

EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

Ian A. Bowles, Secretary

Contract for Services Announcement

RFR ID: ENV 09 CZM 13

Dated: September 18, 2009

**Stormwater Site Assessment and Stormwater Management Plan
Development for Portions of the New Bedford Harbor Waterfront
New Bedford, MA**

1. Contract for Services Opportunity Summary

A. PROPOSALS SOUGHT FOR: Creation of a stormwater plan of all surfaces including publically owned piers and wharfs, buildings, adjacent public ways, and private properties within a selected portion of the New Bedford Harbor Waterfront. (See map of the study area in Attachment A)

B. OVERVIEW AND GOALS: The Executive Office of Energy and Environmental Affairs (EEA), through the Buzzards Bay National Estuary Program (NEP) in the Massachusetts Office of Coastal Zone Management (CZM), announces the availability of \$15,000 in federal funds to hire an engineering or environmental service firm. The selected firm will identify and map existing stormwater infrastructure, including but not limited to discharges and conveyance structures or mechanisms within the primary study area. The selected firm will also develop a proposed future conditions plan including stormwater best management practices (BMPs) for the primary study area, and also a long-term schedule for effective and efficient implementation of the plan by the City of New Bedford and the New Bedford Harbor Development Commission (NBHDC). As part of the plan, the selected vendor will also provide the NBHDC with an operations and maintenance (O&M) guide that will direct the city on operational measures that may contribute to reductions in overall pollutant loads carried by stormwater from the study area. The O&M guide will also provide the NBHDC with recommendations on short-term and long-term maintenance measures needed to keep proposed BMPs at peak performance levels. Proponents may choose to include Fisherman's Wharf, as shown on the map of the study area (See Attachment A) and labeled "optional secondary study area," as an optional part of their proposal. However, no additional funding is available at this time to perform the work for this optional secondary study area.

C. ELIGIBLE PROJECTS: Eligible projects include proposals for the identification and mapping of stormwater infrastructure and the development of a plan of recommended actions for the identified study area on the New Bedford Harbor Waterfront.

D. ELIGIBLE APPLICANTS: Any qualified environmental engineering vendor with a Massachusetts registered Professional Engineer's license that is responsive to this RFR, who meets the submission requirements and whose budget does not exceed \$15,000 is eligible.

E. APPLICATION DEADLINE: Tuesday, October 20, 2009 by 4:00 PM (See further detail on deadlines and grant program calendar in section 4).

F. FUNDING AVAILABILITY: Exceptions may be made at the Secretary's discretion (see further detail on Funding Availability in section 2C). A total of \$15,000 in federal funds is available through this solicitation. The final funding amount is subject to approval.

G. MATCH REQUIREMENT: No match is required for this award.

H. TOTAL ANTICIPATED DURATION OF CONTRACT(S): The contract will last for approximately 7 months, with the contract (expected to be) issued in late November 2009 and closing on June 30, 2010. However, where needed, and with the approval of EEA, contracts may be written or extended to September 30, 2010. (See further detail on anticipated duration of contract(s) in section 2F).

I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM: Cooperative agreements between the Commonwealth of Massachusetts and the US EPA, in support of the Buzzards Bay NEP, govern this grant program.

J. CONTACT INFORMATION: Sarah Williams, Municipal Grants Coordinator
Buzzards Bay National Estuary Program/CZM
2870 Cranberry Highway
East Wareham, MA 02538
Phone (508) 291-3625 ext 13
sarah.williams@state.ma.us
Website: buzzardsbay.org

2. Performance and Contract Specifications

A. ELIGIBLE APPLICANTS: Eligible applicants include any qualified environmental engineering vendor with a Massachusetts registered Professional Engineer's license that is responsive to this RFR, who meets the submission requirements, and whose budget does not exceed \$15,000.

