

**Department of Buildings and General Services
Office of Purchasing & Contracting**

109 State Street [phone] 802-828-2211
Montpelier VT 05609-3001 [fax] 802-828-2222
<http://bgs.vermont.gov/purchasing>

Agency of Administration

**SEALED BID
INFORMATION TECHNOLOGY REQUEST FOR PROPOSAL**

FOR

Vermont Health Care Uniform Reporting and Evaluation System (VHCURES) 3.0

Expected RFP Schedule Summary:

ISSUE DATE	September 05, 2018
BIDDERS CONFERENCE	October 03, 2018 – 10:00 AM (EST)
QUESTIONS DUE	September 26, 2018 – 2:00 PM (EST)
RFP RESPONSES DUE BY	October 24, 2018 – 2:00 PM (EST)
FINALIST DEMONSTRATIONS	Week of December 03, 2018
SELECTION NOTIFICATION	December 14, 2018
INDEPENDENT REVIEW	December 10, 2018 (TBD)
PROJECT STARTS	March 18, 2019

PLEASE BE ADVISED THAT ALL NOTIFICATIONS, RELEASES, AND AMENDMENTS ASSOCIATED WITH THIS RFP WILL BE POSTED AT:

<http://www.bgs.state.vt.us/pca/bids/bids.php>

THE STATE WILL MAKE NO ATTEMPT TO CONTACT INTERESTED PARTIES WITH UPDATED INFORMATION. IT IS THE RESPONSIBILITY OF EACH BIDDER TO PERIODIALLY CHECK THE ABOVE WEBPAGE FOR ANY AND ALL NOTIFICATIONS, RELEASES AND AMENDMENTS ASSOCIATED WITH THIS RFP.

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1 RFP OVERVIEW

1.1 Overview

The Office of Purchasing & Contracting on behalf of the Vermont Green Mountain Care Board (GMCB) (the State) is soliciting competitive sealed, fixed price proposals (Proposals) for solutions to enhance the State's current all-payer claims database, Vermont Health Care Uniform Reporting and Evaluation System (VHCURES), (the Work) from qualified offerors. If a suitable offer is made in response to this Request for Proposal (RFP), the State may enter into a contract (the Contract) to have the selected offer (the Contractor) perform all or part of the Work. This RFP provides details on what is required to submit a Proposal in response to this RFP, how Proposals will be evaluated, and what will be required of the Contractor in performing the Work.

This is a Request for Competitive Sealed Proposals (RFP) to select the vendor who can perform the Scope of Work described in Section 2 of this RFP.

1.2 RFP Objective

The objective of this RFP is to purchase a solution to meet the business needs and requirements for an all-payer claims database (APCD).

1.3 Department Background and Philosophy

The Green Mountain Care Board (GMCB) was created by the Vermont legislature in 2011 and is charged with reducing the rate of health care cost growth in Vermont while ensuring that the State of Vermont maintains a high quality, accessible health care system. Vermont law (18 V.S.A § 9410) requires that the State develop a unified healthcare database to enable the GMCB to carry out their duties under this chapter, chapter 220 of this title, and Title 8 including:

- (a)(1) The Board shall establish and maintain a unified health care database to enable the Commissioner and the Board to carry out their duties under this chapter, chapter 220 of this title, and Title 8, including:
 - (A) determining the capacity and distribution of existing resources;
 - (B) identifying health care needs and informing health care policy;
 - (C) evaluating the effectiveness of intervention programs on improving patient outcomes;
 - (D) comparing costs between various treatment settings and approaches;
 - (E) providing information to consumers and purchasers of health care; and
 - (F) improving the quality and affordability of patient health care and health care coverage.

The GMCB relies upon its APCD to fulfill these obligations.

1.4 Current Business Environment

The State initially engaged its current vendor in 2009 to build the existing APCD, the Vermont Health Care Uniform Reporting and Evaluation System (VHCURES). The existing solution includes multiple components to allow the vendor to collect and aggregate data from payers, which is released in quarterly database extracts.

VHCURES includes eligibility and claims data for Vermont residents. The data are provided by commercial insurers, Vermont Medicaid, and Medicare dating from calendar year 2007 to the present. The VHCURES database also includes a substantial number of reference tables (*e.g.* procedural and diagnostic code sets, Vermont providers from the National Plan and Provider Enumeration System).

