

From: Meyer, Harold
To: McHugh, Eileen (ENE);
cc: Communities, Green (ENE);
Subject: EMS Regulations Comments
Date: Monday, September 29, 2014 4:52:53 PM

Dear Ms. McHugh:

Ameresco, Inc. respectfully submits the following comments to the DOER's proposed 225 CMR 19.00 - Energy Management Services (EMS) Contracts Requests For Qualifications Process:

1. Pg 6, 19.03(3): The LGB should not have to use the actual DOER forms for RFQ/P and ESMA, so long as they meet the requirements of 25A11i. LGB should be free to modify as required for their Town within the legislative requirements of 25A11i.
2. Pg 7, 19.04(4)(d): execution of an EMS contract or contract amendment prior to acknowledgement by DOER should not automatically be a violation of the procurement. As noted below, submission of these documents prior to execution can be problematic for a LGB and should not invalidate the process. Ultimately the LGB remains at risk for ensuring compliance.
3. Pg 9, 19.05(2)(a): submittal of the contract should not require 3 weeks advance notice to DOER. Approvals often come at times already tight for Town Meeting and/or summer construction and adding 3 weeks to the process can significantly impact a LGB's available construction window and could delay construction up to a year, with associated lost savings. The previous process of submitting after execution should remain, or at most limit the review window to 5 days.
4. Pg 9, 19.06: Strike "utilize the terms and conditions set forth in Guidelines established by DOER". A LGB should be allowed to negotiate their desired contract as long as it is in accordance with 25A11i without then being subject to "guidelines" issued by the Commonwealth. The guidelines may include additional items outside the requirements of 25A11i and could be beneficial suggestions, but should not obligate the LGB to conform to those universally.
5. Pg 10, 19.07: As with the above, the amendment should be filed within a time period after execution or a significant reduced period of time referenced.
6. Pg 10, 19.08: this should be synced with the definition of EMS Annual Report which clearly specifies when the initial and follow-up annual reports are required.