.
33. Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Subcontractors are required to meet the same state and federal financial and program reporting requirements and are held to the same state and federal financial and program reporting requirements and held to the same reimbursable cost standards as contractors.
34. Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department regarding this RFR except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through Comm-PASS.
35. Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at www.comm-pass.com. Information contained in this document and in each tab of the Solicitation, including file

attachments, and information contained in the related Bidders' Forum(s), are all components of the Solicitation.

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

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

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

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

36. Electronic Communication/Update of Bidder's/Contractor's Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current the email address of the bidder's contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the Department, including requests for clarification. The Department and the Commonwealth assume no responsibility if a prospective bidder's/awarded contractor's designated email address is not current, or if technical problems, including those with the prospective bidder's/awarded contractor's computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the Department to be lost or rejected by any means including email or spam filtering.
37. Environmental Response Submission Compliance. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all responses submitted should comply with the following guidelines:
 - All copies should be printed double sided.
 - All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.
 - Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non re-usable materials such as plastic report covers, plastic

dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.

- Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.
- Bidders are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, bidders should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

38. Minimum Bid Duration. Bidders responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.
39. Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.
40. Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A bidder requesting accommodation must submit a written statement which describes the bidder's disability and the requested accommodation to the contact person for the RFR. The Department reserves the right to reject unreasonable requests.
41. Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law.

ATTACHMENT B

PROPOSAL FORMS

PROPOSAL GUIDELINES

PROJECT NARRATIVE

Provide a brief narrative (no more than three (3) pages total) in response to the following two elements:

- 1. CONCISE STATEMENT OF THE PROBLEM** (Provide background, describe the issue, furnish a statement of need for the selected communities and or watershed, and provide overall project justification):

Provide concise descriptions, information, and/or discussion that answers the following questions: What are the issues that this project intends to address? Give a brief history/background leading up to the current situation. Who are the "stakeholders" involved in this issue? What will the stakeholders gain from the project? Why is this project needed in this watershed, or in these particular communities in this watershed?

- 2. APPROACH TO THE PROBLEM** (Provide a description of the project and the strategy to be implemented in response to the identified problem, including how appropriate interest groups in the watershed will be made aware of the project and how results of the project will be disseminated to these groups):

When describing the approach to the problem, be as specific as possible. When appropriate, be quantitative in your description (tell where, how many, how frequently, etc.). Present the approach in a logical, step-wise fashion. Identify who will be involved in each step (if the project has multiple participants), and how the tasks will be coordinated. Describe how the major tasks will be accomplished -- be specific. Identify any special skills or techniques that will be used to accomplish certain tasks; for example GIS capabilities, trained wetlands biologists, water quality sampling experience, computer modeling skills, etc. Finally, how will the "stakeholders" be informed about the project (i.e., public meeting(s), mass mailing(s), informational brochure)?

Please note that the following tasks must be included in your proposal if your project includes the specific assessment activities stated below.

FOR PROPOSALS THAT INCLUDE COLLECTION, EVALUATION OR USE OF WATER QUALITY DATA:

1. *A quality assurance project plan (QAPP) must be prepared and submitted to EPA and the Department before any sampling is initiated and should be included in the scope of services as a discrete project task. Additionally, QAPPs are required for projects that carry out non-WQ monitoring tasks too. QAPPs are required if a project includes the collection, evaluation, or use of environmental data; the use of environmental models; or the design, construction or operation of environmental technology.*
2. *A preliminary sampling plan should be provided in proposals that include water sampling as a task. The plan should describe the general sampling approach (at a minimum). If possible, be specific about how many samples and where, how frequently sampling will occur, what kind of sampling event (i.e., stormwater, groundwater, sediments, biological assessment, dry weather, etc.), analyses to be performed (i.e., bacteria, flow, PCB's, heavy metals, macroinvertebrates, etc.). State how the results will be analyzed and presented.*

FOR PROPOSALS THAT INCLUDE GEOGRAPHIC INFORMATION SYSTEMS (GIS) WORK AS A TASK:

Projects that propose to use GIS to perform landuse assessments or identify and map sources of pollution within a watershed or subwatershed should provide information on the type of database(s) that will be used, describe any ground-truthing of information, and state scale of maps to be produced. Additionally, at the end of the project, all GIS data should be provided to MassDEP, and other end users as appropriate, on disk in either an ESRI file geo-database or shapefile.

