



MASS HIWAY IMPLEMENTATION GRANTS SOLICITATION

(Solicitation No. 2013-MeHI-09)

**Massachusetts Technology Collaborative
Massachusetts eHealth Institute
75 North Drive
Westborough, MA 01581-3340
www.masstech.org
<http://www.mehi.masstech.org>**

Team Leader: Sean Kennedy

Applications Due: April 16, 2013

1. INTRODUCTION

The Massachusetts eHealth Institute (“MeHI”), a non-divisible component of the Massachusetts Technology Collaborative (“Mass Tech Collaborative”), is offering grants to eligible applicants (as defined below “Applicants”) to fund projects that ‘catalyze connections’ to the State-wide Health Information Exchange (the “Mass Hlway” or the “Hlway”) by migrating existing processes away from paper-based exchanges and exchanges using proprietary interfaces to use the Mass Hlway. This Program, budgeted at \$2M, will issue awards up to \$75,000 each. Each award will be made to a single organization. The receiving organization may fund the efforts of the collaborating organizations with these grant funds through separate agreements.

The Mass Tech Collaborative acts as the contracting entity on behalf of MeHI and will enter into an agreement with selected Applicants containing certain standard provisions (the “Agreement”) (See Attachment B for the template Agreement). The funding for this Program is sourced from a federal grant awarded to Mass Tech Collaborative on behalf of MeHI ((Award No. 90HT0038/01; CDFA No. 93.719; the “Federal Award”) from the U.S. Department of Health and Human Services’ Office of the National Coordinator for Health Information Technology (“ONC”), under the American Recovery and Reinvestment Act (“ARRA”). Therefore, the Agreement contains certain non-negotiable provisions that flow from the Cooperative Agreement between the Mass Tech Collaborative and ONC. The Mass Tech Collaborative/MeHI reserves the right to amend the Agreement at any time. Applicants should review the Agreement in Attachment B as they are required to specify any exceptions to the Agreement and to make any suggested counterproposal in their Application. **A failure to specify exceptions and/or counterproposals will be deemed an acceptance of the Agreement’s general terms and conditions, and no subsequent negotiation of such provisions shall be permitted.** Although Mass Tech Collaborative will be the contracting counter-party with the Applicant, for purposes of this Solicitation (and except where the specific context warrants otherwise), MeHI and the Mass Tech Collaborative are collectively referred to as MeHI.

2.0 GRANT OVERVIEW

2.1 Intent

The intent of the Implementation grants is to encourage inter-organizational collaboration on a specific process that is expected to be enhanced or accelerated by use of the Mass Hlway. Two or more organizations will identify a process (e.g. referrals, discharges, quality reporting, transfer of care, etc.), redefine that process to use the Mass Hlway as the primary information exchange component, connect to the Mass Hlway, and successfully (in production) exercise that process via the Mass Hlway. This grant program is intended to make existing processes more efficient, cost effective, and safe, not to fund completely new technology applications. Competitive proposals will support our ultimate goal which is to demonstrate measurable improvements in care quality, population health, and cost containment through use of health information technology and the Mass Hlway.

2.2 Background

On October 16th, during the ‘[Golden Spike](#)’ ceremony, Governor Patrick, along with 16 other healthcare organizations and numerous healthcare leaders, [launched the State-wide Health Information Exchange](#) by electronically transmitting medical records over the Mass Hlway. Since then, the Mass Hlway Last Mile Program Management Office, the outreach arm of the Mass Hlway team, has supported numerous organizations as they prepare to connect to the Mass Hlway.

Supported by federal funding from the Center for Medicare & Medicaid Services (CMS) and the Office of the National Coordinator for Health Information Technology (ONCHIT), the Commonwealth developed and launched the State-wide Health Information Exchange (HIE). The Mass Hlway Last Mile Program Management Office is the Mass Hlway Program Office with the mission to rapidly grow connections to the Mass Hlway by all eligible participants, e.g. care delivery organizations, payers, public health entities, and clinical information registries, as well as labs and pharmacies, to exchange healthcare data with one another. To learn more about the Mass Hlway and the Last Mile Program, view the [overview presentation](#).

To better conceptualize the ‘connection’ process, please review the following steps - these are the general steps required for each organization planning to connect to the Mass Hlway.

NOTE: These grants are also open to organizations which have already connected the Mass HIway. In those cases, you will have already gone through the steps below; however, you or your trading partner may need to perform some or all of the steps if you are targeting an existing project to qualify for grant funds.

- 1) Determine how you intend to leverage the Mass HIway - for example, referral from PCP to specialist, discharge summaries from hospital to PCP, submit public health or quality data to registry, notify care of team of hospital admission.
- 2) Partner with organizations to exchange information. We call organizations engaging in health information exchange 'trading partners'.
- 3) Select among (4) connection options: EHR-direct connection, local Direct gateway, LAND gateway, or webmail. More information on these options is available from the [Last Mile Program](#).
- 4) Sign the Mass HIway Participation Agreement, agree to the Mass HIway enrollment fee structure, and complete the Mass HIway Enrollment process. This process currently is completed via email and phone. In May, Mass HIway will convert to a web-based enrollment tool.
- 5) Load participants (individual users, for example physicians or case managers, or roles, for example medical records or case manager) into the Participant Directory thus enabling participant look-up supporting directed exchange.
- 6) Use the Mass HIway to exercise your use case and refine workflows.

Our intent for these grants is to accelerate connections to, hasten adoption of, and grow transaction volume on the Mass HIway and, generally, support grantees that are prepared to migrate their efforts to the Mass HIway, while aiming to demonstrate how use of the Mass HIway may measurably impact care quality, population health, and healthcare costs.

2.3 Areas of Focus

Grantees shall identify an organizational process that falls into one, or more, of the identified areas of focus:

- Improve the quality of care
- Improve population health
- Reduce healthcare costs
- Ease HIway connection & adoption

2.4 Grant Requirements & Guidance

The following are requirements of the grant:

- 1) *Measurement* - Specific to the process to be migrated to the Mass HIway, grantee is required to identify a measurable process or outcome, determine its baseline value, and report its value during the grant in each report.
- 2) *Milestone Payments* - Funding for this grant comes from the Office of the National Coordinator (ONC) for Health Information Technology (HIT). These funds must be disbursed by January 31, 2014. Payment for efforts is required to be tied to milestones, which shall reflect accumulated expenses as of each milestone. Milestones 1, 2, and 3 must be completed by December 31st. Milestone 4 may be completed anytime within the grant period of performance. If milestone 4 is achieved prior to January 31st, then payment shall be tied to this milestone. If milestone 4 is intended to be achieved after January 31st, then no payment would be made when you reach this milestone.
 - a) M1 - HIway Participant Agreement signed by all organizations that will be exchanging data;
 - b) M2 - Initial Participant Directory entries loaded for all trading partners - at least one (1) entry per organization; (this milestone may be waived for certain use cases where having an entry in the Participant Directory is not required);
 - c) M3 - HIway test transaction success among all trading partners (confirmed by HIway Operations).

d) M4 - Hlway production transactions exercising the identified use case.

While milestones 1, 2, and 3 must be met no later than December 31, 2013 and all grant funds expended and disbursed by January 31, 2014, the awards will provide a total of a one-year period of performance to achieve stated objectives.

