

The Commonwealth of Massachusetts
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
<http://www.mass.gov/doer>



Program Opportunity Notice
Massachusetts Pathways to Zero Grant Program
PON-ENE-2014-034
Issued May 8, 2014
Amended June 13, 2014

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1. BACKGROUND AND PURPOSE OF GRANT

A. Massachusetts Department of Energy Resources

The Massachusetts Department of Energy Resources (DOER) develops and implements policies and programs aimed at ensuring the adequacy, security, diversity, and cost-effectiveness of the Commonwealth's energy supply within the context of creating a cleaner energy future. To that end, DOER strives to:

- Ensure deployment of all cost-effective energy efficiency
- Maximize development of clean energy resources
- Create and implement energy strategies to assure reliable supplies and improve the cost of clean energy relative to fossil-fuel based generation
- Support Massachusetts' clean energy companies and spur Massachusetts' clean energy employment

B. Massachusetts Efforts on Zero Net Energy Buildings

In March 2008, Governor Patrick issued a challenge to the building industry in Massachusetts to transform the building sector and help put Massachusetts on a path toward zero net energy buildings (ZNEB). A ZNEB is one that is optimally efficient and over the course of a year, generates energy onsite, using clean renewable resources, in a quantity equal to or greater than the total amount of energy consumed onsite. The Governor's ZNEB Task Force, a group of over 70 experts in building and energy-related industries and agencies, published a report entitled *Getting to Zero*, which identified a number of ways to move Massachusetts toward the ZNEB vision, including:

- Improving energy codes dramatically,
- Creating a system for benchmarking, reporting and tracking energy use
- Developing incentives
- Enhancing workforce development and public education initiatives; and
- Constructing zero net energy buildings in the state portfolio

The Commonwealth has made significant progress toward these recommendations:

- The Green Communities Act now requires adoption of the most recent edition of the International Energy Conservation Code, which is updated roughly every three years.
- In 2009, Massachusetts became the first state to adopt an above-code appendix to the “base” building energy code. To date, 134 municipalities have adopted the Stretch Code, designed to result in cost-effective construction that is at least 20% more energy efficiency than that built to the base energy code.
- Using US DOE grant funding, DOER has implemented a new residential property energy labeling program in Western Massachusetts called Home MPG.
- Using US DOE grant funding, DOER is piloting an asset energy rating method for commercial office buildings in eastern Massachusetts and the Greater Boston area.
- The state's Division of Capital Asset management has built one 55,000 square foot project at North Shore Community College in Danvers designed to ZNEB standards and is in the process of building another 37,000 square foot ZNEB in Westborough.
- Various workforce development and broad training initiatives have been successfully rolled out, including:
 - Clean Energy Center awards of \$4 million in 2009 for clean energy jobs training.
 - A \$1 million Pathways Out of Poverty green jobs training initiative for lower income residents.

- A \$6 million grant from the U.S. Department of Labor toward workforce training for hundreds in energy efficient building construction and retrofits, renewable power and sustainable manufacturing.

C. Pathways to Zero Program and Public Benefit

The Pathways to Zero Program (the “Program”) is the next step of DOER’s efforts to support the emerging market of ZNEB practice in Massachusetts. The Program is intended help Massachusetts achieve scalable and dramatic improvements in the energy performance of new and existing buildings in the Commonwealth through the design and construction of ZNEBs. The Program consists of two major components:

1. Project-based feasibility, design, and construction funding for ZNEB projects under this Program Opportunity Notice (PON).
2. Public awareness campaigns, workforce development trainings, and efforts to develop and standardize best practices related to ZNEBs. These efforts are being funded separately and are not part of this PON.

Improving building energy performance, by reducing energy waste and increasing energy efficiency, is the quickest and least cost way to reduce the burden of energy costs on the economy, while also reducing greenhouse gas (GHG) and other pollutant emissions associated with building energy use.

DOER is committed to putting the Commonwealth at the hub of a clean energy economy, in part by making our state as energy efficient as possible. These improvements will be crucial to the achievement of the Commonwealth’s energy policy goals.

