



EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
MATTHEW A. BEATON
SECRETARY

ENV 16 POL 01
DAM, LEVEE AND
COASTAL FORESHORE PROTECTION REPAIR AND REMOVAL:
APPLICATION FOR FUNDING
REQUEST FOR QUOTES (RFQ)
INCLUDING APPLICATION FORMS

POSTING DATE: 13 MAY 2015
CLOSING DATE: 14 JULY 2015

OVERVIEW AND GOALS: The primary mission of the Executive Office of Energy and Environmental Affairs (EEA) is to enhance, preserve and protect the natural resources and scenic, historic and aesthetic qualities of the Commonwealth of Massachusetts. EEA seeks to enter into contracts with qualified organizations to implement projects for the repair or removal of dams, levees, seawalls, and other forms of inland and coastal flood control.

Funding for awards will be from a combination of sources, including but not limited to The Dam and Seawall Repair or Removal Fund as established by M.G.L. c. 29, §2III. Funds awarded under M.G.L. c. 29, §2III are subject to 301 CMR 15.00, entitled Provisions for Administration of the Dam and Sea Wall Repair or Removal Fund. Those regulations are posted on EEA's website (*See <http://www.mass.gov/eea/waste-mgmt-recycling/water-resources/preserving-water-resources/water-laws-and-policies/water-laws/draft-regs-re-dam-and-sea-wall-repair-or-removal-fund.html>*).

Please note that EEA does not guarantee that any contract will result from this RFQ or that any particular funding level will be awarded. For the purposes of this document, the terms *response*, *quote*, and *bid* are considered synonymous.

ITEM TO BE BID: The repair and/or removal of dams, levees, seawalls, and other forms of inland and coastal structures as defined by Category 1, Category 2 and Category 3 below.

CONTACT: John Clarkeson, Program Administrator
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114

RESPONSES ARE DUE: 14 July 2015 at 3:00 PM eastern time.

SINGLE/MULTIPLE CONTRACTS: EEA reserves the right to issue multiple contracts under this document. Eligible parties may file multiple responses.

SUBMISSION OF QUESTIONS: The deadline for submitting written questions is 12 June 2015 at 4:00 PM. Questions should be submitted by email to John Clarkeson (John.Clarkeson@state.ma.us).

At its discretion, EEA may publish answers to submitted questions via CommBUYS (<http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/conduct-a-procurement/commbuys/>). If posted, EEA intends to post Questions and Answers on or before 7 May 2015.

SINGLE OR MULTIPLE DEPARTMENTS MAY CONTRACT UNDER THIS RFQ: The contracts awarded under this RFQ will be issued solely by EEA.

ANTICIPATED BUDGET: EEA does not guarantee that any award will result from this Bid or that any particular funding level will be achieved. The maximum award for any one application is based upon the particular Category.

Category1: \$1,000,000.00
Category2: \$3,000,000.00
Category3: \$1,000,000.00

PREVAILING WAGE APPLICABLE: Yes.

IDENTIFICATION OF CONTRACTS WITH COMMONWEALTH AGENCIES OR DIVISIONS: Yes

IDENTIFICATION OF FINANCIALLY INTERESTED PARTIES: Yes

RESUMES OF KEY PERSONNEL: Must be submitted with application.

DISTRIBUTION: This RFQ has been distributed electronically using the CommBUYS system. It is the responsibility of all Bidders to check CommBUYS for any addenda or modifications to an RFQ to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Bidders who fail to check for amended RFQs and submit inadequate or incorrect responses. Potential bidders are advised to check the “last change” field on the summary page of any RFQ for which they submit a response to ensure they have the most recent RFQ files.

Bidders may not alter RFQ language or any RFQ component files. Bidders must respond in accordance to the RFQ directions and complete only those sections that prompt a bidder for a response. Modifications to the body of this RFQ, specifications, terms and conditions, or which change the intent of this RFQ are prohibited. Any unauthorized alterations will disqualify response.

PROJECT/APPLICANT CATEGORIES: Response applications will be accepted for projects as defined below. Responding Applicants are to review each category and submit a project application(s) for the most appropriate category. The categories for which applications for the repair or removal of infrastructure will be accepted are:

Category 1 - Dams and similar regulated and unregulated impoundments (see page 11 for details)

Category 2 - Seawalls, coastal flood and/or foreshore protection (see page 12 for details)

Category 3 - Inland flood control structures and levees, excluding dams and non-jurisdictional impoundments (see page 14 for details)

Each category has a distinct set of eligibility and selection criteria. Please be sure to review the criteria carefully.

RESPONDENT ELIGIBILITY: This RFQ is open to local governmental bodies¹ as well as charitable organizations².

FORM OF AWARDS: For the selected projects, responding applicants may be offered funding through a grant or a finance package offering a combination of grant and loan funds.

The interest rate for loans made shall be fixed at no more than 2% or one half the market rate as established by the Wall Street Journal prime rate in place at the time the application is made, whichever is greater.

In order to provide an incentive for projects that will maximize the use and/or restoration of natural systems, EEA reserves the right to modify the loan terms. Those projects which minimize or eliminate the use of hard infrastructure are eligible for a zero percent interest rate. Projects will be considered for zero percent interest if:

- design plans recognize the potential impact of climate change and improve resilience;
- implementation will improve or expand the functions of naturally occurring systems;
- the project fits into a larger comprehensive plan to improve the environmental condition; project complements other work ongoing in the local watershed.

In addition to funds available from the Dam and Sea Wall Repair or Removal Fund established by M.G.L. c. 29, 2IHH, EEA may seek supplemental funding for projects critical to the protection of public health and safety as well as key public infrastructure.

CONTRACT DURATION: The contract period will begin on the date of contract execution or a specified later date. All funds awarded from the Dam and Seawall Repair or Removal Fund must be committed within 24 months of the contract execution or be forfeited. All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, contracted partners will be notified in writing and the contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension, in writing, if additional funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

¹ Defined by 301 CMR 15.00 as shall include a town, city, district, commission, board and any regional local governmental unit.

² Defined by 301 CMR 15.00 as an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and that is registered with the Massachusetts Office of the Attorney General as a public charity.