B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK:

Background

The Executive Office of Energy and Environmental Affairs (EEA), through the Buzzards Bay National Estuary Program (NEP) in the Massachusetts Office of Coastal Zone Management (CZM), has allocated \$15,000 of federal funds to hire an engineering or environmental service firm to assist the City of New Bedford and the New Bedford Harbor Development Commission (NBHDC) in developing a plan to identify and map all existing stormwater infrastructure and conveyances, and also to develop a plan for future improvements to remediate stormwater infrastructure and discharges within the study area. These funds are available in accordance with US EPA National Estuary Program Cooperative Agreements through the Buzzards Bay Watershed Municipal Grant Program implemented by the Buzzards Bay NEP.

For more than a decade the City of New Bedford has been undertaking remediation activities to clean up New Bedford Harbor, including Superfund activities removing the most polluted harbor sediments, harbor maintenance dredging that removes additional harbor sediments containing lower levels of pollutants, the elimination of many combined sewer overflows from the harbor, and housekeeping and management improvements of the industrial activities that are conducted within

the Central Waterfront Area of the harbor. Through its overall “green port” initiative, the City and NBHDC now wish to develop a plan to understand and address stormwater discharges into the harbor, particularly in the Central Waterfront area of the harbor.

The primary goal of this project is to provide the City the information necessary to understand the stormwater runoff situation within the study area, including its potential impact on the harbor, and to provide the City with a plan to address and improve the stormwater situation within the study area over the coming five to ten years.

The Buzzards Bay NEP staff will work with the selected vendor, the NBHDC, and the New Bedford Department of Public Infrastructure to decide upon the most practical stormwater management solutions, given the constraints of the site.

Services Required and Tasks

In summary, the selected vendor will evaluate existing activities, conditions, contaminant sources, and estimated stormwater flows for the primary study area (also called Central Waterfront – South in figure A2), prepare an existing conditions plan, and then develop a comprehensive stormwater management plan. The stormwater management plan must include both conceptual structural solutions and recommended operational practices, to minimize the discharge of contaminants and untreated stormwater to the harbor, and it must include a proposed implementation schedule. The implementation schedule will help guide the City and the NBHDC in selecting the sequence of projects, as well as manageable project sizes to ensure the long-term implementation of the plan and the remediation of the stormwater discharges.

The existing conditions plan shall identify and map existing stormwater infrastructure, including but not limited to, discharges and conveyance structures or mechanisms, as well as rights-of-way, buried utilities, or soil conditions and other features that may affect construction of future BMPs within the primary study area. All surfaces within the primary study area (as depicted in Attachment A2 of this RFR) must be included in the existing conditions plan, including both paved and non-paved areas as well as roof-covered areas, and all solid filled and pile supported piers, wharfs, and other structures. The existing conditions plan shall also include the vendor’s best engineering estimates of the volumes of discharge under a range of typical storm conditions, presented in such a way that the discharges are comparable to one another. The vendor will also evaluate activities at the site that may contribute contaminants to the harbor, principally through stormwater, but through other possible conveyances as well.

The stormwater management plan shall include the construction and installation of proposed stormwater best management practices (BMPs) including conceptual structural designs and their placement. This stormwater management plan shall also include recommended education and outreach strategies for waterfront users to minimize illicit contaminant discharges and pollution prevention strategies, to be implemented by City personnel, to reduce overall contaminant loads to the harbor. The stormwater management plan shall include a proposed long-term schedule for effective and efficient implementation of the plan by the City and the NBHDC. The Operation and Maintenance guidance in the plan will also provide the NBHDC with recommendations on short-term and long-term maintenance measures needed to keep existing infrastructure and proposed structural BMPs at peak performance levels.

The tasks described above must be completed for the primary study area (Central Waterfront - South) as outlined in red on page A2. Proponents may optionally choose to include Fisherman's Wharf, as shown on the map in Attachment A2 and labeled "Optional Secondary Study Area," in their proposal. However, no additional funding is available for this optional task.

