

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 Youth –
Intermediaries**

Document Number: RFR ANF SIF YI

January 18, 2012

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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 Health and Human Services (EOHHS), seeks to partner with entrepreneurs from the provider community to execute a limited number of pay for success contracts targeted at supporting youth aging out of the juvenile corrections and probation systems so as to assist them in making successful transitions to adulthood. The joint procurement will be hereafter referenced as EOAF/EOHHS.

The juvenile justice contracts will be designed with the specific goal of reducing recidivism and improving education and employment outcomes over a 6 year period for a significant segment of the 750 to 800 youth discharged from the juvenile corrections system at age 18 or 21 and the roughly 3,000 youth who complete their term of probation annually.

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/EOHHS will not, however, consider joint applications from providers and intermediaries.

B. BACKGROUND

The Executive Office for Administration and Finance is responsible for fiscal and administrative policies that serve to ensure the financial stability, efficiency, and effectiveness of state government and assist the Governor in developing and implementing cost-effective public policy initiatives to benefit the residents of the Commonwealth.

The Executive Office of Health and Human Services (EOHHS) is the largest secretariat in the Commonwealth, overseeing 17 state agencies, and employing more than 23,000 employees, making the secretariat the largest employer of Massachusetts residents. EOHHS works to achieve the highest levels of health and well-being for all residents of the state. Through the collective contributions of staff in the Executive Office and the Health and Human Service agencies that provide care to the citizens of Massachusetts, we address the diversity of need across the Commonwealth and ensure the delivery of high quality, comprehensive, convenient and effective health care that is integrated to enable all residents of the Commonwealth to be healthy and independent.

C. CONTEXT

Last May, in keeping with the Patrick-Murray 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 take formal steps

toward a comprehensive social innovation financing program. Social innovation financing, which includes social impact bonds and pay for success contracts, is a creative approach to supporting innovative service delivery programs.

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

- One year budget cycles make it difficult to finance long-term, preventative 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
- Preventative programs often don't get funded out of the budgets they help reduce.

Social innovation financing helps counteract these hurdles through the use of pay for success contracts. 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.

The benefits of the pay for success structure include:

- 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 accurately measure outcomes, pay for success contracts may also be supported through the use of social impact bonds. In such an arrangement, third party investors/intermediaries supply service providers with operating capital and other expertise to support pay for success contracts with the government. This approach is currently being piloted by the UK Justice Ministry as a way to finance services aimed at reducing post-release reoffending by prisoners. In the U.S., the Obama Administration has recently proposed spending up to \$100 million to test this approach.

In order to determine how to best utilize social innovation financing in Massachusetts, the Executive Office for Administration and Finance issued a Request for Information (RFI) under the title "Social Innovation Financing" on May 6, 2010.

Based on the information obtained from that RFI, as well as the Patrick-Murray Administration's commitment to reducing youth and urban violence, EOAF/EOHHS now seeks to execute a limited number of social innovation financing contracts targeted at serving youth aging out of the juvenile justice and probation systems.

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

EOAF has 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.

E. GOALS FOR JUVENILE JUSTICE PROGRAMMING

Within the Executive Office of Health and Human Services, the Department of Youth Services (DYS) is the juvenile justice agency of the Commonwealth of Massachusetts. Its mission is to protect the public and prevent crime by promoting positive change in the lives of youth committed to their custody, and to partner with communities, families, government and provider agencies toward this end. DYS accomplishes this mission through interventions that build knowledge, develop skills and change the behavior of the youth in its care.

In October 2006, Massachusetts was selected by the Annie E. Casey Foundation to participate in the Juvenile Detention Alternatives Initiative (JDAI), a nation-wide effort that focuses on reducing reliance on secure pre-trial detention, while at the same time strengthening the juvenile justice system.

Due in large part to this initiative, the number of young offenders in DYS custody has reached a historically low level. Pre-trial detention admissions have been reduced by 30 percent in the past 5 years. Annual commitments to the Department of adjudicated delinquents and youthful offenders have also been comparably reduced during this time. In 2010, 750 youth were committed to DYS, with a total Departmental caseload of about 2,000 youth in custody.

While the state has made significant progress in reducing the number of young offenders entering the system, the challenge of providing support for the roughly 750 youth who exit the juvenile justice system each year remains. At age 18 or 21, depending on sentencing, these youth are no longer deemed juveniles and age out of receiving public interventions and supervision. As such, these youth no longer receive systematic services as they re-enter the community, and roughly 30% are arrested and ultimately convicted for new offenses within one year of exiting the juvenile justice system.