D. Program Opportunity Notice and Funding Objectives

The intent of this PON is to provide grant funding for existing building renovations and new construction projects that demonstrate a goal of ZNEB energy performance. Responses awarded under this solicitation must demonstrate technical and financial feasibility to meet or exceed ZNEB standards as defined in Section 3.D. and feasibility to initiate construction in calendar year 2014 or 2015.

\$2.5 million will be available under this solicitation. Anticipated award sizes will range from \$10,000 to \$500,000, but DOER reserves the right to make smaller or larger awards in exceptional circumstances if warranted. DOER anticipates funding 30-50 residential projects and 1-3 commercial and institutional projects.

2. GRANT AND CONTACT INFORMATION

A. Grant Calendar

All dates are subject to change.

Issue PON (DOER)	May 8, 2014
Bidders Conference Call (DOER and bidders)	May 27, 2014 at 11:00 a.m.
Deadline to Submit Questions (bidders)	June 3, 2014
Answers to Questions Posted on DOER website (DOER)	June 10, 2014
Amendment Deadline (DOER)	June 16, 2014
PON Responses Submission Deadline¹	July 15, 2014

¹ DOER reserves the right to re-open this solicitation if funds are not fully awarded.

B. Type of Grant

This Program Opportunity Notice (PON), being conducted under 815 CMR 2.00, has been distributed electronically using COMMBUYS, the Commonwealth's official procurement record system (<http://www.commbuys.com>). The project name is The Massachusetts Pathways to Zero Grant Program, and the project number is ENE-2014-034. Correspondence to DOER should include this project number as well as the title. All notifications and amendments to this PON will be posted on COMMBUYS. Applicants are advised to periodically check this PON on COMMBUYS to ensure that they have the most recent information.

All proposals and information submitted in response to this PON are subject to the Massachusetts Public Records Law, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 7, Subsection 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

C. Questions and Answers

All questions must be submitted to DOER, care of Alex Pollard at zneb@State.MA.US no later than June 3, 2014. All questions and answers will be posted periodically on the DOER Grants and Contracts Webpage at <http://www.mass.gov/eea/grants-and-tech-assistance/guidance-technical-assistance/agencies-and-divisions/doer/doer-procurements.html> and will be finalized on June 10, 2014. Bidder's conference information will be posted on the same webpage.

D. Contact

Responses to this PON will be received by:

Grant Contact:	Alex Pollard Department of Energy Resources 100 Cambridge Street, Suite 1020 Boston, MA. 02114
Telephone:	(617) 626-7360
Fax:	(617) 727-0030
E-mail:	zneb@State.MA.US
PON Name:	Massachusetts Pathways to Zero Grant Program
PON File Number:	ENE-2014-034

3. ELIGIBILITY

A. Applicants

All types of entities are eligible to apply.

B. Building Sectors

Projects can address any type of new or existing building within the residential, commercial, or institutional sectors, and must be located in Massachusetts.

Residential projects that are completed/existing and are applying for funds for only renewable installation are not eligible.

Projects or units already under construction are not eligible, except when the applicant clearly demonstrates that the grant funds requested will change the design and construction of the project or units and will materially change the resulting energy performance necessary to achieve the relevant PON ZNEB definition.

See Evaluation Criteria Section 5.C for information on targeted building types within each sector. DOER encourages Applicants to submit projects located in Gateway Cities, multi-family developments, affordable housing projects, state or municipal public projects, and brownfield or infill redevelopment projects.

C. Funding Activities and Amounts

Residential: Grants are available for construction costs and non-energy building performance monitoring. Grants for construction costs have a maximum grant amount of \$400,000 total per submission, including the monitoring adder. Grants for feasibility and design are available for multi-family over four (4) units. Applicants may only apply for one of the three primary categories of funding per project/submission (construction costs with or without monitoring adder, feasibility study, or integrated design services). **For purposes of this solicitation, all multi-family projects will fall under the residential program and must meet all requirements associated with the residential program.**

Construction Costs: Up to 4 units	Up to \$10,000/unit
Construction Costs: 5-50 units	Up to \$10,000/unit for first 4 units Up to \$6,000/unit for each additional unit
Construction Costs: Over 50 units	Up to \$10,000/unit for first 4 units Up to \$6,000/unit for each additional unit up to 50 units Up to \$4,000/unit for each additional unit over 50
Construction Costs: Adder for monitoring ²	Up to \$2,000/unit
Feasibility Study ³	Up to \$30,000
Integrated Design Services ⁴	Up to \$50,000

Commercial and Institutional: Grants are available to support feasibility, integrated design, or construction costs. Applicants may only apply for one category of funding below per project/submission.

