

BY ELECTRONIC DELIVERY ONLY

October 31, 2025

Office of Environmental Justice and Equity
100 Cambridge Street
Boston, MA 02114
ej.inquiries@mass.gov

**Re: Office of Environmental Justice and Equity (“OEJE”) Proposed
Guidelines for Community Benefit Plans and Agreements**
Comments submitted by Conservation Law Foundation

Dear Staff at OEJE:

I. Introduction

Conservation Law Foundation (“CLF”)¹ and the signatories listed below appreciate the opportunity to comment on the Office of Environmental Justice (“OEJE”)’s Proposed Guidelines for Community Benefit Plans (“CBPs”) and Community Benefit Agreements (“CBAs”) (hereinafter “Guidance Document”),² as required by *An Act promoting a clean energy grid, advancing equity and protecting taxpayers* (“2024 Climate Act”).³

As the Commonwealth continues to take significant steps toward achieving its climate targets, effective and equitable policy frameworks are critical to guide the development of clean energy infrastructure. Even more so, clean energy is essential to meeting the Commonwealth’s climate goals of achieving net-zero greenhouse gas emissions by 2050, as required by the Global Warming Solutions Act (“GWSA”)⁴ and An Act to Create A Next-Generation Roadmap for

¹ CLF is a nonprofit, member-supported public interest advocacy group that acts to solve the environmental challenges that threaten people, natural resources, and communities across New England. CLF works to ensure that laws and policies are developed, implemented, and enforced to protect and restore New England’s natural resources, economy, and environment, to safeguard the health of our communities, and implement a just and equitable transition to Massachusetts’ clean energy future.

² See *Draft Standards and Guidelines Community Benefit Plans, Community Benefit Agreement*, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS, OFFICE OF ENVIRONMENTAL JUSTICE AND EQUITY (Sept. 2025), <https://www.mass.gov/doc/draft-standards-and-guidelines-on-community-benefit-plans-and-agreements/download>.

³ St. 2024, c. 239.

⁴ St. 2008, c. 298.

Massachusetts Climate Policy (“Roadmap Law”).⁵ If properly implemented, the 2024 Climate Act will play a pivotal role in balancing the urgency of meeting Massachusetts’ climate targets with the need for community engagement and environmental justice. This is especially needed in light of federal inaction on climate mitigation.

The comments below provide constructive feedback on how the Guidance Document can be strengthened to better address various components of the 2024 Climate Act, including but not limited to: clarifying and strengthening definitions of CBAs and CBPs; emphasizing the legally binding nature of CBAs; providing clear examples and templates of CBAs and CBPs; highlighting the importance of the negotiation process for CBAs; addressing the role of local governments and potential conflicts of interests; and strengthening monitoring, reporting and oversight metrics. With careful adjustments, Massachusetts can continue to lead the way in addressing the climate crisis while ensuring that the benefits of this transition are felt across all communities.

II. Recommendations

In order for the 2024 Climate Act to meet its mandate and goal of helping ensure siting reform is more inclusive, CBAs and CBPs must be an integral part of siting processes moving forward to ensure that benefits flow directly to those that will be impacted by development projects. While the Guidance Document helps frame why CBAs and CBPs are important in the context of energy infrastructure, there are several areas where the draft can be improved to ensure alignment with the 2024 Climate Act.

A. The Overview Section Should Further Emphasize the Critical Role of CBAs and CBPs

The Guidance Document should provide greater context on the important role CBAs and CBPs can play in renewable energy development. A CBA is a legal strategy and can be utilized to meaningfully engage communities, with the first being negotiated in the 1990s in the United States.⁶ CBAs can bring “power back” to those that have been historically marginalized in these processes by allowing communities to directly benefit from development projects, especially impacted residents.⁷ CBAs can also help developers and project applicants by avoiding permitting delays through minimized litigation risk.⁸

⁵ St. 2021, c. 8.

