

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

State House, Room 373
Boston, MA



Request for Response (RFR)

Document Title: Social Innovation Financing for Adult Basic Education—Intermediaries

Document Number: RFR ANF SIF ABEI

February 27, 2014

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SECTION 1. BACKGROUND, CONTEXT AND PURPOSE

A. OVERVIEW

Through this Request for Responses (RFR), the Executive Office for Administration and Finance (EOAF), in conjunction with the Executive Office of Education (EOE) seek to partner with social entrepreneurs to execute a limited number of pay for success contracts targeted at supporting adults so as to assist them in making successful transitions to employment, higher wage jobs, and/or higher education. The joint procurement issuers will be hereafter referenced as EOAF/EOE.

The pay for success contracts will be designed with the specific goal of increasing postsecondary degree or certificate attainment to improve education and employment outcomes over a six-year period for a significant segment of the adult population served.

This RFR specifically seeks responses from intermediaries and is being issued in conjunction with a separate RFR targeted towards service providers. Responders may make note of partnerships that they have in place or are currently considering with service providers or other organizations. EOAF/EOE will not, however, consider joint applications from service providers and intermediaries.

B. EOAF BACKGROUND

The Executive Office for Administration and Finance (EOAF) is responsible for fiscal and administrative policies that serve to ensure the financial stability, efficiency, and effectiveness of state government in furtherance of the Governor's agenda for the benefit of the residents of the Commonwealth.

The Executive Office of Education (EOE) was established on March 10, 2008 through Article 87 - An Act Reorganizing Certain Education Agencies. In partnership with the Commissioners and Departments of [Early Education and Care](#), [Elementary and Secondary Education](#), [Higher Education](#) and the [University of Massachusetts system](#), EOE is committed to advancing actions and initiatives that will improve achievement for all students and close persistent achievement gaps, and to creating a 21st century public education system that prepares students for higher education, work and life in a world economy and global society.

This RFR is being issued jointly by EOAF and EOE. EOAF will administer and provide oversight for all fiscal components. EOE will administer and provide oversight for all program components, including reviewing and approving program design and verifying that the program delivery models are consistent with the intentions of this RFR.

C. CONTEXT

In keeping with the Patrick Administration's on-going commitment to change the way government does business and to find savings and efficiencies across state agencies,

Massachusetts became the first state in the nation to pursue Social Innovation Financing (SIF) by issuing a competitive procurement for social services using “pay for success” contracts.

Innovative social service programs often have difficulty securing government funding because:

- One-year budget cycles make it difficult to finance long-term, preventive measures, particularly in social services;
- Tight budgets make state governments wary of putting taxpayer dollars at risk for new initiatives;
- Current funding is insufficiently focused on results and performance measurement, which allows less effective programs to persist and reduces the state’s capacity for innovation; and
- Preventive programs often don’t get funded out of the budgets they help reduce.

SIF allows the government to partner with private-sector organizations to expand promising programs and, through the use of pay for success contracts, pay only after success is demonstrated. Pay for success contracts are contracts in which payments to service providers (or to intermediaries who raise private sector funds to finance the operations of service providers) are made largely or entirely on the basis of achieving specific performance targets. As such, the state pays only for actual, rather than promised, results. In this model, the service provider’s intervention would be funded at least in part using funds raised up-front by the intermediary. The Commonwealth would then repay these funds only if success is demonstrated by the service provider..

The pay for success structure has numerous benefits, such as:

- Creating incentives for improved program performance and reduced costs;
- Allowing for more rapid learning about which programs work and which do not; and
- Accelerating the adoption of new, more effective solutions.

Given the length of time often required to measure outcomes accurately, pay for success contracts may be supported by partnerships with third party investors and/or intermediaries who supply service providers with operating capital and other expertise to support pay for success contracts with the government. Chapter 35VV of Chapter 10 of the General Laws authorizes the Secretary of Administration and Finance to enter into pay for success contracts with up to \$50 million in future payments secured by a pledge of the full faith and credit of the Commonwealth. The Commonwealth’s first two procurements have been focused on (1) juvenile justice—with the goal of reducing recidivism and improving education and employment outcomes for a significant segment of the youth who exit the juvenile justice and probation systems—and (2) chronic homelessness—with the goal of improving the well-being of chronically homeless individuals while simultaneously reducing Medicaid and other state costs.

