

MESM ACADEMY

Procurement Laws and Pathways: Clean and Renewable Energy Services

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Beacon Integrated Solutions

- ❖ Massachusetts woman-owned energy management solutions firm specializing in energy management services, performance contracting solutions, traditional and renewable energy solutions, energy analysis and energy procurement.
- ❖ Beacon is certified by the Massachusetts Supplier Diversity Office (SDO), as a woman-owned business enterprise (“WBE”).
- ❖ Qualified vendor under the Massachusetts State Contract PRF-74 to provide Energy, Climate Action, and Facility Advisory Services.



Strategies to Achieve Carbon Neutrality

Procuring Renewable and Clean Energy Solutions

❖ Clean Energy Solutions:

- ❑ Procurement Approach for Comprehensive Energy Management Services
- ❑ Procurement Approach for Targeted Energy Efficiency Programs

❖ Renewable Energy Solutions:

- ❑ Procurement Approach for Public Ownership
- ❑ Procurement Approach for Private Ownership



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Comprehensive Energy Management Services (EMS)



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Comprehensive EMS

- ❖ M.G.L. c. 25A is an alternative public procurement statute that contains provisions for purchasing public construction contracts for a program of services with a limited exemption from M.G.L. c. 149 for a term of up to 20 years.
- ❖ Request for Qualifications (RFQ) - M.G.L. c. 25A § 11i
 - DOER Regulations: 225 CMR 19:00
 - Includes comprehensive due diligence on firm and personnel qualifications.
 - Allows for high level price discovery.
- ❖ Request for Proposals (RFP) - M.G.L. c. 25A § 11c
 - DOER Regulations: 225 CMR 10.00
 - Includes comprehensive due diligence on firm and personnel qualifications.
 - Requires submission of full technical due diligence through an Investment Grade Audit.
 - Requires submission of project pricing.



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Comprehensive EMS – Single Procurement for All Services

- ❖ EMS is a single public procurement for all turnkey services.
- ❖ Public entity selects and contracts with a private Energy Services Company (ESCO) for the following services:
 - ❑ Investment Grade Energy Audit
 - ❑ Detailed Design and Engineering
 - ❑ Materials/Equipment Procurement
 - ❑ Construction
 - ❑ Commissioning
 - ❑ Training
 - ❑ Annual Measurement and Verification
 - ❑ Optional Maintenance
- ❖ Public entity finances and owns all projects and pays ESCO for services.
 - ❑ Typical borrowing strategies include General Obligation Bonds or Tax-Exempt Lease Purchases
- ❖ Annual energy savings is guaranteed by ESCO under contract and by statute.
 - ❑ Energy savings is used to support debt service obligations



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Comprehensive EMS – Key Benefits

- ❖ EMS is an infrastructure upgrade and renewal program which discourages “cream skimming” and instead focuses on integrated comprehensive solutions.
- ❖ EMS allows for the implementation of capital and energy infrastructure upgrades that save energy, water and allows for the specific integration of on-site renewable energy solutions including solar photovoltaics, solar thermal, geothermal, among others.
- ❖ EMS leverages existing operating and energy budgets to implement turnkey energy efficiency and renewable energy solutions:
 - ❑ Upgrade building infrastructure and increase building efficiency from lighting, heating, domestic hot water, building controls, process systems and plug loads
 - ❑ Implement full or partial decarbonization solutions
 - ❑ Reduce operating and maintenance costs
 - ❑ Enhance operating staff productivity
 - ❑ Implement renewable energy strategies
 - ❑ Improve indoor air quality



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Comprehensive EMS – General Statutory Requirements

❖ **Public entity must provide DOER:**

- ☐ Final draft RFP or RFQ at least 15 business days prior to issuance, along with required forms and documentation.
- ☐ Final draft EMS contract(s) at least 15 business days prior to execution.
- ☐ Annual EMS Report detailing savings achievements no later than 90 days after the anniversary date.
- ☐ EMS Contract amendments at least 10 days before effective date.

❖ **Procurement must include key requirements:**

- ☐ Provision of an annual energy, water and renewable energy savings guarantee (in units of energy and cost), including shortfall payment obligations.
- ☐ ESCO to have DCAMM certification and provide a current DCAMM Update Statement.
- ☐ ESCO to provide payment and performance bonds for 100% of the total project cost.
- ☐ ESCO to utilize prevailing wage rates.
- ☐ ESCO to perform all construction and performance period services for up to twenty (20) years.