RESPONSE APPLICATION SUBMISSION PROCESS: Response packages, including an application (see Appendix A), and other supporting documents must be submitted on or before 14 July 2015 at 3:00 PM. Each response application must clearly identify the RFQ number (RFQ ENV 16 POL 01) on the outside of the package. A postmark will NOT be accepted for verification of date of submission. Proposals will NOT be accepted by electronic mail or fax machine. One original (clearly identified as the original), three copies, and one digital submission (on CD, DVD, or flashdrive) of each Proposal must be submitted to be considered. Printed proposals must be prepared using 12 point font and printed using double-sided format. Please avoid unnecessary documentation.

With the application submit one set of design report with 11"x 17" design drawings. These plans should be submitted folded and inserted into a sleeve.

Digital submissions must be provided in Microsoft Office compatible format or Adobe Acrobat. An electronic copy of the design report and drawings in PDF must be included with the digital submission requested above. CD/DVD's must be protected by a case and contain a label indicating the project name, the applicant, and the community in which the structure is located.

NOTE: if selected for funding, additional forms will be required to execute a contract, including:

- Commonwealth Standard Contract Form, filled out and signed by the Respondent
- Commonwealth Scope and Budget Form
- Commonwealth Terms and Conditions filled out and signed by the Respondent
- Commonwealth W-9 tax information form filled out and signed by the Respondent
- Completed Contractor Authorized Signature Verification Form
- Prompt Payment Discount Form
- Electronic Funds Transfer Form

Respondents are encouraged to review these forms prior to submission of their proposal.

Respondents may submit response applications for one or more structures. For dams and similar structures (Category 1), a separate application for each structure is required, unless the multiple structures manage a single water body. For coastal structures (Category 2), a single application for adjoining structures providing benefit for a single location may be filed. In some cases, due to project size and award limits, applicants may also consider applying for funds in distinct phases.

If submitting more than one application, respondents must submit each as a discrete and separate package. Each application is to be signed by the authorized signature of the applicant, in other words, the person under whose signature the contract will be executed must sign the application.

NOTE: Prior to submission of the application, access to the structure(s) for both construction purposes as well as ongoing maintenance must be guaranteed. This is best demonstrated by either existing outright ownership of the surrounding land by the applicant or a sufficient easement on either side of the entire structure, including the foot and/or toe, whichever provides the greatest access. Evidence of such access for the applicant to the structure for construction purposes as well as future ongoing maintenance must be provided with the Application. In the case of coastal structures, access must also ensure ongoing public access to the top of the structure.

RESPONSE FORMAT: Respondents should make their best efforts to organize their Response in the following manner:

- Part I Project Identification and Narrative
 - Section A Review of Current Conditions
 - Section B Environmental Concerns
 - Section C Project Plan

- Part II Proponent Qualifications, including key persons' resumes

- Part III Project Schedule and Cost Estimates

- Part IV Ongoing Operations and Maintenance Plans

- Appendix A Project Site Map

- Appendix B Planning Report(s) used as project basis – this includes evidence that a Full Condition Survey, as defined by the DCR Office of Waterways³, has been completed and the proposal is based on that Survey.

- Appendix C Conceptual and/or Final Design Plans (if final, they must be stamped by a registered engineer)

The Commonwealth maintains a commitment to promote equity of opportunity in state contracting and, to that end, encourages full participation of minority and women owned businesses in all areas of state contracting, including contracts for construction, design, goods and services. For more information see <http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/procurement-prog-and-serv/sdo/sdp/>.

Guidance for each Response section is offered below:

Part I: Project Identification and Narrative - The purpose of the project narrative is to allow proponents to demonstrate their understanding of the nature of the problem to be addressed and how the proposed project will remedy the problem. The narrative should provide the reader a clear and concise understanding of the project, both in terms of objectives and how the project will provide public benefit upon completion, but also the potential threat(s) resulting by NOT implementing the project. The narrative should inform a reader not previously familiar with any details of the project so they gain a general understanding of the purpose and goals the applicant seeks to achieve. The narrative should be written in such a way that any technical information provided is clear to a general audience.

³ See <http://www.mass.gov/eea/docs/czm/stormsmart/seawalls/public-inventory-report-2009.pdf> , page 23.

Section A: Review of Current Conditions -

- What public purpose does the structure serve? Is there currently public access to the structure? What other public benefit(s) does the structure ensure?
- What public safety and/or public health issues will be addressed; how severe are the situations and how well has the situation been documented? At a minimum, cite recent inspection and/or evaluation reports relied upon for determining the condition of the structure.
- Identify the general project area (include a site plan/project map of sufficient scale, with project and relevant resources overlain) and describe the scope of the project and key tasks being proposed.
- Indicate whether the project is related to any regulation, permit or enforcement action. In table format, list any regulations, permits, or enforcement actions that apply, including federal administrative orders, MA administrative orders, MA order of non-compliance, federal permits, MA permits, federal regulations, and MA regulations. List the type of action, subject matter, reference number, appropriate section/page related to this project and deadlines for compliance.

Section B: Environmental Concerns -

- Describe the environmental impact(s) resulting from the current structure(s).
- Provide documentation, in the form relevant section or pages of published reports of Municipal, Local, State or Federal entities engaged in environmental protection. In the interest of ensuring a concise application, inclusion of FULL reports is NOT necessary. In the case of documenting detrimental impacts, laboratory results are also acceptable. Please provide web links (if available) and specific page references within any planning document or laboratory report referenced in support of the application. Proponents should note on the project site map where the affected resources are located. Note that any item that does not include documentation within the application will not receive consideration.
- As part of the existing structure, are there elements to promote ecological health?