ALL PROPOSALS - REPORTING

All projects will require quarterly progress reports, a draft final report and a final report. This task is the primary end product of all water quality assessment and management projects funded under this grant program. These reports will be used by the Division of Watershed Management and other state, federal and local agencies, as well as public and private stakeholder groups. Because of this, it is expected that the final reports produced under these grants will be comprehensive, professionally written and produced, and contain useful recommendations based on sound technical assessment/planning information gathered during the project. Usually the Department requires 10 copies of the final report (six CDs and 4 printed copies), and an electronic version for potential posting on MassDEP's web page or to produce more copies if needed.

**PROPOSAL
WATER QUALITY MANAGEMENT PLANNING GRANTS
604(b) PROGRAM
FEDERAL FISCAL YEAR 2012**

Administrative Summary

Error! Bookmark not defined. RESPONDENT:

Address:

Telephone:

Facsimile:

Internet:

PROJECT TITLE/BASIN:

MUNICIPALITIES AND WATERSHED SERVED BY THIS PROJECT:

(Attach required participation letters)

AMOUNT OF FUNDING REQUESTED AND LOCAL MATCH (IF ANY) PROPOSED:

| | |
|-----------------------------------|-------------------------|
| Federal 604 (b) Funds via MassDEP | \$ _____ |
| Cost Share Proposed | \$ _____ (not required) |
| Total Project Budget | \$ _____ |

PROJECT SUMMARY/OBJECTIVES:

PRINCIPAL CONTACT:

Name and Title () _____
Telephone

Internet () _____
Facsimile

AUTHORIZED SIGNATORY:

Signature and Title required Date

**PROPOSAL
PROJECT NARRATIVE**

Provide a brief narrative (no more than three (3) pages total) in response to the following two elements:

- 1. CONCISE STATEMENT OF THE PROBLEM** (Provide background, describe the issue, furnish a statement of need for the selected communities and or watershed, and provide overall project justification.):

- 2. APPROACH TO THE PROBLEM** (Provide a description of the project and the strategy to be implemented in response to the identified problem, including how appropriate interest groups in the watershed will be made aware of the project and how results of the project will be disseminated to these groups.):

**PROPOSAL
SCOPE OF SERVICES**

Please provide a brief descriptive statement for each objective and the task/activity, followed by the deliverable product(s) to be submitted. Tasks are to be content-specific which result in discrete deliverable products:

OBJECTIVE / TASK #1:

DELIVERABLES:

COST:

OBJECTIVE / TASK #_:

DELIVERABLES:

COST:

OBJECTIVE / TASK #_: Reporting

DELIVERABLES: A) Quarterly Reports
B) Final Draft Report and Final Report
C) Other

COST:

PROPOSAL

PROJECT MILESTONE SCHEDULE

(Provide a timeline by "xing" out the duration of the task activity):

| | MONTH | | | | | | | | | | | | | | | | | | | | | | | | |
|----------------|--------------|----------|----------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--|
| TASK | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | |
| Task #1 | | | | | | | | | | | | | | | | | | | | | | | | | |
| Task #2 | | | | | | | | | | | | | | | | | | | | | | | | | |
| Task #3 | | | | | | | | | | | | | | | | | | | | | | | | | |
| Task #4 | | | | | | | | | | | | | | | | | | | | | | | | | |
| Task #5 | | | | | | | | | | | | | | | | | | | | | | | | | |
| Task #6 | | | | | | | | | | | | | | | | | | | | | | | | | |
| Task #7 | | | | | | | | | | | | | | | | | | | | | | | | | |

ATTACHMENT C

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AFFIRMATIVE ACTION AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

AFFIRMATIVE ACTION REQUIREMENTS FOR PROPOSALS:

For all proposals, an **Affirmative Action Policy Statement** must be submitted with the proposal.