⁶ Hannah P. Stephan, *Contracting with Communities: An Analysis of the Enforceability of Community Benefits Agreements*, 40 MINNESOTA JOURNAL OF LAW & INEQUALITY (June 2022), https://lawandinequality.org/wp-content/uploads/2022/05/Vol.-402_Stephan_Contracting-with-Communities.pdf.

⁷ *Id.*

⁸ *Id.*

CBAs are typically negotiated between developers and a coalition representing community members. Some scholars differentiate between CBAs and “development agreements.” For example, some claim that “[a]fter a CBA is signed by the developer and community coalition, it is typically integrated into the development agreement signed by the developer and the city or county government. This makes the agreement enforceable both by local officials and by community groups.”⁹

While the current Overview section briefly defines CBAs and CBPs, the Guidance Document would benefit from a more robust explanation of CBAs legal structure, benefits, and historical context to inform both community groups and project applicants of their important roles and potential applications.

B. The Guidance Document Must Clarify Key Terms

The Guidance Document should clearly define key terms at the outset to improve consistency, transparency, and trust in how CBAs and CBPs are implemented.

1. Important Terms Should be Clearly Defined

The Guidance Document should include a more comprehensive definitions section, including footnotes and/or references to terms already defined in the applicable regulations. For example, more clarity is needed around terms such as “community benefit,” “host community,” and “legacy burdens,” etc. Each of these phrases carry significant legal and policy implications and should be defined consistently throughout Massachusetts’ environmental laws and policies to avoid confusion and ensure CBAs and CBPs are clear and enforceable. Additionally, the term “community” or “the community” should be defined or included as a defined term in relation to the term “key stakeholders” which appears to encompass many of the elements that would go into a definition of “community.” These terms should then be used consistently across the Guidance Document.

2. The CBP Definition Requires Clarity

The Guidance Document should clarify that CBPs should not only describe how a project will interact with the local community, but also how a project developer and/or project applicant will identify, commit to, and deliver tangible community benefits. This addition will clarify that responsibilities of engagement and follow-through lie with the project proponent and not the community itself.

⁹ *Key Reforms; Community Benefits Agreements*, GOOD JOBS FIRST, <https://goodjobsfirst.org/key-reforms-community-benefits-agreements/#:~:text=After%20a%20CBA%20is%20signed,officials%20and%20by%20community%20groups> (hereinafter Good Jobs First CBA Resource).

3. *The CBA Definition Requires Clarity*

The current definition of a CBA is also underdeveloped and needs to be clarified. CBAs are formal, signed agreements between developers and community coalitions¹⁰ and should, in fact, make specific, clear commitments to deliver local benefits. CBAs also provide different types of benefits to both community groups and project applicants and will overall help promote renewable energy deployment.

Scholars have cautioned that CBAs developed by municipal officials rather than community groups may, in some cases, “raise questions about conflicts of interests.”¹¹ In these cases, “care must be taken so that CBA negotiators are not too involved with planning or other political decisions.”¹² CBAs negotiated by developers and community groups can become “integrated into the development agreement signed by the developer and the city or county government” to ensure enforceability.¹³ Agreements negotiated between a developer and a local government/municipality are considered “development agreements” and are different from CBAs.¹⁴ A CBAs defining characteristic is involvement and direct communication with the community.¹⁵

4. *Geographic Boundaries Should be Based on Clearly Delineated Criteria*

The Guidance Document should also clarify the rationale for limiting “key stakeholders” to a one-mile radius and should reconsider its proposal to limit stakeholders to this radius. This boundary is arbitrary and will likely exclude residents and organizations that are affected by a project’s impacts just outside the radius. A more flexible, impact-based approach to defining key stakeholders would better reflect the statutory intent by including those that may be impacted by the energy infrastructure and avoiding harmful exclusions. OEJE should adapt this guidance alongside the site suitability guidance and pre-filing engagement requirements to impose different radii based on the differing impacts of each proposed project. Projects before the EFSB that are major sources of air pollution should account for impacts on communities within a five-mile radius consistent with Massachusetts Department of Environmental Protection

¹⁰ *FAQ: Community Benefit Agreements*, U.S. DEPARTMENT OF ENERGY, <https://www.energy.gov/sites/default/files/2024-12/CBA%20Guidance%20FAQ.pdf>.