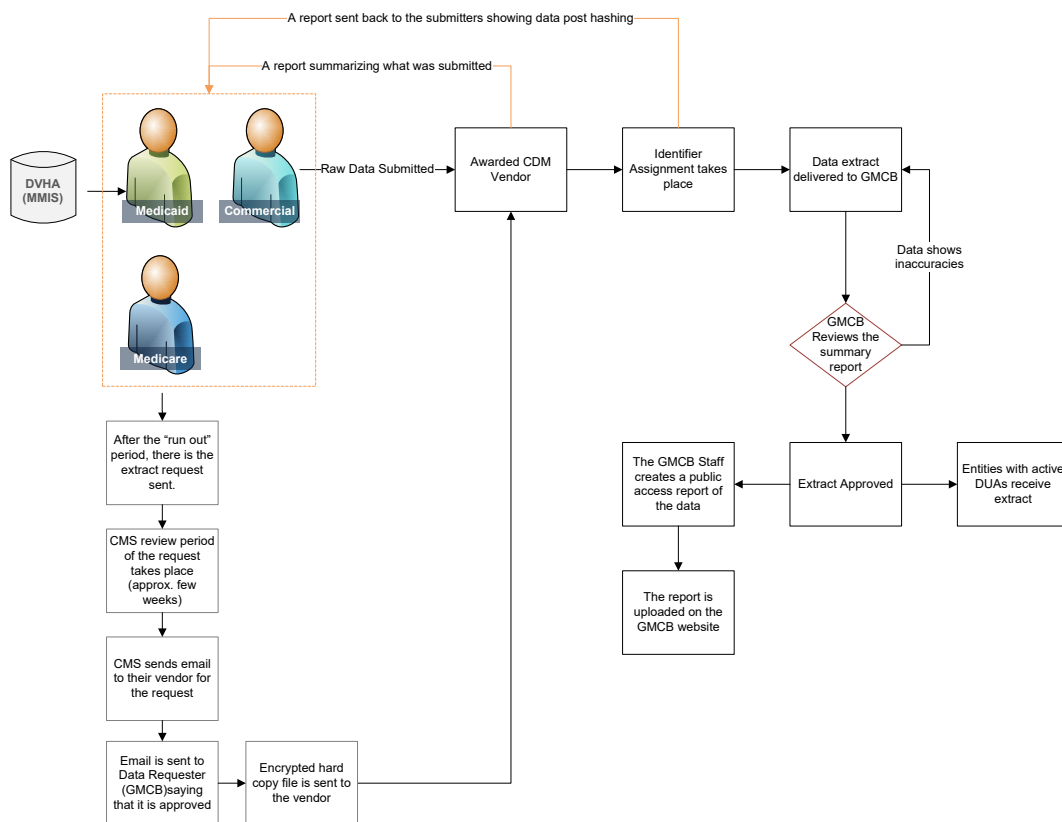
The frequency of data submission for commercial insurers varies depending on the number of Vermont lives they cover, ranging from monthly (2,000 or more lives) to annually. Currently, there are approximately 70 commercial insurers submitting data for comprehensive major medical plans, as well as Medicare Parts C and D. Vermont Medicaid submits data monthly and Medicare data are integrated on a quarterly basis.

Database extracts are utilized by state agencies, state contractors and other approved users who are required to execute data use agreements with the GCMCB. VHCURES data supports analysis of health care access, spending, utilization, public health, and quality. Approved users also contract with vendors to provide additional analytical services.

2 SCOPE OF WORK

The State of Vermont is interested in obtaining bids to meet the following business need(s):

The State requires a solution to allow for the intake and processing of medical and pharmaceutical claims data with associated eligibility records. The combined data must be available for analysis by approved users. At a high level the solution must fulfill the following “To Be Workflow”:



This scope of work includes procurement of the following:

- **A Technology Solution** that addresses the business need(s);
- **A Comprehensive Data Management Plan** to include a detailed review of techniques to address data quality and assurance;
- **Professional Services for Project Management** to manage the implementation of the technology solution;
- **Professional Services to Perform Technical Work** in support of the implementation;
- **Professional Services for Maintenance and Support** of the implemented technology.

2.1 Business Outcomes

The State of Vermont seeks to achieve the following Business Value(s):

- **Customer Service Improvement**
- **Risk Reduction**
- **State and Federal Compliance**
- **User Friendly for Data Submitters and State/Public Users**

2.2 Dependencies and Constraints

The solution must be successfully functioning in production by November 1, 2019.

2.3 Functional and Non-Functional Requirements

The State's Functional and Non-Functional Requirements are provided in the attached **ATTACHMENT E**.

The Non-Functional Requirements include requirements for the following:

- Data Center
- Hosting and General Security Services
- Security General
- Data Compliance: Solutions must adhere to all applicable State and Federal standards, policies, and laws. The Bidder Response Form includes a table of data types and for each, the applicable State and Federal standards, policies, and laws. The checked boxes in the table are applicable to this procurement.

3 BID PREPARATION

3.1 Single Point of Contact

All communications concerning this RFP are to be addressed in writing to the State Contact listed on the front page of this RFP. Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.

3.2 Bidders' Conference

A non-mandatory bidders' conference will be held at 144 State Street, Montpelier, VT 05609-3001 at the date and time indicated on the front page of this RFP.

Vendors can join via web conference with the following information:

Skype Meeting: <https://meet.lync.com/vermontgov-vermont/sarah.lindberg/YTRHTRK>

Audio only: +1 (802) 552-8456,,1514082#

3.3 Question and Answer Period

Any vendor requiring clarification of any section of this RFP or wishing to comment or take exception to any requirement(s) of the RFP must submit specific questions in writing no later than the deadline for questions indicated on the first page of this RFP. Questions may be emailed to the State Contact. Any comments, questions, or exceptions not raised in writing on or before the last day of the question period are waived. At the close of the question period a copy of all questions or comments and the State's responses will be posted on the State's web site at <http://www.bgs.state.vt.us/pca/bids/bids.php>. Every effort will be made to post this information as soon as possible after the question period ends, contingent on the number and complexity of the questions.