Feasibility Study	Up to \$30,000
Integrated Design Services	Up to \$50,000
Construction Costs	Up to \$500,000

D. ZNEB Performance Requirements

Definition of ZNEB: As defined in the *Getting to Zero* report, “A zero net energy building (ZNEB) is one that is optimally efficient, and over the course of a year, generates energy onsite, using clean renewable resources, in a quantity equal to or greater than the total amount of energy consumed onsite.”

For purposes of this solicitation, DOER makes the following clarifications to the definition above:

- “Optimally efficient” does not require a minimum energy performance metric. However, buildings with lower energy usage relative to building type and use will be valued higher during DOER’s review of proposals (see Sections 4.B.III. and 5.C.III.).
- “Generates energy onsite” means that renewable energy generating units (e.g. solar panels) sufficient to cover the full annual building load are located within the boundary of the site, adjacent to, and providing power to, the building.

² Adder covers monitoring of hygrothermal performance of walls, indoor air quality performance over time, and other technical elements to be reported back to DOER. This adder does not include energy performance monitoring, which is required for all projects funded under this solicitation.

³ Residential feasibility grants are only available for multi-family developments with six (6) units or more.

⁴ Residential design grants are only available for multi-family developments with six (6) units or more.

- “Clean, renewable resources” refers to renewable sources that are RPS Class I or II eligible technologies. Projects that sell RECs are eligible for funding. Third-party ownership models are eligible, but will be valued lower than owned systems (see Section 5.C.II.).

Residential ZNEB Requirement: All residential projects funded under this solicitation *must* meet the ZNEB definition above.

Commercial and Institutional ZNEB Requirement: All commercial and institutional projects funded under this solicitation must demonstrate that, through planning and design, the Applicant has made all efforts and reviewed all options to meet the ZNEB definition above. However, commercial and institutional projects that will not achieve ZNEB are still eligible to apply provided the Applicant clearly explain why the building will not meet ZNEB.

E. Project Schedule

All projects receiving grants for construction costs under this solicitation must initiate construction no later than December 31st, 2015. All projects receiving feasibility funding must complete feasibility studies by April 30th, 2015. All projects receiving integrated design funding must complete the design phase of the project by October 31st, 2015.

4. SUBMISSION OF RESPONSE

A. Submission Instructions

To be deemed responsive, each Applicant must submit a Response Package received by DOER no later than 3:00 pm on July 15, 2014. Applicants shall submit five hard copies by mail or hand delivery and shall submit an electronic submission in Microsoft Word format to zneb@State.MA.US using the subject line “ZNEB ENE-2014-034 Response package.” Late responses will not be accepted. All correspondence and filings submitted to DOER shall be directed to the Grant Contact at the postal address set forth in Section 2.

Responses that do not include all of the information outlined in the “Response Package Contents” section below may be disqualified. DOER may ask Applicants to provide additional information or participate in an interview.

Please note that one (1) page is considered one side of a double-sided 8.5” x 11” page. Applicants must print double-sided, on recycled paper with a minimum post-consumer content of 30. Applicants are discouraged from submitting excess binding and materials.

Once the award is made, all submissions are subject to Public Record disclosure.

B. Response Package Contents

All responses must include a Transmittal Letter, Executive Summary, and Narrative section as defined below.

Transmittal Letter (1 page limit): The transmittal letter should highlight any special features of the Response and include the name, phone number, and email for the Applicant’s point of contact, must identify this PON by the following number (ENE-2014-034) and acknowledge any amendments to the PON posted on COMMBUYS. The transmittal letter should be signed by a representative of the Applicant who has the authority to bind the Applicant.

Executive Summary (2 page limit): The executive summary must contain the key components of the response, including the following: Applicant’s name, names of key personnel involved in the project and their respective roles, a short description of the project (sector, building type/use, location, gas and electric

utility providers, new/existing construction, building size, primary strategies being employed to reach ZNEB, projected energy usage performance metric as set forth in Section 4.B.III.a.).