Section C: Project Plan –

- Briefly describe the objectives of the project and how implementation will address the issues cited above. Describe how the project proposed will improve or expand the functions of naturally occurring systems. In all cases the applicant must demonstrate that the real benefit of the project accrues to the general public, the taxpayers who provide the financing. Examples of this might include improvement to general safety; improvement in area ecological health; the reduction of public costs either immediately or in the aftermath of a catastrophic event such as failure of the structure. Note particular benefits to be derived including:

- Increased public safety;
 - Increase in the protection of public infrastructure;
 - How potential threats due to climate change have been considered;
 - Potential improvements to water quality, including the potential restoration of MassDEP designated uses;
 - Reductions of potential adverse impacts to sensitive environmental resources. Describe how the project is expected to reduce or eliminate threats to native animals, and naturally occurring plant and resident or migratory fish species habitat or movement;
 - Reductions in life cycle costs which may be credited to project implementation, i.e., how will long term operation and maintenance costs be reduced?
- Identify what regulations and permits to which the project is subject. In table format, list any regulations, licenses or permits that apply (local, regional, state, and federal).
 - Describe how Chapter 91 public access will be provided. If access will be improved, describe what improvements will be made.
 - Have appropriate agencies (Coastal Zone Management, Division of Marine Fisheries, for example) collaborated in the development of objectives and design plans? If so, please cite evidence of this collaboration and any approvals/acceptance given.
 - Does the project complement other efforts at ecological improvement/restoration? Is this project part of a larger effort and/or contribute to other efforts in the local watershed to improve the environmental condition?
 - Cite any feasibility study(s) relied upon for the development of the project plan. You need not include complete copies of such plans, only relevant pages or segments.

Part II: Proponent Qualifications - Provide the name of the applicant including telephone number, the e-mail address of its authorized representative, and engineering consultant contact. Identify key members of the project oversight and implementation team. Include their resumes and cite the relevant experience of the these team members in performing or managing projects of this nature in the past, i.e. verify the capacity of the team to succeed in the implementation of the project in a timely fashion.

Evidence that the applicant has the authority and financial stability to repay a loan if awarded under this RFQ must be provided. Evidence of that borrowing authorization has been secured should be provided by a record of the vote of the appropriate body.

Be aware that the Department of Conservation and Recreation has pre-qualified vendors who provide design, engineering, surveying & testing services. While use of these pre-qualified vendors is not a condition of project eligibility, potential applicants may find procurement of services by these firms less cumbersome and less expensive than other bid processes. For more information contact the DCR Office of Waterways.

Part III: Project Schedule and Cost Estimates - Outline the proposed timeline for project implementation and qualified cost estimates as provided by a registered engineer. In addition to a total project cost, distinguish between those costs attributable to final design, permitting, and bid package preparation and those attributable to actual construction costs⁴.

Include an anticipated timeline for the completion of each phase of the project, and the anticipated financial draw needed to complete each phase. Proposals are required to include a projected schedule detailing anticipated completion dates for each task. For planning purposes, identify if any work is anticipated to extend beyond 30 June 2017.

If local funding in the full amount necessary to undertake the project has already been authorized, attach a copy of the appropriate documentation. Include documentation that the organization's governing authority (Town Meeting, City Council, Board of Directors, or letter of credit from a Massachusetts chartered bank) has authorized commitment to a loan of sufficient nature to meet the budget needs of the proposed project.

A **minimum** financial match of 25% of total funds requested is required. For Category 1 projects this match may be provided as either direct cash or in-kind (staff time, equipment use, etc.). For Category 2 and Category 3 project proposals, this match may be provided as either direct cash, in-kind, or by indicating an acceptance of a loan from EEA. As part of the evaluation, the review committee will consider the applicant's own commitment to the project as evidenced by local investment in the project.

Every application must include a schedule of periodic reports (quarterly updates, final project reports, etc.) as a separate task. *Note that EEA will require a minimum of 4 copies of a final report and one all inclusive digital copy, including before and after photographs, upon completion of the project. This will consist of one original, three copies, and one digital version (on CD, DVD, or flashdrive). Periodic and final reports must be prepared using 12 point font and printed using double-sided format. As-built engineering plans may be submitted folded and inserted into a sleeve. Digital submissions must be provided in Microsoft Office compatible format or Adobe Acrobat.*

Provide a detailed breakdown of the estimated technical (construction services) and construction costs. If available, provide a completed engineers estimate for each construction contract. Contingency costs may only be calculated at 10% of total estimated construction cost.

Budget proposals will be scrutinized and considered as part of the evaluation process. If an award is offered, elements of the budget may be negotiated or an award made to satisfy a portion of the budget. Prevailing wage provisions shall apply to all publicly owned structures, including organizational, administrative and other work and services, including salaries. If an award is offered, allowable project costs will include all costs deemed by EEA to be necessary and reasonable for a project, including:

⁴ NOTE: If awarded funds under this RFQ, the awardee shall have one year (12 months) from the public announcement of the award to execute a contract with EEA. All funds awarded from the Dam and Seawall Repair and Removal Fund must be committed by the Grantee within 24 months of contract execution or be forfeited.

- Execution of any agreements and sub-agreements deemed by the Secretary or designee to be critical to the project;
- Procurement, provision, and use of engineering, inspection, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; permitting, and construction;
- Organizational, administrative and other work and services, including salaries, equipment and materials necessary; and,
- Training to ensure the proper operation and maintenance of the structures receiving financial assistance from the Fund, including training associated with inspections and emergency preparedness.

The following costs will NOT be considered allowable project costs and should not be included in the request for funding, but may be cited by an applicant thereby providing evidence of local commitment to the project:

- Any related costs incurred prior to the execution of an application, grant or loan with EEA;
- Ongoing operations and maintenance;
- Any costs funded by any other Federal or other State grant or loan to the applicant;
- Costs incurred by police details; and
- Costs to acquire an interest in real property.

The Agency shall not provide additional financial assistance above the total award amount regardless of additional project costs which may be incurred by the recipient of an award.

Part IV: Ongoing Operations and Maintenance Plans – For consideration of any award, recipients must sign an agreement certifying their commitment to the ongoing care and maintenance of any structure repaired/reconstructed (not removed) using funds awarded under this RFQ. Recipients will be required to submit an operations and maintenance plan for the proposed structure for review and acceptance by EEA prior to the final release of funds. Requested revisions to that plan may be required by the EEA project manager (in collaboration with supporting agencies) before the final payment is made.

Structures with new or reconstructed fishways must also secure a fishways operation and maintenance plan approved by the Division of Marine Fisheries per M.G.L. c. 130, s. 19.

