

802 CMR: OPERATIONAL SERVICES DIVISION

~~802 CMR 7.00: ENERGY AUDIT OF UTILITY SERVICES~~

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~~7.01: Purpose, Scope and Authority~~

- ~~(1) The purpose of 802 CMR 7.00 is to define and describe the details and procedures for procuring energy audits to recoup overcharges to the Commonwealth for utility expenses.~~
- ~~(2) 802 CMR 7.00 shall apply to all State Executive agencies and may be used by Political Subdivisions of the Commonwealth.~~
- ~~(3) 802 CMR 7.00 is promulgated under and adopted under the authority of M.G.L. c. 29, § 29G.~~

~~7.02: Definitions~~

~~The definitions contained in 802 CMR 2.00 and 801 CMR 20.00 are incorporated by reference herein. The following shall have the meanings assigned in 802 CMR 7.02.~~

~~Agency: An agency, board, bureau, department, division, section, or commission of the executive branch of the Commonwealth.~~

~~Commonwealth: The Commonwealth of Massachusetts.~~

~~Contingency Contract: A contract between the Commonwealth and a contractor for auditing services to be performed by the contractor for which the contractor's compensation is contingent upon, among other factors, the extent to which the contractor is successful in recovering recoupments.~~

~~Fiscal Year: The 12 calendar months from July 1 to June 30.~~

~~Overcharge: An excessive billing in the Utility Company's favor, for goods, and/or services furnished to an Agency or Political Subdivision.~~

~~Political Subdivision: A government unit located in the Commonwealth, including, but not limited to cities, towns, counties and local housing authorities.~~

~~Recoupment: A refund, in the form of a payment or credit, from a utility company that has overcharged an Agency or Political Subdivision for utility goods and/or services previously provided to and paid for by the Agency or Political Subdivision.~~

~~Utility Company: An organization that provides a public service, such as electric, gas, water or sewer services under governmental regulation.~~

~~7.03: Procedures~~

- ~~(1) The energy audit services provided pursuant to 802 CMR 7.00 shall be available to State Executive agencies and Political Subdivisions of the Commonwealth for the purpose of recoupment of overcharges for utility expenses including, but not limited to, electric, gas, water and sewer expenses.~~

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~~7.04: continued~~

~~(2) The Department of Procurement and General Services (DPGS) shall issue an RFP or IFB, as appropriate, to procure the energy audit services of one or more vendors. The procurement process for such services shall be conducted in accordance with 802-CMR 2.00 and 801-CMR 20.00 designated respectively as Commodity Procurement Policies and Procedures and Service Contract Regulations.~~

~~7.04: Contract Terms and Conditions~~

~~(1) DPGS shall furnish the standard terms and conditions to be used for all energy audit contingency contracts.~~

~~(2) Compensation for energy audit services may be paid in any one of the following modes:~~

~~(a) Such compensation may be deducted from the recoupment of overcharges; or~~

~~(b) Such compensation may be paid by the Commonwealth state agency from existing expenditure accounts without additional appropriation thereto.~~

~~(3) The Contingency Contract shall provide that the Contractor must submit periodic reports as of the end of the Fiscal Year to DPGS that must, at a minimum, include the following:~~

~~(a) the amount of overcharges recouped;~~

~~(b) the compensation received by the Contractor; and~~

~~(c) those items stated in the relevant Solicitation.~~

~~7.05: Accounting procedures~~

~~(1) The DPGS will request the Office of the Comptroller (Comptroller) to establish all funds, subfunds, revenue accounts and expenditure accounts to implement each Contingency Contract executed pursuant to 802-CMR 7.00.~~

~~(2) The approval of the DPGS will be required for all specific transactions by which recoupments associated with contingency contracts are accounted to specified accounts. This approval may be accomplished on either an item-by-item basis, summarized basis or by any other method as determined by the DPGS.~~

~~(3) Approval of the DPGS will be required for all specific disbursement transactions to any party from any account which includes deposits pursuant to the prior section. This approval may be done on an item-by-item basis, summarized basis or by any other method as determined by the DPGS.~~

~~(4) The DPGS shall request the Comptroller to establish the appropriate accounting and reporting structure for this activity. Said structure shall allow the DPGS and the Comptroller to comply with all statutory requirements for the timely reporting of the activity associated with these contingency contracts. The accounting structure may include the recording of cash receipts in situations where a utility issues a refund or the use of interdepartmental encumbrances and vouchers where the utility issues a credit, to provide funds necessary to make payment required to parties performing under these Contingency Contracts.~~

~~(5) In any situation where a determination must be made relative to the appropriate year to which revenues or expenditures for this activity should be recorded, the decision of the Comptroller shall be final.~~

~~7.06: Waivers~~

~~All requests for waivers from provisions of 802-CMR 7.00 shall be submitted in writing to the state purchasing agent specifying the waiver sought and the rationale therefor.~~

~~REGULATORY AUTHORITY~~

~~802-CMR: OPERATIONAL SERVICES DIVISION 802-CMR 7.00: M.G.L. c. 29, § 29G.~~