

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Massachusetts Department of Environmental Protection

ONE WINTER STREET  
BOSTON, MASSACHUSETTS 02108

**Request for Response (RFR)**

**FEDERAL FISCAL YEAR 2022  
SECTION 319 NONPOINT SOURCE POLLUTION  
COMPETITIVE GRANT PROGRAM- Fall 2021**

**Agency Document Number:  
RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND  
Bid #: BD-BWR01-66521  
October 13, 2021**

## Table of Contents

<b>1. Grant Summary:</b> .....	<b>3</b>
1.1. Overview and Goals of Grant.....	3
1.2 Procurement Scope and Description .....	3
1.3 Grant Announcement Calendar and Grant Application Deadline: .....	4
1.4 Written Questions .....	5
<b>2. Eligibility</b> .....	<b>5</b>
2.1 Eligible Applicants and Eligible Projects.....	5
2.2 Eligible Projects/Scope of Work/Project types .....	6
2.3 Ineligible Projects/Scope of Work.....	10
2.4 Selection Criteria/Evaluation Process .....	10
2.5 40% NON-FEDERAL MATCHING FUNDS REQUIREMENTS.....	11
<b>3. Procurement and Grant Contract Information</b> .....	<b>12</b>
3.1 Procurement for Grant Contracts.....	12
3.2 Total Anticipated Duration of Grant Contract(s).....	12
3.3 Funding Availability, Budgeting Guidelines & Allowable Expenditures .....	12
3.4 Grant Contract Award.....	13
3.5 Applicant Communication with MassDEP and the Commonwealth .....	13
3.6 Grant Announcement Distribution Method.....	14
3.7 Prohibition of Changes to the Grant Announcement/Application.....	14
3.8 Failure to Provide a Complete and Compliant Application.....	14
3.9 Reasonable Accommodation .....	14
3.10 Selection for Award of a Grant Contract.....	14
3.11 Affirmative Action Requirements .....	15
<b>4. Instructions for Submitting an Application</b> .....	<b>16</b>
4.1 Application Transmittal Instructions: .....	16
4.2 Requirements for Application Structure and Content.....	16
4.3 Additional Forms .....	17
<b>5. Terms and Conditions of Grant Contract Award</b> .....	<b>17</b>
5.1 Commonwealth Terms and Conditions .....	17
5.2 Supplemental Terms and Conditions.....	18
5.3 Additional Requirements .....	18
5.4 Section 319 RFR Requirements and Conditions .....	18
<b>6. Definitions</b> .....	<b>21</b>
<b>7. Attachments:</b> .....	<b>A-0</b>
<b>A. Application</b> .....	<b>A-0</b>
<b>B. Proposal Checklist</b> .....	<b>B-1</b>
<b>C. Additional Resources and FAQs</b> .....	<b>C-1</b>
<b>D. Equal Employment Opportunity/Affirmative Action Forms and Guidance</b> .....	<b>D-1</b>
<b>E. Supplemental Terms and Conditions</b> .....	<b>E-1</b>

# 1. Grant Summary:

## 1.1. Overview and Goals of Grant

Section 319 (319) of the federal Clean Water Act of 1987 was established as a national program to control nonpoint sources of water pollution. Each year, the Massachusetts Department of Environmental Protection (MassDEP or the Department) Bureau of Water Resources, in conjunction with the U.S. Environmental Protection Agency (EPA), awards 319 grant funding for projects that address prevention, control, and abatement of nonpoint source (NPS) pollution, and that attain environmental results by restoring beneficial uses and/or meeting or maintaining state water quality standards.

The EPA defines NPS pollution as that which is "caused by diffuse sources that are not regulated as point sources and are normally associated with precipitation and runoff from the land or percolation." Projects addressing stormwater impacts that are not covered by EPA National Pollutant Discharge Elimination System (NPDES) stormwater permits are eligible for funding, provided these projects meet all other 319 eligibility guidelines.

## 1.2 Procurement Scope and Description

The Department announces a Request for Responses (RFR) under the Federal Clean Water Act, Section 319 Nonpoint Source Pollution Competitive Grant Program for the Fall of 2021.

This document summarizes response guidelines, eligibility requirements, selection criteria, schedule for response submittal pursuant to this RFR, Affirmative Action/Fair Share requirements, and guidelines for Affirmative Action/Fair Share information that must be included with the application. Responses not completed or not submitted according to the guidelines set forth in this RFR will be disqualified and will not be considered for funding. Qualified responses will be selected on a competitive basis and recommended to EPA for final approval. All applicants are cautioned that funding for this program is subject to the terms and conditions of the 319 Federal grant award from the EPA to the Department.

The Department anticipates that approximately \$1,600,000 of Federal Funds for Federal Fiscal Year 2022 (FFY2022) will be available for disbursement to competitive projects. The Department encourages proposals originating from all Massachusetts watersheds. The project types reflect Department program priorities consistent with federal program guidelines and the 2020-2024 Massachusetts Nonpoint Source Management Program Plan (NPS Plan).

The primary goal of the Massachusetts 319 Nonpoint Source Competitive Grant Program is to meet water quality standards and restore beneficial uses. Implementation work that addresses water quality impairments listed in Categories 4a, 4c, and 5 of the Massachusetts 2016 Integrated List of Waters continues to be the highest NPS program priority. Approximately \$1.1 million of the available FFY2022 319 funds is directed toward these implementation projects.

In addition to implementation projects directly addressing water quality impairments, additional eligible projects include:

- The protection of high quality and unimpaired waters. These Healthy Watersheds projects are allowed under EPA 319 program guidelines (<https://www.epa.gov/nps/319-grant-current->

guidance). Projects that implement climate adaptation, stream stabilization, and pollutant removal Best Management Practices (BMPs) can be also funded.

- Watershed based plans that build upon previous 319-funded work and/or work that has been initiated by the Coastal Pollutant Remediation (CPR) Grant Program.

The EPA requires that federally funded programs adhere to the Disadvantaged Business Enterprise (DBE) rule. The rule requires that Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) who are also certified as DBEs will be utilized to meet the federal Fair Share goals. Please note the DBE goals are 4.2% D/MBE and 4.5% D/WBE. The Supplier Diversity Office (SDO) has certified approximately 1,970 DBEs, which are acceptable for use by 319 grantees. Commonwealth Supplier Diversity Plan (SDP) requirements do not apply to this federal grant program.

Please note that after the Wednesday, October 13, 2021 RFR release date, MassDEP staff and all Commonwealth employees will only respond to administrative questions and provide copies of reference documents. Staff are prohibited from assisting potential applicants in developing 319 proposals.

Applicants must submit a completed application that includes all the required supporting materials, agrees to the program conditions, and meets the eligibility requirements to be considered for a reimbursable grant award. To be considered for funding, the Department must receive the RFR response by 5:00 PM on Wednesday December 15, 2021. RFR responses must be emailed to: [Malcolm.Harper@mass.gov](mailto:Malcolm.Harper@mass.gov)

### 1.3 Grant Announcement Calendar and Grant Application Deadline:

Applications are due by **Wednesday December 15, 2021 at 5:00 p.m.**

EVENT	DATE
Upcoming Grant Announcement Posted (Notice of Grant Opportunity posted on MassDEP website and COMMBUYS)	Monday, September 13, 2021
Pre-RFR Remote Informational meeting (online via Zoom; details provided in Notice of Grant Opportunity)	Monday, September 27, 2021 at <b>10 a.m.</b>
RFR Release Date (posted on MassDEP website and COMMBUYS)	Wednesday, October 13, 2021
<b>Deadline for submission of written questions to:</b> <a href="mailto:Malcolm.Harper@mass.gov">Malcolm.Harper@mass.gov</a>	<b>Wednesday, November 10, 2021 at 5 p.m.</b>
Answers to Questions posted on MassDEP website	Thursday, November 18, 2021
<b>Grant Application due date</b>	<b>Wednesday, December 15, 2021 at 5 p.m.</b>
Additional letters of support (that do not involve matching funds or in-kind services) are due	Wednesday, December 22, 2021
Evaluation of responses and response selection by the Department	January – February 2022

EVENT	DATE
Announcement of recommended projects on MassDEP's website	May 2022
Selected projects submitted by the Department to the U.S. EPA for approval	May 2022
Estimated Contract Start Date	July 2022

*Applicants will be notified on or about March 2022 as to the results of the Department's project review and selection process. The Department recommends selected projects to the U.S. EPA for funding approval. After the project recommendations have been approved by the U.S. EPA, the Department will enter into contract negotiations with the selected applicants. The Department reserves the right to fund a portion of a project, revise the project scope, and/or add or delete tasks to any project proposal that is recommended to the EPA. Applicants will have the option of rejecting the 319 award if a project, as revised, does not meet their capacity or the goals of their organization.*

### 1.4 Written Questions

Written questions must be submitted in writing by email to the Section 319 Grant Program Manager, Malcolm Harper, who is the designated 319 Grant contact person, at [Malcolm.Harper@mass.gov](mailto:Malcolm.Harper@mass.gov) and must be received by the deadline of Wednesday, November 10, 2021 at 5 p.m. MassDEP anticipates that answers to all questions will be posted on the MassDEP Website (<https://www.mass.gov/info-details/grants-financial-assistance-watersheds-water-quality>) by Thursday, November 18, 2021.

## 2. Eligibility

### 2.1 Eligible Applicants and Eligible Projects

**Overview of requirements:** The 319 Nonpoint Source Competitive Grants Program is open to any Massachusetts public or private organization that meets the following eligibility criteria for projects (NOTE: ineligible projects are also listed below):

1. Grant awards for projects are subject to a 40% non-federal matching of funds for the total project cost. The project for the 40% non-federal matching funding must meet the same eligibility criteria as the project's federal 319 funds. In-kind services are eligible as a cost match. Additional information about the non-federal match can be found in Section 2.5 of this section and in the Frequently Asked Questions in Attachment C.
2. Projects must contain an appropriate method for evaluating the environmental results of the project. A MassDEP- and EPA-approved Programmatic Quality Assurance Project Plan (QAPP) has been developed which eliminates the need for project-specific QAPPs for most implementation projects.
3. Projects must address activities that are consistent with the 2020-2024 Massachusetts NPS Management Program Plan (<https://www.mass.gov/info-details/nonpoint-source-pollution>).

4. Grant recipients and their subcontractors must meet the appropriate federal "Fair Share" Disadvantaged Business Enterprise (DBE) and Affirmative Action requirements.
5. Limitations of eligibility for certain projects: Assessment work is eligible only as a component of a project to develop a Total Maximum Daily Load (TMDL) or when the assessment is a recommendation of a TMDL analysis. A project-specific QAPP will be required for such assessment work. A project that proposes activity such as water quality and/or biological monitoring for assessment purposes alone, with no significant implementation component and with no link to TMDLs, is not eligible for 319 funding or as credit for the non-federal matching funding.
6. Projects in MS4 areas that meet program requirements and will be completed by December 31, 2024. See limitations on MS4 project eligibility at Section 2.2 below, under "Funding Availability."

## **2.2 Eligible Projects/Scope of Work/Project types**

It is anticipated that most of the 319 funding will be directed to implementation projects in impaired waters that will directly address CWA §303(d) listed impairments through NPS pollutant control and removal.

Other types of projects are funded from a smaller, but still substantial, pool of 319 funds that can be used for any activities consistent with the NPS Management Plan. Projects in these project types compete against one another. Evaluation of all proposals is based upon the project's ability to advance the goals and activities of the MassDEP Nonpoint Source Program (NPS Program).

### **A) Implementation Projects in Impaired Waters**

The most competitive applicants will propose a watershed-based strategy to implement a combination of structural and non-structural Best Management Practices (BMPs) addressing all impairments and leading to restoration of impaired waters (Impaired waters are those listed in categories 4a, 4c, and 5 of the Massachusetts 2016 Integrated List of Waters which can be found here:

[https://www.mass.gov/lists/integrated-lists-of-waters-related-reports#2016-integrated-list-of-waters-\).](https://www.mass.gov/lists/integrated-lists-of-waters-related-reports#2016-integrated-list-of-waters-)

BMPs should be selected for optimal pollutant load removal, emphasizing source reduction. Proposed BMPs must be developed at least to the conceptual design stage and submitted with the proposal. Proposals must contain site specific information to demonstrate that the project is feasible and ready to be constructed within the project timeline. A completed Watershed-Based Plan will be required by the start of each implementation project before a Notice to Proceed can be issued. The MassDEP NPS Program will assist in the development of these WBPs. Additional information about WBPs can be found in the Question and Response section of this RFR, at [Attachment C](#).

