

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
REQUEST FOR RESPONSES**

BUZZARDS BAY WATERSHED MUNICIPAL MINIGRANT PROGRAM FY07

**ENV 07 CZM 06
November 8, 2006**

TYPE OF PROCUREMENT: Grant
CONTACT PERSON: Sarah Williams
2870 Cranberry Highway
East Wareham, MA 02538
sarah.williams@state.ma.us
BID DUE DATE: Friday, December 15, 2006, by 4:00 PM
MULTIPLE CONTRACTS: Yes
BIDDERS CONFERENCE: None
ANTICIPATED BUDGET: \$112,000
DURATION OF CONTRACT(S): Contracts will end June 30, 2007, with the possibility of a 3 month extension, at the sole discretion of CZM and subject to available funds.
RESPONDENT ELIGIBILITY: Eligible towns include Fall River, Westport, Dartmouth, New Bedford, Acushnet, Fairhaven, Rochester, Mattapoisett, Marion, Wareham, Middleborough, Carver, Plymouth, Bourne, Falmouth, and Gosnold. **However, specific restoration and protection projects must lie principally within the Buzzards Bay watershed (see map in Appendix A).** Municipalities may submit one application per grant category; however, no municipality may be awarded more than \$50,000 through this solicitation. Municipalities may submit applications in partnership with other public or private organizations, or subcontract tasks, however, contracts will be awarded only to municipalities.
RFR DISTRIBUTION: Electronically using the Comm-PASS system. Bidders are advised to check Comm-PASS (www.comm-pass.com) for any addenda or modifications to the RFR. Modifications to the body of this RFR, specifications, terms and conditions, or which change the intent of this RFR are prohibited. Any unauthorized alterations will disqualify response.

I. Overview

The Executive Office of Environmental Affairs, through the Buzzards Bay National Estuary Program in the Massachusetts Office of Coastal Zone Management, announces that funding is available to assist eligible Buzzards Bay watershed municipalities in the protection of open space, rare and endangered species habitat, and freshwater and saltwater wetlands; to help restore tidally restricted salt marshes, to develop designs to remediate stormwater discharges threatening water quality, to provide support for mapping stormwater drainage networks, to update town parcel data, and to address problems in migratory fish passage. This work is being conducted in accordance with a Cooperative Agreement with the US EPA using federal funds.

II. 2006 GRANT ROUND SCHEDULE

RFR Release Date Wednesday, November 8, 2006
Question & Answer Period Closes Friday, December 1, 2006
Application Deadline Friday, December 15, 2006
Grant Awards Approx January 12, 2006

Contract	Shortly after the grant announcement, a contract will be executed between the awardee and the Commonwealth. A meeting will be convened to agree upon project parameters and schedule to be incorporated into the Scope of Services.
Reimbursement	After execution of contract, the awardee may submit a reimbursement invoice for specific tasks and/or deliverables. Reimbursement is generally made within 30 days subsequent to the receipt of a correctly executed invoice with appropriate backup and completed match certification. Only those tasks/deliverables completed after contract execution are eligible for reimbursement. Projects must be completed in their entirety by June 30, 2007.

III. INTRODUCTION AND BACKGROUND

The Buzzards Bay National Estuary Program¹ (NEP) has allocated \$112,000 (\$52,000 of federal grants and \$50,000 of state funds), to assist interested Buzzards Bay watershed municipalities in the protection of open space, rare and endangered species habitat, and freshwater and saltwater wetlands; to help restore tidally restricted salt marshes; and to remediate stormwater discharges threatening water quality. These funds have been made available through the Massachusetts State Legislature pursuant to implementation of Ch. 139 of the Acts of 2006, s.2, 2200-0100 in accordance with US EPA National Estuary Program Cooperative Agreements and are part of an ongoing Buzzards Bay Watershed Municipal Grant Program implemented by the Buzzards Bay National Estuary Program.

IV. GRANT PROGRAM: INSTRUCTIONS AND APPLICATION

A. Funding Limits

Applications to fund projects in any of the five categories below will be eligible for funding. No single project grant award may exceed \$25,000. Municipalities may submit one application per grant category; however, no municipality may be awarded more than \$50,000 through this solicitation. If a municipality applies in several categories, and the cumulative request of applications exceeds \$50,000, only the highest ranked proposals from that municipality will be considered for funding (if the proposals are competitive with other applications received.)

B. Project Types and Guidance

1) Stormwater Remediation Designs

Funds in this category will be used to develop designs for the remediation and treatment of stormwater, particularly those projects that treat stormwater to improve water quality in order to open or protect shellfish beds or protect public bathing beaches. Note that in this category, municipalities will not receive cash awards. Instead, for each project selected in this category, \$15,000 of available municipal grant funds will be set aside for engineering services to fund these awards. Any unspent funds in this category will be made available in a future municipal grant RFR. Municipalities will work with the Buzzards Bay NEP to develop conceptual plans mutually acceptable to the municipality and the Buzzards Bay NEP. Only discharges to impaired waters or 303(d) listed waters will be considered for funding, and the proposed remediation strategy must address the impairment.