Although no site evaluation of the New Bedford State Pier (which lies between the primary study area and the optional study area) is required under this RFR, the maps and graphics for the stormwater management plan should include stormwater infrastructure plans for the New Bedford State Pier because of the stormwater connections between the sites. Draft plans of the State Pier are available from the Buzzards Bay NEP office. The selected vendor should ensure that stormwater infrastructure proposed under this RFR does not conflict with, but rather compliments, the proposed work at the State Pier site and MacArthur Drive.

The proposed structural BMPs and all other proposed stormwater infrastructure in the stormwater management plan should be at the preliminary design stage, including proposed technologies and schematic drawings showing the locations of the proposed infrastructure and a description of how it will function. The proposed stormwater infrastructure and BMPs should attain the highest level of pollutant removal as is reasonable and cost effective.

The selected vendor shall submit the final existing conditions plan and the stormwater management plan in electronic and hard copy form (Five [5] CDs and five [5] paper copies). Prior to submittal of the final plans, the vendor must submit draft plans for review and comment by the Buzzards Bay NEP and the NBHDC. Throughout the project, all data collected, assessment information, site(s) evaluation, designs, etc will be subject to Buzzards Bay NEP approval and in concurrence with the City of New Bedford and the NBHDC. All data, information, plans, etc must be available as a paper copy and in electronic CAD and GIS formats to both the City of New Bedford and the Buzzards Bay NEP. The Buzzards Bay NEP will make available any data, GIS coverages, and information already collected concerning this project at www.buzzardsbay.org

Task 1 – Identify and Map Existing Stormwater Infrastructure

- a. Confirm the existence and location of all drainage infrastructure in the primary study area as depicted in the Buzzards Bay NEP's draft Stormwater Atlas for New Bedford (available at <http://www.buzzardsbay.org/stormatlas.htm>)
- b. Identify and locate (using GPS) any existing drainage infrastructure not currently identified in the Stormwater Atlas. Infrastructure components must include (but not be limited to) catchbasins, manholes, discharge points, and areas of surface flow and discharge. Discharge points will include both pipes and surface flow "cuts" into the harbor.
- c. Identify flow characteristics including, but not limited to: contributing drainage areas, direction of flow, and types of flow (stormwater only, combined sewer and stormwater overflow, building discharge). Building discharges should include type of flow such as roofs, floor drains, waste product (including waste type).
- d. Provide a color-coded map showing what specific areas contribute stormwater to which catch basins and or surface runoff cuts and discharges.

Task 2 – Create a Stormwater Management Plan

- a. Create a plan of recommended remedial structural solutions and good housekeeping non-structural BMPs that can be used by the City and NBHDC as their stormwater management and remediation strategy for the study area over the next 5 to 10 years. While the primary focus of the plan is stormwater runoff, it should also include appropriate recommendations for separating stormwater flows from any combined sewer outfalls (CSOs) identified in the study area by the contractor, as well as minimizing contaminant discharges through other conveyances (e.g. reducing illicit dumping by providing adequate waste collection facilities).
- b. The plan should recommend specific BMPs for the study area and describe how those BMPs will function.
- c. The plan should describe those areas that discharge the largest pollutant loads and should prioritize which recommendations will provide the greatest benefit and also include an implementation schedule for the various areas and proposed actions.
- d. The plan should provide information on the proposed BMPs, including preliminary schematic designs showing proposed locations, service areas, and a description of the BMPs expected function and expected pollution load reduction.
- e. The plan should provide rough cost estimates for recommended actions.
- f. The plan should provide an operations and maintenance guide that will direct the City and NBHDC on appropriate housekeeping and operational measures to reduce pollutant discharges and provide recommendations for short-term and long-term maintenance measures to keep existing and proposed infrastructure and BMPs at peak performance levels.
- g. The planning process shall include a draft plan, with time for review and comment by the Buzzards Bay NEP and NBHDC, followed by a final plan.