### **B) Healthy Watersheds and Protection of High-Quality Waters**

Implementation projects for climate-change adaptation and resiliency and projects that protect non-impaired and high-quality waters from the effects of nonpoint source pollution are eligible for 319 program funds. This may include funding and support for a project with a substantial land conservation component as part of NPS prevention and remediation work. It might also include geomorphology and

habitat improvement, and/or nutrient, sediment, and pathogen reduction in streams. These proposals must be supported with documentation of the problem, conceptual or better plans to explain the strategy and approach, and all other information necessary to demonstrate the feasibility and effectiveness of the proposed project. While MassDEP welcomes high quality proposals throughout the state, a list of waterbodies that may be more competitive can be found on the MassDEP website [Tools for Developing 319 Proposals](#).

### **C) Development of Municipal and Regional Stormwater Collaboratives and Funding Mechanisms**

A stormwater utility is a property assessment tool that provides a sustainable source of funding to construct, maintain, and repair stormwater infrastructure. Proposals may include initial research to evaluate whether a stormwater utility is appropriate for a town, quantifying the current and future cost of stormwater management programs, development and distribution of educational materials, and development of regional agreements and funding structures.

### **D) Regional Implementation Project Development**

An initiative for 2022 will solicit multiple contractors in Worcester and Plymouth Counties to serve as regional nonpoint source coordinators. These regional coordinators will develop watershed-based plans and high-quality projects to be funded through 319 and will conduct outreach and education to enhance the NPS Program message.

### **E) Outreach and Education**

Outreach and education is often recommended as an effective nonstructural BMP. Successful projects in this category will propose specific outreach and education activities and products and will develop and implement an evaluation method to gauge the effectiveness of these activities. Projects should have regional or statewide relevance and should include a deliverable that can be made available in both print and electronic form, ensuring accessibility for disabled and non-English-speaking audiences if appropriate.

**Implementation Projects in Impaired Waters:** additional required elements for all proposals under category 2.2 A above:

- An approved Watershed-Based Plan is required by the start of the project. MassDEP's contractor will assist with this requirement and grantees will be expected to provide background materials, identify potential stakeholders, and participate in Watershed-Based Plan coordination meetings. Proposals with accepted watershed-based plans will be preferred.
- A conceptual design(s), specific site location(s), and estimated cost of the BMP(s) are required as part of the response. Conceptual designs must be of sufficient detail, and include sufficient site work, to allow the proposal review committee to evaluate the viability of the proposal. Conceptual designs do not need to be prepared by a Professional Engineer (PE) and do not necessarily need to include detailed site work. Proposals for infiltration BMPs must provide soils data to support the feasibility of the strategy. Applicants must include an accurate budget for the project and a definitive description of project strategy and viability, as well as a description of the environmental improvements that will result from the project. Sustainability, operation and maintenance, and cost effectiveness are important aspects of proposal competitiveness. Proposal designs that are

developed to accommodate changing precipitation and groundwater elevations will be most competitive. See the Northeast Regional Climate Center, <http://precip.eas.cornell.edu/>, as one source of climate change models and information.

- Proposals must include maps of the site and locus to show site characteristics, location of each specific BMP location in sufficient detail to defend the feasibility of the BMP(s), and geopolitical and watershed location(s) of the proposed work.

In addition, the most competitive **Proposals for Implementation Projects in Impaired Waters** will address the following issues:

- Watershed or subwatershed based. Projects should be of manageable size, but the most competitive projects are those that propose comprehensive solutions, including the implementation of BMPs and source reduction practices that address all major identified nonpoint sources affecting water quality in the watershed or subwatershed. Use of the Watershed-Based Plan tool is encouraged for identifying watershed boundaries and resources: <http://prj.geosyntec.com/MassDEPWBP>
- Pollutant source reduction. Structural BMPs should incorporate the use of low impact development (LID) principles and best management practices wherever feasible. Please note that, while green roofs will reduce the quantity of water that would otherwise become runoff, no significant pollutant removal is provided. Therefore, green roofs are not competitive to receive grant funding, but may be acceptable as a non-federal funding match.
- Project Feasibility. The most competitive Implementation proposals answer all feasibility questions at the proposal stage by providing good detail and sufficient information to show that the project can go forward if funded. If wetlands or other resource areas are nearby, discuss how the permitting process will be handled. Applicants should also identify and discuss timelines for all other local, state, and federal permits that may be required. Applicants must state whether the applicant owns or controls the site property; and if the applicant does not own/control the project site, the proposal should include documentation of the property owner's agreement to allow access for the project's construction, operation, and/or maintenance, as applicable.
- Environmental results. The 319 Nonpoint Source Competitive Grant Program focuses on environmental results and the proposal should clearly articulate a strategy that will accomplish project goals. Grantees will be required to provide information that will quantify pollutant removal attained by the project.
- Priority Segments. While MassDEP welcomes high quality proposals throughout the state, implementation projects that address one or more priority impaired waterbodies may be regarded as more competitive for funding. MassDEP's list of priority segments and watersheds for 2022 can be found on the MassDEP website [Tools for Developing 319 Proposals](#).
- Dredging, chemical application, and weed harvesting. Dredging and other in-lake resource restoration BMPs such as the use of herbicides, chemicals for nutrient inactivation, and mechanical weed harvesting may be considered eligible and fundable activities, but only when combined comprehensively with the implementation of other structural and non-structural measures intended to restore a resource impacted by nonpoint source pollution.
- In-lake work under 319 can only be funded on waterbodies that have public access, <https://www.mass.gov/info-details/massachusetts-pond-maps>.



Note to Applicants: In most cases both in-lake and watershed-area work for a privately owned lake would be ineligible.

**For all eligible project types (A-E above), the most competitive project proposals will:**

- Implement watershed-based strategies that address the major source of pollution in a watershed, leading to attainment of water quality standards.
- Provide thorough but concise information that demonstrates the project's feasibility and addresses program priorities.
- Build upon previous 319-funded work and/or work that has been initiated by 604b, CZM, MET, NRCS, MassBays, or other programs.
- For Projects in MS4 areas that meet program requirements will be completed by December 31, 2024.
- Provide thorough but concise information that demonstrates the project's feasibility and addresses program priorities;
- Meet one or more objectives of the Massachusetts Nonpoint Source Management Program Plan; and/or
- Include projects located in environmental justice communities, which engage environmental justice communities or organizations in the proposed project, and/or form partnerships to benefit environmental justice communities.

NPS Program guidelines also emphasize the importance of speedy, efficient expenditure of grant funds. Successful applicants must be diligent about adhering to project milestones and timely completion of tasks and deliverables. Funds may be withdrawn from projects that are not expeditiously implemented and will be redirected to other projects that are ready to move forward.

**Funding availability for Projects in NPDES Stormwater regulated/MS4 areas:**

- Implementation projects remain eligible for funding in NPDES regulated areas (Town by town maps of regulated areas are found here: <https://www.epa.gov/npdes-permits/regulated-ms4-massachusetts-communities>). 319 funds cannot be used for work that addresses current NPDES permit requirements. Work that will meet new NPDES permit requirements may be undertaken using 319 funds only if the work is completed prior to the time it will be required under the new NPDES permit timetable.
- All other types of projects are eligible in regulated or mixed regulated/unregulated areas, provided the work proposed is not required under the NPDES stormwater permit, nor used to meet permit application requirements such as mapping stormwater systems, identifying illicit connections, characterizing stormwater discharges, or monitoring required by permits.
- EPA guidelines require termination of funding agreements for work that becomes regulated under NPDES permits, even where a project is partially completed. Therefore, the most competitive projects in regulated areas will provide assurances that the work is not required, nor is it anticipated that it will become required, during the life of the 319 contract (estimated contract term is through December 31, 2024).
- Work in unregulated areas, and in unregulated portions of partially regulated communities, remains fully eligible.

## **2.3 Ineligible Projects/Scope of Work**

The following projects and/or scopes of work are ineligible for funding under the 319 grant program:

- Applicants cannot propose projects that would be undertaken to comply with local or governmental enforcement actions such as State or Federal Administrative Orders or Consent Orders, as these projects are ineligible for 319 grant funds.
- Applicants cannot propose projects to implement specific requirements of NPDES stormwater permits, as these projects are ineligible for 319 grant funds.

## **2.4 Selection Criteria/Evaluation Process**

Eligible proposals will be competitively evaluated by an inter- and intra-agency review committee and recommended to the U.S. EPA for grant funding by the Department. Evaluation of each proposal is based on the quality, completeness and clarity of the response. In general, evaluation criteria for Implementation projects will include, but are not limited to, the following considerations listed below in this section. Projects of other types will be evaluated using similar criteria appropriate for these project types. At the discretion of the Review Committee, various weights may be assigned to the criteria (i.e., some criteria may be weighed more heavily than other criteria).

### 1. Problem definition

- Has the applicant clearly and concisely described the problem?
- Is the proposal consistent with the goals and requirements of the Massachusetts 319 Nonpoint Source program?
- Does the applicant clearly understand the nature and severity of the problem?
- Does the proposal provide adequate data to support the description/analysis of the problem?
- Does the project address a category 4a, 4c, or 5 waterbody, TMDL implementation, or other priorities of the RFR and/or the Commonwealth's Nonpoint Source Management Plan?

### 2. Strategy/approach

- Is the approach or strategy logical and properly sequenced?
- Have all necessary elements been incorporated into the proposal strategy and description?
- Are the problems, goals, strategy, tasks/deliverables consistent with one another?
- Is the proposed strategy appropriate or suitable to accomplish the goals of the proposal?
- Does the proposal build on other programs, projects, or regional efforts?
- Will the project result in delisting or restoration of beneficial uses?

### 3. Project viability

- Is the project based on sound practice or proven innovative technology?
- Are there any apparent permitting or community/public relations issues?
- Does the match appear to be firmly committed?
- Has adequate research or preparation been done to assess project feasibility?
- Were NPDES and other permitting issues considered and addressed?
- Has the grantee addressed site property access issues where implementation work will occur?
- If this is a lakes project, is there public access to the waterbody?

- Does the project demonstrate strong stakeholder support?

#### 4. Applicant's technical/project management strength

- Is the applicant qualified to manage the project?
- Are there any current or prior performance issues with this applicant or their subcontractors?
- Have qualified staff or appropriate subcontractual work been identified?

#### 5. Quality and responsiveness of proposal

- Has the proposal been formatted as requested?
- Have all requested materials been submitted?
- Are the budget and timeline reasonable for the work proposed?
- Has the source and amount of the non-federal match been clearly described within the tasks and budget as well as within the project description?
- Has additional match or other value-added work in excess of the required 40% been proposed?

### **2.5 40% NON-FEDERAL MATCHING FUNDS REQUIREMENTS**

1. All proposals must include non-federal matching funding that is at least 40% of the total project cost. This is a requirement of the Clean Water Act, 40 CFR 31.24. The 40% match applies to the total project, not just the section 319 grant portion.
2. The 40% match may be in cash or by an in-kind contribution. In-kind services must be calculated based on the actual cost for the service provided. Cost estimates for in-kind services must be reasonable, and applicants must be able to provide documentation upon request. The section 319 funding cannot be used as a non-federal match for any other grant program or project. NPDES permit related work, including permitting work, is not eligible for grant funding or as match.
3. Examples of eligible in-kind matching contributions include:
  - Labor (e.g., staff time) and materials (e.g., seed, fencing, plant material)
  - Use of equipment (e.g., boats, backhoe, street sweeper)
  - Other non-federal grants (e.g., Massachusetts Environmental Trust, Sustainable Watershed Management Initiative)
  - Non-federal State Revolving Fund (SRF) funds, Chapter 90 funds, Community Preservation Act, MVP grants, and direct state or town appropriations
  - Site work, engineering and design, and permitting
4. Proposal writing and other activity related to seeking section 319 funds through this grant process are NOT ELIGIBLE as non-federal match funding.
5. Non-federal Match work services can be used to meet DBE Fair Share Utilization Goals.
6. Non-federal Match work services must meet the same s.319 eligibility guidelines as grant-funded work.

7. Letters of commitment must be submitted with the proposal by all organizations that are contributing non-federal match funds or in-kind services to the project.
8. Grant recipients will be required to document and report the non-federal match contribution to the Department, whether the match is comprised of cash funding, in-kind services, or both.
9. The non-federal match must occur during the section 319 project contract period and/or within the period of the federal grant. For FFY 2022 submittals, this means 319-eligible, project related work done on or after October 1, 2019.
10. Eligible in-kind match may include any other nonpoint source work that would be considered 319-eligible, that is being conducted within the project watershed, provided:
  - The work is described in detail and is included as a task within the 319 project proposal;
  - Letters of commitment from match providers or cooperators are included within the 319 project proposal; and
  - All other match guidelines are met.