Reminder: costs related to ongoing care and maintenance plan development as well as training to employees to ensure the proper operation and maintenance of the structures receiving financial assistance from the Fund, including the training associated with inspections and emergency preparedness, may be included in the proposal budgets as allowable costs.

PROJECT ELIGIBILITY AND EVALUATION CRITERIA: Respondents are to review each category and submit a project application for the most appropriate category. The evaluation criteria for each category differs so please review this section carefully prior to compiling your response application. Only projects related to existing structures will be considered eligible.

Applications for awards must demonstrate an overall benefit to the general public as a result of completion of the proposed project. Any private benefit must be incidental to the public good.

Priority shall be given to projects for structures that are owned or operated by cities, towns and charitable organizations. Priority shall be also given to those structures identified in writing by the United States Army Corps of Engineers as requiring imminent infrastructure improvement.

For all projects, preference will be given to projects that incorporate any or all of the following factors (in no particular order of preference):

- Project results in improvement to public health;
- Project results in improvement to public safety;
- Project results in protection of other public infrastructure;
- Design plan recognizes the potential impact of climate change and improves resilience;
- Applicant/applicant partner has obtained all applicable permits required to implement the project;
- Project implementation will improve or expand the functions of naturally occurring systems;
- Project fits into a larger comprehensive plan to improve the environmental condition; project complements other work ongoing in the local watershed.
- Project budget is viable for the objectives proposed;
- Applicant's (and partner's, if any) commitment to project implementation through direct contribution of funds and/or in-kind support;
- Applicant is credit worthy and not prone to default;
- Applicant/applicant partner has secured borrowing authorization;
- Applicant has proven capacity to implement the project;
- Structure is in a community with an environmental justice population.

Responding applicants must submit sufficient documentation to assure a full and complete review of the project. A **minimum** financial match of 25% of total funds requested is required. For Category 1 projects this match may be provided as either direct cash or in-kind (staff time, equipment use, etc.). For Category 2 and Category 3 project proposals, this match may be provided as either direct cash, in-kind, or by indicating an acceptance of a loan from EEA. As part of the evaluation, the review committee will consider the applicant's own commitment to the project as evidenced by local investment.

In addition to a full budget, responding applicants are to provide evidence of each evaluation item for which they seek consideration as well as a full budget proposal and current design plans including any available engineering plans. While having borrowing authorization is a preference item for the review of a proposal, note that a final award will not be made until full borrowing authorization by the appropriate governing authority is in place. Please see **RESPONSE FORMAT** (page 5, above) for greater detail.

The review team may request a site visit. Applicants will need to accompany one or more members of the procurement team on such a visit if requested. A review of the entity's financial condition (most recent audit, credit ratings, as examples) may also be conducted.

Application Category 1 - Dams and similar unregulated impoundments (Maximum Award - \$1,000,000):

Under this bid document, a dam is defined as any artificial barrier, including appurtenant works, that impounds or diverts water, and includes, but is not limited to, dams subject to the regulatory jurisdiction of DCR under 302 CMR 10.00 and other dams and similar impoundments or structures.

These barriers divert and otherwise alter the flow of rivers and streams, and also create a threat to freshwater animal, and plant and resident or migratory fish species habitat or movement. In some cases these structures help protect human life and property. In some cases, their useful purpose has passed.

These funds are provided, in part, to address the need to repair such structures where failure will likely cause loss of life and/or serious damage. Category 1 applicants should focus on the project's ability to improve the protection of essential public infrastructure, commercial and population centers, protection of tax revenue generating structures and infrastructure necessary for the supply and delivery of public utilities and emergency response activities. EEA, in recognition of its mission to enhance, preserve and protect the natural resources and scenic, historic and aesthetic qualities of the Commonwealth, also seeks projects that improve the ecology. Applicants under Category 1 may seek financial support for the repair⁵, full or partial removal⁶, as well as the reconstruction of dams and other unregulated impoundments. For this category, eligible applicants include and are limited to local government bodies⁷ and charitable organizations⁸. If a privately held structure, the applicant must demonstrate that any private benefit is incidental to the public good.

Priority will be given to structures that are classified by the Department of Conservation and Recreation as high hazard or significant hazard dams. Priority will also be given for structures:

- that have been determined to be in poor or unsafe condition;
- that are a part of a water supply system;
- for which project implementation will reduce or eliminate a threat to native animal, and naturally occurring plant and resident or migratory fish species habitat or movement;

⁵ Repair means the reconstruction, rehabilitation, or replacement, whether partial or wholly, of a structure.

⁶ Remove or Removal means the controlled dismantlement or breaching of a structure, in compliance with applicable law, to the extent that water is not impounded or diverted or no longer impeded; provided, however, that, following a controlled dismantlement or breaching, a minimal degree of impoundment necessary for agricultural uses or wetland retention and open water conditions may be allowed, so long as any impediment to fish passage has been removed and any threats to public safety or property have been alleviated

⁷ Local government body is defined as a town, city, district, commission, board and any regional local governmental unit

⁸ Charitable organizations are defined as an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and that is registered with the Massachusetts Office of the Attorney General as a public charity.

Responding applicants must submit sufficient documentation to assure a full and complete review of the project. In addition to a full budget, responding applicants are to provide evidence of each item above for which they seek consideration and current design plans including engineering plans. A **minimum** financial match of 25% of total funds requested is required. For Category 1 projects this match may be provided as either direct cash or in-kind (staff time, equipment use, etc.). As part of the evaluation, the review committee will consider the applicant's own commitment to the project as evidenced by local investment. Please see **RESPONSE FORMAT** (page 5, above) for greater detail.

Applicants should consult:

- the Office of Dam Safety for guidance (<http://www.mass.gov/eea/agencies/dcr/conservation/dam-safety/>). Those considering partial or full removal may also contact the Division of Ecological Restoration (<http://www.mass.gov/eea/agencies/dfg/der/>);
- the Wetlands Protection Act (WPA), M.G.L. c. 131, s. 40, and the associated wetland regulations (310 CMR 10.00) (See also <http://www.mass.gov/eea/docs/dep/water/resources/a-thru-m/dmpol.pdf>).
- the Division of Marine Fisheries for guidance on diadromous fish passage requirements, fishway operations and maintenance plans (M.G.L. c. 130, s. 19), and fishway construction permits (322 CMR 7.01) (<http://www.mass.gov/eea/agencies/dfg/dmf/>).