The Massachusetts Probation Department faces a similar challenge with its juvenile probation risk-needs caseload. In 2010, the Department supervised approximately 2,000 individuals in the community on any given day. The Department averages 240 to 260 discharges from supervision each month. Too often, the gains made as a result of

probation supervision are lost after completion of the probation supervision period. For a variety of reasons, the supports and services critical to keeping young offenders on a positive path are not sustained post discharge. The loss of these supports and services leads to a subsequent return to offending behavior, arrest and incarceration for a significant portion of this population.

It is this group of individuals, known to these two systems to be at risk for failure, that forms the target population for this project.

Specifically, EOAF/EOHHS seeks to accomplish the following goals:

- Reduce recidivism rates for youth aging out of the juvenile corrections system;
- Increase positive outcomes for these youth, including but not limited to educational attainment, labor market success and housing stability; and
- Produce cost savings for the Commonwealth at least equal to the Commonwealth's expenditures on the program.

SECTION 2. PROCUREMENT DETAILS

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

EOAF/EOHHS reserves the right to amend this RFR at any time prior to the date the responses are due. Any such amendment will be posted to the Commonwealth's procurement web site, www.Comm-PASS.com. Bidders are cautioned to check this site regularly, as this will be the sole method used for notification of changes.

All responses must be submitted in accordance with specifications in **Section 3**.

A. ACQUISITION METHOD

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

B. SINGLE OR MULTIPLE CONTRACTS

EOAF/EOHHS anticipates entering into a limited number of initial contracts in this open enrollment procurement process, which may be opened at any time by EOAF/EOHHS in order to allow new Bidders to submit responses after the initial selection period as deemed necessary by and at the discretion of EOAF/EOHHS. Responses received during the open enrollment period will be handled in the same manner as any other RFR response. EOAF/EOHHS 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 therefore reserves 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 jointly by EOAF and EOHHS. EOAF will administer and provide oversight for all fiscal components. EOHHS will administer all program components, including reviewing and approving program design and oversight in order to protect the population being served from harm and verify that the program delivery models are consistent with the intentions of this RFR.

E. ANTICIPATED DURATION OF THE CONTRACT

Contracts will be multi-year including a minimum of a three-year service delivery period, with sufficient time before the service delivery period to build to full scale and with sufficient time after the service period to allow for evaluation of outcomes.

F. ANTICIPATED FUNDING, EXPENDITURES AND COMPENSATION STRUCTURE

The contractor will be reimbursed through a pay for success reimbursement system determined in contract negotiation. No public funding will come through EOHHS or its agencies.

G. BIDDER QUALIFICATIONS

Demonstrated capacity to perform 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 to cover operating costs and absorb risk if necessary;
- d. Conduct ongoing administration and/or management of program to achieve performance targets;
- e. Evaluate program outcomes.

The Commonwealth plans to select intermediaries based on the capabilities of each 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. Bidders are not required to demonstrate the capacity to perform all of the functions and should focus their response on those functions that they propose to provide.

SECTION 3. PROPOSAL SUBMISSION AND CONTENT REQUIREMENTS

A. SCHEDULE

a. Deadline for Written Questions:

Final written questions regarding this RFR must be received by email to social.innovation@state.ma.us. No phone calls with verbal questions, please.

b. Procurement Calendar:

Description	Date
RFR Release	01/18/2012
Deadline with Receipt of Written Questions	01/25/2012
Response Due Date	03/09/2012

B. SUBMISSION INSTRUCTIONS

Please submit one original and five complete copies.