### **3. Procurement and Grant Contract Information**

#### **3.1 Procurement for Grant Contracts**

Solicitations and procurements are governed by specific Commonwealth regulations, and where federal funding is employed, also by federal requirements contained in the federal grant that issues the funds to the Commonwealth. Projects awarded as part of this funding opportunity will be awarded as a grant. The regulation governing this procurement is 815 CMR 2.00, with some provisions of 801 CMR 21.00. The terms of 815 CMR 2.00: Grants and Subsidies and 801 CMR 21.00: Procurement of Commodities and Services are incorporated by reference into this Grant Opportunity/Announcement. Words used in this Grant Opportunity document shall have the meanings defined in 815 CMR 2.00 and where applicable 801 CMR 21.00. Additional definitions are also provided in the Definitions portion of this document.

#### **3.2 Total Anticipated Duration of Grant Contract(s)**

The base period of the grant contract is approximately two and one-half years with a potential for two (2) additional one-year renewal options, for a maximum grant contract period of five years. No agreements for services may be executed after the grant contract has expired. Extension of the contract is at the sole discretion of MassDEP.

#### **3.3 Funding Availability, Budgeting Guidelines & Allowable Expenditures**

The total anticipated expenditure for projects under this Grant Announcement is \$1,600,000. Grant contracts will have a maximum obligation amount. MassDEP is under no obligation to disburse a specific sum of funding. There is no guarantee that monies will be awarded. All grant contracts shall be subject to available funding. 10% retainage is withheld from each invoice. Retainage is paid to the Grantee once all deliverables are received and accepted, and the contract is closed out.

MassDEP will only reimburse costs and expenses that relate directly to the proposed project and that will be incurred if the project is implemented. For grant contracts that are implemented under this Grant Opportunity, amendments in scope and budget can be made only in accordance with policies and procedures spelled out in the 2016 Grantees Guide: <https://www.mass.gov/doc/watershed-projects-grants-program-grantees-guide/>. See Attachment E (Supplemental Terms and Conditions), particularly Section 3 (Compensation and Payment of Grant Funds) for additional requirements and restrictions on payment.

### **3.4 Grant Contract Award**

Funding for projects selected under this Grant Announcement will be through a grant contract issued and administered by the MassDEP 319 Program. MassDEP may fund multiple awards to multiple organizations within the limits of the available funding. However, MassDEP could award all of the funding for a single project, depending on the number of applications received and the results of the evaluation and ranking of the applications and projected costs.

Projects that are awarded a grant contract shall abide by the terms and conditions set forth in Section 5 of this document (Terms and Conditions) and the additional terms and conditions set forth in Attachment E (Supplemental Terms and Conditions) to this Grant Announcement. Additionally, final grant contracts are only awarded after the completion of the parties' successful negotiation of the Project's Final Scope of Services. Applicants should note that Grant contracts are not final until MassDEP and the Grantee signatory have signed the Commonwealth's Standard Contract form, which also incorporates by reference the Standard Contract Form Instructions, Contractor Certifications, and the Commonwealth's Terms and Conditions.

MassDEP does not guarantee that any grant contracts will result from this Grant Announcement, or that any particular funding amount will be awarded. It is anticipated that projects will commence shortly after MassDEP's award of a contract when a formal notice to proceed is issued. Awarded contracts will be reviewed during the contract term and, upon request by the Grantee, may only be extended or otherwise amended at the sole discretion of MassDEP. Any extension granted will not necessarily change, or increase, the monetary value of the contract.

### **3.5 Applicant Communication with MassDEP and the Commonwealth**

Applicants are prohibited from communicating directly with any employee of MassDEP regarding this Grant Opportunity except as specified in this Grant Announcement, and no other Commonwealth employee or representative is authorized to provide information or respond to questions or inquiries concerning this Grant Announcement. Applicants may contact the contact person for this Grant Announcement in the event this Grant Announcement is incomplete, or if the applicant is having trouble obtaining any referenced documents or required attachments. Note that there is an open period to submit written questions up to the deadline specified in this Grant Announcement. MassDEP's response to questions from all prospective applicants that are pertinent to this procurement will be answered and posted on the MassDEP website for this Grant Announcement.

### **3.6 Grant Announcement Distribution Method**

A Notice of Upcoming Grant Availability has been distributed electronically using the Commonwealth's electronic procurement and solicitation website COMMBUYS (posted on September 13, 2021) and the MassDEP website. The documents including this Grant Announcement and all the Attachments are posted on the MassDEP Grants and Financial Assistance: Watersheds & Water Quality website, <https://www.mass.gov/info-details/grants-financial-assistance-watersheds-water-quality#section-319-nonpoint-source-competitive-grants-program>. It is the responsibility of every Applicant to check the MassDEP website for any addenda or modifications to the Grant Announcement to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amendments to the Grant Announcement and/or submit inadequate or incorrect responses.

### **3.7 Prohibition of Changes to the Grant Announcement/Application**

Applicants may not alter the Grant Announcement language or any Grant Announcement component files. Those submitting an application must respond in accordance with the Grant Announcement directions and complete only those sections that prompt an Applicant for a response. Modifications to the body of this Grant Announcement, specifications, terms and conditions, or which change the intent of this Grant Announcement are prohibited. Any unauthorized alterations will cause rejection of the response by the MassDEP. If an Applicant finds an error where a change may be required, the Applicant should immediately contact the MassDEP 319 Grant Contact listed in Section 1.4 of this Grant Announcement.

### **3.8 Failure to Provide a Complete and Compliant Application**

Submittals that are received that are incomplete and/or non-compliant with the requirements stated in this Grant Announcement are subject to rejection by the Grant Review Team (GRT).

### **3.9 Reasonable Accommodation**

Applicants with disabilities or hardships that seek reasonable accommodation, which may include the receipt of Grant Announcement information in an alternative format, must communicate such requests in writing to the 319 Grant contact person. Requests for accommodation will be addressed on a case-by-case basis.

### **3.10 Selection for Award of a Grant Contract**

Applications that are determined to be eligible for grant funding as described in this Grant Announcement, and that meet the evaluation criteria and the terms and conditions of the Grant Contract as determined by the GRT, may be awarded a Grant Contract. However, as indicated previously in this document, there is a limited pool of grant funding for 319 projects, and as a result, there is a possibility that Applicants who otherwise meet the eligibility criteria for grant funding may not be awarded funds for a 319 project.

Failure of the Applicant to be awarded a grant under this Grant Announcement shall not eliminate their eligibility or consideration for any future grant funds that may be available through the 319 Program.

### **3.11 Affirmative Action Requirements**

In order for their proposals to be considered complete and responsive to this RFR, Applicants 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. Additional information is found in Attachment D.

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 D.

#### Disadvantaged Business Enterprise (DBE) Utilization Requirements

Regardless of the dollar value of a project awarded a Grant pursuant to this RFR, the Federal s.319 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.

For firms to qualify under the DBE Program, they must be both socially and economically disadvantaged, citizens of the United States, and certified as a DBE by the Supplier Diversity Office (SDO). 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.

In the 319 grant program, federal regulations require the use of Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) these firms should still be utilized, but they must also be certified as DBEs. In essence, the regulations mean that only a subset of the universe of MBEs and WBEs can be counted toward the Fair Share goals – those who are also certified as DBEs.

The DBE utilization goals are 4.2% D/MBE and 4.5% D/WBE, respectively, for any subcontract for services, construction, goods or equipment.

For the purposes of being awarded a Grant pursuant to this RFR, all respondents must include a written Statement of Intent 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.

## 4. Instructions for Submitting an Application

### 4.1 Application Transmittal Instructions:

Complete all application items, including all required and completed documents, and submit as instructed. **Please note that only electronic submissions will be accepted for the FFY2022 319 Grant Program.** Applicants must include all the documents required in the application and follow the specified format. Submitted proposals should consist of a concise application of no more than 12 single-sided pages, which excludes additional supporting materials such as required forms, letters of support, plans, maps, photos, summarized water quality data, and statement of qualifications. Applicants must include all the documents required in the application (see checklist in [Attachment B](#)) and follow the suggested format (see [Attachment A – Application](#) -- for formatting information).

**Electronic proposal submissions, in Word and .pdf, comprising no more than 10MB of data, are due no later than 5:00 p.m. on Wednesday, December 15, 2021.** Applications received after that date and time will not be accepted. Reviewers will only receive electronic copies of proposals. Therefore, applicants must ensure that the materials transmitted through email can be viewed.

**E-mail the proposal (including supporting materials) to the 319 Grant contact (Malcolm.Harper@mass.gov) with the subject line “BWR-RFR-FFY2022-319-FALL GRANT ROUND Proposal”.**

Please note that all responses and information submitted in response to this Grant RFR are subject to the Massachusetts Public Records Law, M.G.L. c. 66, & 10, and to c. 4, & 7, cl. 26. Any statements in submitted responses that are inconsistent with these statutes, including marking of information as confidential, shall be disregarded. Please do not submit any information that the applicant may not wish to disclose publicly, such as home addresses or personal telephone numbers, social security numbers, or other similar information. MassDEP reserves the right to reject any and all proposals or request additional information if needed.

### Required Submittal Package:

- 1) One complete original proposal including a completed administrative summary, project description, scope of services, project budget, and project milestone schedule.
- 2) Required Response Attachments as detailed in Section 4.2 and [Attachment B](#).
- 3) The following required forms, signed electronically:
  - Contractor Authorized Signatory Listing Form
  - An Equal Opportunity/Affirmative Action Policy Statement
  - Required DBE Documentation and Forms
- 4) An electronic copy in word and .pdf format of the full proposal, limited to 10 MB, emailed by the deadline to: [Malcolm.Harper@Mass.gov](mailto:Malcolm.Harper@Mass.gov)

### 4.2 Requirements for Application Structure and Content

Additional required structure and submission items for the Application are specified in the Proposal Checklist (see [Proposal Checklist in Attachment B](#)).



### 4.3 Additional Forms

If selected for a grant award, the applicant will be required to submit the following forms to complete the contracting process.

- Commonwealth Standard Contract Form, filled out and signed by the applicant  
<http://www.macomptroller.info/comptroller/docs/forms/contracts/StandardContractForm-.docx>
- Commonwealth Terms and Conditions  
<http://www.macomptroller.info/comptroller/docs/forms/contracts/CommonwealthTermsAndConditions.pdf>. These Terms and Conditions are incorporated by reference into the Standard Contract Form, and do not need to be executed separately.
- Commonwealth W-9 tax information form filled out and signed by the applicant with DUNS number and Federal Tax ID  
<http://www.macomptroller.info/comptroller/docs/forms/vendorcustomer/newmass-w9.pdf>
- Electronic Funds Transfer (EFT) form  
<https://www.mass.gov/doc/electronic-funds-transfer-form-2/download>

Applicants are encouraged to review these forms prior to submission of an application. The Commonwealth Forms are located on the Massachusetts Comptroller's website at the following link:  
<https://www.macomptroller.org/forms>.

## 5. Terms and Conditions of Grant Contract Award

Any Grant Applicant receiving an award must comply with the following requirements:

### 5.1 Commonwealth Terms and Conditions:

The general terms and conditions for this contract are set forth in the following Commonwealth documents:

Commonwealth of Massachusetts Standard Contract Form, which incorporates by reference the Standard Contract Form Instructions, Contractor Certifications, and Commonwealth Terms and Conditions

In addition to meeting the requirements of this Grant Announcement, the Grantee's authorized signatory must sign and submit original, ink versions of the "Standard Contract Form" with the completed Grant Application documents. The terms and conditions contained in the Standard Contract Form and all Commonwealth documents listed above that are incorporated by reference supersede any and all other terms that may be defined explicitly or implied in this Grant Announcement. It is important that the entity submitting a proposal fully understands all of the terms and conditions contained in these documents, and the referenced terms in these documents and how the terms apply to their agency, organization, or business. A Grantee that fails to comply with the terms and conditions required by this Grant will be terminated from the contract. See 815 CMR 2.00.

## 5.2 Supplemental Terms and Conditions

Supplemental terms and conditions are requirements that are specific to the contracts resulting from this Grant Announcement. The Supplemental Terms and Conditions are provided in Attachment E (Supplemental Terms and Conditions).

