**RFR - Required Specifications for Commodities and Services**

Revision Date: June 6, 2016

In general, most of the required contractual stipulations are referenced in the *Standard Contract Form* *and Instructions* and the *Commonwealth Terms and Conditions*. However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00.

The terms of *801 CMR 21.00: Procurement of Commodities and Services* are incorporated by reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00. Additional definitions may also be identified in this RFR. Other terms not defined elsewhere in this document may be defined in OSD’s [Glossary of Terms](http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/glossary-of-terms.html). Unless otherwise specified in this RFR, all communications, responses, 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 responses must be submitted in accordance with the specific terms of this RFR.

COMMBUYS Market Center. COMMBUYS is the official source of information for this Bid and is publicly accessible at no charge at [www.commbuys.com](http://www.commbuys.com/). Information contained in this document and in COMMBUYS, including file attachments, and information contained in the related Bid Questions and Answers (Q&A), are all components of the Bid, as referenced in COMMBUYS, and are incorporated into the Bid and any resulting contract.

Bidders are solely responsible for obtaining all information distributed for this Bid via COMMBUYS. Bid Q&A supports Bidder submission of written questions associated with a Bid and publication of official answers.

It is each Bidder’s responsibility to check COMMBUYS for:

* Any amendments, addenda or modifications to this Bid, and
* Any Bid Q&A records related to this Bid.

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders who submit a Quote based on an out-of-date Bid or on information received from a source other than COMMBUYS.

COMMBUYS Registration. Bidders may elect to obtain a free COMMBUYS Seller registration which provides value-added features, including automated email notification associated with postings and modifications to COMMBUYS records.  However, in order to respond to a Bid, Bidders must register and maintain an active COMMBUYS Seller account.

All Bidders submitting a Quote (previously referred to as Response) in response to this Bid (previously referred to as Solicitation) agree that, if awarded a contract: (1) they will maintain an active seller account in COMMBUYS; (2) they will, when directed to do so by the procuring entity, activate and maintain a COMMBUYS-enabled catalog using Commonwealth Commodity Codes; (3) they will comply with all requests by the procuring entity to utilize COMMBUYS for the purposes of conducting all aspects of purchasing and invoicing with the Commonwealth, as added functionality for the COMMBUYS system is activated; (4) Bidder understands and acknowledges that all references to the Comm-PASS website or related requirements throughout this RFR, shall be superseded by comparable requirements pertaining to the COMMBUYS website; and (6) in the event the Commonwealth adopts an alternate market center system, successful Bidders will be required to utilize such system, as directed by the procuring entity. Commonwealth Commodity Codes are based on the United Nations Standard Products and Services Code (UNSPSC).

The COMMBUYS system introduces new terminology, which bidders must be familiar with in order to conduct business with the Commonwealth. To view this terminology and to learn more about the COMMBUYS system, please visit the [COMMBUYS Resource Center](http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/conduct-a-procurement/commbuys/quick-click-resource-center.html).

Multiple Quotes. Bidders may not submit Multiple Quotes in response to a Bid unless the RFR authorizes them to do so. If a Bidder submits multiple quotes in response to an RFR that does not authorize multiple responses, only the latest dated quote submitted prior to the bid opening date will be evaluated.

Quote Content. Bid specifications for delivery, shipping, billing and payment will prevail over any proposed Bidder terms entered as part of the Quote, unless otherwise specified in the Bid.

Supplier Diversity Program (SDP). Massachusetts [Executive Order 565](http://www.mass.gov/governor/legislationexecorder/execorders/executive-order-no-565.html) reaffirmed and expanded the Commonwealth’s policy to promote the award of state contracts in a manner that develops and strengthens certified Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Minority and Women Nonprofit Organizations (M/WNPOs), Veteran Business Enterprises (VBEs), Service-Disabled Veteran-Owned Business Enterprises (SDVOBEs), Disability-Owned Business Enterprises (DOBEs), and Lesbian, Gay, Bisexual and Transgender Business Enterprises (LGBTBEs).