Task 3 - Meeting Schedule

The contractor will set up and attend the following meetings:

- a) An initial meeting with the Buzzards Bay NEP, NBHDC, and pertinent City of New Bedford staff (the working committee) to discuss the goals and objectives of the project.
- b) Upon completion of Task 1, a meeting with the working committee to discuss findings, concerns and potential stormwater remediation options.
- c) Prior to the completion of Task 2, a meeting to discuss the recommended actions in draft format.
- d) A final meeting with the working committee to present the final plan.

Optional Tasks

Note: Task 4 below is not required under this RFR but if the contractor believes the stated funding level is sufficient to perform any or all of the tasks, they should propose to do so in their response. Task 4 is identical to Tasks 1-3 as stated above for the primary study area, but is for the optional secondary study area identified in Attachment A (Fisherman's Wharf). If the contractor does not believe the existing budget has sufficient funds to include the above work for the optional secondary area, they may propose a supplemental budget that would allow completion of the above tasks for the optional area. While additional funds are not available at this time, they may become available in the future.

Task 4 – Stormwater Remediation Plan for Fisherman's Wharf

- a) Following Tasks 1-3 above, expand the existing conditions plan and stormwater management plan to include the optional secondary study area (Fisherman's Wharf) identified in Attachment A of this RFR.

C. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES:

A total of \$15,000 of federal funds is available through this solicitation. Final funding amounts subject to approval by EEA. All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, a contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension if available funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

D. MATCH REQUIREMENT: No match is required for this award.

E. PROJECT TERMS: A final contract is subject to successful negotiation of a Final Scope of Services. If selected for a contract award, failure to submit any of the required forms prior to contract signing may be grounds for disqualification. Please note that EEA does not guarantee any particular funding level nor does it guarantee that any contract may result from this RFR. Projects cannot commence without the final approval of a contract by EEA.

F. ANTICIPATED DURATION OF CONTRACTS: Issued in late November 2009, the contract will last for approximately 7 months, closing on June 30, 2010. Work must be completed in its entirety by the contract end date. However, where needed, and with the approval of EEA, contracts may be written or extended to September 30, 2010.

G. DELIVERABLES, OWNERSHIP, AND CREDIT DUE: All materials, software, maps, studies, reports, and other products or data, regardless of physical form or characteristics, produced as a result of this solicitation and funded, in whole or in part, under a contract with EEA shall be considered in the public domain and available to the Commonwealth and its municipalities, and the U.S. Environmental Protection Agency (EPA) 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 EEA and subject to any other approvals required by state or federal law. Reports and other deliverables will credit the Buzzards Bay NEP, EEA and EPA for any work completed under the grant award.

H. REPORTING: Brief progress reports will be required monthly via email or written correspondence describing the progress status or impediments to progress.

I. INVOICING: 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. Reimbursement will occur (generally) within 30 days subsequent to the receipt of a correctly executed invoice. Vendors may not submit reimbursement requests more frequently than once a month.

See also the EEA Supplemental Terms and Conditions in Attachment D.

3. Instructions for Application Submission

A. EVALUATION CRITERIA: A review committee composed of Buzzards Bay NEP staff and/or City of New Bedford 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.

Using the Selection Criteria presented below, the review committee will judge all qualified proposals on a competitive basis and assign a score to each, and based on these scores, assign a rank order to each proposal. The average rank score among all reviewers shall be the basis of vendor selection, with the highest mean-ranked proposal receiving funding. In the case of a tie rank score, funding will go to the proposal with the lowest cost. The review committee reserves the right to reject any or all proposals that do not meet the goals and terms of this RFR. The scoring sheet that will be used during the review process is located in Attachment B of the RFR.

Selection Criteria (20 possible points):

- 1) Description of the Approach to the Proposed Work (12 pts)
- 2) Past Experience (3 pts)
- 3) References for Performance Evaluation (3 pts)
- 4) Inclusion of Optional Secondary Study Area at No Additional Cost (2 pts)

The proposal review process, and the subsequent approval of the selected vendor by EEA, generally takes several weeks. During this time, we cannot discuss the status of the selection procedure with any of the applicants. Once EEA completes and finalizes the selection, all applicants will be notified in writing as to whether they were selected for funding.