Through this RFR, EOAF/EOE are seeking intermediaries to help develop program models, assemble service delivery teams, raise private sector capital to finance service provider operating costs, monitor and track outcome measures, and manage service provider performance throughout the duration of a multiyear pay for success contract.

EOAF/EOE have issued a separate RFR seeking innovative programming ideas from service providers who are interested in partnering with the Commonwealth to achieve the goals outlined below.

Depending on the structure of the project and related programs, contractors may need to enter into data privacy and security agreements with other state agencies.

D. GOALS FOR ADULT BASIC EDUCATION PROGRAMMING

Within the Department of Elementary and Secondary Education, the Office of Adult and Community Learning Services (ACLS) oversees and improves basic educational services for adults in Massachusetts. ACLS seeks to provide each and every adult who needs it with opportunities to develop literacy skills needed to qualify for further education, job training, and better employment, and to reach his/her full potential as a family member and productive worker. ACLS funds programs in Massachusetts to provide educational services to adults with academic skill levels below 12th grade, and/or adults who need English language skills to succeed. Through federal and state grants, ACLS funds a broad network of education providers/programs, including, but not limited to, local school systems, community-based agencies, community colleges, libraries, volunteer organizations, and correctional facilities. ACLS also funds family literacy and workplace education programs.

ACLS training is especially critical in helping students gain, maintain, and advance through employment that can sustain a family. While Massachusetts is rightfully regarded as a national leader in education, we are working hard to ensure robust opportunity for every resident. From 2009 to 2011, 11% of Massachusetts residents did not hold a high school diploma or equivalent; another 26% of residents had only high school degree. Perhaps unsurprisingly, 12% of Massachusetts households earned less than \$15,000 a year. The concern grows as one looks to the future. Experts predict that 60% of the net new jobs created over the next three decades will require at least some post-secondary education. Too many of the Commonwealth's residents are not fully prepared to be successful in a growing knowledge-based economy.

The Patrick Administration has prioritized investments in workforce development, of which adult basic education is an essential part. With almost \$30 million of annual funds administered through ACLS, dozens of community organizations seek to equip residents with the skills they need to pursue employment and other goals. In Fiscal Year 2012 alone, these organizations provided about 23,000 people with classes in Adult Basic Education (ABE) and English for Speakers of Other Languages (ESOL) all across the Commonwealth.

However, these programs have been consistently unable to serve at least another 16,000 individuals statewide who remain on a waitlist due to lack of funding. This group forms the target population for this project.

The project will attempt to serve approximately 1,000 students per year over a three-year service delivery period. By reducing the ABE/ESOL waitlist, EOAF/EOE seek to accomplish the following goals:

- Transition adults to employment, higher wage jobs, and/or higher education;
- Help close the skills gap;
- Generate new income and sales tax revenues from increase in employment and earnings;
- Reduce reliance on safety net programs; and
- Reduce incarceration costs.

SECTION 2. PROCUREMENT DETAILS

EOAF/EOE are issuing this RFR in accordance with 801 CMR 21.00, which governs the procurement of services by state agencies and requires a competitive procurement process, including the issuance of a RFR, for acquisitions of all commodities and services.

Words used in this RFR shall have the meanings defined in 801 CMR 21.00. 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

EOAF/EOE make no guarantee that a Contract, or any obligation to purchase any commodities or services, will result from this RFR.

EOAF/EOE reserve the right to amend this RFR at any time prior to the date the responses are due. Prior to March 24, 2014, any such amendment will be posted to the Commonwealth's procurement web site, www.Comm-PASS.com. From March 24, 2014 onward, any such amendment will be posted to the Commonwealth's new procurement web site, COMMBUYS. Respondents are cautioned to check these sites regularly, as they will be the sole method used for notification of changes.

All responses must be submitted in accordance with specifications in **Section 3**. For more information on the Commonwealth's procurement process, please visit the Comm-PASS resource center: <https://www.ebidsourcing.com/includes/resourceCenter.htm>.

A. ACQUISITION METHOD

Fee for service. Successful Respondents will enter into a service contract that establishes a reimbursement schedule based on negotiated performance benchmarks and outcomes.