¹¹ Patricia E. Salkin, Amy Lavine, *Understanding Community Benefits Agreements: Equitable Development, Social Justice and Other Considerations for Developers, Municipalities and Community Organizations*, UCLA JOURNAL OF ENVIRONMENTAL LAW AND POLICY (2008), <https://escholarship.org/content/qt8c41d4tj/qt8c41d4tj.pdf?t=mv2j9h>.

¹² *Id.*

¹³ Good Jobs First CBA Resource, *supra* note 9.

¹⁴ Salkin & Lavine, *supra* note 11.

¹⁵ See generally, Stephan, *supra* note 6.

(“MassDEP”) requirements and AGO guidance.¹⁶ Other project radii should be determined on a case-by-case basis and account for the most far-reaching impact of the technology used.

C. While CBPs are Important Tools, OEJE Should Further Advocate Project Applicants Enter into CBAs as They Are Legally Binding

CPBs are important documents and, when well designed, they can be useful tools for defining commitments by project developers to affected communities. However, because they are not contractual arrangements, CPBs can be aspirational rather than enforceable. To ensure that communities receive promised benefits, the Guidance Document should require that project applicants enter into discussion and negotiations with community groups to develop legally binding and enforceable CBAs.

While CBPs can serve as flexible planning tools for smaller-scale projects or where a formal CBA may not be feasible, CBAs establish clear accountability mechanisms for both developers and communities. CBAs can help reduce disputes, increase transparency, and build long-term trust between developers and communities.¹⁷ The Guidance Document should require that project applicants make a good-faith effort to meaningfully engage with community groups toward execution of a CBA. If a CBA is not executed, the project developer should endeavor to develop a CBP instead. Finally, if the parties are unable to agree upon the terms of a CBA and do not execute an agreement, the project proponent should be required to – and the community representatives may, if desired – submit a letter explaining the form and content of their engagement toward execution of a CBA.

D. MOUs Should Be Encouraged for CBPs and CBAs in Consolidated Permit Processes

For environmental justice communities to be meaningfully involved in the siting process of clean energy infrastructure projects, developers must ensure that they are engaging early and often with community leaders to address siting concerns. In the Massachusetts offshore wind procurement process, during the qualitative evaluation, applicants must submit a Form Memorandum of Understanding (“MOU”) with applicable entities “to ensure that the economic benefits are actually obtained and tracked,” and also have to execute an MOU with relevant agencies, such as the Department of Energy Resources, to “memorialize the economic

¹⁶ See 310 CMR 7.02(14)(a)(3-4) (requiring a cumulative impact analysis for major sources of air pollution when a facility is located within a five (5) mile radius of an environmental justice community); Stakeholder Working Group, *Overly Impacted & Rarely Heard*, MASS. OFF. OF THE ATTORNEY GENERAL (May 2023), <https://www.nclc.org/wp-content/uploads/2023/05/Overly-Impacted-and-Rarely-Heard.pdf>.

¹⁷ Note, the Guidance Document should acknowledge that CBAs, when executed, be integrated into development agreements to ensure enforceability with assistance from local governments.

development commitments.”¹⁸ This includes commitments to benefits through “Community Benefits Agreements and workforce agreements that support workforce harmony and community benefits, with appropriate labor organizations for construction, renovation, reconstruction, alteration, installation, demolition, expansion, maintenance and repair.”¹⁹