NOTE: A maximum of 50% of the grant award may be invoiced per milestone, and no less than 25% may be charged for the last payment milestone, i.e. milestone 3 for proposals with organizations newly joining the Mass Hlway. Organizations already connected to the Mass Hlway and who either have their participants already loaded into the Directory, or who propose a use case that does not require Directory load, shall propose alternative milestones. Alternative milestones shall be rigorous enough to warrant payment (the same milestone percentages of 50 & 25% - apply). Only organizations currently connected to the Mass Hlway may propose alternative payment milestones. All applicants shall include milestone 4, exercising use case in production, in their workplan.

- 3) *Trading partners* - Proposed trading partners (organizations engaging in health information exchange) shall include unaffiliated organizations. While affiliated organizations, for example multiple hospitals within an integrated delivery network, are eligible for this grant, alone they are not sufficient to meet the requirements. A minimum of two (2) unaffiliated trading partners are required. Ideally, they represent organizations that cross the care continuum. For example: primary care to acute care; acute care to post-acute care; post-acute care to home care or other exchanges across organizational boundaries. If proposing a reporting effort, for example submission of quality reporting using the Mass Hlway, then the 'crossing the care continuum' statement would not apply. The requirement of two (2) unaffiliated organizations, however, still applies.
- 4) *Reporting and Monitoring* – Grantees shall submit a mid-term Grant Update no later than October 7, 2013 summarizing progress (from date of award through September 30th) of all trading partners, detailing any issues or barriers to achieving grant aims, and reporting the quarterly value of the selected measure. This report shall not exceed 2-pages. Grantees shall submit a 2nd grant update (same format) by February 7th that reflects activity from October 1st through January 31st. Finally, the grantee will submit a Final Grant Report that provides an overall review of grant activity and measure progression (against the measure's baseline) for the full grant period. More information on the Report format and guidelines will be sent to grantees post-award. Grantees agree to maintain regular contact with MeHI through a single point of contact. While all funds will be expended prior to the due date of the Final Grant Report (one year post-award), a Final Grant Report is still required. Failure to submit the Final Report may preclude grantee from any potential future program funding.

While the grants should promote innovative uses of the Mass Hlway, preference will be given to proposals that most effectively incorporate the following guidance:

- 1) *Existing project* – Successfully completing a project of this nature in one year, with a requirement to meet three (3) funding milestones by December 2013, is a large endeavor. In an effort to achieve substantive gains in this short period, we encourage applicants to tie this grant to an existing clinical process or quality improvement effort where health information exchange is expected to accelerate or enhance current efforts.
- 2) *Specific organization-type inclusion* - While proposals are encouraged from a variety of organizations - both large and small –preference will be given to proposals that include, or are directly proposed by, behavioral health, long-term care, and small practice (5 or fewer physicians) organizations.
- 3) *Share successes* - A goal of this program is to generate success stories - stories that may serve as a precedent for others to follow. An expectation of this grant is that grantee will be willing to share its story with others in the form of a case study, presentation at a local conference (e.g. 2014 Governors Conference on Health IT), through a publication, etc. Preference will be given to applicants that are willing to participate in these activities.

3 EVALUATION PROCESS AND CRITERIA

A team from MeHI will collect and review the applications against the criteria below. This review will then be validated by an external review team with 3-4 members. Proposals will be evaluated based on the following criteria:

- 1) *Fit* - Does the proposed process to be migrated to the Mass Hlway fit into one of the stated areas of focus? Does the proposed effort aim to accelerate connections to, hasten adoption of, or grow transaction volume on the Mass Hlway? Does the proposed effort aim to demonstrate how use of the Mass Hlway may (immediately or in the future) measurably impact the care quality, population health, and healthcare costs?
- 2) *Compliance* - Does the proposal meet the required criteria - measurement, milestones, trading partners, and reporting? To what degree does the proposal leverage an existing project, agree to share successes, and propose a variety of organizations that will serve as trading partners?
- 3) *Trading partners* - Do the trading partners comprise collaboration across care settings among unaffiliated organizations? Is there evidence of a commitment that these collaborators will share information, use the Mass Hlway and improve care according to the stated objectives of the proposed project?
- 4) *Impact* - To what degree may this effort, if successful, impact care quality, population health, or healthcare costs?
- 5) *Scalability* - Is this a process specific to a single organization or group of organizations, or, if successful, can it be scaled or generalized to other settings? Preference is for scalable, generalizable efforts.
- 6) *Feasibility* - Is the proposed project, its collaborating organizations, existing experience, existing or proposed measures and stated outcomes feasible to achieve with the funding and time available?

All Applicants will be notified of final decisions via email to the identified Project Director. We anticipate funding decisions will be made by May 3, 2013.

4 APPLICATION PROCESS

4.1 Application and Submission Instructions

The Application Guidelines are set forth in Section 4.4 below. MeHI recommends that Applicants carefully follow instructions and prepare complete, clear, and concise applications. It is the sole responsibility of the Applicant to ensure that its application is complete, and is properly submitted to MeHI. Applications must be received by MeHI by the date and time specified. MeHI accepts no responsibility for late delivery of an application. All late applications shall be returned to the Applicants unopened.

The following items must be submitted to MeHI as part of an application package:

- an electronic copy of the Authorized Applicant Signature and Acceptance Form (see Attachment A), application and attachments with signatures. **Submitted by 8:00 a.m. EST April 16, 2013, to massHlway@maehi.org.** Please include the Solicitation number in the subject heading.
- two bound double sided copies of the Authorized Applicant's Signature and Acceptance Form, application and attachments with original signatures. **Submitted by 3:00 p.m. EST April 18, 2013.**

Applicant is cautioned to review Section 5.1 hereof, prior to submitting an electronic copy of its application. In accordance with the procedures set forth in Section 5.1, any information that Applicant has identified as "sensitive information" in the hard copy of its application should be deleted from the electronic copy prior to submission to MeHI.

Applications must be submitted to:

Mass Hlway Implementation Grants Solicitation
(Solicitation No. 2013-MeHI-09)
Massachusetts eHealth Institute

c/o Massachusetts Technology Collaborative
 Innovation Center
 75 North Drive
 Westborough, MA 01581-3340

4.2 Application Timeframe

The application process will proceed according to the following schedule. The target dates are subject to change. Therefore, Applicants are encouraged to check MeHI's website frequently for updates to the schedule.

Task	Date:
Solicitation Released	March 15, 2013
First Prospective Applicants Webinar	Tuesday, March 19, 2013 @ 7:30 a.m. EST
Second Prospective Applicants Webinar	Thursday, March 21, 2013 @ 12:00 p.m. EST
Third Prospective Applicants Webinar	Wednesday, March 27, 2013 @ 12:00 p.m. EST
Questions Due	Monday, April 1, 2013 @ 12:00 p.m. EST
Question and Answer File Posted	Thursday, April 4, 2013 by 4 p.m. EST
Electronic Applications Due (sent to massHlway@maehi.org)	April 16, 2013 8:00 a.m. EST
Hard Copy Applications Due	April 18, 2013 3:00 p.m. EST
Notification of Award	May 3, 2013

4.3 Questions and Answers

Question and answer webinars will be held on Tuesday, March 19, 2013 at 7:30 a.m. EST, Thursday, March 21, 2013 at 12:00 p.m. EST, and March 27, 2013 at 12:00 p.m. EST. All potential applicants interested in participating in the webinar must register for one of the three available sessions:

- Tuesday, March 19, 7:30 AM - [Register](#)
- Thursday, March 21, 12:00 PM - [Register](#)
- Wednesday, March 27, 12:00 PM - [Register](#)

Summary responses to procedural questions and issues addressed at the webinars will be posted to the MeHI website within three days after each webinar.