All projects submitted to the Buzzards Bay NEP will proceed toward the development of conceptual plans. After site evaluation, it is possible that a viable conceptual plan cannot be developed for a site. For example, a combination of high water table and the lack of town-owned land near the discharge may make it impossible for

¹ The Buzzards Bay NEP is an advisory and planning unit of the Massachusetts Office of Coastal Zone Management within the Executive Office of Environmental Affairs. Information about the Buzzards Bay NEP is available at www.buzzardsbay.org

the construction of “end of the pipe” treatment options. At such sites, the Buzzards Bay NEP may look for upgradient stormwater reduction and pollutant source reduction strategies.

Once all viable conceptual plans are completed for all projects submitted, the Buzzards Bay NEP will rank the conceptual plans. The Buzzards Bay NEP will then conduct a solicitation to hire a private engineering firm to develop final site and stamped engineering designs for the top 3 or 4 ranked conceptual plans. When these final designs are complete, the Buzzards Bay NEP will then work with the municipality to secure additional state and federal funds to implement the final stormwater remediation plans.

For this category, municipalities must submit the following information in Part II of the application (**Suggestion: copy these bullets into Part II and modify them for your response**):

- Identify the specific pollutant(s) or impairment associated with the stormwater discharge that the town must address (e.g. fecal bacteria causing shellfish bed closures).
- Include a locus map showing any known drainage networks and presumed drainage watershed associated with the discharge and the name of the receiving waters.
- Provide any available water quality monitoring or shellfish bed closure information.
- State whether or not the discharge is within a closed shellfish area or at a swimming beach.
- State whether the town is willing to collect water samples of stormwater discharges if the Buzzards Bay NEP pays for the analysis of the samples.
- State whether the town owns land for site remediation. Or can the town obtain an easement, where the stormwater treatment could be located? (Attach a portion of an assessors map showing property bounds and potential locations of BMPs)
- State whether the town will want to consider BMPs that may require the road to be dug-up.
- State whether the municipality will dig a test pit, at its expense, to allow the Buzzards Bay NEP to evaluate soils and the water table at the site.
- State whether the municipality’s project lead will participate in necessary site visits (at least one) and meetings (at least three) to develop a conceptual stormwater remediation plan for the site.
- Explain what utilities are located at the site and how they might affect the selection of a BMP.
- If the conceptual plans developed through the above process are selected for the development of final designs and engineering plans, state whether the municipality agrees to have a representatives from the municipality’s Conservation Commission and the Department of Public Works meet with the Buzzards Bay NEP and private engineer, as necessary, to finalize designs for the stormwater remediation project.
- If final stormwater designs and engineering plans are developed through the process described above, state whether the municipality requires assistance from the Buzzards Bay NEP to develop a grant application to fund the implementation of those final designs.

Communities applying in this category must commit to meet their match by providing a project lead to help develop the conceptual plan for the site, attend site visits, and review conceptual plans. In their application, the municipality must also agree to have their DPW excavate any soils test pits required to evaluate the site. More meetings will be required if the project is selected for the preparation of final designs by an engineering firm.

Selection of municipal projects for design funding will be based on ratings of viability and effectiveness as determined by the Buzzards Bay NEP.

2) Stormwater Mapping Support

Municipalities may seek funds to hire student interns or temporary staff to expand upon or update efforts to map stormwater drainage networks in the Buzzards Bay watershed. Funds may not be used to pay salaries of existing staff.

The purpose of this program is to encourage municipalities to validate, use, and update the Buzzards Bay watershed stormwater drainage system database developed by the Buzzards Bay NEP and its partners (see <http://www.buzzardsbay.org/stormatlas.htm> for more information). Often DPWs or other departments lack staff time or expertise to update GIS stormwater databases. This funding will help municipalities meet this need.

In Part II of the application form, explicitly state the purpose of your request.

3) Wetland-Open Space-Habitat Restoration, Preservation, Acquisition or Protection Grants

Funds in this category will be used to fund projects that help permanently protect, restore, acquire, or preserve wetlands or upland open space for the purposes of habitat protection, wildlife protection, conservation and passive recreation purposes.