Narrative Section (20 page limit): The narrative section will be comprised of the sections as outlined below. Note that while all sections (unless otherwise specified below) must be addressed by residential, commercial, and institutional Applicants, the level of detail and discussion in some sections may vary depending on project size and sector. For multi-family, commercial, and institutional projects seeking feasibility or integrated design grants, see Section 5.C.

I. Applicant Qualifications and Experience

- a. A description of the project team and key partners, if any. List of key individuals that are part of the project team. Resumes for individual team members may be attached and do not count toward the twenty-page limit.
- b. Discussion of project team and key partners' recent experience with ZNEB or other high-performance buildings in climate zones similar to that of Massachusetts. Include at least three (3) previous project examples.
- c. Provide commitment letters from key partners, if any. Letters can be attached and do not count toward the twenty-page limit.

II. ZNEB Project Details

- a. Description of the building objectives and design goals with a discussion of the team's process and strategy to meet the ZNEB standard. The narrative should reference a site plan and visual representations of the building. This description should clearly describe the challenges and opportunities based on the site. Non-narrative or graphical elements may be referenced in the text, included in an Appendix, and do not count towards the twenty-page limit.
- b. A description of the energy performance objectives, energy sources, and the energy efficiency and renewable energy strategies and technologies. Discussion of the renewable energy elements should include, but not be limited to, size, technology, location relative to the building, ownership model, financing, and estimated annual output of system. For commercial and institutional projects that do not meet the ZNEB definition, Applicants must provide a discussion of the design process and reasoning. This discussion should include reasoning for non-localized renewable generation if the renewable energy installation associated with the ZNEB project is located off-site.
- c. Overview of the building commissioning process planned for the building upon completion.
- d. A discussion of the key risks to meeting the ZNEB standard.
- e. Demonstration of site control.
- f. A discussion around incorporation of energy resiliency strategies.
- g. An estimated timeline for project implementation and occupancy.
- h. A description of the non-energy environmental components of the building including, but not limited to materials, indoor air quality, water, and siting. All commercial and institutional Applicants must meet requirements and demonstrate commitment to certification of LEED Silver or higher. Residential Applicants should include reference to any relevant certifications including, but not limited to LEED for Homes, Energy Star for Homes, US DOE Challenge Homes, and/or PassiveHaus.

III. Energy Performance Metrics

- a. A clear definition and justification of estimated target energy performance metrics:
 - For commercial and institutional projects, report energy use intensity (EUI) defined as kBtu / square foot / year. Applicants should include a table of the energy model inputs⁵,

⁵ Information must include monthly energy use broken down by fuel and end use.

which can be included in the Appendix and does not count toward the 20 page count, and identify the modeling program used to generate the results.

- For all housing units in a residential project, report a HERS score; total MMBTUs per year; number of bedrooms; and conditioned area (square footage) of the unit. Applicants should include the Preliminary Home Energy Rating Certificate, which can be included in the Appendix and does not count toward the 20 page count. The Passive House Planning Package (PHPP) will be an acceptable alternative, and PHPP applicants are encouraged to submit a HERS rating as well.
- b. Include a table with the primary metrics supporting the estimated energy performance metric above (Section 4.B.III.a.). This should include:
 - Electricity usage in kWh broken down by grid and renewable sources
 - Thermal usage in native units broken down by thermal source
- c. For commercial and institutional projects, provide evidence for substantial energy benefits in terms of energy savings or fossil fuel replaced as compared to a baseline building, which is one constructed to ASHRAE 90.1 2010. Provide annual energy usage of the subject building expressed as an absolute value and a percent reduction relative to the baseline building.⁶

IV. Monitoring, Measurement, Verification, and Post-Occupancy Training

- a. A description of how building energy performance will be defined, measured, and verified. Measurement and verification methods may include, but are not limited to, blower-door testing and tracking of energy consumption and energy generation data. All selected grantees will be required to provide DOER with ongoing building energy performance data for a minimum of three (3) years. In this section, Applicants should address how this requirement will be met if and when a building transfers ownership.
- b. A description of the team's intended training and management plan to enable optimal building performance post-occupancy. This should include both building maintenance staff training as well as any building occupant training programs. If not applicable, please explain.
- c. All Applicants should describe any plans to monitor non-energy performance criteria. Residential Applicants seeking the optional \$2,000/unit adder must include a strategy for unit by unit monitoring of hygrothermal performance of walls, indoor air quality performance over time, and any other relevant technical elements, as well as a plan for ensuring this information will be reported back to DOER for a minimum of three (3) years following project completion.