B. SINGLE OR MULTIPLE CONTRACTS

EOAF/EOE anticipates entering into a limited number of initial contracts in this open enrollment procurement process, which may be opened at any time by EOAF/EOE in order to allow new Respondents to submit responses after the initial selection period as deemed necessary by and at the discretion of EOAF/EOE. Responses received during the open enrollment period will be handled in the same manner as any other RFR response. EOAF/EOE reserves the right to enter into negotiations sequentially and gradually over the next year.

C. ADDITIONAL CONTRACT AND RESPONSE INFORMATION

Accomplishing the goals of this RFR will likely require the coordinated efforts of several service providers, third party investors and intermediaries. EOAF/EOE therefore reserve

the right to bring multiple RFR Responders together for the negotiation of a single contract. Doing so will ensure that all necessary social innovation financing roles are filled. As such, an important part of the credibility of proposals will be an ability to demonstrate willingness and capability to collaborate effectively with other service entities. While intermediaries and providers are responding to separate RFRs, intermediary applications will be strengthened by letters of support from potential service provider partners.

D. USE OF PROCUREMENT BY SINGLE OR MULTIPLE AGENCIES

This RFR is being issued as a Multiple Department Procurement/Limited Department User Contract.

E. ANTICIPATED DURATION OF THE CONTRACT

Six-year contracts including a minimum of a three-year service delivery period, two years after the service period to allow for observation of outcomes, and one year for final evaluation of outcomes and wrap-up.

F. ANTICIPATED FUNDING, EXPENDITURES AND COMPENSATION STRUCTURE

The contractor will be reimbursed through a pay for success reimbursement system determined in contract negotiation.

G. RESPONDENT QUALIFICATIONS

Demonstrated capacity to perform one or more of the following functions, depending on the requirements of the program:

- a. Assemble and/or coordinate a team of service providers, including subcontracting relationships as needed;
- b. Lead or assist in the development of appropriate programming, utilizing evidence-based models;
- c. Raise, leverage, or provide private funds sufficient to cover operating costs and manage the relationship with project funders;
- d. Conduct ongoing administration and/or management of program to achieve performance targets;
- e. Oversee an independent evaluation of the program outcomes;
- f. Commit staff with expertise and experience in the policy area of interest to develop and manage the project; and
- g. Coordinate the efforts of the service provider, state entities, funders, independent evaluator, and any other parties over the course of the project.

The Commonwealth plans to select intermediaries based on the capabilities of each intermediary and the needs of the program. Different intermediaries may be selected for

different functions, and it is possible that not all functions will be needed. Respondents are not required to demonstrate the capacity to perform all of the functions and should focus their responses on those functions that they propose to provide.

SECTION 3. PROPOSAL SUBMISSION AND CONTENT REQUIREMENTS

A. SCHEDULE

a. Procurement Calendar:

Unless otherwise specified, the time of day for the following events shall be between 9:00 a.m. and 5:00 p.m., Eastern Standard Time. All other times specified in this RFR are Eastern Standard Time.

| Description | Date |
|---|-------------|
| RFR Release | 2/27/2014 |
| Deadline for Letter of Intent to Respond | 3/14/2014 |
| Deadline for Receipt of Written Questions | 3/21/2014 |
| Respondents' Conference | 3/28/2014 |
| Written Responses to Questions Posted | 4/4/2014 |
| Response Due Date | 4/18/2014 |
| Apparent Successful Respondents Announced | 6/13/2014 |

b. Deadline for Letter of Intent to Respond:

Parties that intend to respond to this RFR are strongly encouraged to notify EOAF/EOE of their intent to respond via email to social.innovation@state.ma.us. Submission of intent to respond is not required to submit a response to this RFR.

c. Deadline for Written Questions:

Final written questions regarding this RFR must be received no later than March 21, 2014 by email to social.innovation@state.ma.us. No phone calls please.

B. SUBMISSION INSTRUCTIONS

Please submit one original and five complete copies. Proposal must not be in excess of 50 pages (excluding required forms, tables listing client references, and resumes, which may be attached as exhibits).