Funds may be used for a variety of purposes that meet these goals, including, but not limited to:

- a) Startup or seed money for restoration of wetlands, including development of designs.
- b) Appraisals, site evaluations, or professional land surveys of any parcels where wetlands, wetland buffer zones, or endangered species habitats are a major feature. These evaluations are intended for parcels that are expected to be available for public land purchases, permanent conservation restrictions or easements, or purchase by Lands Trust organizations.
- c) Outright purchase of parcels where wetlands, wetland buffer zones, or endangered species habitats are a major feature, and the purchase price of the parcel is \$8,000 per acre or less.
- d) Municipal acquisition of Conservation Restrictions to permanently protect a parcel from development, particularly on those parcels where wetlands, wetland buffer zones, or endangered species habitat are a major feature. Work may be conducted in partnership with Lands Trusts.
- f) Restoration of tidally restricted salt marshes (see the *Atlas of Tidally Restricted Salt Marshes in Buzzards Bay Watershed* at <http://www.buzzardsbay.org/smatlasmain.htm>).
- g) Removal of fill or other alterations to inland and coastal wetlands. Municipalities are encouraged to review the *Selected Inventory of Potential Wetland Restoration Sites in the Buzzards Bay Watershed. Phases I and II* on the www.buzzardsbay.org website. Projects required by wetland enforcement orders or relating to a wetlands violation under adjudicatory review are not eligible for funding.

Parcels that include appreciable uplands will be considered if their protection provides benefits in the protection of wetlands, wetland habitat, water quality (including groundwater), endangered species habitat, or wetland or aquatic species.

In Part II of your application, explicitly state the purpose of your request.

4) Acquisition or Update of Town Parcel GIS Data

Funds are available to address serious errors in positional accuracy and GIS registration of parcel boundaries, or to update existing GIS coverages that do not include new subdivisions and other parcel boundary changes for at least the past five years. Updated GIS data must be provided to the Buzzards Bay NEP as a deliverable under this grant.

Describe in detail the tasks to be undertaken. Municipalities must agree to meet at least Level 1 compliance standard identified by MassGIS as standards for municipal assessors map data sets, as described in the link at: <http://www.mass.gov/mgis/standards.htm> - [Parstandard](#). Funds may be used for subcontracts or to bring on temporary staff to complete the work.

5) Biorhythmic Fish Passage and Habitat Restoration

Proposals should address problems in the migration of fish between fresh water and salt water bodies, including, but not limited to herring, shad and eels. Projects may identify costs of design, construction, or both.

Describe in detail the work to be completed, the location of the work, describe existing structure, and the expected time frame for completion of the work. Identify the individual who will coordinate the effort or play a key role. Describe the fish species that will benefit from the work. Provide any available historic fish population data if available, the acreage of the upstream spawning area, and any estimates of fish populations that might be expected. Describe also, any other follow-up or management actions planned to manage or enhance the restoration project.

C. Required Match

A match must be provided that will equal or exceed 33 percent of requested funds. This match can be satisfied with cash or in-kind services. Any match expenditures made by the town after January 1, 2006 can be credited to the town's match requirement. Please note that any match claimed on the application will be considered an estimate and not a commitment at the time of application. Final match will be documented in awarded contracts between the Commonwealth and the municipality.

D. Application Process

A complete application consists of a brief cover letter on town stationary signed by a municipal official, the three-page application form (note: page 2 will vary by category), and any other optional or required supplemental materials attached to the application form. For site-specific projects, a locus map of the project must be attached. Projects undertaken in partnership with other organizations must include support letters stating their specific commitments. Applicants should open or copy the application form into a word-processing program and type their responses.

Funds may be used to match state grants in any of the aforementioned categories as part of another grant application, and such projects will receive higher ratings. Where feasible, municipalities are encouraged to form partnerships with private lands trusts to make proposals more cost effective by leveraging additional support.

The application form must be received by:

Sarah Williams
Buzzards Bay NEP
2870 Cranberry Highway
East Wareham, MA 02538

by 4:00 P.M Friday, December 15, 2006. Fax and/or email submissions will not be accepted. Additionally, postmarks are not accepted as verification of date of submission.

The following standard forms are required to be submitted with the response:

NOTE: All forms must be signed by the organization's/municipality's authorized signatory.

- Commonwealth Standard Terms & Conditions
- Request for Taxpayer Identification Number and Certification (W-9)
- Contractor Authorized Signature Verification Form
- Northern Ireland Notice and Certification
- Contractor Mandatory Submission Form

All forms may be obtained electronically via the Operational Services Division (OSD) website on the right hand side under "Related Links", at:

http://www.mass.gov/portal/index.jsp?pageID=osdmodulechunk&L=1&L0=Home&sid=Aosd&b=terminalcontent&f=osd_forms&csid=Aosd

Failure to submit any of the required forms may be grounds for disqualification.

Incomplete or incorrectly submitted applications will be disqualified. Qualified applications will be judged on a competitive basis according to the selection criteria. If there are insufficient qualifying eligible proposals to utilize all funds, remaining funds will be directed to the next Buzzards Bay NEP Municipal Minigrant round.

A review committee composed of Buzzards Bay NEP staff will evaluate all proposals on a competitive basis. The review committee may include a non-governmental representative to serve in an advisory role to the committee. The review committee reserves the right to reject any or all proposals that they deem do not meet the intent of the federal Cooperative Agreement under which the funds have been provided.

