



RE: OEJE Draft Guidance for Community Benefit Plans and Agreements  
EEA Draft Guidance Regarding Site Suitability

Dear Undersecretary María Belén Power  
Office of Environmental Justice and Equity  
[ej.inquiries@mass.gov](mailto:ej.inquiries@mass.gov)

Dear Undersecretary Michael Judge  
Executive Office of Energy and Environmental Affairs  
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EFG Site Suitability  
Comments 2025-10-2

## I. Introduction

Environmental Defense Fund, (EDF) appreciates the opportunity to submit these comments that focus on the draft guidelines for Community Benefit Plans (CBPs) and Community Benefit Agreements (CBAs) developed by the Office of Environmental Justice and Equity (OEJE Draft Guidance) and the site suitability guidelines developed by the Executive Office of Environmental Affairs (EEA Draft Guidance). In addition, EDF retained a consultant, Energy Futures Group, to assist EDF's review of EEA's Draft Guidance regarding site suitability (Report). The Report by Energy Futures Group is attached.

As Massachusetts continues to work towards meeting its climate goals, it must construct infrastructure that will support the transition and be more protective of the environment and human health. During infrastructure siting decisions, communities in general, and more specifically, environmental justice and tribal communities, must be positioned to equitably share in the benefits of clean energy. CBPs and CBAs that are thoughtfully designed with community input and contain benefits tailored to community needs can help advance equity and fairness in energy siting. Simply put, CBPs and CBAs are beneficial for both communities and developers.

The OEJE and EEA Draft Guidance documents are forward-thinking by providing specifics of how CBPs and CBAs can be developed to ensure that they are more than just a check-the-box exercise. However, EDF is concerned that the proposed framework for considering CBPs and CBAs will not have the intended effect of ensuring that community input and decisions are

captured in transparent plans and agreements that benefit communities. EDF therefore offers the following comments aimed at maximizing, to the extent possible, the use of CBPs and CPAs.

## II. Stringent Community Engagement Requirements Can Unlock Mutually Beneficial Community Benefit Frameworks

As defined in the Department of Energy Resources' proposed regulations regarding small clean energy infrastructure facility siting and permitting (Proposed Regulations), CBPs are not legally binding but are key in laying out how a project will engage with and benefit local communities during project development and operations.<sup>1</sup> CBAs are different in that they are legally binding, negotiated agreements between a project applicant and a community.<sup>2</sup> The OEJE Draft Guidance correctly points out that CBPs and CPAs can reduce opposition from communities while accelerating project development.<sup>3</sup> Past projects have demonstrated that CBPs and CBAs help to provide a better balance between community concerns and the need to site clean energy infrastructure. However, to help ensure that the full benefit of CBPs and CPAs are realized, EDF suggests that stronger mechanisms must be put in place so that these Plans and Agreements are the norm rather than the exception.

EDF strongly supports the suggestion by OEJE that after a CBP is refined, the draft should be submitted with the project application to the EFSB and relevant municipalities.<sup>4</sup> We recommend that OEJE specify that the submission of a draft CBP is a mandatory requirement for applicants rather than a mere suggestion. Implementing this requirement would enhance transparency and accountability, thereby increasing the likelihood that the benefits outlined in the Plan are realized. Nonetheless, the value of submitting a draft CBP depends on meaningful engagement with relevant communities during its development. EDF acknowledges and appreciates OEJE's initiative to establish a roadmap for community engagement with developers, which serves as a valuable resource for project applicants when preparing a CBP and ultimately reaching a binding agreement. However, we remain concerned that such engagement is currently only encouraged and not required. Evidence from the proactive development of community benefit frameworks (CBFs)<sup>5</sup> indicates that early and comprehensive community engagement—providing genuine opportunities for participation and fostering an open, unbiased dialogue—is essential. We recognize that a Community Benefit Framework may not be appropriate or beneficial in every circumstance; this determination should arise from community deliberations and discussions with the project developer. These decisions must be informed by good faith engagement from the developer, including transparent discussions regarding the necessary resources communities require to identify their own needs and to negotiate effectively for a potential CBP or CBA.

We appreciate that the OEJE Draft Guidance requires a CBP to include a community engagement plan. However, we recommend that this plan be developed before the CBP and used by the applicant for outreach and engagement with the community prior to submitting the pre-filing application. By developing the engagement plan first, discussions and outreach to the

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<sup>1</sup> 225 CMR 29.00 et seq.