NOTE: EEA reserves the option to interview some or all of those submitting proposals for clarifying purposes prior to making a final award. Incomplete or incorrectly submitted applications will be disqualified. If there are insufficient qualifying eligible proposals to utilize all funds, the Buzzards Bay NEP will direct any remaining funds to a future Municipal Grant round.

B. APPLICATION SUBMISSION INSTRUCTIONS: Interested vendors should modify and expand upon the scope, within the limitations of the budget and schedule, to address the needs presented in this Request for Responses and to include any elements not identified, but which are necessary to meet the objectives of this RFR. Failure to provide any of the materials listed below may result in the disqualification of the proposal. Respondents are encouraged to reduce waste by minimizing the use of plastic binders and other non-recyclable products in their applications.

At a minimum, the response shall include:

- a. A brief cover letter on the vendor's stationary.
- b. A completed coversheet (located in Attachment C of this RFR).
- c. A detailed work plan that addresses the goals of the project, including tasks 1 through 3 in Section 2 (Performance and Contract Specifications) of this RFR, and other items the project team deems are necessary to make this a successful project. If selected for funding, the vendor's contract will include their proposed scope of work (or a similar, agreed upon scope).

- d. A proposed schedule and timeline for completing each of the project tasks in the work plan. Have the timeline start after the proposed contract start date (late November 2009). The deadline for task completion is June 30, 2010.
- e. Company profile and descriptions of similar (completed) projects to the one proposed in the RFR.
- f. Three to five client references of work conducted on similar projects (contact names, addresses and telephone numbers).
- g. All of the required forms posted on Comm-Pass (see section C below)

The deadline for proposal submission is **4:00 PM, Tuesday, October 20, 2009**. Please submit five complete copies of the application form and any attachments to:

Sarah Williams, Municipal Grants Coordinator
Buzzards Bay National Estuary Program/CZM
2870 Cranberry Highway
East Wareham, MA 02538

Fax and/or email submissions are not acceptable. Additionally, postmarks are not acceptable as verification of date of submission. When submitting applications, please double-side them where practicable, and minimize/eliminate the use of non-recyclable materials such as plastic or vinyl binders, folders, and covers.

C. ADDITIONAL REQUIRED DOCUMENTATION:

If selected, the Respondent will be required to submit the following forms to complete a contract:

- Commonwealth Standard Contract Form, including Scope of Services and Budget Attachments, signed and dated by the Respondent
- Commonwealth Terms and Conditions filled out and signed by the Respondent
- Electronic Funds Transfer Form filled out and signed by the Respondent
- Commonwealth W-9 tax information form filled out and signed by the Respondent
- Completed Contractor Authorized Signature Verification Form

Respondents are encouraged to review these forms prior to submission of a Response. They are available on Comm-PASS as part of this solicitation. The organization's authorized signatory must sign all forms. If selected, failure or refusal to submit any of the required forms prior to contract signing may be grounds for disqualification.

4. Deadlines and Procurement Calendar

A. RELEASE OF RFR: September 18, 2009

B. INFORMATION SESSION: A Bidder's Conference will be held at 10:00 am on Wednesday, September 30, 2009 in the parking lot of the New Bedford Harbor Development Commission's office, 106 Co-Op Wharf, New Bedford, MA.

C. INQUIRIES ABOUT THE RFR: The Municipal Grants Coordinator will accept questions about this RFR in writing (by mail, fax, or email) through 4 PM, Tuesday, October 6, 2009. Additionally, questions are acceptable at the bidder's conference on Wednesday, September 30, 2009. The Buzzards Bay NEP will post responses to questions, if any, on their website www.buzzardsbay.org/funding by Friday, October 9, 2009, 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.