The Application for the Buzzards Bay Municipal Minigrants begins on the following page.

E. Evaluation Criteria

Grants will be competitively selected based on the criteria below. The scoring sheet to be used is in Appendix B.

- 1) Documentation of need or degree of environmental impairment: 5 points max
- 2) Expected environmental benefits of proposed work: 5 points max
- 3) Estimated cost effectiveness for implementation: 6 points max
- 4) Match provided: 3 points max
- 5) Partnerships formed: 2 points max
- 6) Project directly benefits special habitat (Ten bonus points possible as follows: Natural Heritage Rare and Endangered Species Program area, add 3 points; NHESP BioMap area, add 2 points; salt marsh >50% of area, add 3 points; freshwater wetlands >50% of area, add 2 points; in well recharge Zone II area, add 3 pts; benefits 303(d) listed area or closed shellfish bed, add 5 pts)

F. Inquiries about the RFR

Questions about this RFR can be submitted in writing by mail, fax, or email to the Municipal Grant Coordinator through 4 PM, Friday, December 1, 2006. Responses to questions, if any, will be sent in writing and posted on the Buzzards Bay NEP website www.buzzardsbay.org/funding by Wednesday, December 6, 2006, as well as on www.Comm-Pass.com. These answers are for clarification purposes only and do not constitute an amendment to the RFR unless expressly stated as such.

G. Contract Awards and Administration

Applicant will receive a written notification from the Buzzards Bay NEP as to whether they have been selected for funding, subject to final contract execution. Awards will be executed via a standard Terms and Conditions Contract between the Commonwealth of Massachusetts Executive Office of Environmental Affairs and the municipality soon after selection. A municipal contact must be identified for contract administration. The appropriate municipal legal authority must sign contracts. Contract funds are awarded on a reimbursement basis for expenditures made during the period of the contract. Expenditures made outside of the period of the executed contract are ineligible for reimbursement. Payments are wired electronically to municipal accounts by the state Comptroller. Projects must be completed in their entirety by June 30, 2007. The awarded contract will be reviewed during its course, and, upon request by the contractor, may be extended, at the sole discretion of CZM, subject to available funds, for a period appropriate to the circumstances, but not exceeding three months. However, requests for extension are strongly discouraged and will be considered only under extraordinary circumstances.

I. Supplemental Terms and Conditions

The Supplemental Terms and Conditions attached in Appendix C are incorporated into this RFR.

BUZZARDS BAY WATERSHED MUNICIPAL MINIGRANT PROGRAM FY06

Grant Application Form

RFR ENV 07 CZM 0x

Parts I-III must be submitted for each proposal submitted by a municipality

PART I- Proposal Overview

Proposal title: _____

Proposal Category: ___ Stormwater designs ___ Stormwater mapping ___ Migratory Fish
___ Wetlands/Open Space/Habitat Restoration or Protection ___ Town parcel GIS

[Note: Check only one box. Municipalities may only submit one application under any given category. A separate application form (Parts I-III) is required for each proposal if a municipality is applying under more than one category. Requests under any one category may not exceed \$25,000.]

Municipality to administer grant: _____

Participating municipality (-ies): _____

Proposal contact: _____ Title: _____

Phone: _____ Fax: _____

Project manager (if different): _____ Title: _____

Phone: _____ Fax: _____

Amount requested: _____ Total Match: _____
(Match must be at least 1/3 of requested. For stormwater design requests, enter NA)

Amount Requested + Total Match = _____

Location of Proposed Work: _____

Check if true: ___ The town/city of _____ has previously received grants from DEP, EOE, CZM, or the Buzzards Bay NEP and the necessary signed contract forms² are, to the best of our knowledge, on file.

Note: If you check this statement as true, do not submit the supplemental forms. If the proposal is selected, and these forms are not found on file, a new "Standard Contract Form" and "Contractor Authorized Signature Verification Form" must be completed before execution of a new contract. These forms are not used in the selection process.

2 1. Commonwealth Terms and Conditions. 2. W-9, 3. Contractor Mandatory Submissions Form, and 4. Northern Ireland Notice and Certification, Signature Verification Form

PART II- Proposal Detail

For remediation, restoration, and acquisition projects, attach a locus map. For stormwater projects identify the number of discharges and extent of the drainage network to the greatest extant practical, and specify the pollutants of concern. Be sure to include all the required information necessary to evaluate your request, as stated in Section B. Project Types and Guidance, of the RFR.

Part III Budget and Match (this page is required for all grant proposal categories)

A. Budget [Note: For the Stormwater Design Project proposals, leave this section blank.]

Break down how you will spend the grant money budget by categories. Enter \$0 if category is not applicable:

Personnel*: \$ _____
 Position: _____ Hours: _____ Rate: _____

* Funds should not be requested for positions already appropriated in the municipal budget. Municipal administration services should be included in the match section.