## 5.3 Additional Requirements

In addition to complying with the requirements of this section, any Applicant receiving a Grant Award must adhere to all requirements of the Grant Application, and all documentation submitted in support of that application. If, after award of a Grant to a recipient, the GRT receives information that there has been a material omission or misrepresentation by the Grant Applicant regarding any aspect of the proposed project, this may constitute grounds for invalidating the Grant award.

## 5.4 Section 319 RFR Requirements and Conditions

1. Funding for this program is subject to 319 federal grant awards from the U.S. EPA to the Department.
2. Grantees or their subcontractors are presumed to be equipped for, and capable of, carrying out the proposed work. Expenses for extensive training, or purchase of software, computers, construction tools and equipment, vehicles, and other capital expenditures are not eligible for reimbursement.
3. Grant funds cannot be used to provide meals, snacks, or other refreshments for project activities.
4. For any BMP installation funded under the 319 program, written certification that the system has been installed consistent with engineering and design specifications will be required from the designer or supplier of the technology as a project deliverable. The certification must occur prior to the system being covered, buried, or otherwise made inaccessible, and shall occur in advance of release of payment for the system by the Department.
5. An Operation and Maintenance Plan will be required as a grant deliverable for each BMP installed. Provisions requiring designer or supplier of the technology certification and a long-term Operation and Maintenance Plan must be consistent with Standard 9 of the Massachusetts Stormwater Policy (found on page 23 of the Massachusetts Stormwater Handbook, Volume 1) and will be included in the contract or ISA between the grantee and the Department. The Massachusetts Stormwater Policy can be found here: <https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards#-stormwater-handbook-volume-1->. The Operation and Maintenance plan must be effective for the life of the BMP.
6. The award of a 319 grant does not constitute a permit or any other approval that may be required for the project. Grantees must obtain, and comply with, all federal, state, and local permits and approvals required for the project.

7. Administrative costs for overseeing the grant (e.g., reporting and invoicing) cannot exceed 10% of the grant award. The cost of actual project management, including overseeing contractors and site work and managing project-related activities, does not count against the 10%.
8. At a minimum, quarterly progress reports, draft and final reports, and DBE utilization reports will be required for all projects selected for 319 funding. All selected projects will be required to submit (at a minimum) one camera-ready copy of the Project Final Report, two additional hard copies, and three electronic copies that are compatible with the Department's software systems. All project responses must include the reporting requirements as a separate task, and the budget must include costs for meeting these minimum reporting requirements.
9. The Department reserves the right to fund a portion, change the scope and/or add or delete tasks of any project proposal to more closely meet the purposes of the program. Respondents will have the option of rejecting the grant award if the revised scope does not meet their goals.
10. 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 their 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.
11. The expected overall duration of the Contract is from on or about July 1, 2022 through December 31, 2024, approximately two and a half years.
12. The payment procedure for 319 projects is reimbursement for costs incurred for the project, during the contractual period. Advance payments shall not be made. Reimbursement is generally made within 45 days subsequent to a grantee submitting a correctly executed invoice with appropriate backup and a completed Match Certification Form. No payments shall be made for Massachusetts sales tax. No payments will be made unless a complete Payment Voucher Attachment or DM/WBE Reporting and a Match Certification Form accompany the reimbursement request.
13. The Department will retain ten percent (10%) of the total maximum obligation of 319 funds 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 contractor and will be cumulative.
14. The Commonwealth makes no guarantee that any commodities or services will be purchased from any contract resulting from this RFR. Any estimates of past procurement activities referenced in this RFR are included only for the convenience of bidders and are not to be relied upon as any indication of future purchase levels.
15. The Department may, at any time and without penalty, reject any or all responses whenever the Department determines that such action is in the best interests of the Commonwealth.

16. 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.
17. 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, regarding Public Access to such documents. Any statements reserving any confidentiality or privacy rights in submitted responses inconsistent with these statutes will be voided and disregarded.
18. Unless otherwise specified in this RFR, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this RFR to any manufacturer or proprietor, or to constitute an endorsement of any good or service. The Department may consider clearly identified offers or substantially equivalent goods and services submitted in response to such reference.
19. A response which fails to meet any material term or condition of the RFR, including the submission of required attachments, may be deemed unresponsive and disqualified. Unless otherwise specified, bidders may submit responses proposing alternatives which provide equivalent, better or more cost-effective performance than achievable under the stated RFR specifications. These alternatives may include related commodities or services that may be available to enhance performance during the period of the contract. The response should describe how any alternative achieves substantially equivalent or better performance to that of the RFR specifications. The Department will determine if a proposed alternative method of performance achieves substantially equivalent or better performance.
20. The Department may require that a Memorandum of Understanding (MOU) be signed by the contractor and any participating organization and/or agency prior to the contractor receiving Notice to Proceed for the contract. An MOU is an agreement between the contractor and each participating organization and/or agency that lists the specific project responsibilities of these participating groups.
21. 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.
22. 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.
23. 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 part under this grant program shall be determined by the Department.
24. Grantees will be required to immediately notify the Department of the loss or reassignment of a project manager, and the Department requires that a replacement project manager be assigned within sixty (60) days. The Department reserves the right to approve all replacement project managers. The Department also reserves the right to terminate the contract if the contractor fails to replace a project manager within this time frame.

## 6. Definitions

The following definitions supplement the definitions provided in Code of Massachusetts Regulations, 801 CMR 21.00 (Procurement of Commodities and Services) and 815 CMR 2.00 (Grants and Subsidies). These definitions are used for this solicitation and may be used throughout implementation of the grant contract after award:

**Applicant:** An Applicant is any entity identified in Section 2.1 of this Grant Announcement that responds to this Grant Announcement with a completed application, including the work and cost plan, and other required documentation as specified herein. For definition purposes, an Applicant is the same as a “bidder” as defined in 801 CMR 21.00 (Procurement of Commodities and Services).

**Bureau of Water Resources (BWR):** The Bureau within MassDEP that is responsible for the procurement and implementation of this contract. MassDEP’s 319 Program Manager, Program Coordinator, and Contract Manager are assigned to BWR, Division of Watershed Management.

**COMMBUYS:** The Commonwealth’s eProcurement Access and Solicitation Website (COMMBUYS) is a free, around-the-clock internet access site that provides bid/solicitation/procurement documents for all goods and services that are available either on existing Commonwealth state-wide contracts or are issued by other Eligible Entities of the Commonwealth of Massachusetts (including MassDEP). Announcements for Grant Opportunities and Notification of selection (and non-selection) for Grant Awards must also be posted on COMMBUYS pursuant to 815 CMR 2.00 (Grants and Subsidies).

**Federal Subgrant:** A Grant of Federal Funds received by a State Department as a Federal Grantee, which are provided under contractual terms to a Grantee. Certain Grantees receiving Federal Grant Award funds will be considered Subrecipients and will be required to comply with additional federal requirements. See 815 CMR 2.02 (definitions). In this document, Federal Subgrant is also referred to as “Grant Contract.”

**Grant Review Team (GRT):** The Massachusetts state and federal personnel who are responsible for conducting the evaluation of the applications and recommending to EPA one or more responding entities for award of a grant.

**Grant:** Discretionary and non-discretionary (earmarked) funds of State or Federal Grant Awards which are considered financial assistance provided under contractual terms between a Grantor State Department and a Grantee to assist the Grantee in the achievement or continuation of a specified public purpose to benefit the general public or a segment of the general public consistent with the Grantor Department's Legislative Authorization and the terms of the Grant funding. A Grant of a Federal Grant Award is also known as a Federal Subgrant. See 815 CMR 2.02 (definitions).

**Grant Announcement:** also called a Request for Responses (RFR), the document describing the grant opportunity, terms, and response requirements.

**Grantee:** A Public or Non-Public Entity selected as a recipient of Grant. See 815 CMR 2.02 (definitions); see also Subrecipient definition below.

**Impairment:** for purposes of the 319 program, a waterbody that is listed in Category 4a (TMDL), Category 4c, or Category 5 of the Massachusetts Year 2016 Integrated List of Waters (CWA Sections 303d and 305b) is considered to be impaired. The listed nonpoint source pollutants are prioritized to be addressed by Section 319 funds.

**Massachusetts Department of Environmental Protection (MassDEP):** MassDEP is an Executive Department under the Executive Office of Energy and Environmental Affairs (EEA). Within EEA, MassDEP administers the 319 Nonpoint Source Program (NPS).

**Nonpoint Source (NPS) Pollution** – Nonpoint source (NPS) pollution comes from rainfall or melting snow moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants and eventually deposits them into lakes, rivers, wetlands, coastal waters and ground waters. These pollutants may come from fertilizers and herbicides, oil, grease, and toxic chemicals from urban runoff, construction sediment, streambank erosion, irrigation runoff, bacteria and nutrients from animal wastes and atmospheric deposition, commonly called "acid rain".

**Subrecipient:** A Grantee that receives a Federal Subgrant from a Grantor (also known as a “pass-through entity”) to carry out part of a Federal Grant Award. Grantees receiving Federal Grant Awards who are deemed “Subrecipients” for Federal Grant Award purposes will be required to comply with applicable federal requirements, including but not limited to Subrecipient audit requirements under the Code of Federal Regulations, including 2 CFR Chapter I, Chapter II, Part 200 et al.

**319 Nonpoint Source Program:** A grant program authorized under Section 319 of the federal Clean Water Act for implementation projects that address the prevention, control, and abatement of nonpoint source (NPS) pollution.

## **7. Attachments:**

### **A. Application**

#### STANDARD FORMAT REQUIREMENTS FOR 319 PROJECT PROPOSALS

Responses must be focused and action-oriented with clearly identifiable, cost-effective, realistic, and attainable environmental goals and objectives. The environmental indicators that are to be used in evaluating the success of the project in meeting its environmental goal(s) should be clearly defined. The application forms on the following pages should be used when preparing the narrative, scope of services, budget and milestone schedule for the proposed project; information provided on these pages by the proponent will meet the minimum format requirements for s.319 responses.

**RESPONSE FORM**  
**319 NONPOINT SOURCE POLLUTION GRANT PROGRAM**  
**10/13/2021**  
**RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND**

**Administrative Summary**

<b>RESPONDENT -</b>			
<b>Address -</b>			
<b>Telephone -</b>	<b>Facsimile -</b>	<b>Email Address -</b>	

**PROJECT TITLE -**

**WATERSHED(S)/SUBWATERSHED(S) SERVED BY THIS PROJECT -**

**PROJECT TYPE(s) -** see Section 2. A response may encompass more than one project type.

- A. Implementation**    TMDL    Category 4a, 4c, or 5    other
  - Continues the work commenced under publicly funded program(s)**
- B. Healthy Watersheds**
- C. Development of Municipal and Regional Stormwater Collaboratives and Funding Mechanisms**
- D. Regional Implementation NPS Project Development**
- E. Outreach and Education**

**POLLUTANT(S) OF CONCERN:**

**AMOUNT OF FUNDING REQUESTED AND AMOUNT AND PERCENT OF MATCH FUNDING PROPOSED -**

Federal Funds via MassDEP     \$ \_\_\_\_\_  
Non-Federal Match            \$ \_\_\_\_\_ % of the Total Budget Cost \_\_\_\_\_  
Total Project Budget            \$ \_\_\_\_\_

**PROJECT SUMMARY/OBJECTIVES -**

**PRINCIPAL CONTACT (Project Manager)**

\_\_\_\_\_

_____	_____
Name and Title	Email
( ) _____	( ) _____
Telephone	Facsimile

**AUTHORIZED SIGNATORY -** All respondents must complete, execute and return the **CONTRACTOR AUTHORIZED SIGNATORY LISTING FORM** (see Attachment B).



**RESPONSE**  
**319 NONPOINT SOURCE POLLUTION GRANT PROGRAM**  
**10/13/2021**  
**RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND**  
**Implementation Project Description**  
**Adapt as necessary for other project types**

A Concise Application *not to exceed 12 single-sided pages* documenting compliance with all the evaluation criteria listed in Evaluation Criteria above (Section 2.4). The 12-page application limit includes only those items responsive to these criteria and also includes both a descriptive narrative and all completed application template documents found in this Attachment A – Application (See the Evaluation Criteria in Section 2.4 for more detail on the Evaluation Criteria). The 12-page application limit excludes additional supporting materials such as required forms, plans, maps, photos, summarized water quality data, and letters of support.

**CONCISE STATEMENT OF THE PROBLEM**

Description of the problem/issue, statement of need, project type, background and overall project justification. Identify and provide data (or summary) and sources of information that define the problem and support the need for the project.