3.4 Required Content and Format for Bid Submission

Proposals submitted for this RFP should include the following and nothing additional:

- Required number of copies
- A Cover Letter
- If applicable, a redacted copy of the response for portions that are considered proprietary and confidential.
- Certificate of Compliance (Reference Exhibit A)
- Bidder Response Form and Attachments (Reference Exhibit C)

3.4.1 Number of Copies.

Submit an unbound original (clearly marked as such) and three (3) paper copies and one digitally searchable PDF file containing all components of the bid. See section 4.5 for instructions regarding electronic submission of bids.

3.4.2 The Cover Letter

Provide an introduction to your company and proposal via the cover letter. All bids submitted to the State are considered public records. Please note in your cover letter if any information in your proposal is considered proprietary and confidential.

- a. Confidentiality.** To the extent your bid contains information you consider to be proprietary and confidential, you must comply with the following requirements concerning the contents of your cover letter and the submission of a redacted copy of your bid (or affected portions thereof).
- b.** The successful response will become part of the contract file and will become a matter of public record, as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under the State's Public Records Act, 1 V.S.A. § 315 *et seq.*, the bidder shall submit a cover letter that clearly identifies each page or section of the response that it believes is proprietary and confidential. The bidder shall also provide in its cover letter a written explanation *for each marked page or section* explaining why such material should be considered exempt from public disclosure in the event of a public records request, pursuant to 1 V.S.A. § 317(c), including the prospective harm to the competitive position of the bidder if the identified material were to be released. Additionally, the bidder must include a redacted copy of its response for portions that it considers proprietary and confidential. Redactions must be limited so that the reviewer may understand the nature of the information being withheld. It is typically inappropriate to redact entire pages, or to redact the titles/captions of tables and figures. Under no circumstances can the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.

3.4.3 Certificate of Compliance (Exhibit A)

This form must be completed and submitted as part of the response for the proposal to be considered valid.

3.4.4 State of Vermont Bidder Response Form (Exhibit C)

This form must be completed and submitted as part of the response for the proposal to be considered valid. The State of Vermont Bidder Response Form provides a standard format and content for vendor proposals. The Bidder Response Form includes questions and requests for information on the following:

- Your Vendor Profile, which includes three (3) references;
- The Proposed Solution;
- The ability of your Proposed Solution to meet the State's Functional and Non-Functional Requirements, which are listed within the Bidder Response Form;
- Your Implementation and Project Management approach and deliverables;
- The Technical Services and deliverables included in your proposal;
- Your Maintenance and Support services and service levels;

- Your Pricing for Implementation plus five (5) years of Maintenance and Support costs; and
- Any exceptions your company may have to the Terms and Conditions outlined in the RFP and/or any of the RFP attachments. Note that exceptions to contract terms may cause rejection of the proposal.

In addition to completing the State of Vermont Bidder Response Form, the State requires vendors responding to this RFP to provide the following eight (8) attachments that are described within the Bidder Response Form:

- 1) A Financial Statement (and a confidentiality statement if the financial information is considered non-public). (Label as Attachment #1.)
- 2) A Road Map that outlines the company's short and long term goals for the proposed solution/software/system. (Attachment #2)
- 3) A PowerPoint that provides an Executive level summary of your proposal. (Attachment #3)
- 4) A completed Excel Spreadsheet of functional and non-functional requirements. (Attachment #4)
- 5) A proposed list of project phases, tasks and an implementation time-line. (Attachment #5)
- 6) A resume for the Project Manager you would offer for this engagement. (Attachment #6)
- 7) Your typical implementation plan. (Attachment #7)
- 8) Resumes for any technical resources that you would offer for this engagement. (Attachment #8)
- 9) A copy of your Service Level Agreement (SLA). (Attachment #9)

4 BID SUBMISSION

- 4.1 Closing Date:** Bids must be received by the due date and at the location specified on the front page of this RFP.
- 4.2** The bid opening will be held at 144 State Street, Montpelier, VT and is open to the public.
- 4.3 Security Procedures:** Please be advised extra time will be needed when visiting and/or delivering information to 109 State Street. All individuals visiting 109 State Street must present a valid government issued photo ID when entering the facility.
- 4.4 Sealed Bid Instructions:** All bids must be sealed and must be addressed to the State of Vermont, Office of Purchasing & Contracting, 109 State Street – 3rd Floor, Montpelier, VT 05609-3001. BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE REQUISITION NUMBER AND/OR PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.
- 4.4.1** All bidders are hereby notified that sealed bids must be received and time-stamped by the Office of Purchasing & Contracting located at 109 State Street, 3rd Floor, Montpelier, VT 05609-3001, by the time of the bid opening. Bids not in possession of the Office of Purchasing & Contracting at the time of the bid opening will be returned to the vendor, and will not be considered. Any delay deemed caused by Security Procedures will be at the bidder's own risk.
 - 4.4.2** Office of Purchasing & Contracting may, for cause, change the date and/or time of bid openings or issue an addendum. If a change is made, the State will make a reasonable effort to inform all bidders by posting at: <http://www.bgs.state.vt.us/pca/bids/bids.php>.
 - 4.4.3** All bids will be publicly opened. Typically, the Office of Purchasing & Contracting will open the bid, read the name and address of the bidder, and read the bid amount. However, the Office of Purchasing & Contracting reserves the right to limit the information disclosed at the bid opening to the name and address of the bidder when, in its sole discretion, the Office of Purchasing & Contracting determines that the nature, type, or size of the bid is such that the Office of Purchasing & Contracting cannot immediately (at the opening) determine that the bids are in compliance with the RFP. As such, there will be cases in which the bid amount will not be read at the bid opening. Bid openings are open to members of the public. Bid results are a public record; the bid results are exempt from disclosure to the public however, until the award has been made and the contract is executed.
- 4.5 Delivery Methods:**
- 4.5.1 Security Procedures:** Note that security procedures concerning delivery of any mail or parcels to 109 State Street may delay receipt of mail/parcel pieces by one business day.
 - 4.5.2 U.S. Mail:** Bidders are cautioned that it is their responsibility to originate the mailing of bids in sufficient time to ensure bids are received and time stamped by the Office of Purchasing & Contracting prior to the time of the bid opening.
 - 4.5.3 Express Delivery:** If bids are being sent via an express delivery service, be certain that the RFP designation is clearly shown on the outside of the delivery envelope or box. Express delivery packages will not be considered received by the State until the express delivery package has been received and time stamped by the Office of Purchasing & Contracting. Due to security procedures express deliveries must be received by 10:30 AM in order to be received by the Office of Purchasing & Contracting that same day.