Contractual: \$ _____ Explain: _____
 \$ _____ Explain: _____
 \$ _____ Explain: _____

(e.g. land appraisers, equipment rentals, hired private firms)

Supplies & Materials: \$ _____ Explain: _____
 \$ _____ Explain: _____
 \$ _____ Explain: _____

(e.g. culvert pipe, fencing, equipment rentals, etc.)

Other: \$ _____ Explain: _____
 \$ _____ Explain: _____
 \$ _____ Explain: _____

B. Proposed Match: (Note: Any match expenditures made by the town after January 1, 2006 can be credited to the town's match requirement). Please note that any match claimed below will be considered estimates and not a commitment at this time. Final match will be documented in awarded contracts between the Commonwealth and the municipality. Requests for stormwater treatment designs need not complete this section).

Cash: _____ (a) Source: _____

In kind: _____ (b)

i: Materials and supplies: _____

ii: Administrative and Direct Costs _____

iii. Personnel (list by title, hourly rate, etc.) _____

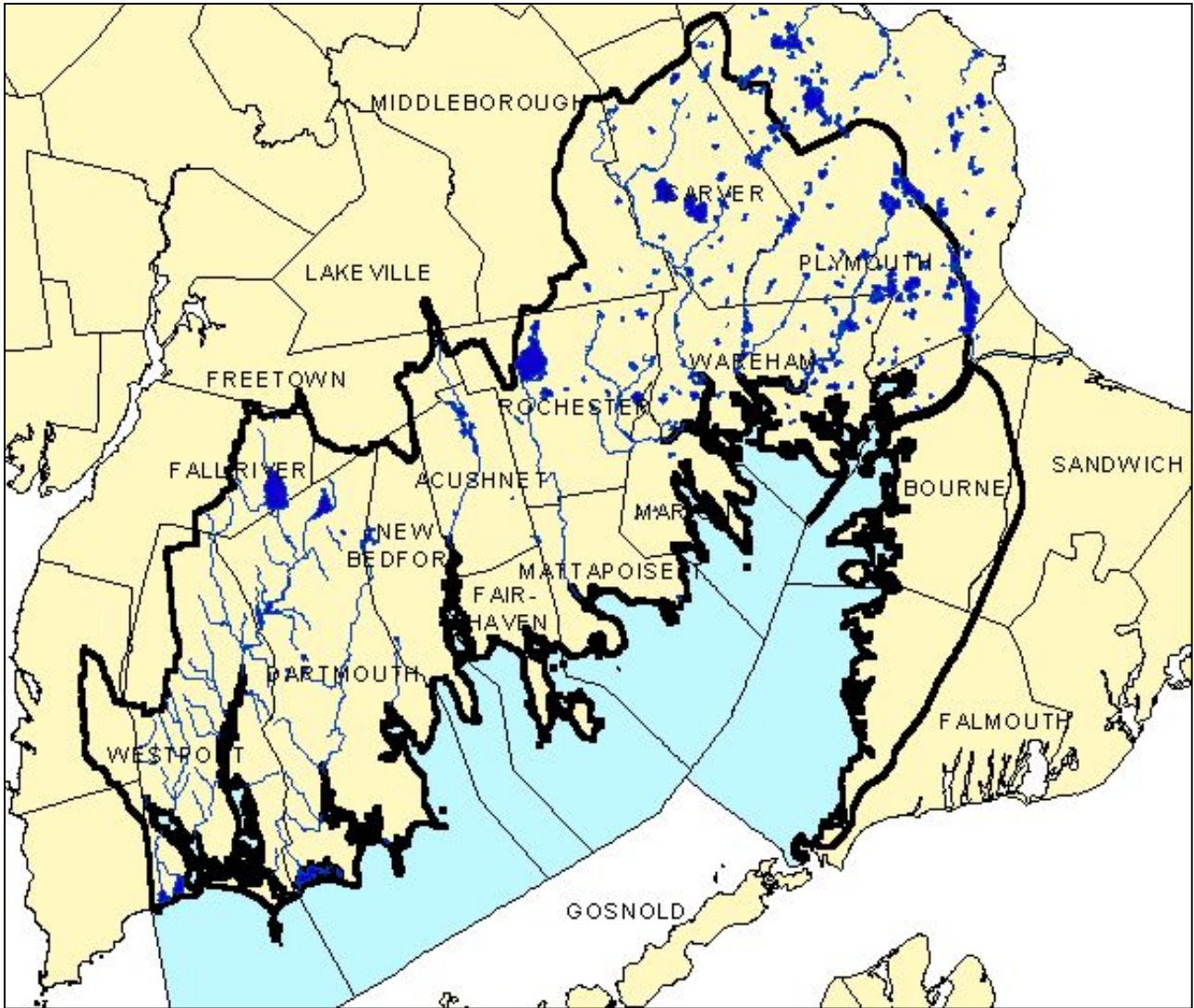
	Hours	Rate	Total
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

TOTAL MATCH (Cash+In kind): _____ (a+b)

Explanations, if any:

End of application

Appendix A



Projects must be principally located in the Buzzards Bay watershed as delineated by the bold black line. Projects in Gosnold must be on the Buzzards Bay half of the island.