Responses must be received by EOAF/EOE at the following address no later than 5:00 p.m. on April 18, 2014. Responses must be addressed to:

Social Innovation Financing RFR Response
Executive Office for Administration & Finance
State House, Room 373
Boston, MA 02133

Any responses received after the deadline will be rejected.

C. RESPONSE CONTENT AND FORMAT

Proposal must contain the following components:

a. Cover Letter

A cover letter signed by an individual authorized to negotiate for and execute the Contract on behalf of the Respondent, and that includes all of the following information (failure to submit a cover letter including all components may result in disqualification from consideration):

1. A statement that the submission is a response to EOAF/EOE's RFR for Social Innovation Financing for Adult Basic Education – Intermediaries;
2. The name and principal address of the Respondent organization;
3. A description of the type of legal entity the Respondent is (e.g. not-for-profit corporation, limited partnership, trust);
4. The name, address, e-mail, fax and telephone number of the Respondent's contact person; and
5. A statement that the Respondent's response is effective through the date that the Respondent executes a contract with EOAF/EOE.

b. Programmatic Response

The Programmatic Response should reflect the Respondent's understanding of social innovation financing as described in the overview of this RFR and should explain how the Respondent intends to use success-based contracting to increase the efficiency of government-funded service delivery, reduce costs to taxpayers, and accelerate innovation in ameliorating social problems for the target population.

The Programmatic Response should be written in a concise manner. EOAF/EOE will disregard material that is not directly relevant to the information requested below.

Responses must include the following information:

1. Organization Overview
 - i. Describe Respondent's mission and programs;
 - ii. Briefly describe the intermediary role(s) the Respondent seeks to provide and any experience in providing this type of service;
 - iii. Describe Respondent's organizational infrastructure as it relates to its capacity to deliver the Scope of Services listed below;

- iv. Describe prior experience in collaborating with public and/or private entities for service delivery, and provide letters of support from at least one such entity.

2. Scope of Services

- i. Demonstrate familiarity with the target population and the delivery of services to that population;
- ii. Respond to the following as appropriate for the intermediary role your organization envisions:
 - A) Discuss the program models that have the potential to meet the objectives of this RFR and the evidence base underlying the models;
 - B) Propose appropriate metrics for assessing the success of the program model and describe how the necessary data could be acquired;
 - C) Describe the means and methods for performance management throughout the duration of a multi-year contract as it relates to this specific RFR;
 - D) Describe the means and methods for raising and utilizing private sector funds;
 - E) Recommend a governance structure for the pay for success contract that (1) ensures that service providers with expertise with the target population have a significant role in decision making; (2) ensures that the Commonwealth will have sufficient oversight and participation in decision making to allow it to verify that the program delivery models are consistent with the intentions of this RFR; and (3) allows sufficient flexibility for the intermediary to produce the desired amount of learning, innovation and performance-based management;
 - F) Identify any questions or concerns related to EOAF/EOE's program goals set forth in this RFR, and/or obstacles to achieving such goals. Successful execution of a social innovation financing arrangement will require systems to support performance management, as well as the ability to measure outcomes and secure funding. EOAF/EOE understand that fulfilling all these requirements will likely require the coordinated efforts of multiple entities and will strive to ensure that all necessary roles and functions are provided by the partnership of organizations entering into a social innovation financing arrangement;

- G) If applicable, identify any other public and/or private entities, including sub-contractors, with which Respondent intends to collaborate in order to execute programming.

c. Cost Response

Respondents should submit a six-year pro forma budget that identifies anticipated operating costs for the intermediary role the Respondent proposes to undertake, including the costs of an independent evaluation of program outcomes. The budget should assume three years of service delivery followed by two years of observation and one year for final evaluation of outcomes and wrap-up. The budget should assume that services will be delivered in several different parts of the state.

Potential intermediaries are also encouraged to sketch a budget for the overall project, including the full costs of service delivery. Some program details are still uncertain. Nonetheless, for the purpose of constructing a budget for the overall project, please assume that (1) the project will attempt to serve approximately 1,000 students per year over the three-year service delivery period; (2) payments will be based on actual increases in employment and earnings observed during the project period, plus the net present value of expected earnings increases over participants’ lifetimes; (3) the annual cost savings to taxpayers for each additional dollar of earnings ranges from 30 cents to 70 cents, depending on the population being served; (4) the Commonwealth is willing to make up to one-third of the payments based on students who successfully transition to higher education; and (5) the Commonwealth seeks to have the budgetary cost of the initiative be no greater than the taxpayer savings produced.