UTILIZATION OF DBEs UNDER THE FEDERAL GRANT

In May 2008 a new United States Environmental Protection Agency (EPA) rule became effective that changed the Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Program to a Disadvantaged Business Enterprise (DBE) Program.

For firms to qualify under the old MBE/WBE program they needed to be socially disadvantaged and had to be certified by the State Office of Minority and Women Business Assistance (SOMWBA), recently renamed the Supplier Diversity Office (SDO). Under the new DBE rule, the firms must be both **socially** and **economically** disadvantaged, citizens of the United States, and certified as a DBE either by the state or the federal government. Women and certain minorities are presumed to be socially disadvantaged. The economic disadvantage is measured by the owner's initial and continuing personal net worth of less than \$1,320,000.

Because the Clean Water Act requires the use of MBEs and WBEs, these firms can still be utilized to meet utilization goals, but they must also be certified as DBEs. In essence, the new regulations mean that only a subset of the universe of MBEs and WBEs can be used – those who are also certified as DBEs.

MassDEP has undertaken an availability analysis to develop new DBE goals. These new goals are 3.4% D/MBE and 3.8% D/WBE respectively for any subcontract for services, construction, goods or equipment.

SDO (formerly SOWMBA) will continue to be the certifying agency for D/MBEs and D/WBEs.

The grantee according to 40 CFR, Part 33 Subpart C will make the following good faith efforts whenever procuring construction, equipment, services and supplies.

(2) The six Good Faith Efforts shall include:

- (i) Require the DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing qualified disadvantaged minority business and women's business enterprises on solicitation lists and soliciting them whenever they are potential sources;
- (ii) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes,

whenever possible, posting solicitations for bids for a minimum of 30 calendar days before the bid or proposal closing date;

- (iii) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs;
- (iv) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually;
- (v) Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) If the prime subcontractor awards subcontracts, require the prime contractor to take the steps listed in paragraphs (i) through (v) of this section.

GUIDANCE FOR EEO/AA POLICY STATEMENT

The policy statement outlines your company's/agency's commitment to equal employment opportunity and affirmative action as a company/agency objective of equal importance to other company/agency objectives.

The Policy Statement should include:

- A. Non-Discrimination in employment and service delivery as an organizational priority and practice.
- B. Access to employment and service delivery by all otherwise eligible persons regardless of their race, creed, color, sex, national origin, political affiliation, age, or disability.
- C. Goal of having staff at all levels of the organization reflect the proportion of minority, female and disabled persons represented in the service delivery area.
- D. Identification of an individual in the organization who is entrusted with enforcing the non-discrimination policy.
- E. Signature and title of the organization's Chief Executive Officer.

You may use the attached sample statement as a model. It must be completed and submitted to MassDEP on your agency letterhead. The Chief Executive Officer of your company/agency must sign the Statement, expressing the management endorsement of the policy and assigning responsibility for making that endorsement. The Policy Statement is the basis for the rest of the Affirmative Action Plan, which describes how you will put your commitment to Affirmative Action in practice. The Policy Statement can function as the introduction to your Affirmative Action Plan.

The key individual for developing and implementing the Affirmative Action Program is your company's Affirmative Action Officer. When assigning/appointing the individual designated on the Policy Statement it should be kept in mind that for the Affirmative Action Officer to be effective, he/she should:

- Participate in the planning, development and implementation of policies involving the budget, personnel, recruitment, contract compliance, training, performance appraisals and program and policy development. The Affirmative Action Officer should work in conjunction with the appropriate staff assigned to the aforementioned responsibilities.
- Be actively involved with minority and women's organizations, training programs and other organizations relating to people identified as members of protected groups.
- Conduct periodic audits of training programs and hiring and promotion patterns to remove barriers to goals and objectives, as well as audits of other plans.
- Review company/agency policies to assure equal opportunity for protected groups and prevent possible adverse impact on these groups.