D. APPLICATION DUE DATE: Tuesday, October 20, 2009 by 4:00 PM

E. ESTIMATED AWARD DATE: If selected for funding, the vendor will receive written notification from the Buzzards Bay NEP, subject to final contract execution. Soon after selection, the Commonwealth of Massachusetts, Executive Office of Energy and Environmental Affairs will execute a standard Terms and Conditions Contract between itself and the vendor. The vendor's appropriate legal authority must sign the contract. 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. The state comptroller's office will wire electronic reimbursement payments to the vendor's account, usually within 30 days of receipt a properly executed reimbursement request. The vendor must complete all work by June 30, 2010.

F. ESTIMATED CONTRACT START DATE: The estimated contract start date is late November 2009. Notwithstanding any verbal representations by the parties, or an earlier start date listed in the Standard Contract Form, and only after an award is issued and a final scope of services has been negotiated, the effective start date of a contract shall be the latest of the following dates: the date the Standard Contract Form has been executed by an authorized signatory of the contractor and the procuring department; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the Standard Contract Form.

5. Miscellaneous

A. TYPE OF PROCUREMENT: Contract for Services

B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS: This RFR is a single department procurement. EEA/CZM/BBNEP will be the sole user of any contract awarded under this RFR.

C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: This solicitation will result in a single contract award.

D. RFR DISTRIBUTION METHOD: This RFR has been distributed electronically using the Comm-PASS system. It will also be posted on the Buzzards Bay NEP website at www.buzzardsbay.org/funding.htm. It is the responsibility of every applicant to check Comm-PASS for any addenda or modifications to the RFR. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to applicants who fail to check for amended RFRs and submit inadequate or incorrect responses. Potential applicants are advised to check the “last change” field on the summary page of RFRs for which they intend to submit a response to ensure they have the most recent RFR files.

Applicants may not alter RFR language or any RFR component files. Those submitting a proposal must respond in accordance to the RFR directions and complete only those sections that prompt an applicant for a response. 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 a response.

E. LIST OF ATTACHMENTS:

- A. Maps of Site
- B. Scoring Sheet
- C. Cover Sheet (must be completed and submitted with proposal)
- D. EEA Supplemental Terms and Conditions