4.5.4 Hand Delivery: Hand carried bids shall be delivered to a representative of the Office of Purchasing & Contracting prior to the bid opening.

4.5.5 Electronic: Electronic bids will be accepted. Bids will be accepted via email submission to SOV.ThePathForward@vermont.gov. Bids must consist of a single email with a single, digitally searchable PDF attachment containing all components of the bid. Multiple emails and/or multiple attachments will not be accepted. There is an attachment size limit of 25 MB. It is the Bidder's responsibility to compress the PDF file containing its bid if necessary in order to meet this size limitation.

4.5.6 Fax Bids: Faxed bids will not be accepted.

4.6 Bid Submission Checklist

- ✓ Required Number of Copies
- ✓ Cover Letter
- ✓ Signed Certificate of Compliance (Exhibit A)
- ✓ State of Vermont Bidder Response Form and Attachments (Exhibit C)
 - A Financial Statement (and a confidentiality statement if, the financial information is considered non-public) labeled Attachment #1.
 - A Road Map labeled Attachment #2.
 - Executive PowerPoint labeled Attachment #3.
 - Completed Excel Spreadsheet (Attachment 1 Functional and NonFunctional Requirements) labeled Attachment #4.
 - A proposed list of project phases, tasks and an implementation time-line labeled Attachment #5.
 - Project Manager resume labeled Attachment #6.
 - An Implementation Plan labeled Attachment #7.
 - Technical Resource Resumes labeled Attachment #8.
 - Your Service Level Agreement (SLA) labeled Attachment #9.

5 BID EVALUATION AND SELECTION

5.1 Worker Classification Compliance Requirements: In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), Bidders must comply with the following provisions and requirements.

5.1.1 Self Reporting: For bid amounts exceeding \$250,000.00, Bidder shall complete the appropriate section in the attached Certificate of Compliance for purposes of self-reporting information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers. The State is requiring information on any violations that occurred in the previous 12 months.

5.1.2 Subcontractor Reporting: For bid amounts exceeding \$250,000.00, Bidders are hereby notified that upon award of contract, and prior to contract execution, the State shall be provided with a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54). This requirement does not apply to subcontractors

providing supplies only and no labor to the overall contract or project. This list MUST be updated and provided to the State as additional subcontractors are hired. A sample form is available online Section – Standard RFP Attachments - <http://bgs.vermont.gov/purchasing-contracting/forms> . The subcontractor reporting form is not required to be submitted with the bid response (Reference Exhibit B).

5.2 Executive Order 05-16: Climate Change Considerations in State Procurements

For bid amounts exceeding \$25,000.00 Bidders are requested to complete the Climate Change Considerations in State Procurements Certification, which is included in the Certificate of Compliance for this RFP.

After consideration of all relevant factors, a bidder that demonstrates business practices that promote clean energy and address climate change as identified in the Certification, shall be given favorable consideration in the competitive bidding process. Such favorable consideration shall be consistent with and not supersede any preference given to resident bidders of the State and/or products raised or manufactured in the State, as explained in the Method of Award section. But, such favorable consideration shall not be employed if prohibited by law or other relevant authority or agreement.

5.3 Executive Order 2-18 Internet Neutrality in State Procurement

If the scope of work for this RFP includes the provision of services for accessing the internet, Bidders are requested to certify compliance with Executive Order No. 2-18 where indicated in the Certificate of Compliance for this RFP. All state agency contracts with internet service providers shall include net neutrality protections and specifically state that internet providers shall not, with respect to any customer in the State of Vermont, including the State:

- A. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to its customers;
- B. Throttle, impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network management that is disclosed to its customers;
- C. Engage in paid prioritization or providing preferential treatment of some Internet traffic to any Internet customer;
- D. Unreasonably interfere with or unreasonably disadvantage either:
 - i. A customer's ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or
 - ii. An edge providers' ability to make lawful content, applications, services, or devices available to a customer;

Exceptions to this requirement shall only be considered in accordance with State law and policy.