- Hold regular discussions with managers and supervisors to advise them of their responsibilities and accountabilities, and review progress toward divisional affirmative action goals and implementation of agency affirmative action policies.
- Monitor and review the qualifications of all employees to ensure that minorities, women and other protected group members are given full opportunities for training and promotion.
- Be familiar with, and understand the various State and Federal regulations that impact employment practices (i.e., Title VII, Section 504, Chapter 533, Age Discrimination Act).
- Meet regularly with the hiring sources to review progress toward agency affirmative action goals.

SAMPLE

Letterhead of Organization

EEO/AA POLICY STATEMENT

_____(Name of Organization)_____ has a statutory mandate under law to guarantee equal treatment for all who seek access to its services or opportunities for employment and advancement. No discrimination will be tolerated on the basis of race, creed, political affiliation, color, sex, national origin, age, or handicap. The ultimate goal is for personnel of this organization to reflect the proportions of minority, female, and handicapped persons in the populations they serve.

_____(Name of Organization)_____ will meet its legal, moral, social, and economic responsibilities for Equal Employment Opportunity/Affirmative Action as authorized and required by all pertinent state and federal legislation, executive orders and rules and regulations, including the following:

1. Title II of the Civil Rights Act of 1964 (42 USC s2000e et seq., which prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin; and
2. The Age Discrimination in Employment Act of 1967 (29 USC s621 et seq.), which prohibits discrimination in employment on the basis of age with regard to those individuals who are at least 40 years of age, but less than 65 years of age; and
3. Section 504 of the Rehabilitation Act of 1973 (29 USC s794), and the regulations promulgated pursuant thereto (45 CFR Part 84), which prohibit discrimination against qualified handicapped individuals on the basis of handicap and requires employers to make reasonable accommodations to known physical or mental limitations of otherwise qualified handicapped applications and employees; and
4. M.G.L. c. 151B s4 (1), as amended by Chapter 533, 1983, which prohibits discrimination in employment on the basis of race, color, sex, religious creed, national origin, ancestry, age or handicap,

In addition, the Provider agrees to be familiar with and abide by:

- * Massachusetts Executive Order 524
- * Massachusetts Executive Order 526
- * Equal Pay Act of 1963
- * Massachusetts Architectural Barriers Board Act
- * Federal Executive Orders 11246 and 11375 as amended.

All employees, unions, sub contractors and vendors must make genuine and consistent efforts:

1. To ensure equal employment opportunities for present and future employees, and
2. To implement affirmative action, as legally required, to remedy the effects of past employment discrimination and social inequalities.

The responsibility for implementing and monitoring this policy has been delegated to:

Name and Title of Employee

Furthermore, _____ (Name of Organization)

prohibits that any employee, or applicant, be subjected to coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under this program. No portion of this Equal Employment Opportunity/Affirmative Action Policy shall be construed as conflicting with any existing or future judicial or legislative mandate where a constriction consistent with that mandate is reasonable.

Signature of Chief Executive

Title of Chief Executive

Date

**LETTER OF INTENT
DISADVANTAGED BUSINESS
ENTERPRISE PARTICIPATION
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION**

This form is to be completed by the D/MBE and D/WBE and must be submitted by the General Bidder as part of the bid proposal. A separate form must be completed for each D/MBE and D/WBE involved in the project.

Project Title: _____ Project Location: _____

TO: _____
(Name of Bidder)

FROM: _____
(Please indicate status [] D/MBE or [] D/WBE)

* I/we intend to perform work in connection with the above project as (check one):

- [] an individual [] a partnership
 [] a corporation [] a joint venture with:
 [] other (explain):

* It is understood that if you are awarded the contract, you intend to enter into an agreement to perform the activity described below for the prices indicated.

DBE PARTICIPATION:

Project Description

| | | | |
|------------------|--------------|----------|----------------|
| Date of Activity | Commencement | \$Amount | % of Bid Price |
|------------------|--------------|----------|----------------|

The undersigned certify that they will enter into a formal agreement upon execution of the contract for the above referenced project.