Please include the following information in modeling the budget for the entire project:

| Percent of participants with increased earnings | Expected earnings increase per participant in Year One and Two | Assumption for annual decline (decay rate) in the program’s impact on earnings | Net present value of lifetime earnings increase (please use a 3% real discount rate) | Government savings per dollar increase | Government savings per participant |
|---|--|--|--|--|------------------------------------|
| | | | | | |

d. Supplier Diversity Program (SDP) Plan

Massachusetts Executive Order 524 established a policy to promote the award of State Contracts in a manner that develops and strengthens Minority and/or Women Business Enterprises (M/WBEs). As a result, M/WBEs are strongly encouraged to submit bid Responses to this RFR, either as prime vendors, joint venture partners or subcontractors. All Respondents, regardless of their certification status, are required to submit a completed SDP Plan Form as part of their Response for evaluation. It is required that Supplier Diversity Program participation accounts for no less than 10% of the total points in the evaluation.

The PMT requires Respondents to make a significant commitment to partner with certified Minority- and Women-Owned Businesses in order to be awarded a Contract. An SDO-certified (formerly SOMWBA-certified) Respondent may not list itself or an affiliate as being a Supplier Diversity Partner to its own company. In addition, a narrative statement can be included to supplement the SDP Plan Form providing further details of the SDP commitments. The submission of this narrative statement does not replace the requirement of the SDP Plan Form. Respondents must submit one form for each M/WBE SDP Relationship. **Please note that no Respondent will be awarded a Contract unless and until they agree to commit to at least one (1) of following three (3) SDP Components selected by the PMT:**

1. Subcontracting:

If Respondent commits to Subcontracting in their SDP plan, then they must commit to subcontract a specific dollar amount, or a minimum percentage of dollars earned through an awarded Contract, with an SDO-certified company. Although this is only one of several options to meet the requirements for participation in the Supplier Diversity Program, Respondent's submission of subcontracting commitments may be weighted most heavily. The PMT will set timelines for progress reviews (either quarterly or semi-annually) for the purpose of compliance and tracking of submitted commitments. Please note that all subcontracting partnerships require inclusion of that contract between the Respondent and the M/WBE subcontractor in the Respondent's bid package.

2. Ancillary Uses of Certified M/WBE Firm(s):

If a Respondent commits to Ancillary Uses of certified M/WBE Firm(s) (or companies that have applied for certification) in their SDP plan, then they must include dollar or percentage expenditure commitments for use of these firm(s) with or without the use of written commitments between the Respondent and the M/WBE Firm(s). A description of the ancillary uses of certified M/WBEs, if any, must be included on the SDP Plan Form.

3. Growth and Development:

If a Respondent commits to Growth and Development in their SDP plan, then they must submit a plan for education, training, mentoring, resource sharing, joint activities, and assistance that would increase industry capacity and the pool of qualified SDO certified companies.

Once an SDP Plan is submitted, negotiated and approved, the PMT will then monitor the Contractor's performance.

Resources available to assist Prime Respondents in finding potential M/WBE partners can be found at: [SDP Procurement Resources and Guides](#) or www.mass.gov/sdp

e. Forms

Respondents should submit one executed copy of all forms that are listed on the Forms and Terms tab for this RFR on Comm-PASS.

SECTION 4. EVALUATION AND SELECTION

All responses will be reviewed by EOAF/EOE to determine compliance with the response submission instructions described in **Section 3** and the Minimum Evaluation Criteria below. For those responses that comply with the Response submission instructions and Minimum Evaluation Criteria, a Procurement Management Team (PMT) designated by EOAF and EOE will evaluate and score the Programmatic and Cost Responses according to the Comparative Evaluation Criteria listed below.

A. MINIMUM EVALUATION CRITERIA

- a. The Proposal is complete.
- b. Neither the Respondent nor any proposed Contractor is currently subject to any state or federal debarment order or determination. A Respondent that was previously debarred, but is not presently debarred, may be disqualified if the PMT concludes that the circumstances of the debarment would render the Respondent inappropriate as a provider of the proposed services.