A complete copy of the Executive Order can be found at: <http://governor.vermont.gov/content/internet-neutrality-state-procurement-executive-order-02-18>

5.4 Method of Award

Awards will be made in the best interest of the State. The State may award one or more contracts and reserves the right to make additional awards to other compliant bidders at any time if such award is deemed to be in the best interest of the State. All other considerations being equal, preference will be given first to resident bidders of the state and/or to products raised or manufactured in the state, and then to bidders who have practices that promote clean energy and address climate change, as identified in the applicable Certificate of Compliance.

5.4.1 Evaluation Criteria

The State shall have the authority to evaluate Responses and select the Bidder(s) determined to be in the best interest of the State and consistent with the goals and performance requirements outlined in this RFP.

Consideration shall be given to a Bidder's project approach and methodology, qualifications and experience, ability to provide the services within the defined timeline, cost, and/or success in completing similar projects, as applicable, and to the extent specified below. In general, bids are awarded based on "the best interest of the State of Vermont".

Evaluation Factors	Total Points for This Factor
Vendor Profile: Experience, Financial Strength, References (Bidder Response Form Part 1)	15%
Vendor Proposal/Solution, ability to meet the State's Functional and Non-Functional Requirements and Data Compliance (Bidder Response Form Parts 2-4)	25%
Professional Implementation Services: Project Management and Technical services (Bidder Response Form Parts 5 and 6)	15%
Maintenance and Support Services (Bidder Response Form Part 7)	15%
Requirement Pricing, includes licensing, maintenance and warranty (Bidder Response Form Part 8)	25%
Vendor Demonstration	5%
Acceptance of State Terms and Conditions	Pass/Fail
Adherence to Mandatory Bidding Requirements	Pass/Fail

- If the RFP required a minimum amount of experience or qualifications, the State will award no points for meeting the minimum. The State will award points for experience and qualifications that exceed the stated minimums.
- The State will not consider any prompt payment discount terms proposed by the offeror in evaluating cost. The lowest cost proposal will receive the maximum number of points allocated to cost. The State will evaluate the point allocations for cost according to the method set forth in the RFP.

5.5 Demonstration

An in-person or webinar demonstration by the Vendor may be required by the State if it will help the State's evaluation process. The State will factor information presented during demonstrations into the evaluation. Vendors will be responsible for all costs associated with providing their demonstrations.

5.6 Best and Final Offer

- 5.6.1 **Best and Final Offer (BAFO).** At any time after submission of Responses and prior to the final selection of Bidder(s) for Contract negotiation or execution, the State may invite Bidder(s) to provide a BAFO.
- 5.6.2 The State reserves the right to request BAFOs from only those Bidders that meet the minimum qualification requirements and/or have not been eliminated from consideration during the evaluation process.
- 5.6.3 **Evaluation of Responses and Selection of Bidder(s).** The State shall have the authority to evaluate Responses and select the Bidder(s) as may be determined to be in the best interest of the State and consistent with the goals and performance requirements outlined in this RFP.

5.7 Contract Negotiation

Upon completion of the evaluation process, the State may select one or more Vendors with which to negotiate a contract, based on the evaluation findings and other criteria deemed relevant for ensuring that the decision made is in the best interest of the State. In the event the State is successful in negotiating with a Vendor, the State will issue a notice of award. In the event the State is not successful in negotiating a contract with a selected Vendor, the State reserves the option of negotiating with another Vendor, or to end the proposal process entirely.

5.8 Independent Review

Per Vermont law, 3 V.S.A. § 2222, The Secretary of Administration shall obtain independent expert review of any recommendation for any information technology initiated after July 1, 1996, as information technology activity is defined by subdivision (a)(10), when its total cost is \$1,000,000 or greater or when required by the State Chief Information Officer. Documentation of this independent review shall be included when plans are submitted for review pursuant to subdivisions (a)(9) and (10) of this section. The independent review shall include:

- An acquisition cost assessment
- A technology architecture review
- An implementation plan assessment
- A cost analysis and model for benefit analysis
- A procurement negotiation advisory services contract
- An impact analysis on net operating costs for the agency carrying out the activity

6 GENERAL TERMS AND CONDITIONS

- 6.1 **STATEMENT OF RIGHTS:** The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Vendors may be asked to give a verbal presentation of their proposal after submission. Failure of vendor to respond to a request for additional information or clarification could result in rejection of that vendor's proposal. To secure a project that is deemed to be in the best interest of the State, the State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions. The State also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the State.

6.2 Pricing: Bidders must price the terms of this solicitation at their best pricing. Any and all costs that Bidder wishes the State to consider must be submitted for consideration. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State.

6.2.1 The proposal must be fixed cost, inclusive of expenses, for specific deliverables. The State generally doesn't enter into time and material contracts.

6.2.2 Prices and/or rates shall remain firm for the initial term of the contract. The pricing policy submitted by Bidder must (i) be clearly structured, accountable, and auditable and (ii) cover the full spectrum of materials and/or services required. If the project contemplates doing additional work with the vendor for additions to the system or addition of new users, state the hourly rates for future work for key types of positions, i.e., Data Base Programmer, Systems Developer, Trainer, etc.

6.2.3 Cooperative Agreements. Bidders that have been awarded similar contracts through a competitive bidding process with another state and/or cooperative are welcome to submit the pricing in response to this solicitation.