E. The Guidance Document Must Clearly List More Community Benefits/Community Benefit Mechanisms

The Guidance Document should list additional benefits and provide examples of CBAs that have been negotiated in the state. For example, in an agreement made between Crowley Wind Services and the City of Salem, Crowley committed to spend \$9 million in direct funding to Salem, representing 3% of the total project cost.²⁰ The Company committed to hire from the local community, strategize to achieve 100% of port electrification by 2040, and contribute to Salem public schools to educate the community about the offshore wind industry, to name a few provisions.²¹ The OEJE Guidance Document should list clear examples of what community benefit mechanisms can look like. Additionally, there are websites with resources on CBAs that OEJE can include in the Guidance Document. The Guidance Document should include an appendix of examples of CBAs that can help both developers and community members during the negotiation process. This will help alleviate the burden of negotiating a legal contract.

When presenting examples of effective and meaningful commitments, the Guidance Document would benefit from more detail to better inform negotiations. Under Environmental Justice and Equity priorities, OEJE should add a provision suggesting implementing programs that address existing burdens in the area, such as funding air quality monitors or supporting community-led environmental health programs. For economic development and workforce priorities, OEJE should consider including commitments to support worker organizing and collective bargaining and provide high quality jobs in the upper percentile of wages in the industry with benefits that support health, safety, and training. For infrastructure and community support priorities, OEJE should clarify that infrastructure projects should be additional to any project needs and not part of mitigating project impacts or building out needed infrastructure as part of project development. Other investments in green spaces or affordable housing could be included. Finally, benefits to environmental and public health protection could include systems to monitor environmental impacts throughout the life of the project and education programs for the community.

¹⁸ MA Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects 83C, Massachusetts Department of Energy Resources (Aug. 30, 2023), <https://macleanenergy.com/wp-content/uploads/2023/08/83c-rd4-rfp-8.30.2023.pdf>.

¹⁹ *Id.*

²⁰ 5 Lessons for Communities Negotiating New Energy Infrastructure, Conservation Law Foundation Blog (June 24, 2024), <https://www.clf.org/blog/5-lessons-negotiating-community-benefit-agreements/>.

²¹ *Id.*

F. The Guidance Document Should Provide Templates

The Guidance document should include templates and proposed metrics to provide more guidance for municipalities, developers/project applicants, and community groups. Providing these resources can help standardize approaches, clarify expectations, and reduce the complexity of negotiating CBPs and CBAs.

For example, the Sabin Center for Climate Change Law at Columbia Law School has a database on community benefit agreements.²² OEJE should either list the database as a resource or link community benefit agreements to the Guidance Document.

CBAs are legal, enforceable contracts, which may require a coalition group to hire its own legal counsel. The Guidance Document can provide more resources to help make the process less cumbersome for both project applicants and coalition groups. Including practical tools and examples will also promote transparency in the negotiation process, empower communities to advocate for meaningful benefits, and help facilitate timely and consistent implementation of CBPs and CBAs across projects.

G. The Guidance Document Should Highlight That the Negotiation Process is Crucial to Build Community Trust During CBAs

While the final form of a CBA is key to ensuring benefits directly flow to impacted residents, the Guidance Document should include discussion of how the negotiation process must also be transparent, inclusive, and fair to coalition groups. There are several guiding principles to include that can help structure the negotiation process for a CBA and ensure meaningful community engagement:

1. Identification of Community Goals Can Inform CBA Development

There must be “broad-based community input, gained through public meetings, workshops and surveys” in determining community goals.²³ Coalition groups must clearly understand the benefits and burdens of a project and articulate a vision for what they want from the developer. Clear goals help ensure that CBAs reflect the priorities of the communities most impacted by development projects.

2. Public Outreach Should Occur Early and Often

Early and proactive outreach ensures that all voices, especially those from environmental justice communities, are heard throughout the project lifecycle. The developer/project applicant

²² Community Benefits Agreements Database, Sabin Center for Climate Change Law, <https://climate.law.columbia.edu/>.