Appendix B - Scoring Sheet for Buzzards Bay Minigrants ENV 07 CZM 0x

Town Applying: _____ **Project :** _____

Amount Requested: _____ **Reviewer:** _____ **Total Pts (26 max)**
Rank among all proposals received: _____ (1= best) of _____ (total)

1) Documentation of need or degree of environmental impairment _____ pts (5 points max)

Scoring: 1(low) to 5 points based on a review of seriousness and magnitude of the identified environmental impairments or potential threats to the environment or natural resources. Is action really needed to protect or restore living resources, water quality, or wetlands?

Reviewer Comments:

2)Expected Benefits _____ pts (10 points max)

Score according to only one set of criteria described a, b, and c.

a) Expected Environmental Benefits of Restoration Projects

Scoring: 0=none to 9=considerable. Evaluate the degree that implementation of the project will restore water quality, living resources, or habitat.

b) Expected Planning Benefits of Data Collection and Planning Projects

Scoring: 0=none to 9=considerable. Evaluate the degree that completion of data acquisition or planning work is expected to help municipalities in their efforts to protect or restore water quality, living resources, or habitat.

c) Expected Land and Habitat Protection Benefits of Land Acquisition and Protection Projects

Scoring: 0=none to 9=considerable. Evaluate the degree that land acquisition or protection is expected to help municipalities in their efforts to protect or restore water quality, living resources, or habitat.

[For a) through c), in your scoring, consider whether the proposal benefits or contains Natural Heritage Rare and Endangered Species Program areas, BioMap areas, or if salt marsh, wetlands, shellfish or other resources are important at the site.]

Reviewer Comments:

3) Cost effectiveness _____ pts (6 points max)

Divide the funding request amount by the number of points awarded in item 2 to help guide your evaluation. The lower this number, the higher the points awarded should be. Evaluate whether the expenditures principally relate to achieving environmental benefits. (\$ requested/exp. benefit points=_____)

Reviewer Comments:

4) Partnerships formed _____ pts (2 points max)

Where partnerships are established with other municipalities, lands trusts, citizens groups or other organizations, 2 points are awarded.

Reviewer Comments:

5) Match provided _____ pts (3 points max)

(1 to 3 points, based on cash, in-kind, and land value contributions. Required match must be non-federal sources. Meets required 33% of requested funds =1 point, 40% to 100% of requested funds = 2points, more than 100% of requested funds = 3 points) For stormwater design requests, award up to 3 points if municipality agrees to attend all meetings, dig test pits, and use road layout if necessary).

Overall Comments:

Signature: _____

Date: _____

**APPENDIX C - REQUEST FOR RESPONSES (RFR)
EOEA SUPPLEMENTAL TERMS AND CONDITIONS**

1. For the purposes of these *Supplemental Terms and Conditions*, Department shall mean the Executive Office of Environmental Affairs (EOEA) and the office requesting Responses as identified within this RFR.
2. These *Supplemental Terms and Conditions* are incorporated by reference into this RFR. If any amendment, attachment [not including the Commonwealth's *Standard Terms and Conditions*, *Standard Form Contract*, or any other form jointly published by the Executive Office for Administration and Finance (EOAF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD), or any provision or form required by State or Federal law] or other part of this RFR deletes, modifies, replaces or otherwise contains language that conflicts with these *Supplemental Terms and Conditions*, these *Supplemental Terms and Conditions* shall supersede and control to the extent necessary to accomplish these conditions. The remaining provisions of this RFR shall remain in effect and enforced to the fullest extent permitted.
3. The Commonwealth's *Standard Terms and Conditions* [as currently and jointly issued by EOAF, CTR, and OSD] are incorporated by reference into this RFR. To the extent that any amendment, attachment, condition or other part of this RFR deletes, modifies, replaces or otherwise contains language that conflicts with the Commonwealth's *Standard Terms and Conditions*, the official printed language of the Commonwealth's *Standard Terms and Conditions* shall supersede and control to the extent necessary to accomplish its conditions. The remaining provisions of this RFR shall remain in effect and enforced to the fullest extent permitted.
4. The terms of 801 CMR 21.00: Procurement of Commodities and Services (and 808 CMR 1.00: Compliance, Reporting and Auditing for Human and Social Services, if applicable) are incorporated by reference into this RFR. For Grants, 815 CMR 2.00: Grants and Subsidies shall apply and be incorporated into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00 or 815 CMR 2.00, if applicable). Additional definitions may also be identified in this 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. No electronic Responses may be submitted in Response to this RFR.
5. Respondent Communication. Respondents are prohibited from communicating directly with any employee of EOEA 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.
6. Reasonable Accommodation. Respondents with disabilities or hardships that seek reasonable accommodation, which may include the receipt of this 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 Department reserves the right to reject unreasonable requests.