6.2.4 Retainage. In the discretion of the State, a contract resulting from this RFP may provide that the State withhold a percentage of the total amount payable for some or all deliverables, such retainage to be payable upon satisfactory completion and State acceptance in accordance with the terms and conditions of the contract.

6.3 CONTRACTING WITH THE STATE OF VERMONT: The selected bidder(s) will be expected to sign a contract with the State according to the form prescribed by the Standard State Contract Form and its associated Attachments which is attached to this RFP as Exhibit D. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.

6.3.1 Invoicing: The bidder's proposal must clearly specify the address for submitting payments. All payments are to be based on State of Vermont's acceptance of agreed to, fixed price deliverables or time and materials terms, as the case may be.

6.3.2 Vendors planning to submit a bid are advised of the following:

1. The State expects the Vendor and its legal counsel to carefully review and be prepared to be bound by the **Attachment C: Standard State Provisions for Contracts and Grants** outlined in Exhibit D.
2. The contract is subject to review and approval by the Attorney General, the Department of Information and Innovation and the Secretary of Administration. The terms and conditions of a Vendor's software license, maintenance support agreement and service level agreement, if applicable, will be required for purposes of contract negotiations for this project. Failure to provide the applicable Vendor terms as part of the RFP response may result in rejection of the Vendor's proposal.
3. The State has no legal authority to indemnify a vendor and this condition is not negotiable. Further, all contract terms and conditions, including a Vendor license will be subject to the laws of the State of Vermont and any action or proceeding brought by either the State or a Contractor in connection with a Contract shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. Vendors who are not able to enter into a contract under these conditions should not submit a bid.
4. Contractors will be expected to make the representations and warranties set forth in the State Contract Terms.

6.4 Non-Disclosure Agreement

The successful bidder may be required to complete a non-disclosure agreement in a form acceptable to the State.

6.5 Performance Measures

In accordance with current State of Vermont policy and procedures, the contract may include Vendor performance measures. The specific performance measures will be determined during the contract negotiation process.

6.6 Contract Term

Contract Period: Contracts arising from this RFP will be for a period of implementation (completed by November 1, 2019) plus an additional 5 years. The State anticipates the start date will be March 18, 2019.

The vendor should guarantee its rate offerings, over the term of the contract, are comparable to other customers of similar size and requirements. If offerings are rendered to a comparable customer which improve the pricing agreed to in the contract, the vendor agrees to apply those same discounts and offerings to the State of Vermont.

6.7 Specification Change

Any changes or variations in the requirements or specifications set forth in this RFP will result in the issuance of an Addendum to this RFP in writing from the Office of Purchasing & Contracting. Verbal instructions or written instructions from any other source are not to be considered.

6.8 Business Registration

To be awarded a contract by the State of Vermont a Vendor (except an individual doing business in his/her own name) must be registered with the Vermont Secretary of State's office <http://www.sec.state.vt.us/tutor/dobiz/forms/fcregist.htm> and must obtain a Contractor's Business Account Number issued by the Vermont Department of Taxes <http://tax.vermont.gov/>.

6.9 Quality

If applicable, all products provided under a contract with the State will be new and unused, unless otherwise stated. Factory seconds or remanufactured products will not be accepted unless specifically requested by the purchasing agency. All products provided by the contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting these standards will be deemed unacceptable and returned to the contractor for credit at no charge to the State.

6.10 Costs of Preparation

The Vendor shall be solely responsible for all expenses incurred in the preparation of a response to this RFP and shall be responsible for all expenses associated with any presentations or demonstrations associated with this request and/or any proposals made.

6.11 Exhibits included with this RFP:

Exhibit A: Certificate of Compliance

Exhibit B: Subcontractor Reporting Form

Exhibit C: State of Vermont Bidder Response Form

- Attachment 1: Functional and Non-Functional Requirements

Exhibit D: State of Vermont Standard Contract for Information Technology Services and its associated Attachments

- Attachment A: Statement of Work
- Attachment B: Payment Provisions
- Attachment C: Standard State Provisions for Contracts and Grants (12/15/2018 Revised)
- Attachment D: Other Terms and Conditions for Information Technology Contracts (3/29/2018 Revised)

EXHIBIT A

CERTIFICATE OF COMPLIANCE

For a bid to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.

A. **NON COLLUSION:** Bidder hereby certifies that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, bidder understands that this paragraph might be used as a basis for litigation.

B. **CONTRACT TERMS:** Bidder hereby acknowledges that is has read, understands and agrees to the terms of this RFP, including Attachment C: Standard State Provisions for Contracts and Grants, and any other contract attachments included with this RFP.

C. **FORM OF PAYMENT:** Does Bidder accept the Visa Purchasing Card as a form of payment?

___ Yes ___ No

D. **WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to Bidder when the amount of its bid exceeds \$250,000.00.

Self-Reporting. Bidder hereby self-reports the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers, that occurred in the previous 12 months.