Questions regarding this Solicitation may be submitted by regular mail to the address set forth in Section 4.1 or by electronic mail to massHlway@mehi.masstech.org. We request questions to be submitted prior to the webinars be received by 12:00 p.m. EST the day prior to each webinar. Submission of questions by electronic mail is strongly encouraged. Please include the Solicitation number in the subject heading. The last date to submit questions is Monday, April 1, 2013, and must be received by 12:00 p.m. (noon) EST. All final questions and answers will be posted to the MeHI website by 5:00 p.m. EST on April 4, 2013.

4.4 Application Guidelines

Applications must include the items listed below. All documents must be submitted in Arial 10 point font, 1" margins and in MS Word format with the exception of the Budget Template which should be submitted in Excel.

Application packages must include the following documents:

- Proposal Narrative (8-page limit)
- Budget Template (provided)
- Signed Organizational Approval Letter stating the sponsoring organization's support for the proposed project
- Letters of support from collaborating organizations
- Biographical sketch (limited to 1 page each) for the Project Director and key staff for the proposed project. There should be at least one biographical sketch from each collaborating organization.
- Authorized Application Signature and Acceptance Form (see Attachment A). Applicants must certify that they have complied with the terms, conditions and specifications contained in this Solicitation.

The applicant can satisfy this requirement by executing the Authorized Applicant's Signature and Acceptance Form in Attachment A. **By executing the Authorized Applicant's Signature and Acceptance Form and submitting a response to this solicitation, applicants certify that they (1) acknowledge and understand the procedures for handling materials submitted to the Mass Tech Collaborative as set forth herein, (2) agree to be bound by those procedures, and (3) agree that the Mass Tech Collaborative shall not be liable under any circumstances for the disclosure of any materials submitted to the Mass Tech Collaborative pursuant to this solicitation or upon the applicant's selection as a grantee.**

- Exceptions to the Agreement, if any.

4.4.1 Proposal Narrative Format (limited to 8pages).

Abstract (250-words)

Provide a summary of your proposed implementation strategy specifically including the organizational process to be transitioned to the Mass Hlway, collaborating organizations, intended metrics, and expected outcomes.

Section1: Project Proposal (4-pages)

Provide a detailed description of how the Mass Hlway Implementation Grant will be used to accelerate connections to, hasten adoption of, and grow transaction volume on the Mass Hlway and, generally, support grantees who are prepared to migrate their efforts to the Mass Hlway, while aiming to demonstrate how use of the Mass Hlway may measurably impact the care quality, population health, and healthcare costs.

Address each of the following required seven (7) elements:

- Describe the quality, population health, cost, connection or adoption issue you proposed to address through the Mass Hlway Implementation Grant, as well as the anticipated number of organizations (i.e. have a unique tax id) enabled for exchange and transaction volume once live
- Provide information that describes the magnitude of the issue or opportunity, e.g. frequency, cost, clinical outcomes, administrative waste or burden
- Describe how health information exchange using the Mass Hlway will accelerate or enhance the impact on care quality, population health, or healthcare costs
- Describe the specific aims of this project
- Describe the expected outcomes of this project
- Describe the measurement strategy you will use to determine whether the expected outcomes are achieved.
- Describe the project team that will be assembled to achieve these aims. [Note: biographical sketches are not part of the 8-page limit and are to be submitted separately only for key members of the project team. Also note that description of collaborating organizations is in Section 5 of this Narrative]

Section 2: Description of Existing Effort (1-page)

- Describe your organization's existing or prior efforts to address the topic you are proposing to focus on in this project.
- How long have you or your organization or your collaborators been working on this issue?
- What quality improvement, partnerships, investments or other strategies have you used to date to address this issue?
- What have been the major obstacles to achieving the desired outcome to date and how will these grant funds assist with overcoming those obstacles?

Section 3: Workplan & Milestones (1-page, tabular format acceptable)

Describe the workplan for this proposed project.

- Provide anticipated start date (preference for projects ready to begin upon award notification) and duration of the project which should be no longer than one year.

- Provide a timeline for major implementation milestones, as defined in ‘grants requirements & guidance’ section above, i.e. M1, M2, M3, M4, as well as for any other key milestones specific to the proposed project.
- Provide a timeline for when projected outcomes and targets are expected to be achieved.

Section 4: Anticipated Challenges (500-words)

Outline the anticipated challenges and problems that you envision may occur and ways that the team will be able to address them.

Section 5: Collaborating Organizations & Participants (1-page)

An information exchange requires partnerships across settings and across organizational and geographic boundaries. To demonstrate Mass Hlway capabilities, this grant requires your organization to improve a process through the use of information exchange with providers that include those not part of your group or system. These 'trading partners', for grant purposes, are also considered collaborating organizations. Collaborating organizations, however, may also include organizations not engaging directly in HIE, e.g. consulting firm. An organization is not allowed to list another part of its own organization as its sole partner.

- List the collaborating organizations and a brief description of each. [Attach, in PDF format, a letter of support from each collaborating organization; the letters are not part of the page limit for the Project Narrative]
- Under each organization, list the primary point(s) of contact and their role(s).
- Explain why this team was assembled – highlight the strengths and resources that each member brings.
- Some preference will be given to qualified proposals from/that include small practices, long-term care facilities, and behavioral health providers.
- While this section may be in narrative format, please complete a summary of the narrative in the table below.

Name (org/individual)	Description/Title	Role	Responsibility

Section 6: Budget & Budget Justification (1-page)

Please use the provided Budget Template to provide full details of the budgetary items for which grant funds will be used from the beginning of the grant period through January 31, 2014. Provide a brief narrative description in this section to justify the project costs.

- Describe why the attached budget is appropriate for the proposed work.
- Items to be budgeted may include, but are not limited to: personnel (e.g. project manager), consultants, equipment, Hlway connection costs, interface development, process migration planning and analysis, supplies, travel, other expenses related to the project. Each budgeted item shall include a description of the cost, the basis for the cost estimate, and the value to the project. *All costs must be allowable costs under the applicable federal guidelines and any indirect costs must be based upon a federally-approved rate or, if proposer does not have a federally-approved rate, then the method for calculation must be included in the justification and is subject to review and approval by MeHI and Mass Tech.*
- Propose the Milestone payment percentage for each milestone. Milestone payments cannot exceed the actual cumulative costs incurred for the projects during the grant period. As stated previously, no milestone payment may exceed 50% of the grant amount. The last milestone payment cannot be less than 25% of the grant amount. Milestone 4 should only have a payment associated to the extent it is completed by January 31, 2014. All payments must be disbursed by Mass Tech no later than January 31, 2014.
- Describe any additional cash or in-kind resources that will be utilized to achieve the project aims.

Applicants may use funds for activities and items necessary to implement the exchange of health information only. Such activities and items may include, but are not limited to:

- Hardware or software associated with implementation of health information exchange and connection to the Mass Hlway
- System vendor activities associated with the implementation of health information exchange (e.g. interface development)
- Project management and staff time associated with the process change, vendor management, and development time required to connect and use the Mass Hlway.

Applicants may not use funds for items and activities that are not directly related to the implementation of health information exchange. Such activities and items may include but are not limited to:

- Basic internet connectivity
- Office cabling requirements

5.0 GENERAL CONDITIONS

5.1 Notice of Public Disclosure.

5.1.1 General Statement.

Funds awarded are public funds and any information submitted to MeHI by the Applicant in response to this Solicitation or generated in relation thereto is subject to public disclosure requirements as set forth in the Massachusetts Public Records Act, M.G.L. c. 66 (the "Public Records Act"), which governs the retention, disposition and archiving of public records. For purposes of the Public Records Act, "public records" include all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by MeHI.