V. Replicability

- a. Discuss project's impact on the ZNEB market in Massachusetts.
- b. Provide evidence that the technology, approach, or business model can be replicated and likely scale of application in Massachusetts.
- c. Discuss project visibility.

VI. Project Management Plan

- a. A description of team organizational structure and responsibilities and key project milestones and deliverables.
- b. A Gantt chart or equivalent visual depiction of the project schedule and milestones.
- c. A discussion of the key risks to meeting the project schedule and how those risks will be mitigated by the project team.

⁶ To ensure standardization, DOER and the evaluation team will convert these metrics to GHG emissions for evaluation of the project's GHG impact.

VII. Project Budget

- a. A total budget of the project's soft and hard costs. Description of resources committed to the project and resources to be leveraged, such as matching funds, private financing, utility or other incentives, or tax credits.
- b. Provide the actual or projected date of financial closing.
- c. An explanation of the extent to which the project has leveraged, or intends to leverage, the support of the Mass Save® program.
- d. Provide total grant amount requested, and as a percentage of total project cost.
- e. Provide total cost per square foot. For residential projects, also provide cost per housing unit.

C. Response Package Contents Specific to Feasibility and Integrated Design Grants

For commercial, institutional and multi-family Applicants seeking funding for feasibility study or integrated design services, Applicants should include discussion of as many requirements set forth above in Section 5.B as possible. The Applicant's ability to specifically address all of the issues defined above will vary depending upon the project's stage in planning and development. The Applicant is strongly encouraged to provide as many details as possible and to clearly explain the reason that relevant issues cannot be addressed at this time.

Through the course of an application for feasibility and integrated design grants, Applicants are strongly encouraged to clearly describe a project's known risks and likelihood for success. Applicants must also clearly demonstrate the level of commitment and potential funding sources to move forward with construction of the project to the ZNEB standard.

5. EVALUATION AND AWARD

A. Process

All submissions will be evaluated based on the components of the response package outlined in Section 4. DOER reserves the right to select no Applicants if the submissions do not meet a sufficient standard based on the evaluation criteria. The evaluation committee reserves the right to waive any technical defect or informality in submissions received or to allow the Applicant to correct them, and to accept or reject any submission or portion thereof. The evaluation committee reserves the right to seek additional information from any and all Applicants including but not limited to requests for clarifications and interviews.

B. Award and Contract Execution

All Applicants will be notified in writing of DOER's award decision. The Commonwealth reserves the right to reject any requested changes identified by the Applicant if not previously agreed upon during the response review process. If an acceptable contract cannot be reached with any Applicant regarding a selected project within 30 days of the written funding notification, DOER may withdraw its selection of the project.

C. Evaluation Criteria

All submissions received by the due date and meeting the requirements established in this PON will be reviewed and evaluated in accordance with, but not limited to, the criteria set forth in the table below. In making award selections, DOER will also consider diversity of locations, sectors, and technologies. DOER may prioritize projects located in Gateway Cities, multi-family developments, affordable housing projects, state or municipal public projects, and brownfield or infill redevelopment projects.

DOER and review team will take project phase into consideration when reviewing applications for feasibility and integrated design grants. DOER will also evaluate the demonstrated level of commitment to moving forward with ZNEB construction as requested in Section 4.C.