Application Category 2 - Seawalls, coastal flood and/or foreshore protection (Maximum Award - \$3,000,000):

There are a variety of structures used to help protect property and infrastructure from damage during storm events. These include seawalls⁹, revetments¹⁰, groins¹¹, engineered beaches¹², and jetties¹³. While each of these, commonly referred to as “hard infrastructure”, have been constructed over time, research indicate naturally occurring systems (also sometimes referred to as “soft infrastructure” or “green infrastructure”) can address the hazards of coastal storm events while better protecting ecosystems.

These funds are provided, in part, to address the need to repair such structures where failure will likely cause loss of life and serious damage. Category 2 applicants should focus on the project's ability to improve both emergency response activities anticipated as well as long term protection of commercial and population centers, improve the protection of tax revenue generating structures, and/or enhance the protection of public owned infrastructure during significant coastal storm events. Examples of such

⁹ Seawall means a structure, often concrete or stone, built along a portion of a coast to prevent erosion and damage by wave action

¹⁰ Revetment means a facing of stone, concrete, etc., to protect an embankment, or shore structure, against erosion by wave action or currents

¹¹ Groin means a shore protection structure built (usually perpendicular to the shoreline) to trap littoral drift or impede erosion of the shore

¹² Engineered Beach means a beach and/or dune system that was built with sand from other areas. The beach profile was designed to protect low lying areas from storms and erosion. Once built, the beach should be maintained in accordance with the maintenance and monitoring plan.

¹³ Jetties means a structure extending into a body of water, which is designed to prevent shoaling of a channel by littoral materials and to direct and confine the stream or tidal flow. Jetties are built at the mouths of rivers, tidal inlets, and harbors to help deepen and stabilize a channel.

infrastructure include but are not limited to water treatment facilities, wastewater treatment facilities, water or wastewater delivery/transport systems, key transportation routes, critical energy supply infrastructure, educational facilities, emergency preparedness and first-responder equipment and facilities, and publicly owned health facilities. Each proposal will also be evaluated on its recognition of the potential impact(s) of climate change and how successful implementation will improve resilience.

EEA, in recognition of its mission to enhance, preserve and protect the natural resources and scenic, historic and aesthetic qualities of the Commonwealth, is particularly interested in funding project(s) that address coastal flood control issues while also improving natural resource and ecological values by employing/expanding the utilization of naturally occurring systems to address the hazards of climate change impacts and coastal storm events. Examples of such projects may include dune restoration, beach/berm nourishment, or salt marsh restoration, and shoreline or bank stabilization. Applicants for projects like emphasizing the improvement of naturally occurring systems to address the hazards of climate change and storm events should include a task for the project to be displayed for others as a demonstration example to promote increased use of such strategies in the future.

No funding will be provided for state agency owned or privately owned structures.

Priority shall be given to those coastal flood or wave control structures rated in fair, poor or critical condition (C-F), and that have a moderate to high protection level (III-V) in accordance with *The Massachusetts Coastal Infrastructure Inventory and Assessment Project* (see http://www.mass.gov/czm/stormsmart/resources/infrastructure/chc_inventory-summary_report_2009.pdf); or annual maintenance and monitoring reports have indicated a worsening condition or a licensed structural engineer has declared such.

Responding applicants must submit sufficient documentation to assure a full and complete review of the project. Evidence must be provided that a Full Condition Survey, as defined by the DCR Office of Waterways¹⁴, has been completed and the proposal is based on the findings of that report. In addition to a full budget, responding applicants are to provide evidence of each item above for which they seek consideration and current design plans including engineering plans. A **minimum** financial match of 25% is required. For Category 2 project proposals, this match may be provided as either direct cash, in-kind, or by indicating an acceptance of a loan from EEA. As part of the evaluation, the review committee will consider the applicant's own commitment to the project as evidenced by local investment. Please see **RESPONSE FORMAT** (page 5, above) for greater detail.

Those considering waterfront strategies should be familiar with Chapter 91 (<http://www.mass.gov/eea/agencies/massdep/water/watersheds/chapter-91-the-massachusetts-public-water-quality-act.html>). Applicants should also review The Wetlands Protection Act (WPA), M.G.L. c. 131, s. 40, and the associated wetland regulations (310 CMR 10.00) (See also <http://www.mass.gov/eea/docs/dep/water/resources/a-thru-m/dmpol.pdf>). Technical assistance regarding coastal issues is also available from the Massachusetts Office of Coastal Zone Management (<http://www.mass.gov/eea/agencies/czm/>) as well as the Department of Conservation and Recreation Office of Waterways (<http://www.mass.gov/eea/agencies/dcr/services-and-assistance/waterways-program/>).

¹⁴ See <http://www.mass.gov/eea/docs/czm/stormsmart/seawalls/public-inventory-report-2009.pdf>, page 23. This survey is intended to aid in the permitting process.

Application Category 3 - Inland flood control structures and levees¹⁵, excluding dams and similar unregulated impoundments (Maximum Award - \$1,000,000):

Levees and other similar structures offer flood control for inland waters, commonly used to help protect economic centers, essential public utilities and key infrastructure from the hazards of storm events. While commonly referred to as “hard infrastructure”, recent research indicates natural systems (also sometimes referred to as “soft infrastructure” or “green infrastructure”) may better address the hazards of storm events while also protecting ecosystems.

These funds are provided, in part, to address the need to repair permitted and licensed inland flood control structures where failure will likely cause loss of life and/or serious damage. Category 3 applicants should focus on the project’s ability to improve the protection of essential public infrastructure, commercial and population centers, protection of tax revenue generating structures and infrastructure necessary for the supply and delivery of public utilities. EEA, in recognition of its mission to enhance, preserve and protect the natural resources and scenic, historic and aesthetic qualities of the Commonwealth, will also consider projects which improve the ecology through expanding the utilization of naturally occurring systems to address the hazards of storm events. For this category, no funding will be provided for privately owned structures.