The foregoing notwithstanding, "public records" do not include certain materials or data which fall within one of the specifically enumerated exemptions set forth in the Public Records Act or in other statutes, including Mass Tech Collaborative's enabling act, M.G.L. Chapter 40J. One such exemption that may be applicable to documents submitted by the Applicant in response to this Solicitation is for any documentary materials or data made or received by MeHI that consists of trade secrets or commercial or financial information regarding the operation of any business conducted by the Applicant, or regarding the competitive position of such Applicant in a particular field of endeavor (the "Trade Secrets Exemption").

It is MeHI's expectation and belief that the overwhelming percentage of documents it receives from Applicants do not contain any information that would warrant an assertion by MeHI of an exemption from the Public Records Act. Applicants should therefore take care in determining which documents they submit to MeHI in response to a grant application, and should assume that all documents submitted to MeHI in response to the grant application are subject to public disclosure without any prior notice to the Applicant and without resort to any formal public records request.

5.1.2. Procedures for Handling Documents Identified as "Sensitive Information."

In the event that Applicant's response to the grant application includes the submission to MeHI of documents that Applicant believes may be proprietary in nature and may fall within the parameters of the Trade Secrets Exemption and/or some other applicable exemption, the following procedures shall apply:

- A) At the time of the Applicant's initial submission of documents to MeHI, the Applicant must provide a cover letter, addressed to the Mass Tech Collaborative's General Counsel, indicating that it is submitting documents which it believes are exempt from public disclosure, including a description of the specific exemption(s) that Applicant contends is/are applicable to the submitted materials, a precise description of the type and magnitude of harm that would result in the event of the documents' disclosure, and a specific start date and end date within which the claimed exemption applies. If different exemptions, harms and/or dates apply to different documents, it is Applicant's responsibility to provide detailed explanations for each such document.
- B) At the time of the Applicant's initial submission of documents to MeHI, the Applicant must also clearly and unambiguously identify each and every such document that it contends is subject to an

exemption from public disclosure as “Sensitive Information.” It is the Applicant’s responsibility to ensure that all such documents are sufficiently identified as “Sensitive Information,” and Applicant’s designation must be placed in a prominent location on the face of each and every document that it contends is exempt from disclosure under the Public Records Act.

Information submitted to MeHI in any form other than a hard copy document will not be subject to the procedures set forth in this Section. For example, information submitted by e-mail, facsimile and/or verbally will not be subject to these procedures and may be disclosed at any time without notice to Applicant.

- C) Documents that are not accompanied by the written notification to the Mass Tech Collaborative’s General Counsel or are not properly identified by the Applicant as “Sensitive Information” at the time of their initial submission to MeHI are presumptively subject to disclosure under the Public Records Act, and the procedures for providing the Applicant with notice of any formal public records request for documents, as set forth below, shall be inapplicable.
- D) At the time MeHI receives documents from Applicant in response to the grant application, any such documents designated by Applicant as “Sensitive Information” shall be segregated and stored in a secure filing area when not being utilized by appropriate MeHI staff for purposes of evaluating the application for funds. By submitting a signed grant application to MeHI, Applicant certifies, acknowledges and agrees that (a) MeHI’s receipt, segregation and storage of documents designated by Applicant as “Sensitive Information” does not represent a finding by MeHI that such documents fall within the Trade Secrets Exemption or any other exemption to the Public Records Act, or that the documents are otherwise exempt from disclosure under the Public Records Act, and (b) MeHI is not liable for the subsequent disclosure of any documents submitted to MeHI by the Applicant, whether or not such documents are designated as “Sensitive Information” or MeHI was negligent in disclosing such documents.
- E) In the event that MeHI receives an inquiry or request for documents submitted by Applicant in response to the grant application, MeHI shall produce all responsive documents without notice to Applicant. In the event that the inquiry or request entails documents that the Applicant has previously designated as “Sensitive Information”, the inquiring party shall be notified in writing that one or more of the documents it has requested has been designated by the Applicant as “Sensitive Information”, and that a formal, written public records request must be submitted by the requesting party to MeHI’s General Counsel for a determination of whether the subject documents are exempt from disclosure.
- F) Upon the General Counsel’s receipt of a formal, written public records request for documents that encompass materials previously designated by Applicant as “Sensitive Information”, the Applicant shall be notified in writing of MeHI’s receipt of the public records request, and MeHI may, but shall not be required to provide Applicant an opportunity to present MeHI with information and/or legal arguments concerning the applicability of the Trade Secrets Exemption or some other exemption to the subject documents.
- G) The General Counsel shall review the subject documents, the Public Records Act and the exemption(s) claimed by the Applicant in making a determination concerning their potential disclosure.

The General Counsel is the sole authority within the Mass Tech Collaborative and MeHI for making determinations on the applicability and/or assertion of an exemption to the Public Records Act. No employee of the Mass Tech Collaborative or MeHI other than the General Counsel has any authority to address issues concerning the status of “Sensitive Information” or to bind the Mass Tech Collaborative or MeHI in any manner concerning the treatment and disclosure of such documents.

Furthermore, the potential applicability of an exemption to the disclosure of documents designated by the Applicant as “Sensitive Information” shall not require the Mass Tech Collaborative or MeHI to assert such an exemption. The Mass Tech Collaborative’s General Counsel retains the sole discretion and authority to assert an exemption, and he may decline to exert such an exemption if, within his discretion, the public interest is served by the disclosure of any documents submitted by the Applicant.

- H) MeHI shall provide the requesting party and Applicant with written notice of its determination that the subject documents are either exempt or not exempt from disclosure.

- I) In the event that the General Counsel determines that the subject documents are exempt from disclosure, the requesting party may seek review of such determination before the Supervisor of Public Records, and MeHI shall notify the Applicant in writing in the event that the requesting party pursues a review of such determination.
- J) In the event the requesting party pursues a review of the determination that the documents are exempt from disclosure and the Supervisor of Public Records concludes that the subject documents are not exempt from disclosure and orders the disclosure of such documents to the requester, MeHI shall notify the Applicant in writing prior to the disclosure of any such documents, and Applicant may pursue injunctive relief or any other course of action in its discretion.
- K) In the event that the General Counsel determines that the subject documents are not exempt from disclosure or that, under the circumstances and in his discretion, an exemption shall not be asserted, MeHI shall notify the Applicant in writing prior to the disclosure of any such documents, and Applicant may pursue injunctive relief or any other course of action in its discretion.

Applicant's submission of a grant application, with or without supporting documentation, shall require a signed certification that Applicant acknowledges, understands and agrees with the applicability of the foregoing procedures to any documents submitted by Applicant in response to the grant application, including but not limited to the acknowledgements set forth in Section 5.1.2(D), and that Applicant shall be bound by the procedures set forth in this Section 5.1.

All documents submitted by Applicant, whether designated as "Sensitive Information" or not, are not returnable to Applicant, except in the case of returning late submissions as indicated in Section 4.1.

5.2 Waiver Authority

MeHI reserves the right, at its sole discretion, to waive minor irregularities in submittal requirements, to request modifications of the application, to accept or reject any or all applications received, and/or to cancel all or part of this application at any time prior to awards.