Information sources may include but are not limited to Total Maximum Daily Load publications, the MassDEP Integrated List of Watersheds, MassDEP Sampling data and other prior studies. See [Attachment C](#) and especially [Frequently Asked Question #6](#).

**PROJECT GOAL(S)**

Specify the goals and anticipated environmental results of the project.

**TARGETED POLLUTANT(S) AND WATERBODY(S)**

Specify the targeted waterbody(s) and the pollutant(s) that are targeted by the project, if any.

**ESTIMATED QUANTITY OF POLLUTANT(S) TO BE REMOVED**

Estimated quantities to be removed (pounds, tons, CFUs) for all targeted pollutants, if any, based on modeling, demonstration, or other best estimate. Percentages are not acceptable.

**PROJECT STRATEGY**

Strategy to achieve the project. Describe the steps that will be taken to achieve project goals and explain how the tasks and sequence will achieve those goals. Identify and describe the participation and commitment expected from other agencies and organizations. Describe the role(s) of each group and list the specific responsibilities of each. Letters of support from all organizations providing non-federal match must be submitted with the response.

**NPDES STATUS**

State whether the project is fully or partially in a NPDES area. If so, explain how your project meets eligibility requirements as set forth in Section 2.2, under “Funding Availability.”

**MILESTONES**

In the Project Milestone section, identify the steps that track progress towards meeting a goal.

**ACTIVITIES**

In the Scope of Services section, provide a brief descriptive statement for each task/activity to be completed under the project to achieve the stated goals.

**PROJECT EVALUATION -ENVIRONMENTAL INDICATORS**

Description of how the project's accomplishments will be evaluated. The evaluation method selected must fit the project.

**OUTREACH-TECHNOLOGY TRANSFER**

For Implementation projects, provide a description of the proposed outreach/technology transfer task(s), the participants in the program, and the intended audience. For Outreach and Education projects, this may be described under "Project Strategy."

**RESPONSE**  
**319 NONPOINT SOURCE POLLUTION GRANT PROGRAM**  
**10/13/2021**  
**RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND**

**Scope of Services**

Provide a brief descriptive statement for each task/activity to be completed under the project, and list and describe the product(s) for each task. Provide an estimated cost for each task. NOTE: Every Implementation proposal must list as a separate task an Outreach and Education task for the project. Every Implementation project must include the development and implementation of an Operation and Maintenance Plan as a separate task. Finally, every response must include reporting requirements (quarterly updates, final project reports, etc.) as a separate task. Attach additional pages as required to describe objectives/tasks.

**TASK/OBJECTIVE # 1: Project Evaluation:**

As required, estimated quantity (pounds, tons, CFUs, etc. but not percentages) of pollutant load removal to be achieved (if applicable). All projects are assumed to be covered under the MassDEP 319 Programmatic QAPP. For TMDL development or if the project relies on a separate MassDEP- and EPA-approved Quality Assurance Project Plan, explain why this is a necessary component of the proposed work. This Task/Objective is not required for Regional Coordinator or NPS Source Planning proposals.

**DELIVERABLES:**

**ESTIMATED COST:**

**s.319 SHARE:**

**NON-FEDERAL MATCH SHARE AND SOURCE:**

TASK/OBJECTIVE #\_:

DELIVERABLES:

ESTIMATED COST:

s.319 SHARE:

NON-FEDERAL MATCH SHARE AND SOURCE:

TASK/OBJECTIVE #\_:

DELIVERABLES:

ESTIMATED COST:

s.319 SHARE:

NON-FEDERAL MATCH SHARE AND SOURCE:

***Repeat this page as necessary to show all proposal tasks.***

**RESPONSE**  
**10/13/2021**  
**RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND**  
**Project Budget**

This budget is for response evaluation purposes. Use the whole dollar method. Indicate which items will be paid for by s.319 funds, and which items will be paid for by the non-federal match. Attach additional pages as required. Grant administration costs cannot exceed 10% of the grant award.

Expense Items	s.319 Amount	Non-Federal Match and Source	Total Amount
Salary - By Title and salary range (ex.: Engineer, \$40-50/hour including fringe)			
Subcontractual Services			
Materials and Supplies (including printing, mailing - should include cost for printing 3 copies and three CDs or flash drives of the final project report, with photographs)			
Travel (for auto mileage only @ \$.45 /mile)			
Other			
<b>Totals:</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**REQUIRED: SOURCE(S) OF NON-FEDERAL MATCH** - List all sources of non-federal match funds and the amount of matching funds being contributed by each source. Letters of support from all organizations (on the organization's letterhead) identified as providing a portion of the non-federal match for the project **must be submitted with the response**. These letters must detail the match to be provided by the organization and must be signed by an authorized signatory for the organization. Due dates for letters of support without match are as outlined in the grant calendar on pages 4-5.

**EEO/AA REQUIREMENTS** - Identify all budget categories from which it is anticipated that the DBE participation goals will be met. Show the anticipated dollar amount of DBE participation in each budget category.

**RESPONSE**  
**319 NONPOINT SOURCE POLLUTION GRANT PROGRAM**  
**10/13/2021**  
**RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND**  
**Project Milestone Schedule**

Provide a time-line by "xing" out the duration of the task activity. Use additional pages as necessary. Presume a July 1, 2022 Notice to Proceed.

MONTH	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 #																								
TASK #																								
TASK #																								
TASK #																								
TASK #																								
TASK #																								
TASK #																								
TASK #																								
TASK #																								
TASK #																								

## **B. Proposal Checklist**

Use this checklist when reviewing the proposal package to ensure that it meets the minimum format requirements.

### **COMPLETED ADMINISTRATIVE SUMMARY**

- Applicant and contact information
- Project Title
- Watershed(s)/Subwatershed(s) served by this project
- Project type(s)
- Amount of funding requested
- Details, amount, and percent of match funding proposed.
- Project summary/objectives
- Principal contact name and contact information
- Authorized Signature

### **PROJECT DESCRIPTION**

- Concise statement of the problem
- Targeted pollutant(s) and estimated pollutant removal (implementation projects)
- Project goals(s)
- Project strategy
- NPDES Status
- Milestones
- Activities
- Project evaluation - environmental indicators
- Outreach - Technology transfer

### **SCOPE OF SERVICES**

- Objectives/tasks
- Deliverables
- Estimated costs

### **PROJECT BUDGET**

### **PROJECT MILESTONE SCHEDULE**

### **PROPOSAL ATTACHMENTS**

- Proposal backup data
- Conceptual design(s)
- Maps, locus and BMP location(s)
- Letters of support from all organizations providing match funds (or in-kind services)
- Documentation of property ownership and permission for BMP installation and O & M activities
- Statement of Qualifications, resumes of key personnel
- DBE documentation, an equal opportunity/affirmative action policy statement
- Contractor authorized signatory form

### **ELECTRONIC SUBMITTAL**

- An electronic copy of a full proposal, Word (.docx) and .pdf, limited to 10 MB, emailed to: Malcolm.Harper@mass.gov
- Electronic proposal submitted no later than **5:00 p.m. on December 15, 2021**

## **319 NONPOINT SOURCE POLLUTION GRANT PROGRAM**

**10/13/2021**

### **RFR#: BWR-RFR-FFY2022-319-FALL GRANT ROUND**

#### **Required Response Attachments**

(Adapt as necessary for Regional Coordinator proposals)

1. **DATA.** Attach any backup data that is believed to be necessary to support and clarify the response, including maps of the project area: at minimum, a locus map of the watershed and a site map showing each specific BMP location, in sufficient detail to defend the feasibility of the BMP(s). If extensive backup data is to be submitted with the response, a summary of the data will facilitate the review of the response; in this case, the applicant may wish to provide only one copy of the complete report or data, and a summary in each proposal copy. If by-laws, regulations, policies, ordinances, and/or enforcement mechanisms are proposed as part of the project, a preliminary plan of how these mechanisms will be developed and implemented is required as part of the response. If structural BMPs are proposed as part of the project, at a minimum conceptual design(s), specific site location(s), and estimated cost of the BMPs are required as part of the response. Use of the Watershed-based Plan tool, <http://prj.geosyntec.com/MassDEPWBP>, is encouraged as a source of maps, resources, and strategy.
2. **MATCH DOCUMENTATION.** Letters from all organizations, including state organizations, identified as providing a portion of the non-federal match for the project, detailing the amount and source of the match to be provided by the organization. Such letter(s) must be on the organization's letterhead and signed by an authorized signatory for the organization. If up-front match is proposed, provide additional detail to document the timing of the up-front match and its exact relationship to the proposed project work.
3. **QUALIFICATIONS.** A statement of the applicant's qualifications, and their subcontractors' qualifications where appropriate, to perform the proposed project. Such statements should include resumes of key personnel and examples of similar work, if available.
4. **AFFIRMATIVE ACTION DOCUMENTS.** Appropriate Affirmative Action Documentation - for all responses, an executed Equal Opportunity/Affirmative Action Policy Statement.
5. **DBE DOCUMENTATION.** Appropriate Fair Share DBE Documentation - a written Statement of Intent (example in Attachment D) which clearly acknowledges the respondent's commitment to meet or exceed the "Fair Share" participation requirements and the identified budget categories and dollar amounts that the applicant anticipates will be used to meet the requirements.
6. All respondents must complete, execute and return electronically with the application the CONTRACTOR AUTHORIZED SIGNATORY LISTING FORM (see Section 4). As described on the Form, this may also include separate documentation of the signatory's authorization to sign contracts on behalf of the applicant (i.e., a letter from the Town Clerk or Selectmen attesting to the authority of the individual to sign the contract; a section of the organization's charter or enabling legislation granting that authority; or similar).



## C. Additional Resources and FAQs

### **Background Information**

Draft and Final TMDL analyses and the Massachusetts 2016 Integrated List of Waters  
<https://www.mass.gov/total-maximum-daily-loads-tmdls>

Water Quality Assessment Reports  
<https://www.mass.gov/service-details/water-quality-assessments>

MassDEP Project Summaries. One-page descriptions of projects that have received 604b or 319 funding over the last five years. <https://www.mass.gov/info-details/grants-financial-assistance-watersheds-water-quality#section-319-nonpoint-source-competitive-grants-program->

MassDEP Water Quality Monitoring Program Data: <https://www.mass.gov/guides/water-quality-monitoring-program-data>

### **Nonpoint Program Information and Tools**

Massachusetts Nonpoint Source Management Program Plan, 2020-2024, with concise goals and objectives:  
<https://www.mass.gov/info-details/final-2020-2024-massachusetts-nonpoint-source-management-program-plan>

The Clean Water Toolkit, Massachusetts Nonpoint Source Pollution Management Manual. A manual in electronic format that provides an overview of nonpoint source related issues, fact sheets and detailed information about best management practices to address nonpoint source problems.  
<http://prj.geosyntec.com/npsmanual/default.aspx>

Watershed-based Planning Tool. The WBP will guide a user to select a watershed and complete the nine elements necessary to comprise a watershed-based plan <http://prj.geosyntec.com/MassDEPWBP>

### **Stormwater**

NPDES Stormwater Regulated Communities. 319 funds cannot be used for activities that support final NPDES permits in the regulated area. <https://www.epa.gov/npdes-permits/regulated-ms4-massachusetts-communities>

University of New Hampshire Stormwater Center, <http://www.unh.edu/unhsc/>, where in situ testing of several Best Management Practices is conducted. Visit this site for fact sheets and information about porous asphalt, gravel wetlands, swirl concentrators, and other relevant information.

Stormwater Policy and General Publications  
<https://www.mass.gov/info-details/stormwater>

Cornell Extreme Precipitation Analysis website, providing rainfall analysis calibrated to the present climate  
<http://precip.eas.cornell.edu/>

EPA's Soak Up the Rain campaign, information and resources to support public outreach and education  
<http://www.epa.gov/soakuptherain>

Surface Water Quality Standards  
<https://www.mass.gov/regulations/314-CMR-4-the-massachusetts-surface-water-quality-standards>

Three excellent newsletters with comprehensive grant information from public and private sources:

- *Ebb & Flow Newsletter*, <https://www.mass.gov/orgs/division-of-ecological-restoration>
- *CZ-Mail*, <https://www.mass.gov/service-details/cz-mail>
- Massachusetts Land Trust Coalition, <https://massland.org/>

## **FREQUENTLY ASKED 319 QUESTIONS AND RESPONSES**

### **INTRODUCTION**

The following are frequently asked questions and answers about the 319 grant program. The questions and responses have been grouped into general categories to help prospective applicants find the information they might need. However, there is a great deal of overlap in categories, and readers are urged to familiarize themselves with the entire Q&R section.