The Department may require the Contractor to provide all materials, software, maps, studies, reports, and other products or data in alternative formats upon request.
7. Public Records. All Responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L. Chapter 66, section 10 and Chapter 4, section 7(26). Any statements in submitted Responses that are inconsistent with the Public Records Law shall be void and disregarded.
8. All materials, software, maps, studies, reports, and other products or data, regardless of physical form or characteristics, produced in furtherance of the Contract and funded, in whole or in part, under the Contract shall be considered in the public domain and available to EOEA or its agencies at the reasonable cost of reproduction in any of the formats in which it is stored or maintained. The Contractor shall not obtain, attempt to obtain or file for a patent, copyright, trademark or any other interest in any such materials, software, maps, reports, and other products or data without the express, written consent of the Department and subject to any other approvals required by state or federal law.

9. Best Value Selection and Negotiation. The Department may select the Response(s), which demonstrates the best value overall, including proposed alternatives, that will achieve the procurement goals of the Department. The Department and a Selected Respondent, or a Contractor, may negotiate a change in any element of contract performance or cost identified in the original 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.
10. The Department reserves the right to fund a portion, change the scope, and/or delete tasks of any Response to more closely meet the purposes of the program or to obtain the best procurement value for the Department. Selected Respondents may decide not to enter into a contract if the revised scope does not meet its approval. The Department does not guarantee that any Contract will be awarded under the RFR. Any potential Contract with a Selected Respondent shall be subject to the appropriation and availability of funds.
11. Costs. Costs that are not specifically identified in the Respondent's 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.
12. Comm-PASS. This RFR has been distributed electronically using the Comm-PASS system, RFR attachments that are referenced will be found either as separate .pdf files along with the RFR at www.comm-pass.com, or in the "OSD Forms" section at www.mass.gov/osd. Respondents are solely responsible for obtaining and completing required attachments that are identified in this RFR and for checking Comm-PASS for any addenda or modifications that are subsequently made to this RFR or attachments. The Commonwealth and its subdivisions accept no liability and will provide no accommodation to Respondents who fail to check for amended RFRs and submit inadequate or incorrect Responses. Respondents are advised to check the "last change" field on the summary page of RFRs for which they intend to submit a Response to ensure that they have the most recent RFR files. Respondents may not alter (manually or electronically) the RFR language or any RFR component files. **Modifications to the body of the RFR, specifications, terms and conditions are prohibited and may disqualify a Response.** Respondents having difficulty obtaining any required attachments electronically through Comm-PASS should seek assistance from the contact person for this RFR.

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

13. Northern Ireland Notice and Certification. All Respondents must complete the "Northern Ireland Notice and Certification" form to satisfy M.G.L. Chapter 7, section 22C.
14. Subcontracting. Prior written approval of the Department is required for any subcontracted service (which includes consultants) of the contract. Contractors are responsible for the performance and oversight of its subcontractors. Subcontractors are required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.
15. Affirmative Market Program (For Contracts over \$50,000 only, Not applicable to Grants). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs). As a result, Non-M/WBE Respondents are strongly encouraged to develop creative initiatives to help foster *new business relationships* with M/WBEs within the primary industries affected by this RFR. The highest number of points will be awarded for Responses that clearly illustrate how the proposed business relationship(s) will result in the development and growth of M/WBEs within these primary industries. A lesser number of points will be awarded for traditional subcontracting relationships. The least number of points will be awarded for ancillary uses of M/WBEs.

In order to satisfy this section, the Respondent must submit: the names, addresses, phone numbers and contact persons of each M/WBE firm; a description of each business relationship to be established; and the actual dollar amounts, or percentages, to be awarded to each M/WBE firm. MBE and WBE firms must submit a copy of their SOMWBA certification letter for the current period. A directory of SOMWBA certified firms is available via the internet at

www.mass.gov/somwba. M/WBEs are strongly encouraged to submit Responses to this RFR, either as prime vendors, as joint venture partners, or as subcontractors.