5.3 Disclaimer

This application does not commit MeHI to award any funds, pay any costs incurred in preparing an application, or procure or contract for services or supplies. MeHI reserves the right to accept or reject any or all applications received, negotiate with all qualified Applicants, cancel or modify the application in part or in its entirety, or change the application guidelines, when it is in its best interests.

**ATTACHMENT A
APPLICATION FORMS**

Application Summary Sheet Form

Applicant Information	
Primary Applicant – Organization	Collaborating Organization(s):
DUNS Number	Applicant Taxpayer ID# and jurisdiction (e.g., “a Massachusetts corporation”)
Mailing Street Address:	Total MTC/MeHI Funding Requested (cannot exceed \$75,000):
State:	City/ Town:
Website	Zip Code:

Point of Contact Information	
Applicant’s Program Director: Authorized to commit organization; notified upon decision of grant award	
Name:	Title:
Organization: <i>If different from applicant</i>	Phone:
Email Address:	Fax:
Mailing Street Address: <i>If different from Applicant</i>	City/ Town: <i>If different from Applicant</i>
State: <i>If different from Applicant</i>	State: Zip +4 Code: <i>If different from Applicant</i>
Applicant’s Project Manager: Contact over course of project	
Name:	Title:
Organization:	Phone:
Email Address:	Fax:
Mailing Street Address:	City/ Town:
State:	State: Zip +4 Code:

Collaborating Organizations – These may be organizations which will be directly exchanging information over the Hlway or organizations who will play a role in executing the Project, e.g. consulting organization.	
Name:	Title:
Organization:	Phone:
Email Address:	Fax:
Mailing Street Address: City/ Town:	State: Zip +4 Code:
Website:	
Name:	Title:

Organization:	Phone:
Email Address:	Fax:
Mailing Street Address: City/ Town:	State: Zip +4 Code:
Website:	
Name:	Title:
Organization:	Phone:
Email Address:	Fax:
Mailing Street Address: City/ Town:	State: Zip +4 Code:
Website:	
Name:	Title:
Organization:	Phone:
Email Address:	Fax:
Mailing Street Address: City/ Town:	State: Zip +4 Code:
Website:	

Massachusetts eHealth Institute
Mass Hlway Implementation Grant Solicitation
Authorized Applicant's Signature and Acceptance Form

The undersigned is a duly authorized representative of the Applicant listed below. The Applicant has read and understands the requirements of this Solicitation. The undersigned acknowledges that all of the terms and conditions of this Solicitation are mandatory.

The Applicant specifically acknowledges the application of the procedures regarding submission of sensitive information as set forth in Section 5.1, and specifically agrees that it shall be bound by those procedures. The Applicant understands that all materials submitted as part of the application are subject to disclosure under the Massachusetts Public Records Law; and acknowledges and agrees that the Mass Tech Collaborative and/or MeHI have no obligation, and retains the sole discretion to fund or choose not to fund the application set forth herein, and that MeHI's receipt of the application does not imply any promise of funding at any time.

The undersigned has either:

- Please check* agreed to the terms and conditions of the Agreement; or
 provided exceptions and/or counterproposals to the Agreement in its application.

The undersigned acknowledges and agrees that the failure to submit exceptions and counterproposals with this Application shall be deemed a waiver and the Agreement shall not be subject to further negotiation.

I certify that the statements made in this application, including all attachments and exhibits, are true and correct to the best of my knowledge.

Applicant: _____
(Printed Name of Applicant)

By: _____
(Signature of Authorized Representative)

Name: _____

Title: _____

Date: _____

BUDGET FORM

Applicant:		Solicitation No.:	
Address:		Title of Proposed Project:	
		MTC Funding Requested:	
		Total Project Cost:	
Cost Elements: (see instructions)			
I. Direct Labor			Amount
<i>name/title</i>	<i>hours</i>	<i>rate/hr</i>	
			\$0
			\$0
			\$0
			\$0
Total Direct Labor			\$0
II. Subcontractors/Consultants			
<i>name/title</i>	<i>hours</i>	<i>rate/hr</i>	
			\$0
			\$0
			\$0
Total Subcontractors/Consultants			\$0
III. Direct Materials			
Purchased Parts			
Other			
Total Direct Materials			\$0
IV. Travel			
V. Other Direct Costs (<i>list by type</i>)			
			\$0
VI. General & Administrative Expense/Overhead		Rate (%):	\$0
Total Cost of Project			\$0
Cost Sharing:		<i>Source</i>	<i>Amount</i>
Total Cost Share			\$0
Total \$ amount of funding sought from MTC:			\$0
Total funding sought from MTC as a percentage of total project cost:			#DIV/0!

ATTACHMENT B

**Mass Hlway Implementation Grants Program
PROJECT GRANT AGREEMENT**

See attached.

Mass Hlway Implementation Grant Program

Project Grant Agreement

This Project Grant Agreement (the "Agreement") dated as of the date of the last signature hereto, is entered into between the Massachusetts Technology Park Corporation, an independent public instrumentality of the Commonwealth of Massachusetts (the "Commonwealth") doing business as the Massachusetts Technology Collaborative ("Mass Tech Collaborative"), with a principal place of business at 75 North Drive, Westborough, Massachusetts 01581, and <Insert name of grantee>, with a principal place of business at <Insert address> ("Grantee"), (the Mass Tech Collaborative and Grantee collectively as the "Parties").

Whereas, the Massachusetts e-Health Institute ("MeHI"), a non-divisible component of the Mass Tech Collaborative, in coordination with the Executive Office of Health and Human Services ("EOHHS"), is responsible, in accordance with Chapter 305 of the Acts of 2008, for coordinating and facilitating the dissemination of electronic health records ("EHR") systems in all provider settings throughout the Commonwealth networked through an interoperable, statewide Health Information Exchange ("Mass Hlway");

Whereas, the Mass Tech Collaborative, on behalf of MeHI, applied to and received from the United States Department of Health and Human Services' Office of the National Coordinator for Health Information Technology ("ONC"), two awards of funding under the American Recovery and Reinvestment Act ("ARRA"). One of the awards (Award No. 90HT0038/01; CDFA No. 93.719)(the "ARRA Award") is to support the Mass Tech Collaborative's responsibilities with respect to MeHI's facilitating and expanding the secure electronic movement and use of health information among organizations according to nationally-recognized standards through the implementation of the Mass Hlway;

Whereas, pursuant to the requirements of a Memorandum of Understanding entered into by the Mass Tech Collaborative and EOHHS to document future activities as each party transitions to the roles outlined in Chapter 224, the Mass Tech Collaborative may be required to transfer funds it has received under the ARRA Awards to EOHHS;

Whereas, in order to meet the goals of the ARRA award and move the Program forward while developing the roles for each of MeHI and EOHHS in compliance with Chapter 224, MeHI has created the Mass Hlway Implementation Grant Program (the "Program") to encourage organizations to fund projects that 'catalyze connections' to the State-wide Health Information Exchange (the "Mass Hlway") by migrating existing processes away from paper-based exchanges and exchanges using proprietary interfaces to use the Mass Hlway;

Whereas, Grantee submitted an application in response to the Program's solicitation (No. 2013-MeHI-09) in which it requested funding to support <Insert description of project to be undertaken with funding> (the "Project"); and

Whereas, after due consideration and application of the evaluation criteria set forth in the Program's Solicitation, the Mass Tech Collaborative approved the award of funding to Grantee to support the Project on _____

Now, therefore, pursuant to the terms and conditions herein contained, the Mass Tech Collaborative and Grantee agree as follows:

1) **Definitions.**

- a) "ARRA" means the American Recovery and Reinvestment Act of 2009.
- b) "ARRA Award" means the funding the Mass Tech Collaborative, on behalf of MeHI, received from the ONC (Award No. 90HT0038/01; CDFA No. 93.719) under the ARRA, to support the Mass Tech Collaborative's responsibilities with respect to MeHI's facilitating and expanding the secure electronic movement and use of health information among organizations according to nationally-recognized standards through the implementation of a Statewide HIE.
- c) "Agreement" means this Project Grant Agreement, including all referenced attachments hereto, as the same may be amended from time to time in accordance with the terms of this Agreement.