### **GENERAL INFORMATION**

#### **1. Can RFR recipients ask any further questions about the RFR, written or oral, after October 13, 2021?**

Bidders may contact Malcolm Harper, 319 RFR Coordinator, [Malcolm.Harper@mass.gov](mailto:Malcolm.Harper@mass.gov), in the event that the RFR is incomplete or the Bidder is having trouble obtaining any required attachments, or to request access to TMDL analyses and other reports and information, or for other administrative questions. Department and all other Commonwealth employees cannot respond to project-related questions received after the RFR written question period, which ends on November 10, 2021.

The typical interactions between the Department's employees and potential grantees may continue as long as the RFR is not discussed.

#### **2. Do prevailing wage rates apply to work on 319 funded projects?**

Depending on the nature of the work and the public or private nature of the grantee, prevailing wage rates may apply to some or all of the work. For specific advice, applicants should consult with the agency that administers the prevailing wage law, the Department of Labor and Workforce Development, <http://www.mass.gov/lwd/>

#### **3. Do 319 funds need to be spent within the fiscal year?**

No, 319 projects are under contract for multiple years. However, invoicing for work done within the state's fiscal year (July 1-June 30) must be completed in a timely way in order to ensure payment.

#### **4. Does the Department provide an explanation of why a proposal was not selected?**

Every applicant will be notified of the results of the 319 selection process and will be offered the opportunity to meet and discuss their proposal after the selection process is complete.

#### **5. Can Applicants submit partial proposals before December 15, 2021, and then send additional materials as they become available?**

Applicants may submit complete proposal packages prior to the December 15, 2021 date, but MassDEP strongly recommends against sending partial submittals to ensure that all proposal components are properly assembled for the reviewers. Letters of support that do not involve non-federal matching funds may be submitted after the proposal submittal date, i.e., up through and until December 22, 2021.

## **6. What does the Department mean by “Impaired water” and “Category of Water”?**

Massachusetts has adopted EPA’s Integrated Listing Methodology for reporting the status of water resources. The Integrated List replaces the 305b report of previous years by reorganizing the information according to the following categories:

- Category 1 Waters: waters attaining all designated uses
- Category 2 Waters: attaining some uses, other uses not assessed
- Category 3 Waters: no uses assessed
- Category 4a Waters: TMDL is complete
- Category 4b Waters: waters expected to attain all uses in the near future
- Category 4c Waters: impairment not caused by a pollutant
- Category 5 Waters: waters requiring a TMDL (formerly the 303d list)

For purposes of the 319 program, “impaired waters” are those listed in Categories 4a, 4c, and 5. Impaired waters do not meet their designated uses, as defined by the Massachusetts Surface Water Quality Standards. These categories represent the former “303d list.” The “Massachusetts Year 2016 Integrated List of Waters (303d list)” which includes these category listings can be found on the Department’s web site at <http://www.mass.gov/dep/water/resources/tmdls.htm>. Information about the TMDL program and copies of draft and completed TMDLs can also be found at that site. The 2016 Integrated list is also available as a map from MassGIS (<https://maps.env.state.ma.us/dep/omv/ilviewer.html?rc=2016>).

## **7. If I have a current 319 grant then am I eligible to apply for another?**

Yes. All applicants should note that past performance on a 319 project is one of the Department’s review criteria.

## **8. Is a water body with a documented blue-green algae problem eligible?**

Yes, provided the waterbody is listed on the Massachusetts List of Impaired Waters and/or documentation of the cyanobacteria problem has been verified by MassDEP or Massachusetts Department of Public Health.

## **9. Is aeration eligible?**

In-lake solutions, including aeration, are only eligible when all watershed sources of pollutants have been remediated. Aeration may be eligible, provided MassDEP’s Watershed Planning Program agrees that this is an appropriate and cost-effective BMP.

## **BUDGET AND 40% NON-FEDERAL MATCH**

## **10. How does the Department determine the amount of money that is available each year?**

Congress annually awards 319 funds to states via EPA, according to a formula. The 319 funds given to the state are evenly split between Project funds and Program funds. As directed by federal 319 program guidelines,

Project funds are 100% passed through as competitive subawards for implementation projects that address water quality impairments caused by nonpoint source pollution (Implementation projects). Program funds are partially used to support MassDEP's Nonpoint Source Program, and the remainder is used to fund projects that are consistent with the state's Massachusetts Nonpoint Source Management Program Plan (NPS Plan).

**11. Is there a limit on the amount of 319 grant funds that can be requested by an applicant?**

No. Typical 319 grants range from \$50,000 to \$600,000. The Department encourages larger projects to facilitate watershed-wide improvements. The grantee must be able to provide at least a 40% non-federal match for the total project cost, i.e., in cash and/or through in-kind services.

**12. What is the payment procedure for 319 projects?**

The grantee will be reimbursed for costs that are incurred for the project during the contractual period. Advance payments will not be made. The Department encourages grantees to submit invoices in a timely manner, as expenses are incurred; in most cases, it is suggested that grantees submit their invoices with their required quarterly progress reports. Reimbursement is generally made within 45 days subsequent to the grantee submitting a correctly executed invoice with appropriate backup documentation, a completed Match Certification Form, and all required Letters of Intent and Payment Voucher Attachment or DBE Reporting. No payments shall be made for Massachusetts sales tax. See also the 2016 Grantees Guide, <https://www.mass.gov/doc/watershed-projects-grants-program-grantees-guide/>.

All invoices must be submitted during the same state fiscal year (July 1 through June 30) in which the work is done. Under no circumstances can invoices be processed for work done in the previous state fiscal year. 10% of the 319 funds that are awarded are withheld from each invoice. At the end of the project, once the final report has been submitted and accepted and all other contract terms have been satisfied, the retainage will be released. When applying for a 319 grant, Applicants should ensure that they have sufficient financial resources available to pay for retainage amounts that will be withheld for the project costs incurred.

**13. Can work begin before a contract is signed for a selected project?**

Non-federal match work activities can begin prior to signing a Contract (or in the case of a state agency, an Interdepartmental Services Agreement), consistent with the guidelines outlined elsewhere in this RFR. However, since funding for this program is subject to the 319 federal grant award from the EPA to the Department, the Department cannot guarantee that a project will be funded even if it is on the list of recommended 319 projects that is submitted to EPA.

A Notice to Proceed letter will be sent to the Grantee by MassDEP once the contract is finalized. Reimbursement cannot be made for costs incurred for any work performed before the project start date contained in the Notice to Proceed.

**14. Can in-kind services be utilized for the non-federal match of the section 319 funding? If so, how are the in-kind services calculated for the non-federal match (as actual cost or as estimated market value)?**

Yes, in-kind services can be utilized to match the federal funding. In-kind services should be based on the actual cost for the service provided and must be reasonable for the services provided. Examples of in-kind services include the actual or estimated true value of: using DPW personnel and equipment to excavate a site for a Best Management Practice (BMP) installation; using non-federally funded personnel to conduct outreach or technology transfer seminars; or donated engineering, design, or permitting services. Guidance for

estimating the value of volunteer labor can be found at <https://www.independentsector.org/resource/the-value-of-volunteer-time/>

**15. If another grant source is to be offered as part of the 40% match, and that grant has not been awarded by the time the RFR for 319 funding must be submitted, what documentation should be provided in the proposal?**

As part of the proposal, the Applicant should submit a letter describing the matching grant being sought, along with the timetable for when those funds will be awarded, and any other relevant information such as the likelihood of receiving the funding. The Applicant's proposal will be reviewed, but no contract can be finalized with MassDEP until the matching funding has been finalized. The Applicant's request for the non-federal match grant must already be in process at the time of the submittal of the application for the 319 funds; in other words, an Applicant cannot wait for MassDEP's decision regarding a recommendation for 319 funds before applying for the non-federal match grant.

If a town meeting or council vote is required to secure/finalize the non-federal match, the Applicant should include a letter from an authorized official certifying that a request for non-federal match funding will be presented to the deciding municipal body for decision in a timely manner.

**16. If the non-federal matching grant funds are awarded three days after the 319 proposal is submitted, should the Applicant notify the Department right away?**

No, because this information became available after the proposal submittal date, it could have no bearing on the Department's proposal evaluation process.

**17. What level of commitment must be provided with the proposal for the non-federal match?**

Applicants must submit, as part of their proposal, letters of support from any organization(s) that will provide non-federal matching funds or in-kind services for a proposed project. Each letter must be written on the organization's letterhead, must detail the amount and source of the non-federal match (or in-kind services) to be provided, must provide a firm commitment to provide the matching funds or services, and must be signed by an authorized signatory for the organization. If municipal funds will be sought, but the availability of the funds is contingent on a future town meeting or city council appropriation, the Applicant must include a letter from the selectmen or mayor confirming that a request for funds will be put before the voters or city council. In this case, the funds must be in place before a contract will be finalized, but the vote does not need to be held prior to proposal submittal or in order for the proposal to be selected for funding.

For the up-front 40% non-federal match (i.e., match work completed after October 1, 2019 but before the start of the current 319 grant) Applicants must provide sufficient documentation to allow reviewers to qualify the match at the proposal review stage. This documentation should include the date(s) of the match work, the value of the service, deliverable(s), relationship to the project, and any other relevant information. If the up-front match cannot be validated at the proposal review, the proposal may be determined to be non-competitive. Therefore, Applicants are urged to pay careful attention to the thorough preparation and documentation of up-front match funds as part of their proposal.

**18. Does the rate of non-federal match expenditure need to match the rate of grant expenditure? Does every invoice need to report a corresponding 40% match?**

No. At the end of the project, the non-federal match expenditure must meet the 40% commitment, but the rates of expenditure and reporting do not need to match on an invoice by invoice basis.

## WATERSHED-BASED PLAN

### **19. What is the Watershed-based Plan? Are Applicants required to have one?**

EPA requires a Watershed-based Plan (WBP) as a prerequisite to receiving 319 implementation funds. Project proposals that are responsive to this RFR have essentially addressed most of the WBP elements. An approved WBP is required before contracts can be finalized. MassDEP will provide a contractor to work with approved applicants to ensure completion of the required WBP. An online WBP tool will guide a user to select a watershed and complete the nine elements necessary to comprise a watershed-based plan <http://prj.geosyntec.com/MassDEPWBP>.

### **20. Can we use 319 funds to help develop a Watershed-based Plan?**

No, as a completed Watershed-Based Plan will be required by the start of each implementation project. However, the development of an approved Watershed-Based Plan is eligible as match. A completed watershed-based plan will provide a comprehensive strategy that will lead to restoration of a waterbody. Using a WBP as the basis for 319 work will lead to eligible and highly competitive grant proposals. WBPs are required to support funding an implementation project.

### **21. What are the nine elements of a Watershed-based Plan?**

The nine elements effectively comprise the information that would go into a TMDL implementation plan.

1. 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.
2. An estimate of the load reductions expected for the management measures described below.
3. A description of the NPS management measures that will need to be implemented to achieve the load reductions estimated under element (2).
4. 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.
5. An information/education component that will be used to enhance public understanding of the project.
6. A schedule for implementing the NPS management measures identified in this plan.
7. A description of interim, measurable milestones for determining whether NPS management measures or other control actions are being implemented.
8. A set of criteria that can be used to determine whether loading reductions are being achieved over time.
9. A monitoring component to evaluate the effectiveness of the implementation efforts.

## **22. Will priority be given to proposals for work in an entire watershed?**

Projects should strive to encompass the watershed of the targeted segment. Depending on the location and the extent of the impairments, this could be a watershed of any size. The WBP tool has been designed to help define the watershed of each waterbody. The most competitive implementation proposals address NPS problems in the entire watershed that will be mitigated by the proposed BMPs.

Stormwater utility development proposals may have a competitive advantage if two or more towns are proposing to work cooperatively or regionally either within a watershed and/or across watersheds.

Selection will be based on the quality and responsiveness of the proposal. The goal of the 319 program is to meet water quality standards and beneficial uses, and to carry out the goals of the Massachusetts Nonpoint Source Management Program Plan. The most competitive projects proposals will aggressively seek to meet these goals. An implementation project that comprehensively addresses one impairment and results in meeting a water quality standard is preferable to a project that partially addresses several impairments with no resulting change in water quality status.