Submission Section	Evaluation Criteria
I. Applicant Qualifications and Experience	Qualifications and relevant previous experience
	Demonstrated commitment from key partners
II. ZNEB Project Details	Demonstrated technical feasibility to meet ZNEB requirements
	For commercial/institutional projects, DOER will review and evaluate the justification for projects that cannot meet the ZNEB standard. DOER will consider location of the renewable energy source relative to the building. In general, DOER's order of preference is below, but DOER will consider reasons why the renewable energy source is located as proposed.
	1. Projects where renewable energy generating units sufficient to cover the full annual building load are within the boundary of the site, adjacent to, and providing power to, the building;
	2. Projects where renewable energy generating units sufficient to cover the full annual building load are onsite, but are not connected to the building;
	3. Projects where renewable energy generating units sufficient to cover the full annual building load are located within the same utility load zone;
	4. Projects where renewable energy generating units are off-site, designated for the subject facility, and sufficient to cover the full annual building load.
	Projects with owned renewable installations will be valued higher than projects with third-party owned renewable installations. The length of third party renewable contracts will be evaluated.
	Demonstrated commitment to incorporation of non-energy environmental design components:
	1. Commercial and Institutional: LEED Silver or higher required; Projects meeting Living Building Challenge and Passive House certifications do not require separate LEED certification. Projects meeting more stringent certifications will be ranked higher.
	2. Residential: DOER will evaluate scope and scale of environmental design elements including, but not limited to, materials, indoor air quality, water, and siting. Applicants committed to third party certifications will be ranked higher.
	Incorporation and thoroughness of commissioning strategy
	Innovative technologies, strategies, partnerships, etc.
	Incorporation of energy resiliency strategies and feasibility of proposed approach
	Projects with lower energy performance metrics relative to building type will be evaluated highest
III. Energy Performance Metrics	For commercial and institutional projects, GHG gas impact and scale of GHG emissions reduction over baseline building
IV. Monitoring, Measurement, Verification, and Post-Occupancy Training	Detailed strategy for ongoing measurement and verification, including detailed energy monitoring strategy and written commitment to provide DOER with energy performance data for three (3) years following project completion (required)
	Detailed strategy related to occupant and end user behavior and impact on building performance
	Comprehensiveness of training plan, if applicable
	Inclusion of non-energy performance monitoring
V. Replicability	Project impact on ZNEB market in Massachusetts
	Compelling evidence of replicability, including technology, strategies, and business solutions across other buildings in Massachusetts
	Project visibility
VI. Project Management Plan	Shovel-readiness
	Probability of meeting schedule
	Thoroughness of project management plan
VII. Project budget	Affordability (development cost \$/sf)
	Financial feasibility
	Grant fund request relative to total project cost and extent of leveraged funding

6. TERMS AND CONDITIONS

A. Reporting

Quarterly reporting is required upon receipt of your acceptance to this grant program. These requirements will be detailed when your grant award is executed.

B. Contract Deliverables

A complete list of contract deliverables and performance dates will be included in the grant agreement executed between DOER and the Applicant upon award. Contract deliverables will include, but not be limited to the following.

1. Residential, commercial, and institutional construction grants:
 - Final report documenting project overview, budget, schedule, lessons learned, energy performance metrics, updated final energy model or Confirmed Home Energy Rating Certificate, and post-occupancy plan
 - Case study in a format to be provided by DOER at the time of contract execution
 - Three (3) years worth of energy performance data
 - DOER reserves the right to request a tour and/or press event upon project completion
2. Feasibility grants:
 - Final report documenting project overview, budget, schedule, and lessons learned
 - Final feasibility study
3. Integrated design grants:
 - Final report documenting project overview, budget, schedule, and lessons learned
 - Final design and energy model
 - Commitment letter agreeing to provide DOER with additional information when the project is initiated

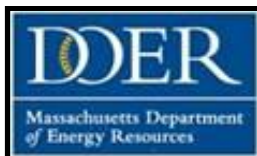
C. Other Requirements

Upon grant execution, Applicants will be required to sign the Commonwealth [Standard Contract Form](http://www.mass.gov/osc/docs/forms/contracts/standard-contract-firm.doc)⁷ and [Terms and Conditions](http://www.mass.gov/osc/docs/forms/contracts/comm-termsconditions.doc)⁸. See Attachment A: Grantee/Contractor Compliance Assurance.

⁷ <http://www.mass.gov/osc/docs/forms/contracts/standard-contract-firm.doc>

⁸ <http://www.mass.gov/osc/docs/forms/contracts/comm-termsconditions.doc>

7. ATTACHMENT A: GRANTEE/CONTRACTOR COMPLIANCE ASSURANCE



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENERGY RESOURCES
100 CAMBRIDGE STREET, SUITE 1020
BOSTON, MA 02114

Grantee/Contractor Compliance Assurance

If chosen, the Grant recipient will be required to sign the Commonwealth Standard Contract Form, which certifies compliance under a number of state laws, guidelines, and protocols. Please review the sections below to ensure that your firm is in compliance with all items.