Conduct a Meaningful and Transparent Process

Comprehensive EMS - Avoid the Fashion Show

- ❖ Develop and issue the procurement in accordance with the Statute, including:
 - ❑ Mandatory requirements
 - ❑ Enhanced requirements for technical analysis, project development, construction, commissioning, training, operations and measurement and verification
 - ❑ Define decarbonization and renewable energy objectives
 - ❑ Develop comprehensive evaluation scoring criteria and matrix
 - ❑ Conduct price discovery
- ❖ Issue additional discovery as needed for clarification.
- ❖ Conduct interviews with qualified ESCOs meeting the stated minimum criteria in the procurement.
- ❖ Implement ESCO evaluation process and rank order ESCOs in order of most to least advantageous as detailed in the procurement documents.

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Comprehensive EMS – Bundled Turnkey Services

❖ **Technical Due Diligence Phase - Investment Grade Audit (IGA).**

- ❑ Develop a sound energy baseline using 2 to 3 years of historical energy and water consumption and cost data, along with a thorough inventory and assessment of existing energy and building systems.

❖ **Documentation and Reporting Phase – IGA Report:**

- ❑ Comprehensive clean and renewable energy scope of work to be undertaken
- ❑ total energy and water savings and project costs
- ❑ proposed renewable generation options, and
- ❑ annual Measurement and Verification (M&V) Plan (in accordance with Federal Energy Management Program Guidelines).

❖ **Implementation Phase:**

- ❑ Construction and commissioning services.
- ❑ Technical and functional training.

❖ **Performance Phase:**

- ❑ Annual M&V Plan services, reconciliation and reporting, and submission to DOER.



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Comprehensive EMS – Critical Success Factors

- ❖ Be fully transparent.
- ❖ Be Inclusive – Don't Beg for Forgiveness
 - ❑ Build internal support from a multi-disciplinary team of key stakeholders including operational, financial, administration and education.
 - ❑ Select a "Project Champion" and leverage internal expertise.
 - ❑ Involve appropriate Stakeholders during the initial procurement and selection process, during the technical due diligence (IGA) process, and throughout the construction and commissioning process.
- ❖ Develop initial project goals including prioritizing capital projects and defining financing and term limitations.
- ❖ Educate Stakeholders and set realistic and achievable goals and schedules.



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Comprehensive EMS – Available Resources

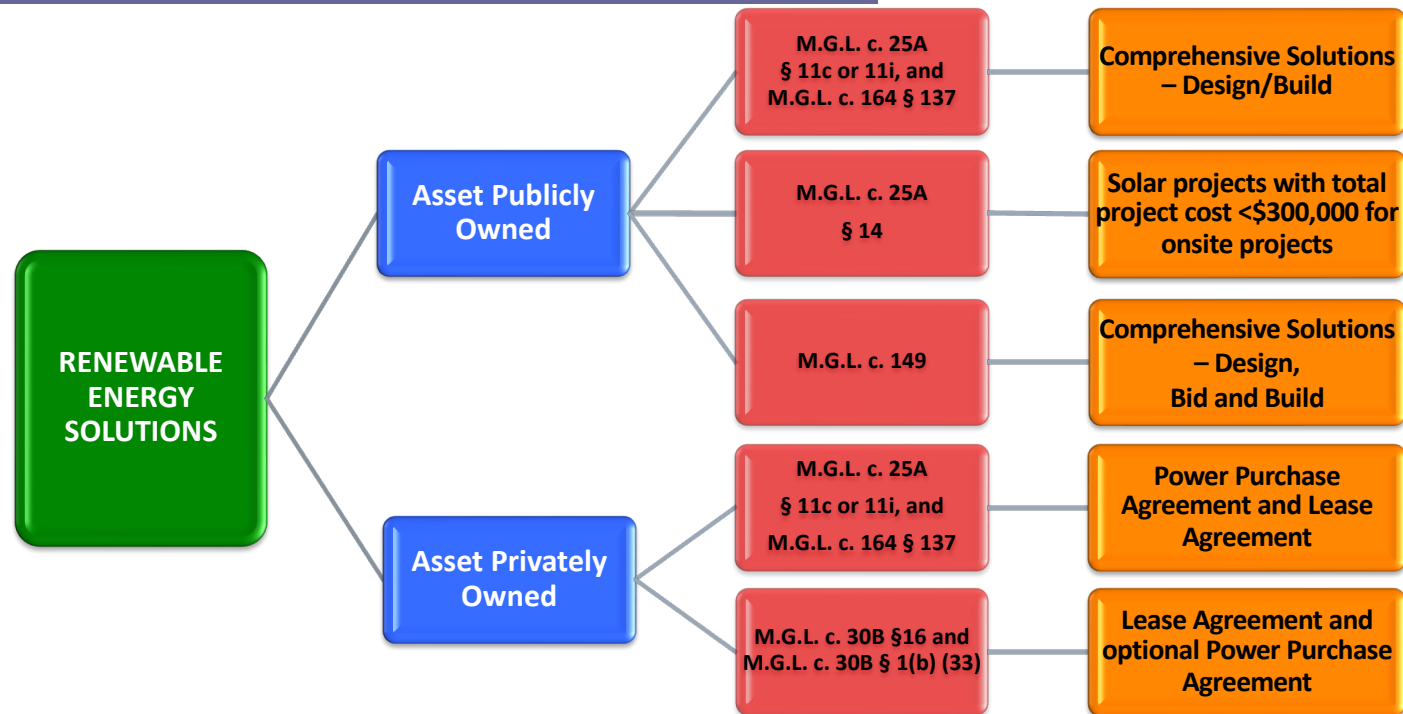
❖ DOER EMS Portal:

- ❑ <https://www.mass.gov/energy-management-services-ems>
- ❑ Procurement Assistance and Enforcement
- ❑ EMS Guidelines
- ❑ EMS Regulations
- ❑ EMS Model Documents
- ❑ Federal Energy Management Program Measurement & Verification Guidelines
- ❑ Sample EMS Documents including procurement and contracting documents



Renewable Energy Solutions

Procurement Options and Considerations



Renewable Solutions – Competitive Procurement

Chapter 25A § 11C (proposals) and 11I (qualifications) – EMS

❖ **Asset Owned by the Public Entity**

- ❑ Selected vendor undertakes design, construction, commissioning and safety training
- ❑ Selected vendor offers optional annual maintenance
- ❑ 100% of solar generation directly benefits the public entity through net metering or alternative on-bill credits
- ❑ Performance guarantee is required by the Statute under an up to twenty (20) year contracting term

❖ **Asset Owned by a Private Entity**

- ❑ Selected vendor undertakes design, construction, commissioning and safety training
- ❑ Selected vendor owns the asset and provides annual operations and maintenance
- ❑ Selected vendor is ultimately responsible for decommissioning the asset at contract expiration
- ❑ Selected vendor requires the purchase of 100% of the solar generation under a power purchase agreement for net metering or alternative on-bill credits
- ❑ Selected vendor requires a long-term lease or license agreement
 - ◆ Consideration must be made regarding private use of tax-exempt property
- ❑ Performance guarantee is required by the Statute under an up to twenty (20) year contracting term



Renewable Solutions – Competitive Procurement

Chapter 30B § 16 – Distribution of Real Property

❖ **Asset Privately Owned**

- ❑ Lease of public property for exclusive use for construction of renewable generation
 - ◆ Consideration must be made regarding private use of tax-exempt property
- ❑ Optional purchase of solar generation under a power purchase agreement for net metering or alternative on-bill credits as an exemption under M.G.L. c. 30B § 1 (b) (33)
- ❑ Flexibility on term
- ❑ Performance guarantee is not required, but recommended
- ❑ Selected vendor undertakes design, construction, commissioning and safety training
- ❑ Selected vendor owns the asset and provides annual operations and maintenance
- ❑ Selected vendor is ultimately responsible for decommissioning the asset at contract expiration
- ❑ Selected vendor offers the option to purchase the solar generation under a power purchase agreement for net metering or alternative on-bill credits



Renewable Solutions – Sole Source Option

Chapter 164 § 137 – PowerOptions

❖ **Asset Publicly Owned**

- ❑ PowerOptions vendor undertakes design, construction, commissioning and safety training
- ❑ PowerOptions vendor offers optional annual maintenance
- ❑ 100% of solar generation directly benefits the public entity through net metering or alternative on-bill credits
- ❑ Program includes a performance guarantee provision

❖ **Asset Privately Owned**

- ❑ PowerOptions vendor undertakes design, construction, commissioning and safety training
- ❑ PowerOptions vendor owns the asset and provides annual operations and maintenance
- ❑ PowerOptions vendor is ultimately responsible for decommissioning the asset at contract expiration
- ❑ PowerOptions vendor requires the purchase of 100% of the solar generation under a power purchase agreement for net metering or alternative on-bill credits
- ❑ PowerOptions vendor requires a long-term lease or easement agreement
 - ◆ Consideration must be made regarding private use of tax-exempt property
- ❑ Program includes a performance guarantee provision



Thank You!

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