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

16. The Commonwealth makes no guarantee that any commodities or services will be purchased from any contract resulting from this RFR. Any estimates or past procurement volumes referenced in this RFR are included only for the convenience of Respondents, and are not to be relied upon as any indication of future purchase levels.
17. Unless otherwise specified in this RFR, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this RFR to any manufacturer or proprietor or to constitute an endorsement of any commodity or service, and the Department may consider clearly identified offers of substantially equivalent commodities and services submitted in response to such reference.
18. Alternatives. A Response which fails to meet any material term or condition of the RFR, including the submission of required attachments, may lose points or may be deemed unresponsive and disqualified. Unless otherwise specified, Respondents may submit Responses proposing alternatives which provide equivalent, better or more cost effective performance than achievable under the stated RFR specifications. These alternatives may include related commodities or services that may be available to enhance performance during the period of the contract. The Response should describe how any alternative achieves substantially equivalent or better performance to that of the RFR specifications. The Department will determine if a proposed alternative method of performance achieves substantially equivalent or better performance. The goal of this RFR is to provide the best value of commodities and services to achieve the procurement goals of the Department. Respondents that propose discounts, uncharged commodities and services or other benefits in addition to the RFR specifications may receive a preference or additional points under this RFR as specified.
19. 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.
20. Year 2000 Compliance. The contractor warrants that all systems, interfaces to such systems, or information technology produced in furtherance of this Contract and funded, in whole or in part, under this Contract must be year 2000 compliant. Year 2000 compliant means information technology that accurately processes date/time data (including but not limited to calculating, comparing and sequencing) from, to and between the twentieth and twenty-first centuries and the years 1999 and 2000 including leap year calculations. Furthermore, year 2000 compliant information technology, when used in combination with other information technology, shall accurately process date/time data if the other informational technology properly exchanges date/time data with it. This warranty shall survive the expiration or termination of this contract.
21. Environmentally Preferable Products and Services. At the Department's sole discretion, the Department and contractor may negotiate during the contract term to permit the substitution or addition of Environmentally Preferable Products (EPPs) when such products become available at a competitive cost and satisfy the Department's performance needs. Unless otherwise specified in the RFR, during evaluation of Responses, an EPP may be considered best value even when the price is greater than (but does not exceed 10% in price) that of a non-EPP. Respondents are encouraged to submit appropriate information to identify important environmental attributes of items being procured, even when such attributes are not being required. Information or technical assistance regarding EPPs may be obtain from OSD at 617-727 7500 ext. 351 or via the internet at **<http://www.mass.gov/epp/products.htm>**

22. **GIS Standards.** All GIS (Geographic Information System) data collected, compiled or created under this RFR shall conform to standards developed or established by the Office of Geographic and Environmental Information (a/k/a MassGIS) within EOEА. Such GIS data shall be made available to MassGIS upon request and at the reasonable cost of reproduction (cost to copy and/or transmit the data to MassGIS).

Nothing in this RFR authorizes or purports to grant the right to any Respondent, governmental entity or other person to enter or remain on any public or private property. If access to any property is necessary in any way for any purpose, such as responding to this RFR (e.g. surveying), that Respondent, governmental entity or other person must obtain appropriate permission authorizing such access from the person or governmental agency that has lawful control of the property.

24. **Anti-Collusion.** In reviewing responses to the RFR and awarding a contract, the Department will strictly interpret all provisions of the RFR, response and contract and other state regulations to ensure that collusion or the appearance of collusion has not occurred at any stage of the contracting process. Any attempt to secure information about this procurement through procedures other than those outlined in this RFR will be considered in violation of this provision and will result in disqualification of the Respondent.

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

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

25. **Debriefings and Appeals. (Applicable to Procurement of Services only, not applicable to Grants)** Any Respondent not selected may request a debriefing for the purposes of examining the Respondent's response with a member of the RFR review team. This debriefing will be solely for the purpose of examining this response as submitted. Debriefings are designed to identify the weak areas of a response and suggest improvements for future procurements. Comparisons with other responses will not be made during a debriefing. If a Respondent is still unsatisfied with the selection process, that Respondent may submit a request in writing to EOEА for a formal review of the RFR section process by EOEА staff.

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

- 1) The request for formal review must be submitted via first class mail to:

Stephen R. Pritchard, Secretary
Secretary of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

With a copy to the Contact Person for this RFR identified above.

- 2) The request must be submitted to EOEА within 10 days of the date of the debriefing meeting.

Attendance at a debriefing is a prerequisite to filing a formal request for review.

- 3) The request must detail specific allegations that:

a) the department failed to comply with applicable purchase of service regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the *Procurement Policies and Procedures Handbook*, policies and procedures issued by OSD and the specifications of the RFR; or

b) there was a fundamental unfairness in the procurement process.

EOEA may reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

If EOEA grants the request for a hearing, EOEA will establish a date and time for a meeting with the Respondent that will allow the Respondent to present the allegations outlined in the request in person. The meeting will be scheduled by EOEA within five days of receipt of the request.

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

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the *Procurement Policies and Procedures Handbook*, subsequent policies and procedures issued by OSD, and the specifications of the 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 their claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the Deputy Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal.

Sufficient detail requires a description of the published policy or procedure, which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above.

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

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