Attachment A
Maps of site
LOCUS MAP

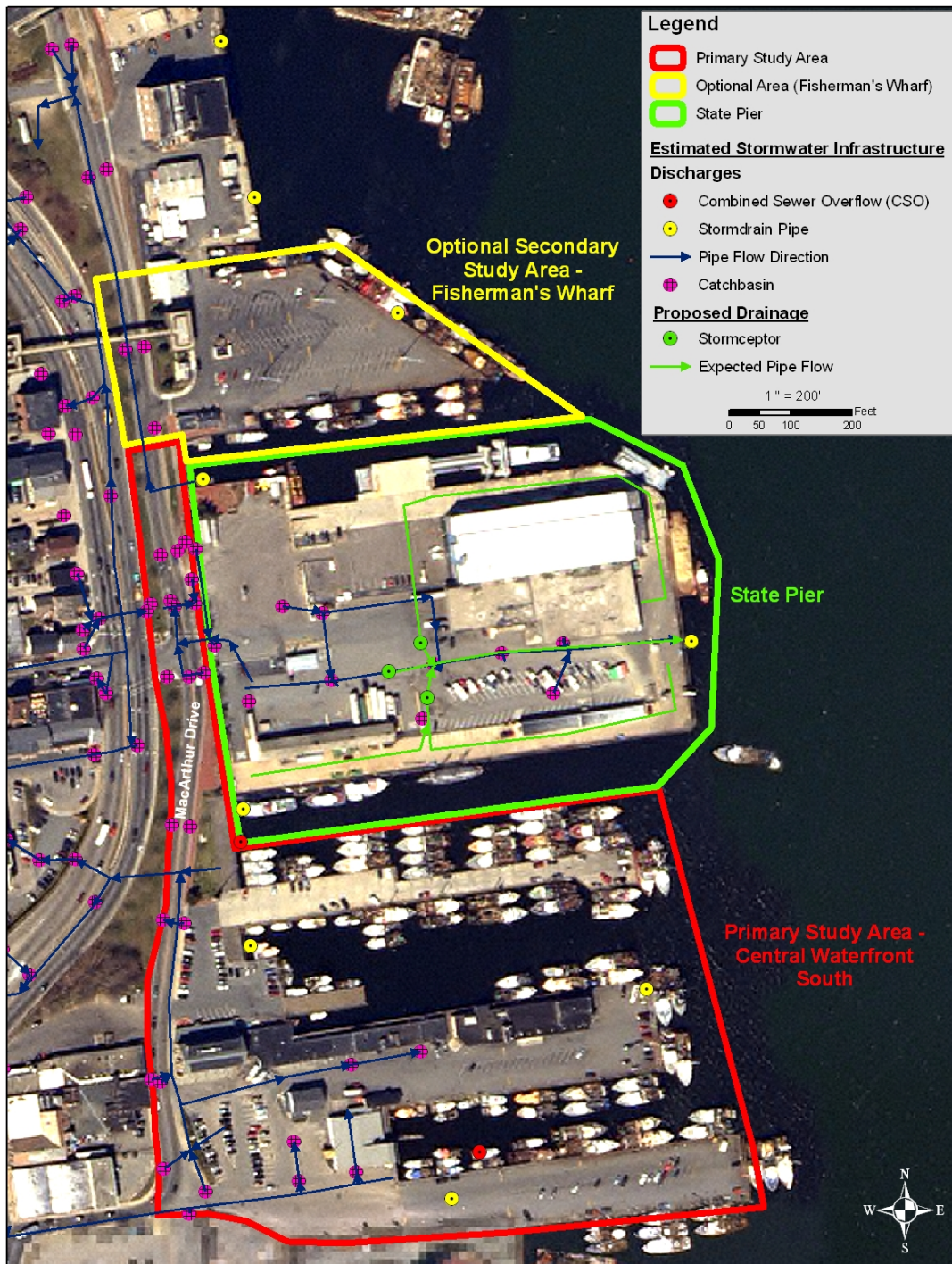


Map prepared by: Buzzards Bay National Estuary Program, www.buzzardsbay.org. June 3, 2009.

STUDY AREA MAP

Notes:

1. The primary study area (Central Waterfront – South) is highlighted in red. The northern section (Fisherman's Wharf), shown in yellow, is the optional secondary study area.
2. Any stormwater infrastructure proposed adjacent to the State Pier site, primarily infrastructure to be located along MacArthur Drive, must function in concert and conjunction with the BMPs proposed for State Pier.



Map prepared by: Buzzards Bay National Estuary Program, www.buzzardsbay.org, June 3, 2009.

Attachment B:

**Scoring Sheet for Stormwater Site Assessment and Stormwater Management Plan Development
for Portions of the New Bedford Harbor Waterfront, New Bedford, MA**

ENV 09 CZM 13

Vendor: _____

Amount Requested: _____ Reviewer: _____ Total Pts _____ (20 pts max)

Rank among all proposals received: ____ (1= best) of ____ (total)

1) Description of the Approach to the Proposed Work _____ pts (12 points max)

Detail provided in the response including the project approach, timeline, and all other minimum submittal requirements, as well as a demonstrated understanding of project goals and scope.

Reviewer Comments:

2) Past Experience _____ pts (3 points max)

Rate the vendor's experience, within Massachusetts, with similar stormwater site assessment or plan development projects, or with the state stormwater standards. Rate the vendor's experience in terms of years and numbers of projects.

Reviewer Comments:

3) References for Performance Evaluation _____ pts (3 points max)

Rate the vendor's references from clients from related projects to help characterize the firm's experience in completing projects on a timely basis and within the appropriated budget, and their ability to work collaboratively with government agencies.