Summary of Detailed Information	Date of Notification	Outcome

Subcontractor Reporting. Bidder hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this RFP, Bidder will provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), and Bidder will provide any update of such list to the State as additional subcontractors are hired. Bidder further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

E. Executive Order 05 – 16: Climate Change Considerations in State Procurements Certification

Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims):

1. Bidder owns, leases or utilizes, for business purposes, space that has received:

- Energy Star® Certification
- LEED®, Green Globes®, or Living Buildings ChallengeSM Certification
- Other internationally recognized building certification:

2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder’s place of business. Please explain:

3. Please Check all that apply:

- Bidder can claim on-site renewable power or anaerobic-digester power (“cow-power”). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.
- Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.
- Bidder’s heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.
- Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this? _____
- Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc..
- Bidder offers employees an option for a fossil fuel divestment retirement account.
- Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:

4. Please list any additional practices that promote clean energy and take action to address climate change:

- F. Executive Order 2-18 Internet Neutrality in State Procurement:** Bidders are to complete this section if the scope of work for this RFP includes the provision of services for accessing the Internet. All state agency contracts with Internet Service providers must include net neutrality provisions and shall include the following:

To the extent Contractor's performance under this Contract involves the provision of services for accessing the Internet, the following provisions shall apply:

Definitions. As used in this agreement, the following definitions apply:

1. "Broadband Internet Access Service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the State finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this section.
2. "Reasonable Network Management" means a network management practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

Public Disclosure. Contractor shall publicly disclose to all of its customers in the State of Vermont (including but not limited to the State itself) accurate information regarding the network and transport management practices (including cellular data and wireless broadband transport), performance, and commercial terms of its broadband Internet access services sufficient for: a) consumers to make informed choices regarding use of such services and for content, application, service; and b) device providers to develop, market, and maintain Internet offerings. Compliance with the Federal Communications Commission's transparency rule, as amended by 83 Fed. Reg. 7852, 7922 (Feb. 22, 2018), satisfies Contractor's public disclosure requirements under this paragraph.

Provision of Services. Contractor shall not, with respect to any customer in the State of Vermont (including but not limited to the State itself):

- A. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to its customers;
- B. Throttle, impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network management that is disclosed to its customers;
- C. Engage in paid prioritization or providing preferential treatment of some Internet traffic to any Internet customer;
- D. Unreasonably interfere with or unreasonably disadvantage either:
 - i. A customer's ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or
 - ii. An edge providers' ability to make lawful content, applications, services, or devices available to a customer;

Compliance. Contractor agrees to provide the State, upon request, at any time during the term of this contract, records, documentation, or any other information as required to demonstrate Contractor's compliance with the requirements of this section.

Yes, I have read, understand, and will comply with the requirements for internet neutrality principles identified above and outlined in Executive Order 02-18.

No, I have read, understand, and will not comply. I understand exceptions to this requirement shall only be considered in accordance with State law and policy.

G. Acknowledge receipt of the following Addenda:

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Bidder Name: _____ Contact Name: _____

Address: _____ Fax Number: _____

_____ Telephone: _____

_____ E-Mail: _____

By: _____ Name: _____

Signature of Bidder (or Representative)

(Type or Print)

END OF CERTIFICATE OF COMPLIANCE

RFP/PROJECT:
DATE:

**EXHIBIT B
SUBCONTRACTOR REPORTING FORM**

This form must be completed in its entirety and submitted prior to contract execution and updated as necessary and provided to the State as additional subcontractors are hired.

The Department of Buildings and General Services in accordance with Act 54, Section 32 of the Acts of 2009 and for total project costs exceeding \$250,000.00 requires bidders to comply with the following provisions and requirements.

Contractor is required to provide a list of subcontractors on the job along with lists of subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. Include additional pages if necessary. This is not a requirement for subcontractor's providing supplies only and no labor to the overall contract or project.

Subcontractor	Insured By		Subcontractor's Sub	Insured By

Date: _____

Name of Company: _____

Contact Name: _____

Address: _____

Title: _____

Phone Number: _____

E-mail: _____

Fax Number: _____

By: _____

Name: _____

Failure to adhere to Act 54, Section 32 of the Acts of 2009 and submit Subcontractor Reporting: Worker Classification Compliance Requirement will constitute non-compliance and may result in cancellation of contract and/or forfeiture of future bidding privileges until resolved.

Send Completed Form to: Office of Purchasing & Contracting
109 State Street
Montpelier, VT 05609-3001
Attention: Contract Administration

EXHIBIT C

State of Vermont Bidder Response Form



State of Vermont Bidder Response Form

Request for Proposal Name:

Vermont Health Care Uniform Reporting and Evaluation System (VHCURES) 3.0

Vendor Instructions:

Provide the information requested in this form and submit it to the State of Vermont as part of your Request for Proposal (RFP) response. All answers must be provided within the form unless otherwise specified.

Important: This form must be completed and submitted in response to this RFP for your proposal to be considered valid. The submission must also include the nine (9) additional artifacts requested within this form (denoted by underlined green font).

See the RFP for full instructions for submitting a bid. Bids must be received by the due date and at the location specified on the cover page of the RFP.