- d) "Commonwealth" means the Commonwealth of Massachusetts, and its political subdivisions or agents where the context so requires.
- e) "DHHS" means the United States Department of Health and Human Services.
- f) "EHR" means electronic health record.
- g) "General Counsel" means the Mass Tech Collaborative's General Counsel, or, in the event that no Person holds such title at the time in question, such other legal counsel to the Mass Tech Collaborative as the Mass Tech Collaborative's Chief Executive Officer may designate.
- h) "Governmental Authority" means any national or federal government, any state or other political subdivision thereof, and any other Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.
- i) "Grant" means that portion of the ARRA Award provided to Grantee pursuant to the terms and conditions of this Agreement.
- j) "HIPAA" means the Health Insurance Portability and Accountability Act as codified at 42 U.S.C. 201, *et seq.*
- k) "Mass Hlway" means the Commonwealth's single health information exchange to which the EHR systems will be linked in order to facilitate the sharing of health information electronically recorded and stored by healthcare providers to be securely exchanged between practitioners, patients, hospitals and ancillary service providers when necessary and consented to by the patient.
- l) "Mass Tech Collaborative" means the Massachusetts Technology Park Corporation d/b/a Massachusetts Technology Collaborative and any of its subsidiaries, subdivisions or affiliates, and the successors or assigns thereof.
- m) "MeHI" means the Massachusetts e-Health Institute, a non-divisible component of the Mass Tech Collaborative created by Chapter 305 of the Acts of 2008.
- n) "ONC" means the Office of the National Coordinator for Health Information Technology within DHHS, and any successor agency.
- o) "Provider" means a primary care physician or other health care professional with prescriptive privileges who primarily focus on providing primary care in (1) individual and small group practices (defined as ten or fewer professionals with prescribing privileges), (2) public and critical access hospitals, (3) federally-qualified health centers, community health centers and rural health clinics, and (4) other settings that predominantly serve uninsured, underinsured and medically-underserved populations.
- p) "Public Records Act" means the Massachusetts Public Records Act, M.G.L. Chapter 66, and any successor thereto.
- q) "Person" means any individual, partnership, corporation, limited liability company, joint venture, trust, unincorporated organization, Governmental Authority or any other entity.
- r) "Project" means *<Insert description of the Project from "Whereas" clause>*.

2) **Term.**

This Agreement shall take effect as of the date of the last signature hereto (the "Effective Date") and shall remain in effect until the one-year anniversary of the Effective Date, unless terminated sooner pursuant to Section 11.

3) **Description Mass Hlway Implementation Grants Program.**

The intent of the Mass Hlway Implementation Grants Program (the "Program") is to encourage inter-organizational collaboration on a specific process that is expected to be enhanced or accelerated by use of the Mass Hlway. Two or more organizations will identify a process (e.g. referrals, discharges, quality reporting, transfer of care, etc.), redefine that process to use the Mass Hlway as the primary information exchange component, connect to the Mass Hlway, and successfully (in production) exercise that process via the Mass Hlway. This Program is intended to make existing processes more efficient, cost effective and safe, not to fund completely new technology applications. The ultimate goal of the Program is to

demonstrate measurable improvements in care quality, population health, and cost containment through use of health information technology and the Mass Hlway.

4) **Manner of Performance.**

Grantee will perform the work described in the Project Plan in Attachment A, or cause such work to be performed, in an efficient and expeditious manner and in accordance with all terms and provisions of this Agreement. The Grantee shall collaborate with, and perform work under this Grant at the direction of, the Mass Tech Collaborative.

5) **Project Personnel.**

Both the Mass Tech Collaborative and Grantee have designated the following Persons to serve as Project Manager to support effective communication between the Mass Tech Collaborative and the Grantee and to report on the Project's progress. Each party will endeavor to maintain the continuity of its respective Project Personnel.

For the Mass Tech Collaborative: Sean Kennedy (kennedy@masstech.org) (617-371-3999 ext. 250)

For Grantee:

6) **Deliverables**

Grantee shall provide the Mass Tech Collaborative Project Manager with the deliverables set forth in the Project Plan (the "Deliverables").

7) **The Grant.**

In consideration of this Agreement, the Mass Tech Collaborative shall pay to the Grantee a maximum amount of *<Insert amount>* Thousand Dollars (\$_____), subject to the provisions and restrictions contained herein (the "Grant"). In executing this Agreement, the parties acknowledge that the funds supporting the Grant provided to Grantee hereunder come from the ARRA Award received by the Mass Tech Collaborative and that such funding is considered one-time funding and will not be continued or replaced with other funding once the Grant is expended.

8) **Payment Terms.**

a) *General.*

- i. Grantee shall follow Generally Accepted Accounting Principles ("GAAP") as well as any applicable accounting standards related to the Grantee's receipt of other federal or state funds.
- ii. Grantee shall segregate the obligations and expenditures related to this Grant from its other accounts and revenue streams. Its financial and accounting systems shall be revised as necessary to segregate, track and maintain the Grant funds apart and separate from any other revenue streams. No part of the Grant provided hereunder shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for the Project.
- iii. The Mass Tech Collaborative anticipates that the Grant will be used to fund a portion of the costs incurred by Grantee as a result of its participation in the Program, including direct labor, subcontractors/consultants, direct materials, travel and other expenses, and other direct and indirect costs, as set forth in the Project Budget in Attachment A.

b) *Payment Terms.* The Mass Tech Collaborative shall pay the Grantee within forty-five (45) days after receipt of a properly documented invoice, unless the Mass Tech Collaborative should determine that any such payment or any part thereof is otherwise not properly payable pursuant to the terms of this Agreement. In the event the ONC determines that certain costs are unallowable and the Mass Tech Collaborative has already reimbursed Grantee for such costs, Grantee agrees to return such unallowable costs to the Mass Tech Collaborative.

c) *Invoices/Payment Schedule*

- i. Invoices shall be addressed to the Mass Tech Collaborative Project Manager set forth in Section 5 above. Grantee shall submit invoices upon completion of the following milestones.

Milestone <i>Note: These milestones are the standard milestones for organizations newly joining the Mass Hlway. As stated in Section 2.4 of the Solicitation, organizations already connected to the Mass Hlway and who either have their participants already loaded into the Directory, or who are awarded for a use case that does not require Directory load, shall set forth alternative milestones in their applications which shall be used in this section of the Agreement. Regardless of the Milestones, a maximum of 50% of the grant award may be invoiced per milestone and no less than 25% may be charged for the last payment milestone.</i>	Proportion of Grant Amount
1. Mass Hlway Participant Agreement signed by all organizations that will be exchanging data	
2. Initial Participant Directory entries loaded for all trading partners - at least one (1) entry per organization; (this milestone may be waived for certain use cases where having an entry in the Participant Directory is not required)	
3. Mass Hlway test transaction success among all trading partners (confirmed by Hlway Operations).	
4. Mass Hlway production transactions exercising the identified use case.	