Priority will be given to levees and other similar structures that offer flood control for inland waters that have been determined to be in critical or poor condition. A **minimum** financial match of 25% is required. For Category 2 project proposals, this match may be provided as either direct cash, in-kind, or by indicating an acceptance of a loan from EEA. As part of the evaluation, the review committee will consider the applicant’s own commitment to the project as evidenced by local investment. Please see **RESPONSE FORMAT** (page 5, above) for greater detail.

Category 3 applicants should be familiar with Chapter 91 and how it relates to inland waterways (<http://www.mass.gov/eea/agencies/massdep/water/watersheds/chapter-91-the-massachusetts-public-water-rfq-act.html>). Applicants should also review The Wetlands Protection Act (WPA), M.G.L. c. 131, s. 40, and the associated wetland regulations (310 CMR 10.00) (See also <http://www.mass.gov/eea/docs/dep/water/resources/a-thru-m/dmpol.pdf>). Valuable information may also be offered by the United States Army Corps of Engineers (<http://www.usace.army.mil/Missions/CivilWorks/LeveeSafetyProgram.aspx>).

CONDITION OF AN AWARD: If awarded funds under this RFQ, the awardee shall have one year (12 months) from the public announcement of the award to execute a contract with EEA. If other related factors (for example other anticipated financial sources, partnering participant cooperation, etc.) are not resolved by the awardee thereby preventing the awardee from signing a contract, EEA reserves the right to withdraw financial support of the project.

THE ATTACHED “SUPPLEMENTAL TERMS AND CONDITIONS” (APPENDIX B) ARE INCORPORATED INTO THIS RFQ BY REFERENCE

¹⁵ Levees means a dike or embankment generally of earthen materials designed to prevent riverine flooding after periods of exceptional rainfall.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DAM, LEVEE AND COASTAL FORESHORE PROTECTION REPAIR AND REMOVAL
APPENDIX A: APPLICATION
APPLICATION ATTACHMENT A: ADMINISTRATIVE SUMMARY

PROJECT TITLE: _____ **STATE ID #** _____

LOCATION COORDINATES: Latitude _____ Longitude _____

RESPONDING ORGANIZATION

Contact Name - _____

Address - _____

Telephone - _____

Facsimile - _____

Internet Address- _____

PROJECT CATEGORY (CHOOSE ONE):

- Category 1** - Dams and similar unregulated impoundments
- Category 2** - Seawalls, coastal flood and/or foreshore protection
- Category 3** - Inland flood control structures and levees, excluding dams and similar unregulated impoundments

FUNDS SOUGHT FROM PROGRAM

State Funds via EEA \$ _____

Anticipated Matching Funds (*cash and in-kind*) \$ _____

Sources (*Federal? State? Local?*): _____

AUTHORIZED APPLICATION SIGNATURE

Signature

Date

Print Name and Title _____

I certify that I have read RFQ ENV 16 POL 01, including the Supplemental Terms and Conditions, and comply with all terms including Item 23: Anti-Collusion.

Signature

Date

APPLICATION ATTACHMENT B: RESPONSE PROPOSAL

Respondents should make their best efforts to organize their Response in the following manner:

- Part I Project Identification and Narrative
 - Section A Review of Current Conditions
 - Section B Environmental Concerns
 - Section C Project Plan
- Part II Proponent Qualifications, including key persons' resumes
- Part III Project Schedule and Cost Estimation
- Part IV Ongoing Operations and Maintenance Plans
- Appendix A Project Site Map
- Appendix B Planning Report(s) used as project basis
- Appendix C Conceptual and/or Final Design Plans (stamped by a registered engineer)

Every application must include a schedule of periodic reports (quarterly updates, final project reports, etc.) as a separate task. **Note:** *EEA will require a minimum of four copies of a final report and one all inclusive digital copy, including before and after photographs, upon completion of the project. This will consist of one original, three copies, and one digital version (on CD, DVD, or flashdrive). Periodic and final reports must be prepared using 12 point font and printed using double-sided format. As-built engineering plans may be submitted folded and inserted into a sleeve. Digital submissions must be provided in Microsoft Office compatible format or Adobe Acrobat.*

OTHER SOURCES OF COMMITTED FUNDS - Be sure to include all other sources of other funds and the amount of cash and/or in kind services contributed or anticipated by each source. Letters of Intent from third party contributors for funds anticipated later during the design and implementation period must be submitted as part of the response application package.

APPENDIX B: EEA SUPPLEMENTAL TERMS AND CONDITIONS

1. For the purposes of these *Supplemental Terms and Conditions*, Department shall mean the Executive Office of Environmental Affairs (EEA) and the office requesting Proposals as identified within this RFQ.
2. These *Supplemental Terms and Conditions* are incorporated by reference into this RFQ. If any amendment, attachment [not including the Commonwealth's *Standard Terms and Conditions*, *Standard Form Contract*, or any other form jointly published by the Executive Office for Administration and Finance (EOAF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD), or any provision or form required by State or Federal law] or other part of this RFQ deletes, modifies, replaces or otherwise contains language that conflicts with these *Supplemental Terms and Conditions*, these *Supplemental Terms and Conditions* shall supersede and control to the extent necessary to accomplish these conditions. The remaining provisions of this RFQ shall remain in effect and enforced to the fullest extent permitted.
3. The Commonwealth's *Standard Terms and Conditions* [as currently and jointly issued by EOAF, CTR, and OSD] are incorporated by reference into this RFQ. To the extent that any amendment, attachment, condition or other part of this RFQ deletes, modifies, replaces or otherwise contains language that conflicts with the Commonwealth's *Standard Terms and Conditions*, the official printed language of the Commonwealth's *Standard Terms and Conditions* shall supersede and control to the extent necessary to accomplish its conditions. The remaining provisions of this RFQ shall remain in effect and enforced to the fullest extent permitted.
4. The terms of 801 CMR 21.00: Procurement of Commodities and Services (and 808 CMR 1.00: Compliance, Reporting and Auditing for Human and Social Services, if applicable) are incorporated by reference into this RFQ. For Grants, 815 CMR 2.00: Grants and Subsidies shall apply and be incorporated into this RFQ. Words used in this RFQ shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00 or 815 CMR 2.00, if applicable). Additional definitions may also be identified in this RFQ. Unless otherwise specified in this RFQ, all communications, Proposals, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All Proposals must be submitted in accordance with the specific terms of this RFQ. No electronic Proposals may be submitted in Proposal to this RFQ.
5. Respondent Communication. Respondents are prohibited from communicating directly with any employee of EEA except as specified in this RFQ, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFQ. Respondents may contact the contact person for this RFQ in the event this RFQ is incomplete or the Respondent is having trouble obtaining any required attachments electronically through CommBUYS.
6. Reasonable Accommodation. Respondents with disabilities or hardships that seek reasonable accommodation, which may include the receipt of this RFQ information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A Respondent requesting accommodation must submit a written statement, which describes the Respondent's disability and the requested accommodation to the contact person for the RFQ. The Department reserves the right to reject unreasonable requests.

