



**Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02108**

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| Office of the Comptroller | Executive Office of Technology Services and Security | Operational Services Division |
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MEMORANDUM

To: Secretariat and Agency: Department Heads, Chief Financial Officers, Chief Information Officers, General Counsels, Chief Procurement Officers and Non-Executive Agencies of the Commonwealth

From: William J. McNamara, Comptroller of the Commonwealth
Curtis Wood, Secretary, Executive Office of Technology Services and Security
Gary Lambert, Assistant Secretary for Operational Services

Date: June 30, 2020

RE: New Commonwealth Terms and Conditions for Information Technology Contracts and Revised Commonwealth Standard Contract Form and Standard Contract Form Instructions and Contractor Certifications

The purpose of this memorandum is to advise departments that the following documents have been issued and are effective as of July 1, 2020:

- New [Commonwealth Terms and Conditions for Information Technology Contracts \(IT Terms and Conditions\)](#)
- Updated [Commonwealth of Massachusetts Standard Contract Form](#)
- Updated [Standard Contract Form Instructions and Contractor Certifications](#)

Collectively, these documents more closely align with current industry standards for IT contracting. We expect that the issuance of these new documents will:

- Encourage more IT companies of all sizes to submit responses to IT Requests for Response (RFRs) because of the more favorable limitation of liability provisions;
- Facilitate more streamlined negotiations; and
- Improve the pricing that the Commonwealth receives for some IT contracts, since bidders may no longer increase costs to cover their current limitation of liability.

These updated forms are effective July 1, 2020, and are posted on [CTR's Forms](#) and the [OSD Forms](#) webpages. For additional information on these forms, please see the attached "FAQ: New Commonwealth Terms and Conditions for Information Technology Contracts and Updates to Standard Contract Form." These forms are jointly issued and published by the Commonwealth's [Executive Office for Administration and Finance \(ANF\)](#), the [Executive Office of Technology Services and Security \(EOTSS\)](#), the [Office of the Comptroller \(CTR\)](#), and the [Operational Services Division \(OSD\)](#). These forms are the default forms for all Commonwealth Departments (in all branches of state government) when other forms are not prescribed by regulation or policy. The [Expenditure Classification Handbook](#) identifies which object codes require the use of these forms and the [State Finance Law and General Requirements Policy](#) identifies the use of these forms by state departments.

All departments using [COMMBUYS](#) must update their document libraries to include the new contract forms to ensure the correct form is used. Please contact your procurement or fiscal staff to ensure that this important change is made.

For new contracts executed on or after July 1, 2020

The new IT Terms and Conditions must be used by Executive Department agencies, under 801 CMR 21.00, for all Information Technology contracts executed on or after July 1, 2020. The revised Standard Contract Form must be used by all Departments for contracts executed on or after July 1, 2020.

For contracts in process but not executed as of July 1, 2020, and for renewals and amendments of existing contracts

For contracts that are already in process on July 1, 2020, either under a pending procurement or under an amendment process that has already been issued, or for renewals of existing contracts, departments may use the previous version of the Standard Contract Form and the general Commonwealth Terms and Conditions. Departments should use their best judgment during transition between use of the old forms or the new forms but should use the new forms for new contracts immediately.

For pending procurements without responses as of July 1, 2020

For pending IT procurements where contractors have not submitted responses as of July 1, 2020, departments have the discretion (but are not required) to substitute the IT Terms and Conditions and the updated Standard Contract Form for the existing documents posted on COMMBUYS in association with their procurement or may notify contractors during the selection process of this update. Departments must use the new IT Terms and Conditions when executing the resulting contract.

Which Documents May/May Not Be Modified?

Vendors or Departments may not waive, delete, modify, amend or change the Commonwealth Terms and Conditions for Information Technology Contracts or the Standard Contract Form.

Standard Contract Form.

The new contract documents include a revised Standard Contract Form, which includes various updates and corrections to existing provisions.

Mandatory Use of These Documents.

Level III Executive Departments are required to use the new IT documents pursuant to 801 CMR 21.00. Level I and Level II Non-Executive Departments are encouraged to use the new IT documents. All Departments are required to use the Standard Contract Form.

Definition of “IT Contracts.” For purposes of this Update, “IT Contracts” shall mean contracts that are identified as “IT” Contracts and list the “Commonwealth Terms and Conditions for IT” as the required Contract in the Office of the Comptroller’s Expenditure Classification Handbook. Additional object codes may be identified as appropriate, so Departments are responsible for validating object codes and requirements in the online Expenditure Classification Handbook. At this time, the following expenditures are considered “IT”:

| OBJECT CODE | TITLE |
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| U01 | TELECOMMUNICATION SERVICES DATA |
| U02 | TELECOMMUNICATION SERVICES VOICE |
| U03 | SOFTWARE AND INFORMATION TECHNOLOGY (IT) LICENSES |
| U04 | INFORMATION TECHNOLOGY (IT) CHARGEBACK |
| U05 | INFORMATION TECHNOLOGY (IT) TEMPORARY STAFF AUGMENTATION PROFESSIONALS |
| U06 | INFORMATION TECHNOLOGY (IT) CABLING |
| U07 | INFORMATION TECHNOLOGY (IT) EQUIPMENT PURCHASE |
| U08 | INFORMATION TECHNOLOGY (IT) EQUIPMENT TELP LEASE-PURCHASE |
| U09 | INFORMATION TECHNOLOGY (IT) EQUIPMENT RENTAL OR LEASE |
| U10 | INFORMATION TECHNOLOGY (IT) EQUIPMENT MAINTENANCE AND REPAIR |
| U11 | INFORMATION TECHNOLOGY (IT) CONTRACT SERVICES |
| U12 | CLOUD BASED SUBSCRIPTIONS, MEMBERSHIPS AND LICENSING FEES |
| U78 | INFORMATION TECHNOLOGY (IT) EXPENSES: SUB-RECIPIENT |

| OBJECT CODE | TITLE |
|-------------|--|
| U98 | REIMBURSEMENT FOR TRAVEL EXPENSES FOT IT PROFESSIONALS |

Who to Contact if You Have Questions. Any questions should be directed to the CTR Solution Desk at comptroller.info@mass.gov, OSD Legal Bureau (OSDLegal@osd.state.ma.us), or EOTSS Contract Management (itcontracts@mass.gov).

MMARS Liaisons
Payroll Directors
Internal Distribution