²³ Salkin & Lavine, *supra* note 11, at 292.

should “attempt to coordinate a forum to ensure that an appropriate dialogue takes place.”²⁴ However, community outreach can also be “initiated and facilitated by the emerging coalition.”²⁵

3. Project Proponents Should Seek Municipal Support

Local governments have a stake in ensuring CBA negotiations favor community groups because “when successful negotiations have occurred between the community and the applicant, it is less likely that the municipality will have to expend its resources defending land use and environmental permitting decisions.”²⁶

4. Coalition Signatories Create a More Robust CBA Development Process

CBAs should involve coalition signatories representing the community to ensure agreements are enforceable and equitable. The U.S. Department of Energy has previously emphasized that CBAs be inclusive, enforceable, transparent, and that the negotiation process include coalition-building, ultimately putting power back to communities which means including relevant stakeholders in the negotiation process.²⁷

5. OEJE Should Require Transparency

In the Guidance Document, OEJE ought to change “should” to “must” in several phrases, including “Accountability should be embedded in the process” to read “Accountability must be embedded in the process,”²⁸ and “All project-related information shared with the community should be accurate, timely, and easy to understand, including being translated into the relevant languages for a given area” to read “All project-related information shared with the community must be accurate, timely, and easy to understand, including being translated into the relevant languages for a given area.”²⁹ The requirement that project-related information shared with the community be accurate, timely, easy to understand, and translated into the relevant languages for a given area is essential to the negotiating process and should be required. Similar changes could be made in other parts of the section on core principles of effective engagement to more concretely implement these important principles.

H. The Guidance Document Should Clarify the Role of Local Government

As previously mentioned, while local governments have a stake in supporting CBAs, their involvement in negotiations must be carefully balanced. Scholars have noted that:

²⁴ *Id.*

²⁵ *Id.*

²⁶ Salkin and Lavine, *supra* note 11, at 296.

²⁷ Community Benefits Agreement 101, Department of Energy, <https://www.youtube.com/watch?v=Nig-YWjpnkE>.

²⁸ See *Guidance Document*, *supra* note 2, at 9 (Sept. 2025) (emphasis added).

²⁹ *Id.* at 8 (emphasis added).

CBA created through a process involving local officials may, in some cases, raise questions about conflicts of interests. In these situations, care must be taken so that CBA negotiators are not too involved with planning or other political decisions.³⁰

The Guidance Document should clarify that:

- CBAs should be negotiated primarily between developers and community coalitions, with local government support limited to facilitating negotiations.
- Municipalities can provide legal guidance, and enforcement support without directly usurping control.
- Clearer guidance on the role of local governments can protect against conflicts of interest and strengthen community trust on the role CBAs can play in promoting clean energy deployment.

I. The Guidance Document Should Require Standardized Monitoring and Reporting Measures for CBAs

In the Guidance Document, there is a lack of standardized indicators that both developers/project applicants can track to ensure the CBA is meeting its intended purpose of helping communities. There needs to be clearer guidance on what data to collect and how to report progress. Certain metrics OEJE can include in the Guidance Document include, but are not limited to investments in local programs and education, improvements to infrastructure, environmental mitigation measures, community impact measures, number of local jobs created with clear longevity, etc.

Additionally, the Guidance Document should provide recommendations for data collection, monitoring, and periodic reporting. This will ensure that both communities and developers can track progress and identify areas for improvement.

J. The Guidance Document Should Promote a Community Oversight Committee Throughout Implementation

As was included in the Salem CBA, a community oversight committee can be created to ensure ongoing communication with the developer.

As noted by Salem Alliance for the Environment, the CBA includes clear transparency and accountability measures, requiring regular reports and active community involvement.³¹ The CBA clearly creates the Salem Offshore Wind Community Benefits Agreement Working Group,

³⁰ Salkin and Lavine, *supra* note 11.