The Department may require the Contractor to provide all materials, software, maps, studies, reports, and other products or data in alternative formats upon request.
7. Public Records. All Proposals and information submitted in Proposal to this RFQ are subject to the Massachusetts Public Records Law, M.G.L. Chapter 66, section 10 and Chapter 4, section 7(26). Any statements in submitted Proposals that are inconsistent with the Public Records Law shall be void and disregarded.

8. All materials, software, maps, studies, reports, and other products or data, regardless of physical form or characteristics, produced in furtherance of the Contract and funded, in whole or in part, under the Contract shall be considered in the public domain and available to EEA or its agencies at the reasonable cost of reproduction in any of the formats in which it is stored or maintained. The Contractor shall not obtain, attempt to obtain or file for a patent, copyright, trademark or any other interest in any such materials, software, maps, reports, and other products or data without the express, written consent of the Department and subject to any other approvals required by state or federal law.
9. Best Value Selection and Negotiation. The Department may select the Proposal(s), which demonstrates the best value overall, including proposed alternatives, that will achieve the procurement goals of the Department. The Department and a Selected Respondent, or a Contractor, may negotiate a change in any element of contract performance or cost identified in the original RFQ or the Selected Respondent's or Contractor's Proposal which results in lower costs or a more cost effective or better value than was presented in the Selected Respondent's or Contractor's original Proposal.
10. The Department reserves the right to fund a portion, change the scope, and/or delete tasks of any Proposal to more closely meet the purposes of the program or to obtain the best procurement value for the Department. Selected Respondents may decide not to enter into a contract if the revised scope does not meet its approval. The Department does not guarantee that any Contract will be awarded under the RFQ. Any potential Contract with a Selected Respondent shall be subject to the appropriation and availability of funds.
11. Costs. Costs that are not specifically identified in the Respondent's Proposal, and accepted by a Department as part of a Contract, will not be compensated under any contract awarded pursuant to this RFQ. The Commonwealth will not be responsible for any costs or expenses incurred by Respondents responding to this RFQ.
12. CommBUYS. This RFQ has been distributed electronically using the CommBUYS system, RFQ attachments that are referenced will be found either as separate .pdf files along with the RFQ at www.CommBUYS.com, or in the "OSD Forms" section at www.mass.gov/osd. Respondents are solely responsible for obtaining and completing required attachments that are identified in this RFQ and for checking CommBUYS for any addenda or modifications that are subsequently made to this RFQ or attachments. The Commonwealth and its subdivisions accept no liability and will provide no accommodation to Respondents who fail to check for amended RFQs and submit inadequate or incorrect Proposals. Respondents are advised to check the "last change" field on the summary page of RFQs for which they intend to submit a Proposal to ensure that they have the most recent RFQ files. Respondents may not alter (manually or electronically) the RFQ language or any RFQ component files. Modifications to the body of the RFQ, specifications, terms and conditions are prohibited and may disqualify a Proposal. Respondents having difficulty obtaining any required attachments electronically through CommBUYS should seek assistance from the contact person for this RFQ.

If the Department is also distributing this RFQ directly to Respondents, those Respondents, that requested and received a copy of this RFQ directly from the Department, will be sent a copy of any modifications or amendments to the RFQ by the Department.

13. Subcontracting. Prior written approval of the Department is required for any subcontracted service (which includes consultants) of the contract. Contractors are responsible for the performance and oversight of its subcontractors. Subcontractors are required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.
14. Affirmative Market Program (For Contracts over \$50,000 only, Not applicable to Grants). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs). As a result, Non-M/WBE Respondents are strongly encouraged to develop creative initiatives to help foster *new business relationships* with M/WBEs within the primary industries affected by this RFQ. The highest number of points will be awarded for Proposals that clearly illustrate how the proposed business relationship(s) will result in the development and growth of M/WBEs within these primary industries. A lesser number of points will be awarded for traditional subcontracting relationships. The least number of points will be awarded for ancillary uses of M/WBEs.

In order to satisfy this section, the Respondent must submit: the names, addresses, phone numbers and contact persons of each M/WBE firm; a description of each business relationship to be established; and the actual dollar amounts, or percentages, to be awarded to each M/WBE firm. MBE and WBE firms must submit a copy of their SOMWBA certification letter for the current period. A directory of SOMWBA certified firms is available via the internet at www.mass.gov/somwba. M/WBEs are strongly encouraged to submit Proposals to this RFQ, either as prime vendors, as joint venture partners, or as subcontractors.

A Minority Business Enterprise (MBE) or a Woman Business Enterprises (WBE) is defined as a business that has been certified as such by the State Office of Minority and Women Business Assistance (SOMWBA). Minority and women-owned firms that are not currently SOMWBA-certified but would like to be considered as an M/WBE for this RFQ should apply for certification. A fast track application is available, and will be considered for the purposes of this RFQ. For further information on SOMWBA certification contact the State Office of Minority and Women Business Assistance at (617) 727-8692 or via the internet at www.mass.gov/somwba.