<sup>2</sup> *Id.* as 29.02

<sup>3</sup> OEJE Draft Guidance at 5

<sup>4</sup> 225 CMR 29.09(2)(b)

<sup>5</sup> Community Benefit Frameworks is a term intended to reflect a wider set of ways to deliver benefits to communities beyond a 1-to-1 agreement, including but not limited to Community Benefit Funds, partnership agreements and Project Labor Agreements.

community can begin early in support of the CBP. Following this approach, EDF suggests the pre-filing application should contain a separate community engagement plan, as well as evidence of efforts to engage with relevant communities and plans for ongoing and future engagement. This should also cover considerations for creating CBAs, including how the community can actively and in good faith participate in further engagement and in the potential development of a CBA.

Under the consolidated local permit provision of the Proposed Regulations, an applicant is required to submit “any proposed Community Benefits Plan if applicable.”<sup>6</sup> We recommend that DOER clarify the intended meaning of “if applicable” in the draft regulations. Without further detail, there is a concern that this provision may simply become a procedural requirement for developers, potentially limiting meaningful engagement between communities and project developers on community benefits. While CBPs and CBAs are not mandated by statute, communities rightfully have an expectation that they will have a meaningful opportunity to help shape development in their communities as well as share in the benefits of the clean energy transition. Indeed, the legislation authorizing DOER to implement the Proposed Regulations includes equity in its title.<sup>7</sup> Since the underlying legislation seeks to advance equitable outcomes, and the OEJE Draft Guidance identifies CBPs and CBAs as ways to help ensure benefits and equity for EJ communities, it is incumbent upon DOER to strengthen its regulations to align those objectives. Therefore, DOER may wish to consider requiring applications to include information as to whether an applicant discussed a CBP with the host community, consistent with the roadmap in the OEJE draft standards and guidelines.

One significant gap in the CBP requirements is the lack of discussion around the resources communities need to participate and negotiate effectively with applicants. The guidelines should address both the assets a community already possesses and the support it requires, as well as specify what the applicant will contribute to fill those gaps. Experience with successful CBF development indicates that communities with adequate resources are more likely to reach beneficial agreements with developers. Still, no two communities are alike; their needs can differ widely. Therefore, for developers to properly prepare for potential CBP negotiations, they must understand both the strengths and deficiencies of each community. Without this understanding, smaller or less resourced communities may face an uneven playing field when dealing with large, well-funded development companies, limiting their ability to fully and fairly participate in negotiations. If a CBP is not developed for any reason, appropriate documentation should be provided to explain the rationale for not creating the plan. This approach ensures greater transparency concerning the extent of the applicant’s engagement with the community. This may also be instructive for DOER to determine if it needs to make future regulatory adjustments to ensure that its regulations truly align with the OEJE Draft Guidance where it states that “CBPs and CBAs are valuable tools to reflect community input and needs and project proponent commitments”.<sup>8</sup>

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<sup>6</sup> 225 CMR 29.09(2)(b)

<sup>7</sup> An Act Promoting A Clean Energy Grid, Advancing Equity And Protecting Ratepayers, St. 2024, c. 239

<sup>8</sup> OEJE Draft Guidance at 5

### III. Site Suitability

With respect to site suitability, the attached EFG Report overall supports the framework in the EEA Guidance Document. However, the Report also contains several recommendations to help provide clarity. For example, as explained in the Report, the proposed subtractive approach to incorporate social and environmental benefits is useful but can be strengthened by a requirement that EEA affirmatively require a documentation of each benefit and provide relevant examples to reduce the need for case-by-case consideration.<sup>9</sup> The Report also recommends a refinement to the methodology used to assess Social and Environmental Burdens. Specifically, the Report recommends that rather than applying a weighted score based on the percentage of the site footprint within each block group, the score be determined using the weighted score of all census block groups within the tract where the facility is located. In this way, the approach would better align with the design of the MassEnviroScreen tool, which operates at the block group level.<sup>10</sup>

When possible, EEA should require developers to distinguish proposed mitigation measures “for any impacts identified in Criteria-Specific Suitability Scores” from the subtractive approach to social and environmental benefits. In each case, a developer may subtract points by identifying community deficiencies to address in addition to the project, but they should avoid conflating their documentation of benefits from an identification of ecological/environmental mitigation measures that are in alignment with the EEA Guidance Document. For instance, a battery storage facility may mitigate noise pollution through sound barriers, but that would not count towards social and environmental benefits.

### IV. Conclusion

Thank you for the opportunity to share EDF’s perspectives regarding these important issues. EDF remains committed to engaging in issues that will foster an equitable clean energy transition in the Commonwealth.

Respectfully submitted,

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<sup>9</sup> EFG Report at 5

<sup>10</sup> *Id.* at 6