### PROPOSAL CONTENT

## **23. What constitutes an enforcement action that would disqualify a proposal?**

Any local, state or federal enforcement action that is currently in effect, or that is identified by the MassDEP Boston or regional office as imminent, will disqualify a proposal. Once the matter has been resolved and the enforcement action is ended, proposals will no longer be disqualified.

## **24. Must an Applicant own the land on which proposed BMPs will be constructed?**

No. However, Applicants must demonstrate in their proposal that they have written permission to access the property to design, construct, and maintain the BMPs. Structural BMPs funded under the 319 program may be located on public or private land.

If an Applicant is negotiating an easement for access to the property for installation and long-term maintenance of the BMP, but negotiations are not yet final, the proposal should include the draft easement, documentation of the negotiations to date, the anticipated date when the negotiations will be final, and a letter of support for the project from the landowner.

If the Applicant is negotiating the purchase of land where a BMP is to be located as part of a 319-funded project, but the purchase is not yet final, the proposal should include documentation of the purchase process to date (P&S if available, any written documentation of negotiated purchase price, projected timeline for purchasing the property, etc.) and a letter of support for the project from the landowner.

## **25. Are streambank and shoreline stabilization projects eligible for 319 funding?**

Yes. Bank erosion and channel instability can be a significant source of sediment and nutrients and can be associated with hydrologic and habitat impairment. Because the greatest amount of funding is available for Implementation projects, the most competitive proposals will link the restoration work to remediation of a water quality impairment.

Watershed restoration work is also recognized as key to protecting infrastructure and natural resources from hydrologic impacts related to climate change, and as such this work can be eligible for 319 funding in any watershed as a Healthy Watershed project. Proposals should comprehensively describe and address the watershed problems that are the cause of the erosion and channel instability.

**26. Where shall we put narrative about past history in our proposal?**

Include it as Background in the project description.

**27. Where shall I place a citation to justify proposed work?**

Include the citation and page number(s) as part of a project description and add the cited report as an attachment.

**28. There is so much climate change information out there: what should I include in my proposal?**

BMP designs should be sized to accommodate current climate. One source of information is Northeast Regional Climate Center, <http://precip.eas.cornell.edu/>. Cite the data you are using in support of your proposal.

**29. Is a NRCS-approved Conservation Plan helpful to show as part of previous work?**

Yes.

**30. I am considering a green infrastructure project, using streetscape designs and runoff calculations developed for US Forest Service urban forestry grant. How advanced must the designs need to be? Might its scale be too small to be competitive, and does it make sense to include another GI project nearby?**

Conceptual designs are required and must provide sufficient detail to allow the proposal review committee to evaluate the viability of the proposal. Projects should implement watershed-based strategies that address the major source of pollution in a watershed, leading to attainment of water quality standards. Therefore, small-scale projects are much less competitive than larger ones. A small-scale project matched along with other eligible tasks within the watershed could make a project more cost effective and thus more competitive.

**31. If our project will remove bacteria, how specific should the calculations be, per BMP or per the overall project?**

Estimated quantities of all targeted pollutants to be removed must be provided for the overall project as well as the quantities removed by each BMP.

NPDES STORMWATER PERMITS

**32. How can I find out about my NPDES status?**

Go to the EPA web site for Regulated Communities in Massachusetts, <https://www.epa.gov/npdes-permits/regulated-ms4-massachusetts-communities>. **Scroll down** to the town you are interested in. Click on the '303d/305b' map.



319 restrictions on NPDES stormwater activities apply only in these regulated areas. Additional information about NPDES permit restrictions and competitive proposal development is found in the body of the RFR.

**33. Do the NPDES stormwater permit limitations apply to everyone, or just to the permit holder?**

The limitations apply to everyone. Within designated NPDES stormwater permitted (i.e., MS4, RDA, Phase I and Phase II) areas, section 319 funds cannot be used by any grantee to do work that is specifically required by the current NPDES permit.

**34. How will the new NPDES MS4 permit affect project eligibility?**

As stated previously, 319 nonpoint source funds cannot be used to implement the requirements of NPDES permits. The federal definition of nonpoint source pollution specifically excludes NPDES permitted discharges.

The new NPDES MS4 permit for Massachusetts is in effect. The new permit requires regulated entities to develop or enhance Stormwater Management Plans (SWMP). Section 319 supported work will remain eligible in regulated areas unless or until the work becomes required by the permit or the SWMP. For example, if the SWMP outlines a strategy of progressive housekeeping and implementation activities that culminate in requiring a BMP at the end of a five-year timeline, the BMP is eligible for 319 funds up until the end of the five-year timeline, when the work becomes required.

For these projects, Applicants should read their permits and demonstrate to MassDEP that the proposed work activities are not required by the permit. All work activities for the 319 project must be *completed* by the Applicant prior to the time when the activities are mandated in a new NPDES permit.

**35. Is mapping work in a MS4 regulated area eligible?**

Mapping stormwater systems and/or outfalls in an MS4 area is required as part of the MS4 permit and is therefore not an eligible activity. Mapping a river corridor in a MS4 area, as part of a protection proposal, would be eligible, provided it is not required by the MS4 permit.

**36. Is the groundwork for bylaw development to help meet MS4 permit requirements eligible as match for 319?**

No. Work that addresses the requirements of the MS4 permit is not 319-eligible.

**37. Is agricultural work in an MS4 area eligible?**

Yes, agriculture work is exempted from NPDES permit requirements and is therefore 319-eligible in all watersheds.

PROPOSAL EVALUATION

**38. Is there an advantage to a proposal with different sections or "modules" that may be funded separately or in part?**

Ultimately, it is the quality, responsiveness and need for the project that determines whether or not an eligible proposal receives 319 funding. The "Scope of Services" required as part of every proposal breaks the proposals

down into individual tasks. The Department's proposal evaluation team has the discretion to decide to recommend funding for all, or for some, of the tasks listed in the project proposal.

**39. If Applicants collaborate on a joint proposal, with whom does the state contract for the work?**

The contract will be executed with only one lead party, as designated in the project proposal. All other parties, if described as participants in the proposed project, must submit letters of support to be included with the proposal.

The Department may require that a Memorandum of Understanding (MOU) be signed by the grantee and any participating organization and/or agency prior to receiving Notice to Proceed for the contract. An MOU is an agreement between the grantee and each participating organization and/or agency that lists the specific project responsibilities of these participating groups.

**40. What role does EPA perform in the selection of eligible proposals for funding?**

A review committee comprised of representatives from EPA, MassDEP, DER, CZM, and other EEA agencies evaluates and prioritizes the proposals and makes recommendations for funding to EPA for final approval. In the past, the EPA has concurred with the Department's recommendations for funding. However, funding for 319 projects is ultimately subject to the availability of 319 funds from EPA for each fiscal year.

**41. The waterbody is listed, but not for bacteria. Geese have been identified as an issue: is geese deterrent landscaping eligible?**

It is eligible, however you may consider making it part of larger project that addresses the listed impairment(s) to make it more competitive.

**42. Our plans and estimated costs may not be completed by the proposal deadline. What kind of flexibility is there to change the scope after the fact?**

The most competitive proposals provide definitive information about the project, sufficient to reassure reviewers that the project is feasible and ready to build as soon as funds become available. Lack of certainty or detail reduces competitiveness and may render the proposal ineligible.

**43. There is a TMDL in place for one pollutant, but can we go after another pollutant that is not on the 303d list?**

319 funds are prioritized for 303d-listed impairments. It is highly unlikely that a proposal that bypasses a listed pollutant in favor of one that is not documented would be competitive. However, the non-listed pollutant could be addressed as part of a larger project, or as part of BMP that would also be effective for the listed impairment.

**44. Stormwater discharges drain into a pond, which is not currently listed, and the pond drains into the Assabet River, which is listed. Can we apply for BMPs to address the outfalls draining into the pond, or is it more competitive to focus on the outfalls that drain directly into the river?**

Both are eligible, but is there data that shows the outfalls are major contributors of pollutants? Maximizing the removal of listed pollutants entering the Assabet should be the ultimate goal. An approved Watershed-Based Plan provides an overall strategy for prioritizing pollutant mitigation in the targeted watershed and will help justify your approach.

## SUBCONTRACTING

### **45. When subcontracting, is the grantee required to follow bidding procedures as required by state law?**

Grantees should follow their own organization's procurement policies, as not all grantees are required to follow state procurement laws; for example, watershed associations and other private entities. Applicants should note that they are ultimately responsible for all activities of their subcontractors during the course of the project.

### **46. Is there a limit to the amount of money that can be subcontracted out for each project?**

Although there is no limit to the amount of 319 grant funds that can be subcontracted out from each project's total grant award, it is expected that if subcontracting services are included as part of the proposed project, the subcontracted services are fully documented and justified by the Applicant as part of the submission, are demonstrated to be cost effective for the project, and are appropriately offered to DM/WBE bidders to help meet Fair Share goals.

## FAIR SHARE, DBE, AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

### **47. If an Applicant proposes to perform all services of the project "in house" and has no need to subcontract, how will the "Fair Share" requirements apply if the Applicant is awarded a 319 grant?**

The "Fair Share" requirements apply to the project total, i.e., the 319 grant plus the 40% non-federal matching funds. Therefore, if an Applicant proposes to use the grant to fund the salaries of in-house personnel who will implement the project, the grantee must obtain a waiver from the Department for the portion of the goals that cannot be met before the project is finalized. To obtain a waiver, the grantee will need to demonstrate to the Department's satisfaction that good faith efforts were made to maximize DBE utilization for the project.

### **48. Can a DBE nonprofit environmental organization not listed in the SDO directory qualify under the requirements of "Fair Share"? How can DBEs apply for SDO certification?**

Non-Profit organizations do not qualify for DBE status. A business must be certified by the State Supplier Diversity Office (SDO) as a D/MBE or D/WBE by the time the Fair Share documentation is submitted to the Department. If a firm has not yet been certified by SDO the Contractor should direct the firm to file an application with SDO.

### **49. What types of waivers are available for DBE compliance?**

At the end of the contract, full or partial waivers may be granted for either D/MBE or D/WBE participation or both. Waiver requests must be in writing and must fully document to the Department's satisfaction the "good faith" efforts made to meet the DM/WBE goal. Grantees must follow the six affirmative steps set forth in the federal EPA's fair share procurement regulations.

### **50. If we are awarded a contract, how do we determine which DWBE or DMBE to use?**

Choose the one(s) that best provides the services that you need. At the end of the project, if you have not met the DBE fair share goals, you may apply for a waiver for the unmet goals.

**51. How much money will be allocated for regional nonpoint source coordinators for Worcester and/or Plymouth Counties?**

Approximately \$100,000 per position plus match.

**52. Is a Watershed Based-Plan (WBP) due at the time the proposal is due?**

No. An approved WBP must be submitted by the start of a grant contract (likely sometime in July or August).

**53. Is the time and effort we apply to developing a Watershed-Based Plan eligible as match?**

Yes, the development of an approved Watershed-Based Plan is eligible as match. The online WBP tool (<http://prj.geosyntec.com/MassDEPWBP>) also includes a WBP checklist to help applicants/grantees rate their plan to enhance it and their chances of being funded from the 319 grant program.

**54. For infiltration BMPs, is it preferable to submit a phased application that first requests only funding for project design, permitting, plans and bid specs?**

No. Project funds are for implementation projects that address water quality impairments caused by nonpoint source pollution. Requesting grant funds for design/planning/permitting work without implementation will not be competitive.

**55. If awarded a grant must we forward an electronic copy of the most recent audit conducted by an independent auditor?**

Yes, please forward an electronic copy of your most recent audit to the 319 Program Coordinator.

**56. Are permitting costs eligible?**

Yes, generally but not in all cases, permitting costs are eligible for grant reimbursement or as match. They are not eligible if for NPDES stormwater permitting-related costs.

## **D. Equal Employment Opportunity/Affirmative Action Forms and Guidance**

Equal Employment Opportunity/Affirmative Action Requirements for Proposals

Utilization of DBEs under the Federal Grant

Guidance for EEO/AA Policy Statement

Sample EEO/AA Policy Statement

Sample Statement of Intent

Request for Waiver Form

## **EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS**

### EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION REQUIREMENTS FOR PROPOSALS:

For all proposals, an Equal Employment Opportunity/Affirmative Action Policy Statement must be submitted with the proposal.

### UTILIZATION OF DBEs UNDER THE FEDERAL GRANT

In May 2008 a 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 previous MBE/WBE program, they needed to be socially disadvantaged and had to be certified by the Supplier Diversity Office (SDO). Under the 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 DBE 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 DBE goals. These goals are 4.2% D/MBE and 4.5% D/WBE respectively for any subcontract for services, construction, goods or equipment.