BIDDER

DBE

(Authorized original signature & date)

(Authorized original signature & date)

ADDRESS _____

ADDRESS _____

TEL# _____

TEL# _____

- COPY: * COMPLIANCE MGR. CITY/TOWN PROJECT LOCATION
 * MassDEP PROJECT MGR., AND MassDEP COMPLIANCE UNIT
 * Attach a copy of SOMWBA Certification

If it is determined that one or more of the DBE contractors as submitted by the contractor on this form is not SDO certified in accordance with the provisions of Executive Order 237, the bidder shall have 10 working days, following notification, to either find a certified DBE contractor to perform work equal to or greater than that of the uncertified contractor or to submit a request for waiver.

REQUEST FOR WAIVER

Upon exhausting all known sources and making every possible effort to meet the minimum requirements for dba participation, the contractor may seek relief from these requirements by filing this form with the bid and submitting a completed waiver package no later than five (5) business days after the contractor's selection of its subcontractor (s). Failure to comply with this process shall be cause to reject the bid thereby rendering the contractor not eligible for award of the subcontract.

General Information

Project Title: _____ Project Location: _____

Project Number: _____

Bid Opening (time/date) _____

Contractor: _____

Mailing Address: _____

Contact Person: _____ Telephone No. () _____ Ext. _____

Minimum Requirements

The Contractor must show that good faith efforts were undertaken to comply with the percentage goals as specified. The Contractor seeking relief must show that such efforts were taken appropriately in advance of the time set for opening bid proposals to allow adequate time for response(s) by submitting the following:

- A. A detailed record of the effort made to contact and negotiate with disadvantaged minority and/or woman owned businesses, including:
 - 1. names, addresses, telephone numbers and contact dates of all such companies contacted;
 - 2. copies of written notice(s) which were sent to DBE potential subcontractors prior to bid opening;
 - 3. a detailed statement as to why each subcontractor contacted (i) was not willing to do the job or (ii) was not qualified to perform the work as solicited; and
 - 4. in the case(s) where a negotiated price could not be reached the bidder should detail what efforts were made to reach an agreement on a competitive price.
 - 5. copies of advertisements, dated not less than ten (10) days prior to bid opening, as appearing in general publications, trade-oriented publications, and applicable minority/women-focused media detailing the opportunities for participation;

- B. MassDEP may require the Contractor to produce such additional information as it deems appropriate.
- C. No later than fifteen (15) days after submission of all required information and documentation, MassDEP shall make a determination, in writing, whether the waiver request is granted and shall provide that determination to the Contractor and Awarding Authority. If the waiver request is denied, the facts upon which a denial is based will be set forth in writing.

Special Note

If at any time, MassDEP determines that one or more of the DBE contractors as submitted by the Contractor is not certified, the Contractor shall have 10 working days, following notification to MassDEP, to either find a certified DBE contractor to perform work equal to or greater than that of the uncertified contractor or submit a waiver request.

CERTIFICATION

The undersigned herewith certifies that the above information and appropriate attachments are true and accurate to the best of my knowledge and that I have been authorized to act on behalf of the bidder in this matter.

(authorized original signature)

DATE

MAILING INSTRUCTIONS: (CERTIFIED MAIL)

TO: DEP-DMS PROGRAM MANAGER _____
ONE WINTER STREET – 5TH FLOOR
BOSTON, MA 02108-4747

CC: DEP - DFM DIRECTOR
BAWA WAVEZWA
ONE WINTER STREET - 4TH FLOOR
BOSTON, MA 02108-4747

**ATTACHMENT D
COMMONWEALTH OF MASSACHUSETTS FORMS**

COMMONWEALTH STANDARD TERMS AND CONDITIONS

STANDARD CONTRACT FORM

CONTRACTOR AUTHORIZED SIGNATORY FORM

**W-9 REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND
CERTIFICATION**

AUTHORIZATION FOR ELECTRONIC FUNDS PAYMENT

These forms are available at:

<http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>

Or from the 604(b) Project Coordinator upon request