Reviewer Comments:

4) Inclusion of Optional Secondary Study Area at No Additional Cost _____ pts (2 points max)

Does the proposal include completion of all or a portion of the 3 tasks for the optional secondary study area? Two points for full inclusion of the optional area. One point for partial, but significant, inclusion of the optional area.

Reviewer Comments:

Funding is dependent on final rank score, with the highest scored proposal receiving funding. In the case of a tie score, funding will go to the proposal with the lowest cost. The review committee reserves the right to reject any or all proposals that do not meet the goals and terms of this RFR.

Overall Comments:

Reviewer Signature: _____

Date: _____

Attachment C:
Cover Sheet

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
BUZZARDS BAY NATIONAL ESTUARY PROGRAM

REQUEST FOR RESPONSES

**Stormwater Site Assessment and Stormwater Management Plan Development for Portions
of the New Bedford Harbor Waterfront, New Bedford, MA**

ENV 09 CZM 13
October 20, 2009

Vendor: _____

Proposal contact: _____ Title: _____

Phone: _____ Fax: _____

Email: _____

Project manager (if different): _____ Title: _____

Phone: _____ Fax: _____

Email: _____

Proposal Amount: \$ _____

Attachment D
REQUEST FOR RESPONSES (RFR)
EEA SUPPLEMENTAL TERMS AND CONDITIONS

1. For the purposes of these *Supplemental Terms and Conditions*, Department shall mean the Executive Office of Energy and Environmental Affairs (EEA) 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 or 815 CMR 2.00 (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. No electronic Responses may be submitted in Response to this RFR.
5. Respondent Communication. Respondents are prohibited from communicating directly with any employee of EEA 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 EEA or its agencies at the reasonable cost of reproduction in any of the formats in which it is stored or maintained. The Contractor shall not obtain, attempt to obtain or file for a patent, copyright, trademark or any other interest in any such materials, software, maps, reports, and other products or data without the express, written consent of the Department and subject to any other approvals required by state or federal law.
9. Best Value Selection and Negotiation. The Department may select the 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. Subcontracting. Prior written approval of the Department is required for any subcontracted service (which includes consultants) of the contract. Contractors are responsible for the performance and oversight of its subcontractors. Subcontractors are required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.
14. Affirmative Market Program (For Contracts over \$50,000 only, Not applicable to Grants). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs). As a result, Non-M/WBE Respondents are strongly encouraged to develop creative initiatives to help foster *new business relationships* with M/WBEs within the primary industries affected by this 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.

15. The Commonwealth makes no guarantee that any commodities or services will be purchased from any contract resulting from this RFR. Any projected 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.
16. 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.
17. 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.
18. Contract Expansion. In limited circumstances, if additional funds become available during the contract duration period as established in the RFR, 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 new contracts based on applications not funded in the initial selection process, subject to satisfactory contract performance and service or commodity need and at the discretion of the Secretary.
19. Environmentally Preferable Products and Services. At the Department's sole discretion, the Department and contractor may negotiate during the contract term to permit the substitution or addition of Environmentally Preferable Products (EPPs) when such products become available at a competitive cost and satisfy the Department's performance needs. Unless otherwise specified in the 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>

20. **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 EEA. Such GIS data shall be made available to MassGIS upon request and at the reasonable cost of reproduction (cost to copy and/or transmit the data to MassGIS).
21. 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.
22. **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 EEA for a formal review of the RFR selection process by EEA staff.

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

- 1) The request for formal review must be submitted via first class mail to:
Ian A. Bowles
Secretary of Energy and 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 EEA within 10 days of the date of the debriefing meeting. Attendance at a debriefing is a prerequisite to filing a formal request for review.
- 3) The request must detail specific allegations that:
 - a) the department failed to comply with applicable purchase of service regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the *Procurement Policies and Procedures Handbook*, policies and procedures issued by

OSD and the specifications of the RFR; or
b) there was a fundamental unfairness in the procurement process.

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

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

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

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the *Procurement Policies and Procedures Handbook*, subsequent policies and procedures issued by OSD, and the specifications of the 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.