- ii. Milestones 1, 2, and 3 must be met no later than December 31, 2013. To the extent Milestone 4 occurs after January 31, 2014 no grant payment may be associated with that Milestone.
- iii. Each invoice shall make reference to the Agreement number set forth above. Invoices shall include a supporting schedule with the actual costs incurred to date related to each milestone payment in a format consistent with the budget categories. Supporting documentation for the actual costs must be provided upon request of Mass Tech. Milestone Payments shall not exceed the total costs incurred to date for the project. Invoices shall also include the following certification language and must be signed by an authorized representative:

By submitting this invoice, Grantee hereby certifies that it has incurred costs in performing the activities required under the Agreement in an amount that is at least the cumulative amount paid to date for milestones completed.

9) Liabilities, Damages and Warranties.

- a) *Force Majeure.* Neither party shall be liable to the other, or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance including the Term of this Agreement may be extended to account for delays excused by this Section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.
- b) *Indemnification and Limitation of Liability.*
 - i) To the fullest extent permitted by law, Grantee shall indemnify and hold harmless the Commonwealth, the Mass Tech Collaborative, and each of their respective agents, officers, directors and employees (together with the Commonwealth and the Mass Tech Collaborative, the "Covered Persons") from and against any and all liability, loss, claims, damages, fines, penalties, costs and expenses (including reasonable attorney's fees), judgments and awards (collectively, "Damages") sustained, incurred or suffered by or imposed upon any Covered Person resulting from (i) any breach of this Agreement or false representation of Grantee under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of Grantee. Without limiting the foregoing, Grantee shall indemnify and hold harmless each Covered Person against any and all Damages that may arise out of or are imposed because of the failure to comply with the provisions of applicable law by Grantee or any of its agents, officers, directors, employees or subcontractors. The foregoing notwithstanding, Grantee shall not be liable for (i) any Damages sustained, incurred or suffered by or imposed upon any Covered Person resulting from any negligent acts or omissions or reckless misconduct of the Mass Tech Collaborative,

and (ii) except for liability for death or personal injury caused by the negligence or willful misconduct of the Grantee or for claims of infringement of a third party's intellectual property by Grantee, the aggregate liability of Grantee under this Agreement shall not exceed the greater of the amount of the Grant or the amount recovered under any applicable insurance coverage.

- ii) In no event shall either party be liable for any indirect, incidental, special or consequential damages whatsoever (including but not limited to lost profits or interruption of business) arising out of or related to Grantee's performance of the Project under this Agreement.
 - iii) Furthermore, as a condition of receipt of any award, Grantee does hereby release, remise, discharge, indemnify and hold harmless the Mass Tech Collaborative (defined for purposes of this Section 11(c)(iii) to include the Mass Tech Collaborative and/or any of its parents, subsidiaries or affiliates, predecessors, successors or assigns, and its respective current and/or former partners, directors, shareholders/stockholders, officers, employees, attorneys and/or agents, all both individually and in their official capacities), from any and all actions or causes of action, suits, claims, complaints, liabilities, torts, debts, damages, controversies, judgments, rights and demands, whether existing or contingent, known or unknown, suspected or unsuspected, as of the date of this Agreement.
- c) *Warranty.* Grantee represents and warrants that (a) it has performed, or will perform, all due diligence regarding the selection of its subcontractors; (b) it is authorized to enter into this Agreement; and (c) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinance and regulations, if any, that may in any way effect the performance of the Project.

10) **Termination.**

- a) This Agreement may be terminated by either the Mass Tech Collaborative or Grantee for a material breach of any term of the Agreement at any time upon provision of written notice to the other at least seven (7) calendar days before the effective date of such termination. In the event of such termination, compensation shall be paid to the Grantee for the actual costs of allowable expenses incurred for work performed and the reasonable and necessary actual direct costs incurred in the performance of work prior to the effective date of the termination.
- b) The funding provided hereunder is a sub-award under ARRA. Therefore, the Mass Tech Collaborative may terminate this Agreement in the event of loss of availability of sufficient ARRA funds or other funds for the purposes of this Agreement or in the event of an unforeseen public emergency or other change of law mandating immediate the Mass Tech Collaborative action inconsistent with performing its obligations under this Agreement.

11) **Grantee's Affirmative Obligations.**

Receipt of the Grant is conditioned on Grantee's compliance with the following key requirements. These terms are in addition to any performance, reporting or other terms already provided under this Agreement.

- a) *Audit.* Grantee and its subcontractor(s) receiving Grant that are the subject of this Agreement must maintain records, books, files and other data as specified in this Agreement ("Documentation") and in such detail to support compliance with the Agreement's terms, attainment of performance success criteria or performance measurements and successful completion of all performance requirements to properly substantiate claims for payment and that identify adequately the use of the Grant. Documentation must be maintained for seven (7) years beginning the day after the final payment hereunder or after the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Agreement. Transparency requirements under state and federal law require Grantee's to provide access to all such records and data to the Mass Tech Collaborative and to all applicable Governmental Authorities with responsibility to audit the application of funds made available to MeHI, including under Section 902 of ARRA. Such Governmental Authorities include, but are not necessarily limited to, the Mass Tech Collaborative, the Offices of the Massachusetts Attorney General, State Auditor and Inspector General any representative of DHHS, the Comptroller General of the United States, or any of their duly authorized representatives. Access to Grantee's Documentation, including on-site reviews, interviews of officers and employees, and reproduction of such records at a reasonable expense, shall be provided during the Grantee's regular business

hours and upon reasonable prior notice. Grantee and its subcontractors must be prepared to provide any documents, records, data or other proof of performance related to their business activities that are paid for with the Grant.

- b) *Public Records Law.* As a public entity, the Mass Tech Collaborative is subject to the Massachusetts Public Records Law (set forth at Massachusetts General Laws Chapter 66) and thus documents and other materials made or received by the Mass Tech Collaborative and/or its employees are subject to public disclosure. All information received by the Mass Tech Collaborative shall be deemed to be subject to public disclosure.
- c) *Federal Flowdown Requirements.* Because the work performed by Grantee pursuant to this Agreement falls within the purview of the ARRA Award, Grantee is required to comply with the following requirements which flow down from the Mass Tech Collaborative's agreement with DHHS.
 - i) *Non-Discrimination.* No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The Grantee agrees to comply with the non-discrimination requirements below:
 - (1) Statutory Provisions.
 - (a) Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000d *et seq.*) and HHS implementing regulations published at 45 CFR Part 80 which prohibit discrimination on the grounds of race, color, or national origin under any programs or activities receiving Federal funding assistance;
 - (b) Title IX of the Education Amendments of 1972 (20 USC §§ 1681 *et seq.*) and HHS implementing regulations published at 45 CFR Part 80 prohibiting discrimination on basis of sex under any programs or activities receiving Federal funding assistance;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794) and HHS implementing regulations published at 45 CFR Parts 84 and 85 prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance;
 - (d) The Age Discrimination Act of 1975, as amended (42 USC §§ 6101 *et seq.*) and HHS implementing regulations published at 45 CFR Part 91 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
 - (e) The Americans with Disabilities Act of 1990 (42 USC §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation; and
 - (f) All Commonwealth statutes rules and regulations promoting fair employment practices or prohibiting unfair practices and employment discrimination because of race, color, national origin, age sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law, including demotion or discharge of or other discrimination against any qualified employee in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment.
 - (2) Other Provisions.
 - (a) Parts II and III of Executive Order 11246 (30FR 12319, 1965), as amended by Executive Order 11375 (32 FR 14303, 1967) and 12086 (43 FR 46501, 1978), requires Federally-assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of that Executive Order and Department of Labor regulations implementing Executive Order 11246 (41 CFR § 60-1.4(b), 1991).
 - (b) Executive Order 13166 (August 11, 2000), "Improving Access to Services for Persons with Limited English Proficiency," and HHS policy guidance, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Original Discrimination Affecting Limited English Proficient Persons* available to Federal financial assistance recipients at <http://www.hhs.gov/ocr/lep.revisedlep.html>, on the Title VI

prohibition against national origin discrimination affecting Limited English Proficient (LEP) persons.