**Partnerships with M/WBEs, M/WNPOs, VBEs and SDVOBEs:** All bidders are **required** to make a significant financial commitment to partner with certified M/WBEs, M/WNPOs, VBEs and/or SDVOBEs certified or verified by the Supplier Diversity Office (SDO). Bidders must identify a commitment in the form of a specific percentage of sales made under the resulting contract that will be spent with an SDP Partner(s) on a Massachusetts fiscal year basis, using SDP Plan Form #1 – SDP Plan Commitment. This percentage commitment will extend for the life of any resulting contract.

This requirement extends to all bidders regardless of their certification status, and no bidder will be awarded a Contract unless and until the above requirement is met. Bidders may not list themselves or affiliates as SDP Partners. In order to ensure compliance with this section and encourage bidder participation, SDP Plans will be evaluated at 10% or more of the total evaluation score for all for Large Procurements (those with a total value of greater than $150,000). SDP Plan submission is encouraged but not required for Small Procurements (those with a total value equal to or less than $150,000).

Once an SDP commitment is approved, the agency will monitor the Contractor’s performance, and use the Contractor’s reported expenditures with M/WBEs, M/WNPOs, VBEs and SDVOBEs to fulfill their own SDP expenditure benchmarks. The Commonwealth reserves the right to contact SDP Partners at any time to request that they attest to the amounts reported to have been paid to them by the Contractor.

**SDP Forms:** Unless otherwise specified in the RFR, the following SDP forms are required to be submitted by the deadlines noted below in order to meet the mandatory participation requirements of the SDP:

| **SDP Plan Form #/Name** | **Submitted By** | **When Submitted** |
| --- | --- | --- |
| SDP Plan Form #1 – SDP Plan Commitment | All Bidders | With Bid Response |
| SDP Plan Form #2 – Declaration of SDP Partners | Newly Awarded Contractors | Within 30 days of contract execution |
| SDP Plan Form #3 – SDP Spending Report | Contractors | Within 45 days of the end of each quarter |

In addition to the requirements above, all bidders must follow the requirements set forth in the Supplier Diversity Program (SDP) Plan Section of the RFR. During the life of the contract, the Commonwealth reserves the right to expand the range of certified business categories available for SDP partnerships to all those mentioned above and/or request reports on the Contractors’ spending with such certified business categories.

**Supplier Diversity Program (SDP) Resources:**

* Lists of M/WBEs, M/WNPOs, VBEs, SDVOBEs, DOBEs and LGBTBEs certified or verified by the Supplier Diversity Office (SDO) are located at [www.mass.gov/sdo](http://www.mass.gov/sdo).
* Resources to assist Prime Bidders in finding potential Certified Partners can be found at [www.mass.gov/sdp](http://www.mass.gov/sdp).
* The Operational Services Division offers trainings on compliance with the SDP Plan requirements. Registration information for upcoming trainings can be found on the [Supplier Diversity Program Trainings](http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/procurement-prog-and-serv/sdo/sdp/supplier-diversity-program-services.html) webpage.

Agricultural Products Preference (only applicable if this is a procurement for Agricultural Products) - Chapter 123 of the Acts of 2006 directs the State Purchasing Agent to grant a preference to products of agriculture grown or produced using locally grown products.  Such locally grown or produced products shall be purchased unless the price of the goods exceeds the price of products of agriculture from outside the Commonwealth by more than 10%.  For purposes of this preference, products of agriculture are defined to include any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products, the raising of livestock, including horses, raising of domesticated animals, bees, fur-bearing animals and any forestry or lumbering operations.

Best Value Selection and Negotiation. The Strategic Sourcing Team or SST may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The SST and a selected bidder, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected bidder’s or contractor’s response which results in lower costs or a more cost effective or better value than was presented in the selected bidder’s or contractor’s original response.

Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department or any member of the SST regarding this RFR except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through COMMBUYS.

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 RFR 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.

Costs. Costs which are not specifically identified in the bidder’s response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.