B. COMPARATIVE EVALUATION CRITERIA

The PMT will evaluate the Respondent's response according to the following criteria:

- a. Likelihood that the proposal will successfully achieve its stated outcomes, as well as the magnitude of such outcomes;
- b. Expertise with adult basic education and experience working collaboratively with innovative service providers;
- c. Ability to monitor success and measure outcomes, including counterfactuals;
- d. Ability to assemble, manage and/or oversee service provider organizations in order to achieve targeted outcomes;
- e. Ability to raise funding for service delivery operations as required;
- f. Demonstrated willingness and capability to collaborate effectively with state government organizations, service providers and other entities;
- g. Supplier Diversity Program (SDP) Plan: A demonstrated commitment to partner with a Certified Women- and/or Minority-Owned Business as evidenced in a completed Supplier Diversity Program (SDP) Plan as described in Section 3; and
- h. Completeness of application.

C. NON-QUALIFYING PROPOSALS

EOAF/EOE reserve the right to reject a Respondent's response at any time during the evaluation process if the Respondent:

- a. Fails to demonstrate to the PMT's satisfaction that it meets all RFR requirements;
- b. Fails to submit all required information or otherwise satisfy all Response requirements in **Section 3**;
- c. Has any interest that may, in the PMT's sole determination, conflict with performance of services for the Commonwealth or be anti-competitive; or
- d. Rejects or qualifies its agreement to any of the mandatory provisions of the RFR or the Commonwealth's standard Contract Terms and Conditions.

The PMT may determine non-compliance with an RFR requirement is insubstantial. In such cases, the PMT may seek clarification, allow the Respondent to make minor corrections, apply appropriate penalties in evaluating the Response, or apply a combination of all three remedies.

D. CLARIFICATIONS

The PMT may determine some element of a Respondent's response requires clarification to verify its responsiveness to the RFR or facilitate a fair comparison with competing proposals. In such cases, the Committee may seek clarification from the Respondent. All Respondents will be accorded fair and equal treatment with respect to any opportunity for clarification.

E. RECOMMENDATIONS AND SELECTION

After the PMT has completed the evaluation of all responses, the PMT shall make recommendations for negotiating partners to the Secretaries of Administration and Finance and Education who will jointly make decisions about negotiating partners and subsequently about contract awards. The Secretaries' decision will be based on the PMT's recommendation and on the best interests of the Commonwealth. All awards are contingent upon successful negotiation of the Contract terms.

F. CONTRACT SPECIFICATIONS

At any time during the contract period, EOAF/EOE reserve the right to negotiate changes to the original contract, performance specifications and performance outcomes/measures, consistent with the terms of this RFR, upon reasonable notice to the Contractor.

SECTION 5. GENERAL PROCUREMENT INFORMATION

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 RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00, if applicable). Additional definitions may also be identified in this RFR. 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.

Items with the text, "*☞ Required for POS Only*" specify a requirement for Purchase of Service (POS) human and social services procured under *801 CMR 21.00, Procurement of Commodities or Services, Including Human and Social Services* and *808 CMR 1.00, Compliance, Reporting and Auditing for Human and Social Service*.

Supplier Diversity Program (SDP). Massachusetts Executive Order 524 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Supplier Diversity Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All Respondents must follow the requirements set forth in the SDP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Respondents are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of this section and encourage Respondent's participation of SDP objectives, the Supplier Diversity Program (SDP) Plan for large procurements greater than \$150,000 will be evaluated at 10% or more of the total evaluation. Once an SDP Plan is submitted, negotiated and approved, the agency will then monitor the contractor's performance, and use actual expenditures with SDO certified contractors to fulfill their own SDP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size; however, submission of an SDP Plan is mandated only for large procurements over \$150,000.

This RFR will contain some or all of the following components as part of the Supplier Diversity Program Plan submitted by Respondents:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR;
- Ancillary use of certified M/WBE firms; and
- Growth and Development activities to increase M/WBE capacity.

A Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), M/Non-Profit, or W/Non-Profit, is defined as such by the Supplier Diversity Office (SDO). All

certified businesses that are included in the Respondent's SDP proposal are required to submit an up to date copy of their SDO certification letter. The purpose for this certification is to participate in the Commonwealth's Supplier Diversity Program for public contracting. Minority- and Women-Owned firms that are not currently certified but would like to be considered as an M/WBE for the purpose of this RFR should submit their application at least two weeks prior to the RFR closing date and submit proof of documentation of application for consideration with their bid proposal. For further information on SDO certification, contact their office at 1-617-502-8851 or via the Internet at mass.gov/SDO.

Supplier Diversity Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a Respondent's Supplier Diversity Program (SDP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

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 Procurement Management Team (PMT) may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The PMT and a selected Respondent, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected Respondent's or contractor's response 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 response.

Respondent Communication. Respondents are prohibited from communicating directly with any employee of the procuring department or any member of the PMT 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. Respondents may contact the contact person for this RFR in the event this RFR is incomplete or the Respondent is having trouble obtaining any required attachments electronically through Comm-PASS.

Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at www.comm-pass.com. Information contained in this document and in each tab of the Solicitation, including file attachments, and information contained in the related Respondents' Forum(s), are all components of the Solicitation.

Respondents are solely responsible for obtaining all information distributed for this Solicitation via Comm-PASS, by using the free Browse and Search tools offered on each record-related tab on the main navigation bar (Solicitations and Forums). Forums support Respondent submission of written questions associated with a Solicitation and publication of official answers. All records on Comm-PASS are comprised of multiple tabs, or pages. For example, Solicitation records contain Summary, Rules, Issuer(s), Intent or Forms & Terms and Specifications, and Other Information tabs. Each tab contains data and/or file attachments provided by the Procurement Management Team. All are incorporated into the Solicitation.

It is each Respondent's responsibility to check Comm-PASS for:

- Any addenda or modifications to this Solicitation, by monitoring the "Last Change" field on the Solicitation's Summary tab, and
- Any Respondents' Forum records related to this Solicitation (see Locating an Online Respondent Respondents' Forum for information on locating these records).

The Commonwealth accepts no responsibility and will provide no accommodation to Respondents who submit a Response based on an out-of-date Solicitation or on information received from a source other than Comm-PASS.

Comm-PASS SmartBid Subscription. Respondents may elect to obtain an optional SmartBid subscription which provides value-added features, including automated email notification associated with postings and modifications to Comm-PASS records. When properly configured and managed, SmartBid provides a subscriber with:

- A secure desktop within Comm-PASS for efficient record management;
- A customizable profile reflecting the subscriber's product/service areas of interest;
- A customizable listing in the publicly accessible Business Directory, an online "yellow-pages" advertisement;
- Full-cycle, automated email alert whenever any record of interest is posted or updated;
- Access to Online Response Submission, when allowed by the Issuer, to support:
 - paperless bid drafting and submission to an encrypted lock-box prior to close date;
 - electronic signature of OSD forms and terms; agreement to defer wet-ink signature until Contract award, if any;
 - withdrawal of submitted bids prior to close date; and
 - online storage of submitted bids.

Every public purchasing entity within the borders of Massachusetts may post records on Comm-PASS at no charge. Comm-PASS has the potential to become the sole site for all public entities in Massachusetts. SmartBid fees are only based on and expended for costs to operate, maintain and develop the Comm-PASS system.

COMMBUYS eProcurement System. All Bidders responding to this RFR agree that: (1) they will maintain an active Comm-PASS account until such time as the Commonwealth's new eProcurement system, COMMBUYS, replaces the Comm-PASS system; (2) they will maintain an active vendor account in COMMBUYS; (3) they will, if directed to do so by the procuring entity, activate and maintain a contract and technically compliant catalog in COMMBUYS; (4) 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; (5) Bidder understands and acknowledges that all references to the Comm-PASS website or related requirements throughout this RFR, including, but not limited to the Procurement Details and General Procurement Information sections, shall be superseded by comparable requirements pertaining to the COMMBUYS website upon replacement of the Comm-PASS system; and (6) in the event the Commonwealth adopts an alternate eProcurement system, successful Bidders will be required to utilize such system, as directed by the procuring entity.

To learn more about the COMMBUYS system, please visit:

<http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/conduct-a-procurement/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 Respondent'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 Respondents responding to this RFR.