1. **Commonwealth and Contractor Ownership Rights.** The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all “deliverables” purchased or developed with Contract/Grant funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.
2. **Qualifications.** The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the [Secretary of State's website](#) as licensed to do business in Massachusetts, as required by law.
3. **Business Ethics and Fraud, Waste and Abuse Prevention.** The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.
4. **Collusion.** The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.
5. **Debarment.** The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, [Executive Order 147](#); [G.L. c. 29, s. 29F](#) [G.L. c.30, § 39R](#), [G.L. c.149, § 27C](#), [G.L. c.149, § 44C](#), [G.L. c.149, § 148B](#) and [G.L. c. 152, s. 25C](#).
6. **Applicable Laws.** The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable [Massachusetts General Laws](#); the Official [Code of Massachusetts Regulations](#); [Code of Massachusetts Regulations](#) (unofficial); [801 CMR 21.00](#) (Procurement of Commodity and Service Procurements, Including Human and Social Services); [815 CMR 2.00](#) (Grants and Subsidies); [808 CMR 1.00](#) (Compliance, Reporting and Auditing for Human And Social Services); [AICPA Standards](#); confidentiality of Department records under [G.L. c. 66A](#); and the [Massachusetts Constitution Article XVIII](#) if applicable.

7. **Tax Law Compliance.** The Contractor certifies under the pains and penalties of perjury tax compliance with [Federal tax laws](#); [state tax laws](#) including but not limited to [G.L. c. 62C](#), [G.L. c. 62C, s. 49A](#); compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under [G.L. c. 62E](#), withholding and remitting [child support](#) including [G.L. c. 119A, s. 12](#); [TIR 05-11](#); [New Independent Contractor Provisions](#) and applicable [TIRs](#).
8. **Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts.** The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing **at least 45 days prior** to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is **any risk** to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.
9. **Protection of Personal Data and Information.** The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).
10. **Corporate and Business Filings and Reports.** The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the [Secretary of the Commonwealth](#), the [Office of the Attorney General](#) or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).
11. **Employer Requirements.** Contractors that are employers certify compliance with applicable state and [federal employment laws](#) or regulations, including but not limited to [G.L. c. 5, s. 1](#) (Prevailing Wages for Printing and Distribution of Public Documents); [G.L. c. 7, s. 22](#) (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); [minimum wages and prevailing wage programs and payments](#); [unemployment insurance](#) and contributions; [workers' compensation and insurance](#), [child labor laws](#), [AGO fair labor practices](#); [G.L. c. 149](#) (Labor and Industries); [G.L. c. 150A](#) (Labor Relations); [G.L. c. 151](#) and [455 CMR 2.00](#) (Minimum Fair Wages); [G.L. c. 151A](#) (Employment and Training); [G. L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); [G.L. c. 152](#) (Workers' Compensation); [G.L. c.153](#) (Liability for Injuries); [29 USC c. 8](#) (Federal Fair Labor Standards); [29 USC c. 28](#) and the [Federal Family and Medical Leave Act](#).

12. **Federal And State Laws And Regulations Prohibiting Discrimination** including *but not limited to* the [Federal Equal Employment Opportunity \(EEO\) Laws](#) the [Americans with Disabilities Act](#); [42 U.S.C. Sec. 12,101, et seq.](#), the [Rehabilitation Act](#), [29 USC c. 16 s. 794](#); [29 USC c. 16. s. 701](#); [29 USC c. 14, 623](#); the [42 USC c. 45](#); (Federal Fair Housing Act); [G. L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); the Public Accommodations Law [G.L. c. 272, s. 92A](#); [G.L. c. 272, s. 98](#) and 98A, [Massachusetts Constitution Article CXIV](#) and [G.L. c. 93, s. 103](#); [47 USC c. 5, sc. II, Part II, s. 255](#) (Telecommunication Act; Chapter 149, [Section 105D](#), [G.L. c. 151C](#), [G.L. c. 272, Section 92A](#), [Section 98](#) and [Section 98A](#), and [G.L. c. 111, Section 199A](#), and [Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities](#), and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also [MCAD](#) and [MCAD links and Resources](#).