- (3) Title VII Exemptions for Religious Organizations. Generally, Title VII of the Civil Rights Act of 1964, 42 USC §§ 2000e *et seq.*, provides that it shall be an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination on the basis of religion, a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.
- ii) False Claims or Public Concerns. Grantee shall promptly refer to the Mass Tech Collaborative any public concerns raised to Contractor about the use of ARRA funds (Section 1514), or credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim (e.g., falsification of time sheets, reports or invoices) under the Federal False Claims Act or has committed a criminal or civil violation pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds. Contractor acknowledges that Section 1865 of ARRA, amends Section 257 of the Trade Act of 1974 increasing false claims penalties to allow imprisonment up to 2 years, or fines or both.
- iii) Activities Abroad. Grantee will ensure that project activities carried on outside the United States are coordinated as necessary with appropriate Governmental Authorities and that appropriate license, permits or approvals are obtained.
- iv) USA PATRIOT Act. Grantee agrees to abide by the terms of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act ("USA PATRIOT Act") codified at 18 U.S.C. 175-175c, as such terms apply to this Work Order.
- v) U.S. Flag Air Carriers. To the extent applicable to Grantee's provision of services under this Work Order, Grantee agrees to comply with the requirement that U.S. flag air carriers be used by Grantee to the maximum extent possible when commercial air transportation is the means of travel between the United States and a foreign country or between foreign countries. This requirement must not be influenced by factors of cost, convenience, or personal travel preference. The cost of travel under a ticket issued by a U.S. flag air carrier that leases space on a foreign air carrier under a code-sharing agreement is allowable if the purchase is in accordance with U.S. General Services Administration regulations on U.S. flag air carriers and code shares.
- vi) Governmentwide Debarment and Suspension (Nonprocurement). Grantee will comply with the provisions of Subpart C of 2 CFR Part 1326, "Governmentwide Debarment and Suspension (Nonprocurement)" (published in the *Federal Register* on December 21, 2006, 71 FR 76573), which generally prohibit entities that have been debarred, suspended or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions.
- vii) Health Insurance Portability and Accountability Act ("HIPAA"). Grantee will comply with the provisions of HIPAA codified at 42 U.S.C. 201, *et seq.*
- d) Access & Use. Grantee agrees to license or otherwise make available to the Mass Tech Collaborative and the United States Government in perpetuity, without charge, all materials prepared and produced for the Project, including, without limitation, all plans, specifications and analyses developed in connection with the Project. The Grantee agrees that the Mass Tech Collaborative and the United States Government or any agency thereof shall have the right to make use of and disseminate, in whole or in part, all work products, reports, and other information produced in the course of the Project, and to use the information therein contained to produce summaries, case studies or similar information resources.
- e) Publicity. The Grantee shall coordinate with the Mass Tech Collaborative on any press releases, events, signs and to plan for any news conference concerning the Project. In any media produced

by Grantee, Grantee will not represent that positions taken or advanced by it represent the opinion or position of the Mass Tech Collaborative and/or the United States Government or any agency thereof.

12) **Restriction on Use of Funds.**

- a) *Controlled Substances.* Grantee shall not knowingly use funds provided hereunder to support activities that promote the legalization of any drug or other substance included in Schedule I of the Schedule of controlled substances established by Section 202 of the Controlled Substances Act, 21 U.S.C. 812. This limitation shall not apply if the Grantee notifies the General Management Office that (i) there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance; or (ii) federally-sponsored clinical trials are being conducted to determine therapeutic advantage.
- b) *Restriction on Abortion.* Funds provided hereunder may not be spent for an abortion.
- c) *Restriction on Distribution of Sterile Needles.* Funds provided hereunder may not be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.
- d) *Lobbying.*
 - i) Grantee shall comply with the provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and will not use Grant to pay any person for influencing or attempting to influence any officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, extension, continuation renewal, amendment, or modification of any of these instruments. These requirements are implemented for HHS in 45 CFR part 93, which also describes types of activities, such as legislative liaison activities and professional and technical services that are not subject to this prohibition. By executing this Agreement, Grantee certifies that it has not made, and will not make such a prohibited payment; (ii) will be responsible for reporting the use of funds not provided hereunder for such purposes; and (iii) will include these requirements in its agreements with vendors for projects undertaken pursuant to this Agreement that will exceed \$100,000 and will obtain necessary certifications from those vendors.
 - ii) No Grant may be used to pay for or otherwise support any activities intended to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agents" or "executive agents" set forth in the Massachusetts Lobbying Law, M.G.L. c.3, §39.

13) **General Conditions.**

- a) *Assignment.* The Grantee shall not assign or in any way transfer any interest in this the Agreement without the prior written consent of the Mass Tech Collaborative. The Mass Tech Collaborative may assign any interest in this Agreement by providing written notice to Grantee seven (7) days prior to the effective date of such assignment.
- b) *Choice of Law.* Except as otherwise set forth herein, this Agreement shall be construed under, and governed by, the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles. Grantee agrees to bring any Federal or State legal proceedings arising under this Grant in which the Commonwealth or the Mass Tech Collaborative is a party in a court of competent jurisdiction within the Commonwealth of Massachusetts. This Section shall not be construed to limit any other legal rights of the parties.
- c) *Waivers.* Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement between the parties. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.
- d) *Enforcement.* In addition to all other remedies available to the Mass Tech Collaborative under applicable state and federal laws, in the event Grantee or its subcontractors fail to comply with the terms of this Agreement or with applicable federal and state requirements governing the use of ARRA funding, the Mass Tech Collaborative may withhold or suspend awards or recover any funds awarded under this Agreement following an audit.

- e) *Notice.* Any notice under this Agreement executed pursuant hereto shall be in writing and shall be sent either (i) by facsimile, (ii) by courier, or (iii) by first class mail, postage, prepaid, address as set forth below (or to such other address as a party may provide by notice to the party pursuant to this Section 15(f)), and shall be effective (i) if dispatched by facsimile and delivery is electronically confirmed by said media, the day such electronic confirmation is received, (ii) if sent by courier, one business day after dispatch, (iii) if sent by first class mail, five business days after its date of posting. The address for such notice for each party is as follows:

If to the Mass Tech Collaborative: Massachusetts Technology Collaborative
75 North Drive
Westborough, MA 01581
508/870-0312 (phone)
508/898-2275 (fax)
Attn: Elizabeth Copeland, Assistant General Counsel

If to Grantee:

- 14) **Amendments, Entire Agreement and Attachments.** All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Grantee and the Mass Tech Collaborative unless otherwise specified in this Agreement. The parties understand and agree that this Agreement supersedes all other verbal and written agreements and negotiations by the parties regarding the matters contained herein. The following are attached and incorporated into this Agreement:

- i. Attachment A – Project Plan and Project Budget
- ii. Attachment B – Whistleblowers' Poster