Responses must be received by EOAF at the following address no later than 5:00 p.m. on March 9, 2012. Responses must be addressed to:

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

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 Bidder, 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/EOHHS's RFR for Youth Social Innovation Financing – Intermediaries;
2. The name and principal address of the Bidder organization;
3. A description of the type of legal entity the Bidder is (e.g. not-for-profit corporation, limited partnership, trust);

4. The name, address, e-mail, fax and telephone number of the Bidder's contact person; and
5. A statement that the Bidder's response is effective through the date that the Bidder executes a contract with EOAF/EOHHS.

b. Programmatic Response

The Programmatic Response should reflect the Bidder's understanding of social innovation financing as described in the overview of this RFR and should explain how the Bidder 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/EOHHS 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. Since DYS and Probation do not have legal jurisdiction over youth who have aged out of their systems, programs will need to develop effective

- means for engaging and maintaining a productive relationship with these youth on a voluntary basis.
- 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 safeguards against harm for the target population;
 - E) Describe the means and methods for raising and utilizing private sector funds;
 - F) 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 protect the population being served from harm and 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;
 - G) Identify any questions or concerns related to EOAF/EOHHS's program goals set forth in this RFR, and/or obstacles to achieving such goals, including Responder ability gaps. 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/EOHHS understands that fulfilling all these requirements will likely require the coordinated efforts of multiple entities. References to ability gaps will be used to ensure that all necessary roles and functions are provided by the partnership of organizations entering into a social innovation financing arrangement;
 - H) If applicable, identify any other public and/or private entities, including subcontractors, with which Respondent intends to collaborate in order to execute programming.

c. Cost Response

Respondents should submit a 6-year pro forma budget that identifies anticipated operating costs for the intermediary role the Bidder proposes to undertake. The budget should assume a one-year period for planning and program start-up, followed by three years of service delivery and two final years during which some services are maintained for the individuals who aged out in the prior three years

and performance is measured. The budget should also 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, the number of individuals to be served, and the sources (including state and private sources) and estimated total of cost savings to be realized by the Commonwealth. 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 300 youth per year over a 3-year service delivery period (6 total years including planning and start-up at the beginning and service maintenance and measurement at the end); 2) the total multi-year discounted value of cost savings to the state from avoiding recidivism by one individual during the first two-years after release from the DYS and Probation systems is \$30,000; and 3) the Commonwealth seeks to have the budgetary cost of the initiative be no greater than the savings produced.

If the recommended program delivery model would be substantially different if the reductions in other spending turned out to be twice as high per individual for whom recidivism was prevented, please describe the alternate model as well.

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 Bidders, 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 Bidders 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) Bidder 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. Bidders must submit one form for each M/WBE SDP Relationship. **Please note that no Bidder 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 a Bidder 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, a Bidder'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 Bidder and the M/WBE subcontractor in the Bidder's bid package.

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

If a Bidder 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 Bidder 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 Bidder 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 Bidders 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/EOHHS procurement management team 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 EOHHS 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 Bidder's response according to the following criteria:

- a. Likelihood that the proposal will successfully achieve its stated outcomes;
- b. Expertise with juvenile justice and youth services 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; and
- g. Completeness of application.

C. NON-QUALIFYING PROPOSALS

EOAF reserves the right to reject a Bidder's response at any time during the evaluation process if the Bidder:

- 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 Bidder 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 Bidder's response requires clarification to verify its responsiveness to the RFR or facilitate a fair comparison with competing proposals. In such cases, the PMT may seek clarification from the Bidder. All Bidders 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 EOAF and EOHHS of Administration and Finance 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/EOHHS reserves 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 Bidders 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. Bidders 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 Bidder'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 Bidders:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR;
- Ancillary use of certified M/WBE firms;
- 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 Bidder'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 Bidder'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 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 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. 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 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 Bidders' Forum(s), are all components of the Solicitation.

Bidders 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 Bidder 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 Bidder'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 Bidders' Forum records related to this Solicitation (see Locating an Online Bidders' Forum for information on locating these records).

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders 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. Bidders 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.

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.

Debriefing. *☞ Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful Bidders may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS Bidders 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 Bidders.* Non-successful Bidders 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 Bidders.* Non-successful Bidders 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 Bidder 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 Bidder's/Contractor's Contact Information. It is the responsibility of the prospective Bidder and awarded contractor to keep current 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 PMT, including requests for clarification. The PMT 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 PMT 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/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 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 PMT 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 PMT will consider such requests on a case-by-case basis and communicate the findings with the Bidder.

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.
- Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.
- Bidders 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, Bidders 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 Bidders.* Successful Bidders 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. 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. 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. Bidders 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 Bidder(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 Bidder 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 Bidder 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 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 under the Forms and Terms tab of this solicitation.

Bidders 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 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.

Provider Data Management. *☞ Required for POS Only. Not applicable to non-POS Bidders.* 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 Bidders with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, Bidders are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Bidders 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. 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 PMT 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 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.