Debriefing. *☞ Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful Respondents may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS Respondents aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Debriefing/Appeals: Administrative Appeals to Departments. *☞ Required for POS Only. Not applicable to non-POS Respondents.* Non-successful Respondents who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures may be found

in the RFR.

Debriefing/Appeals: Administrative Appeals to OSD. *☞ Required for POS Only. Not applicable to non-POS Respondents.* Non-successful Respondents who participate in the department 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 policies in the OSD Procurement Information Center, subsequent policies and procedures issued by OSD and the specifications of the RFR; 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 its 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 State 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 State 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 State Purchasing Agent shall not prohibit the department from proceeding with executing contracts.

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

Electronic Funds Transfer (EFT). All Respondents responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving

payments, unless the Respondent 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/osd) page (www.mass.gov/osd). Additional information about EFT is available on the [VendorWeb](http://www.mass.gov/osc) site (www.mass.gov/osc). Click on MASSfinance.

Successful Respondents, 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 Respondent 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 PMT on a case-by-case basis if participation in the program would be unduly burdensome on the Respondent. If a Respondent is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the Respondent.

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

- All copies should be printed double sided.
- All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.
- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non re-usable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
- Respondents should submit materials in a format which allows for easy removal and recycling of paper materials.
- Respondents are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, Respondents should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

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: [Executive Order # 509 Guidance](#).

Filing Requirements. *☞ Required for POS Only. Not applicable to non-POS Respondents*. Successful Respondents must have filed their Uniform Financial Statements and Independent Auditor's Report (UFR), as required for current contractors, with the Operational Services Division via the Internet using the UFR eFiling application for the most recently completed fiscal year before a contract can be executed and services may begin. Other contractor qualification/risk management reporting requirements and non-filing consequences promulgated by secretariats or departments pursuant to 808 CMR 1.04(3) may also apply. In the event immediate services are required by a department, a contract may be executed and services may begin with the approval of OSD and the appropriate secretariat. However, unless authorized by OSD and the appropriate secretariat, the contractor will not be paid for any such services rendered until the UFR has been filed.

HIPAA: Business Associate Contractual Obligations. Respondents 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 Respondent'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 Respondent 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 Respondent'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. Depending on the structure of the project and related programs, a contractor may need to enter into data privacy and security agreements with other state agencies. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Bid Duration. Respondents responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.

Pricing: Federal Government Services Administration (GSA) or Veteran's Administration Supply. The Commonwealth reserves the right to request from the successful Respondent(s) initial pricing schedules and periodic updates available under their GSA or other federal pricing contracts. In the absence of proprietary information being part of such contracts, compliance for submission of requested pricing information is expected within 30 days of any request. If the contractor receives a GSA or Veteran's Administration Supply contract at any time during this contract period, it must notify the Commonwealth contract manager.

Pricing: Price Limitation. The Respondent must agree that no other state or public entity customer within the United States of similar size and with similar terms and conditions shall receive a lower price for the same commodity and service during the contract period, unless this same lower price is immediately effective for the Commonwealth. If the Commonwealth believes that it is not receiving this lower price as required by this language, the Respondent must agree to provide current or historical pricing offered or negotiated with other state or public entities at any time during the contract period in the absence of proprietary information being part of such contracts.

Prompt Payment Discounts (PPD). All Respondents 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 Respondent 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 under the Forms and Terms tab of this solicitation.

Respondents must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the PMT. The PMT 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 PMT on a case-by-case basis if participation in the program would be unduly burdensome on the Respondent. If a Respondent is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Provider Data Management. *☞ Required for POS Only. Not applicable to non-POS Respondents.* The Executive Office of Health and Human Services (EOHHS) has

established a Provider Data Management (PDM) business service that is integrated into the Virtual Gateway. PDM is accessible by providers with current POS contracts. Departments may require that Respondents with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, Respondents are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Respondents are required to include the signed PDM Documentation Summary in their RFR response.

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 shall be disregarded.

Reasonable Accommodation. Respondents 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 Respondent requesting accommodation must submit a written statement which describes the Respondent's disability and the requested accommodation to the contact person for the RFR. The PMT reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Respondents 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 purposes is 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.