SDO will continue to be the certifying agency for D/MBEs and D/WBEs.

According to 40 CFR, Part 33 Subpart C, the grantee 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: Place on 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 565
- \* 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, subcontractors 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 constricton consistent with that mandate is reasonable.

\_\_\_\_\_  
Signature of Chief Executive

\_\_\_\_\_  
Title of Chief Executive

\_\_\_\_\_  
Date

**SAMPLE**

**Place on Letterhead of Organization**

*(Must be included with the proposal package)*

**Statement of Intent**

The Section 319 Nonpoint Source Competitive Grant Program asks for a good faith effort that minimum Fair Share Disadvantaged Minority and Women Business Enterprise goals will be met or exceeded for this project. The \_\_\_ (name of your organization)\_\_\_ plans to contract with DMBE/DWBE vendors for \_\_\_(specify type of business, service or product)\_\_\_ during this project.

The Fair Share utilization goals for this project are 4.2% DMBE and 4.5% DWBE on the total project dollars. To comply with the DMBE/DWBE participation goals, it is anticipated that \$\_\_\_for DMBE and \$\_\_\_DWBE will be adhered to.

## REQUEST FOR WAIVER

Upon exhausting all known sources and making every possible effort to meet the minimum requirements for DBE participation, the Contractor may seek relief from these requirements by filing this form with the request and submitting a completed waiver package. 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 Number: \_\_\_\_\_ Project Location: \_\_\_\_\_

Project Title: \_\_\_\_\_

Awarding  
Authority/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 ten (10) 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-DFM PROCUREMENT ANALYST  
YITLING SLAYMAN  
ONE WINTER STREET - 4<sup>TH</sup> FLOOR  
BOSTON, MA 02108  
YitLing.Slayman@mass.gov

CC: DEP-BWR 319 PROGRAM MANAGER  
MALCOLM HARPER  
8 NEW BOND STREET  
WORCESTER, MA 01606  
Malcolm.Harper@mass.gov

## **E. Supplemental Terms and Conditions**

In addition to the Commonwealth Terms and Conditions cited in the Grant Announcement, the following supplemental terms and conditions apply to the grant contracts issued as a result of this Grant Announcement:

### **1. Electronic Communication/Update of Grantees' Contact Information**

It is the responsibility of the Grantee to keep current the email address of the Grantee's contact person and prospective contract manager, and to monitor that email inbox for communications from MassDEP, including requests for clarification. MassDEP and the Commonwealth assume no responsibility if a Grantee's designated email address is not current, or if technical problems, including those with the Grantee's computer, network or internet service provider (ISP) cause email communications sent to/from the Grantee and MassDEP to be lost or rejected by any means including email or spam filtering.

### **2. Contract Expansion**

If additional funds become available during the grant contract duration period, the Department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this Grant Announcement or to execute contracts with Grantees not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

### **3. Compensation and Payment of Grant Funds**

Costs which are not specifically identified in the Applicant's response, and/or accepted by MassDEP as part of a grant contract, will not be compensated under any contract awarded pursuant to this Grant Announcement. The Commonwealth will not be responsible for any costs or expenses incurred by Applicants responding to this Grant Announcement.

Upon award of a contract, the following terms and conditions apply to compensation and payment to the Grantee.

- a. Payment for Services Delivered: Contracts will be paid on a reimbursement of costs basis and under maximum obligation contract basis. The payment procedure for awards is reimbursement for costs incurred for the project during the contract period. Only project costs incurred during the contract period will be eligible for payment.
- b. Payment only for MassDEP Accepted Services: Compensation will be made for services delivered and accepted by MassDEP's 319 Program Manager and Contract Administrator provided the project budget is not exceeded, and the scope of the services falls within the scope defined in the approved work plan or subsequent MassDEP approved scope changes, such as a change order document.
- c. Cost Tables: Compensation will be based solely on the budget/cost tables supplied by the Bidder and accepted by MassDEP. Cost tables must contain all goods and services to be provided on this Contract.

- Travel is reimbursed for vehicle miles only at \$.45 per mile.
- No meals, snacks, beverages, or other comestibles may be purchased using grant funds.
- Grantees are presumed to be equipped to carry out the proposed work. 319 funds cannot be used to purchase computers, software, capital equipment, and/or similar expenditures.

d. Payment Restrictions: The following are restrictions that may result in non-payment to the Grantee:

- Costs which are not specifically identified in the Grantee’s proposal and/or accepted by MassDEP as part of a contract, will not be compensated under any grant contract awarded pursuant to this Grant;
- Costs incurred after the end date of the grant contract will be ineligible for payment;
- Grantees are at risk for non-payment of claims that exceed the MassDEP approved budget for the project, and cost elements within the project that are tracked as part of the financial management and reporting requirements as determined on a project specific basis; and
- The Commonwealth will not be responsible for any costs or expenses incurred by the Applicants responding to this Grant Announcement.
- Invoices for costs incurred in prior fiscal years cannot be paid.

See also Section 3.3 (Funding Availability, Budgeting Guidelines & Allowable Expenditures) of this Grant Announcement for additional budget and payment restrictions.

e. Payment through the Commonwealth’s Electronic Funds Transfer (EFT): All Grantees must comply with the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the Grantee can provide compelling proof that it would be unduly burdensome. The requirement for EFT participation is stipulated in the general Commonwealth of Massachusetts – Standard Contract Form. The link to the EFT Form is: <https://www.mass.gov/doc/electronic-funds-transfer-sign-up-form-0/download>

If the Grantee is already enrolled in the program, it may so indicate in its response. Because the Authorization for EFT Form contains banking information, this form, and all 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 MassDEP on a case-by-case basis if participation in the program would be unduly burdensome on the Grantee. If a Grantee is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. MassDEP will consider such requests on a case-by-case basis and communicate the findings with the Grantee.

f. Invoices Submitted for Reimbursement of Costs: Invoices that are submitted to MassDEP for reimbursement must have sufficient detail to document the validity of the costs being claimed. At a minimum, the invoice must parallel the task breakdown structure and cost elements contained therein so the invoice can be directly compared to the approved budgets for the various cost elements. The level of detail and breakdown of the cost elements in the budget and the invoices will be determined on a project specific basis.

As a claim for payment, MassDEP provides an Invoice form for each project that should be followed. Invoices include major sections consistent with the project budget containing the information supporting the claim, depending on the project and payment type and structure.

MassDEP requires supporting documentation for costs that are included in the claim for compensation in the invoice. Supporting documentation includes items such as copies of bills and invoices from subcontractors, travel expenses (vehicle only), and bills for materials and supplies. The required supporting documentation will be determined on a project specific basis by MassDEP; however, the Grantee may assume that the items cited in this clause will be required.

- g. 45-Day Standard Payment Schedule: Reimbursement is generally made 45 days subsequent to the Grantee submitting an invoice that is accurate and compliant with the contract specific requirements for backup supporting documentation. Invoices that are not compliant with these requirements will be rejected and returned to the Grantee for correction, and the 45-day payment period will no longer apply.
- h. Exemption from Massachusetts Sales Tax: No payments shall be made for Massachusetts sales tax as defined in M.G.L Chapter 64H, sec. 6, as applicable to the Grantee.
- i. Fair and Reasonable Pricing: The Applicant must agree that prices included in any and all cost proposals, cost estimates, and bills and invoices for services to be compensated by contract funds are fair and reasonable, and are of fair market value where applicable, including but not limited to prices for labor, equipment rental and leases, equipment purchases, materials and supplies, vehicle usage, and all other costs to be compensated by the funds from the contract. If the Commonwealth believes that it is not receiving fair and reasonable prices from the Grantee, and the Grantee cannot justify the prices to the MassDEP, then MassDEP reserves the right to suspend work and compensation until a satisfactory price is established.

#### 4. MassDEP Authorized Approval Authorities

For this contract, the following are the titles, persons, and their approval authorities to direct and approve the Grantees' technical and financial implementation of the projects throughout the period of performance of the contract:

The 319 Program Manager has the authority to approve the technical and administrative aspects of the project, including initial approval and approval of changes to technical and administrative items that do not involve impacts to project costs or impact terms and conditions of the contract. Co-authority, with the Contract Administrator, to approve budgets, changes to budgets, acceptance or rejection of invoices, approval or disapproval for payment of invoices or partial payments, negotiations regarding payments, and terms and conditions of the contract that are open to negotiation, usually on a project specific basis. The current 319 Program Manager is: Mathew Reardon, MassDEP, DWM, Worcester, MA.

The 319 Program Coordinator interacts with the Grantee to provide technical and administrative assistance. Reviews and approves progress reports and deliverables, prepares and recommends scope and budget amendments, ensures that project work is progressing according to project timelines and Department expectations. The current 319 Program Coordinator is: Malcolm Harper, MassDEP, DWM, Worcester, MA.



The 319 Contract Administrator has Co-approval authority, with the 319 Program Manager, to approve the budgets, cost estimating and invoicing format on a project specific basis, acceptance or rejection of invoices, payment approval or disapproval of invoices or partial payment of invoices, negotiations regarding payments, and terms and conditions of the contract that are open to negotiation, usually on a project specific basis. The current 319 Contract Administrator is: Monica M. Vega, MassDEP, Boston, MA. In the absence of either the 319 Program Manager or 319 Contract Administrator, approval and signature “for” authority may be delegated to other MassDEP staff, as appropriate.

## 5. Environmental Response Submission Compliance

NOTE: this provision is applicable only in the event that MassDEP and the Applicant agree to submission of a hard copy Application response in lieu of electronic submittal due to case-specific hardship circumstances:

In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all paper responses submitted should comply with the following guidelines:

- All paper copies should be printed double-sided unless specifically requested otherwise by MassDEP.
- All paper 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).
- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Binder clips, glued materials, paper clips and staples are acceptable.
- Applicants should submit materials in a format which allows for easy removal and recycling of paper materials.
- Applicants 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.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

## 6. Restriction on the Use of the Commonwealth Seal

Applicants and Grantees 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.

## 7. Subcontracting Policies

Concurrence of the Department is required for any subcontracted service of the contract. Grantees are responsible for the satisfactory performance and adequate oversight of its subcontractors. See also, Article 9 of the Commonwealth Terms and Conditions.

## 8. Confidential Information:

The Grantee acknowledges that, in the performance of this Contract, it may acquire information that the Department deems confidential and not a public record as defined by M.G.L. chapter 4, subsection 7, including but not limited to policies, procedures, guidelines, and case information and that the unauthorized disclosure of such information would cause the Department, in the execution of its functions, irreparable damage. The Grantee shall comply with all laws and regulations relating to confidentiality and privacy, including any rules, regulations, or directions of the Department. See also, Standard Contract Form's Contractor Instructions, pages 4-5, regarding the Protection of Commonwealth Data, Personal Data, And Information.

## 9. Security of Confidential Information

The Grantee agrees to take reasonable steps to ensure the physical security of such data under its control, including but not limited to: fire protection; protection against smoke and water damages; alarm systems; locked files, guards or other devices reasonably expected to prevent loss or unauthorized removal of manually held data; passwords, access logs, badges or other methods reasonably expected to prevent loss or unauthorized access to electronically or mechanically held data; limited terminal access, access to input documents and output documents, and design provisions to limit use of personal data.

## 10. Flow-down the Confidentiality Provision to Subcontractors

The Grantee shall include language in agreements with each of its Subcontractors, which binds the Subcontractors to compliance with the confidentiality provisions of this Contract.

## 11. Fraud, Waste, and Abuse, and False Statements

Applicants and Grantees that commit fraud, waste, and/or abuse or supply MassDEP or its representatives with false statements shall result in the applicant being disqualified from Grant eligibility, and Grantees being suspended or terminated from the project. Misstatements meant to mislead MassDEP or its representatives, and other elements of fraud, waste or abuse of funds may also result in debarment of the Grantee from future Departmental projects, and potential legal action depending on the nature of the violation of this section.

## 12. Performance, Progress Reporting, and Funding Reference for Printed and Internet Posted Materials:

The Grantees will be required to demonstrate satisfactory performance under this contract through periodic review by the MassDEP 319 Program. Projects will have quarterly progress reports, a draft and a final project completion report. Quarterly reporting requirements include a task-by-task summary of project progress, percent of task completion, work to be conducted in the coming quarter, and any problems or challenges. All projects will have a final project completion report. All projects and descriptions, in print and on the Internet, must contain an acknowledgement of MassDEP and EPA participation using language specified in the project contract.