³¹ Community Benefits Agreement is a Coalition Success Story (March 25, 2024), <https://salemsafe.org/2024/03/25/https-salemsafe-org-2024-03-25-cba-sowa/>.

which is intended to meet quarterly to discuss the developer’s obligations under the CBA. The Working Group includes two community representatives, ensuring that residents have a formal role in the monitoring phase. This also allows residents to be involved in the implementation stage and bring up concerns as they arise.

The Guidance Document should similarly encourage community oversight structures for CBAs that will be negotiated and implemented throughout the Commonwealth. This will provide a forum for community feedback and strengthen trust between project applicants and communities.

K. The Guidance Document Should Mention Formal Funding Support for Community Groups and Workshop Opportunities

CBAs are legal contracts, and for large-scale projects, the negotiation process may seem intimidating to some local groups. The Guidance Document should include recommendations for how municipalities and developers can help allocate funding and/or local and technical assistance for community coalition groups engaging in CBA and CBP negotiations. Additionally, OEJE should add a list of resources and clinics that coalition groups can reach out to for pro bono legal support, such as the Environmental Justice Action Network. Some community-based organizations may lack the resources to negotiate effectively and may require pro-bono or paid-legal support. Municipalities should also support workshops and existing coalitions that provide educational tools on what to expect during CBP and CBAs negotiations.

L. The Guidance Document Should Highlight Dispute Resolution Mechanisms

It is possible that commitments under a CBA may not be met. In this instance, coalition groups and/or local governments and municipalities may be uncertain about avenues they can pursue to rectify unmet commitments. The Guidance Document should add a section recommending formal dispute mechanisms when commitments under CBAs and CBPs are not met. For example, to reduce heavy costs of in-court litigation, the Guidance Document³² can allow that CBAs be reviewed by the Energy Facilities Siting Board (“EFSB”) in the case of potential disputes to ensure balance between the parties. This can lead to more fairness and help to address the potential power imbalance between negotiating parties; in most cases, the project proponent will be better funded and staffed, resulting in an imbalance of leverage between the contracting parties.³³

³² Note, we recognize that EFSB regulations would also have to be amended to support this recommendation.

³³ Note, if a CBA is in direct conflict with conditions in permit and project approvals, the EFSB should have the ability to allow for an amendment of the CBA with a showing of good cause.

M. The Guidance Document Should Be Updated in Two Years

OEJE should include an amendment in the guidelines to require a review of the Guidance Document, including a period for public comment, sometime within the next two years to determine whether any components should be amended. This provision has previously been included in the Cumulative Impact Regulations on air pollution control in 310 CMR 7.00.³⁴ This will ensure that guidance on CBAs and CBPs are aligned with the aim of the 2024 Climate Act, which is to ensure that the Commonwealth meets its 2030 and 2050 climate targets and mandates as outlined by the GWSA and the Roadmap Law, while also meaningfully including environmental justice populations in decision-making and protecting communities from being unfairly burdened by facilities.

III. Conclusion

As outlined above, this Comment Letter makes several recommendations as to how the proposed guidance document can be strengthened. These changes are necessary if the Commonwealth wants to achieve its 2030 and 2050 climate targets while meaningfully engaging with communities in Massachusetts and ensuring that benefits flow directly to residents. CLF is ready and able to work with OEJE and other agencies to amend guidance documents, as needed, to meet the pressing timeline facing Massachusetts. CLF looks forward to continuing to work together to achieve just, equitable, and effective solutions for the Commonwealth.

Respectfully Submitted,



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³⁴ 310 CMR 7.00: Cumulative Impact Analysis Final Amendments (March 28, 2024), <https://www.mass.gov/doc/310-cmr-70214-cumulative-impact-analysis-amendments/download>.

This letter is submitted with the support of:

- Alternatives for Community & Environment (ACE)
- Clean Water Action
- GreenRoots
- Environmental Defense Fund
- Environmental League of Massachusetts
- Pipe Line Awareness Network for the Northeast
- Salem Alliance for the Environment
- Slingshot
- Sierra Club
- Union of Concerned Scientists