Electronic Communication/Update of Bidder’s/Contractor’s Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current on COMMBUYS the email address of the bidder’s contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the SST, including requests for clarification. The SST and the Commonwealth assume no responsibility if a prospective bidder’s/awarded contractor’s designated email address is not current, or if technical problems, including those with the prospective bidder’s/awarded contractor’s computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the SST to be lost or rejected by any means including email or spam filtering.

Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller’s Vendor Web system. A link to the EFT application can be found on the [OSD Forms](http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html) page ([www.mass.gov/osd](http://www.mass.gov/osd)). Additional information about EFT is available on the [VendorWeb](https://massfinance.state.ma.us/VendorWeb/vendor.asp) site ([www.mass.gov/osc](http://www.mass.gov/osc)). Click on MASSfinance.

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronic Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and all information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the SST on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The SST will consider such requests on a case-by-case basis and communicate the findings with the bidder.

Executive Order 509, *Establishing Nutrition Standards for Food Purchased and Served by State Agencies.* Food purchased and served by state agencies must be in compliance with Executive Order 509, issued in January 2009.  Under this Executive Order, all contracts resulting from procurements posted after July 1, 2009 that involve the purchase and provision of food must comply with nutrition guidelines established by the Department of Public Health (DPH).  The nutrition guidelines are available at the Department’s website: [Tools and Resources for Implementation of Executive Order 509](http://www.mass.gov/eohhs/gov/departments/dph/programs/community-health/mass-in-motion/about-mim/components/tools-and-resources-for-executive-order-509.html).

HIPAA: Business Associate Contractual Obligations. Bidders are notified that any department meeting the definition of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will include in the RFR and resulting contract sufficient language establishing the successful bidder’s contractual obligations, if any, that the department will require in order for the department to comply with HIPAA and the privacy and security regulations promulgated thereunder (45 CFR Parts 160, 162, and 164) (the Privacy and Security Rules). For example, if the department determines that the successful bidder is a business associate performing functions or activities involving protected health information, as such terms are used in the Privacy and Security Rules, then the department will include in the RFR and resulting contract a sufficient description of business associate’s contractual obligations regarding the privacy and security of the protected health information, as listed in 45 CFR 164.314 and 164.504 (e), including, but not limited to, the bidder's obligation to: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information (in whatever form it is maintained or used, including verbal communications); provide individuals access to their records; and strictly limit use and disclosure of the protected health information for only those purposes approved by the department. Further, the department reserves the right to add any requirement during the course of the contract that it determines it must include in the contract in order for the department to comply with the Privacy and Security Rules. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Quote (Bid Response) Duration. Bidders Quotes made in response to this Bid must remain in effect for at least 90 days from the date of quote submission.

Prompt Payment Discounts (PPD). All bidders responding to this procurement must agree to offer discounts through participation in the Commonwealth Prompt Payment Discount (PPD) initiative for receiving early and/or on-time payments, unless the bidder can provide compelling proof that it would be unduly burdensome. PPD benefits both contractors and the Commonwealth. Contractors benefit by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Participation in the Electronic Funds Transfer initiative further maximizes the benefits with payments directed to designated accounts, thus eliminating the impact of check clearance policies and traditional mail lead time or delays. The Commonwealth benefits because contractors reduce the cost of products and services through the applied discount. Payments that are processed electronically can be tracked and verified through the Comptroller’s Vendor Web system. The PPD form can be found as an attachment for this Bid on [COMMBUYS](http://www.commbuys.com/).

Bidders must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the SST. The SST will review, negotiate or reject the offering as deemed in the best interest of the Commonwealth.

The requirement to use PPD offerings may be waived by the SST on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes, including marking by bidders of information as confidential during the quote submission process in COMMBUYS, shall be disregarded.

Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR 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 bidder requesting accommodation must submit a written statement which describes the bidder’s disability and the requested accommodation to the contact person for the RFR. The SST reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposesis prohibited by law.

Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Human and social service subcontractors are also required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.