15. The Commonwealth makes no guarantee that any commodities or services will be purchased from any contract resulting from this RFQ. Any estimates or past procurement volumes referenced in this RFQ are included only for the convenience of Respondents, and are not to be relied upon as any indication of future purchase levels.
16. Unless otherwise specified in this RFQ, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this RFQ to any manufacturer or proprietor or to constitute an endorsement of any commodity or service, and the Department may consider clearly identified offers of substantially equivalent commodities and services submitted in Proposal to such reference.
17. Alternatives. A Proposal which fails to meet any material term or condition of the RFQ, including the submission of required attachments, may lose points or may be deemed unresponsive and disqualified. Unless otherwise specified, Respondents may submit Proposals proposing alternatives which provide equivalent, better or more cost effective performance than achievable under the stated RFQ specifications. These alternatives may include related commodities or services that may be available to enhance performance during the period of the contract. The Proposal should describe how any alternative achieves substantially equivalent or better performance to that of the RFQ specifications. The Department will determine if a proposed alternative method of performance achieves substantially equivalent or better performance. The goal of this RFQ is to provide the best value of commodities and services to achieve the procurement goals of the Department. Respondents that propose discounts, uncharged commodities and services or other benefits in addition to the RFQ specifications may receive a preference or additional points under this RFQ as specified.
18. Contract Expansion. If additional funds become available during the contract duration period, the Department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFQ or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.
19. Environmentally Preferable Products and Services. At the Department's sole discretion, the Department and contractor may negotiate during the contract term to permit the substitution or addition of Environmentally Preferable Products (EPPs) when such products become available at a competitive cost and satisfy the Department's performance needs. Unless otherwise specified in the RFQ, during evaluation of Proposals, an EPP may be considered best value even when the price is greater than (but does not exceed 10% in price) that of a non-EPP. Respondents are encouraged to submit appropriate information to identify important environmental attributes of items being procured, even when such attributes are not being required. Information or technical assistance regarding EPPs may be obtain from OSD at 617.727.7500 ext. 351 or via the internet at <http://www.mass.gov/epp/products.htm>

20. **GIS Standards.** All GIS (Geographic Information System) data collected, compiled or created under this RFQ shall conform to standards developed or established by the Office of Geographic and Environmental Information (a/k/a MassGIS) within EEA. Such GIS data shall be made available to MassGIS upon request and at the reasonable cost of reproduction (cost to copy and/or transmit the data to MassGIS).
22. Nothing in this RFQ authorizes or purports to grant the right to any Respondent, governmental entity or other person to enter or remain on any public or private property. If access to any property is necessary in any way for any purpose, such as responding to this RFQ (e.g. surveying), that Respondent, governmental entity or other person must obtain appropriate permission authorizing such access from the person or governmental agency that has lawful control of the property.
23. **Anti-Collusion.** In reviewing Proposals to the RFQ and awarding a contract, the Department will strictly interpret all provisions of the RFQ, Proposal and contract and other state regulations to ensure that collusion or the appearance of collusion has not occurred at any stage of the contracting process. Any attempt to secure information about this procurement through procedures other than those outlined in this RFQ will be considered in violation of this provision and will result in disqualification of the Respondent.

Respondents must provide a statement with their Proposals certifying that all parties to this Proposal, including members of teaming arrangements agree that:

- A contract has not been solicited or secured, directly or indirectly, in a manner contrary to the laws of the Commonwealth of Massachusetts and that said laws have not been violated as they related to the procurement or the performance of the contract by any conduct, including the paying or giving of any fees, commission, compensation, gift, gratuity, or consideration of any kind, directly or indirectly, to any State employee, agent, officer or official; and
- Unless otherwise required by law, any information quoted in this Proposal, including prices, has not knowingly been disclosed by the respondent directly or indirectly to any other respondent or to any competitor and will not knowingly be disclosed by the respondent prior to award of a contract. Respondents are further advised that the contractor, including any of its employees, agents or representatives, is prohibited from paying or giving any fee, commission, compensation, gift, gratuity or consideration of any kind or amount, directly or indirectly, to any person connected with this procurement

24. **Debriefings and Appeals. (Applicable to Procurement of Services only, not applicable to Grants)** Any Respondent not selected may request a debriefing for the purposes of examining the Respondent's Proposal with a member of the RFQ review team. This debriefing will be solely for the purpose of examining this Proposal as submitted. Debriefings are designed to identify the weak areas of a Proposal and suggest improvements for future procurements. Comparisons with other Proposals will not be made during a debriefing.

If a Respondent is still unsatisfied with the selection process, that Respondent may submit a request in writing to EEA for a formal review of the RFQ section process by EEA staff.

In order to be considered for an appeal at EEA, the Respondent's request must meet the following criteria:

- 1) The request for formal review must be submitted (with a copy to the Contact Person for this RFQ identified above) via first class mail to:

Matthew A. Beaton, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street - Suite 900
Boston, MA 02114

- 2) The request must be submitted to EEA within 10 days of the date of the debriefing meeting. Attendance at a debriefing is a prerequisite to filing a formal request for review.
- 3) The request must detail specific allegations that:

- a) the department failed to comply with applicable purchase of service regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the *Procurement Policies and Procedures Handbook*, policies and procedures issued by OSD and the specifications of the RFQ; or
- b) there was a fundamental unfairness in the procurement process.

EEA may reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal. If EEA grants the request for a hearing, EEA will establish a date and time for a meeting with the Respondent that will allow the Respondent to present the allegations outlined in the request in person. The meeting will be scheduled by EEA within five days of receipt of the request.

Non-successful Respondents who participate in the EEA appeal process and remain aggrieved by the selection decision of the department may appeal the department decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the *Procurement Policies and Procedures Handbook*, subsequent policies and procedures issued by OSD, and the specifications of the RFQ; or
2. There was a fundamental unfairness in the procurement process. The allegation of unfairness or bias is one that is easier to allege than prove, consequently, the burden of proof rests with the Respondent to provide sufficient and specific evidence in support of their claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the Deputy Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure, which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above.

OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

The decision of the Deputy Purchasing Agent shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the Deputy Purchasing Agent shall not prohibit the department from proceeding with executing contracts.