Direct any questions you have concerning this form or the RFP to:

Stephen Fazekas, Technology Procurement Administrator
State of Vermont
Office of Purchasing & Contracting
109 State Street
Montpelier VT 05609-3001
E-mail Address: SOV.ThePathForward@vermont.gov

Part 1: VENDOR PROFILE

1. Complete the table below.

Item	Detail
Company Name:	[insert the name that you do business under]
Physical Address:	[if more than one office – put the address of your head office]
Postal Address:	[e.g. P.O Box address]
Business Website:	[url address]
Type of Entity (Legal Status):	[sole trader/partnership/limited liability company or specify other]
Primary Contact:	[name of the person responsible for communicating with the Buyer]
Title:	[job title or position]
Email Address:	[email]
Phone Number:	[landline]
Fax Number:	[fax]

2. Provide a brief overview of your company including number of years in business, number of employees, nature of business, and description of clients. Identify any parent corporation and/or subsidiaries.
3. Is your organization currently or has it previously provided solutions and/or services to any agency or entity of the Vermont State government? If so, name the State entity, the solution and/or services provided, and the dates.
4. **Provide a Financial Statement* for your company and label it Attachment #1.** A confidentiality statement may be included if this financial information is considered non-public information. This requirement can be filled by:
 - A current Dun and Bradstreet Report that includes a financial analysis of the firm;

- An Annual Report if it contains (at a minimum) a Compiled Income Statement and Balance Sheet verified by a Certified Public Accounting firm; or
- Tax returns and financial statements including income statements and balance sheets for the most recent 3 years, and any available credit reports.

**Some types of procurements may require bidders to provide additional or specific financial information. Any such additional requirements will be clearly identified and explained within the RFP, and may include supplemental forms in addition to this Bidder Response Form.*

5. Disclose any judgments, pending or expected litigation, or other real potential financial reversals, which might materially affect the viability or stability of your company or indicate below that no such condition is known to exist.
6. Provide a list of three references similar in size and industry (preferably another governmental entity). References shall be clients who have implemented your Solution within the past 48 months.

Reference 1	Detail
Reference Company Name:	[insert the name that you do business under]
Company Address:	[address]
Type of Industry:	[industry type: e.g., government, telecommunications, etc.]
Contact Name:	[if applicable]
Contact Phone Number:	[phone]
Contact Email Address:	[email]
Description of system(s) implemented:	[description]
Date of Implementation:	[date]
Reference 2	Detail
Reference Company Name:	[insert the name that you do business under]
Company Address:	[address]
Type of Industry:	[industry type: e.g., government, telecommunications, etc.]
Contact Name:	[if applicable]

Contact Phone Number:	[phone]
Contact Email Address:	[email]
Description of system(s) implemented:	[description]
Date of Implementation:	[date]

Reference 3	Detail
Reference Company Name:	[insert the name that you do business under]
Company Address:	[address]
Type of Industry:	[industry type: e.g., government, telecommunications, etc.]
Contact Name:	[if applicable]
Contact Phone Number:	[phone]
Contact Email Address:	[email]
Description of system(s) implemented:	[description]
Date of Implementation:	[date]

PART 2: VENDOR PROPOSAL/SOLUTION

1. Provide a description of the technology solution you are proposing.
2. Provide a description of the capabilities of the technology solution you are proposing.
3. If a proprietary software is being proposed, provide a description of the:
 - A. Standard features and functions of the software:
 - B. The software licensing requirements for the solution:
 - C. The standard performance levels:

- Hours of system availability:
 - System response time:
 - Maximum number of concurrent users:
 - Other relevant performance level information:
4. Give a brief description of the evolution of the system/software solution you are proposing. Include the date of the first installed site and major developments which have occurred (e.g. new versions, new modules, specific features).
 5. List the total number of installations in the last 3 years by the year of installation.
 6. Provide the total number of current users for the proposed system and indicate what version they are using.
 7. Have you implemented the proposed solution for other government entities? If so, tell us who, when, and how that implementation went?
 8. **Provide a Road Map that outlines the company's short term and long term goals for the proposed solution/software and label it Attachment #2.**
 9. **Provide a PowerPoint (minimum of 1 slide and maximum of 10 slides) that provides an Executive level summary of your proposal to the State. Label it Attachment #3.**
 10. Does your proposed solution include any warranties? If so, describe them and provide the warranty periods.
 11. Describe any infrastructure, equipment, network or hardware *required* to implement and/or run the solution.
 12. What is your recommended way to host this solution?
 13. Describe how your solution can be integrated to other applications and if you offer a standard-based interface to enable integrations.
 14. Respond to the following questions about the solution being proposed:

Question	Vendor Response/Explanation	
	Yes or No	
A. Does the solution use Service Oriented Architecture for integration?		
B. Does the solution use a Rules Engine for business rules?		
C. Does the solution use any Master Data Management?		
D. Does the solution use any Enterprise Content		

Management software?		
E. Does the solution use any Case Management software?		
F. Does the solution use any Business Intelligence software?		
G. Does the solution use any Database software?		
H. Does the solution use any Business Process Management software?		
I. Is this a browser based solution and if so what browsers do you support?		
J. Does the solution include an API for integration?		

PART 3: FUNCTIONAL AND NONFUNCTIONAL REQUIREMENTS

Vendors must review and respond to the requirements (identified as RFP Attachment #1 Functional and NonFunctional Requirements). Label it Attachment #4.

Part 4: 4.5 Data Compliance

Vendors and their solutions must adhere to applicable State and Federal standards, policies, and laws based on the type of data that will be stored, accessed, transmitted and/or controlled by the solution. If the “Type of Data” column is checked below, respond “Yes” or “No” in the “Comply” column and provide an explanation on how you comply in the “Vendor’s Description of Compliance” column.

Type of Data	Applicable State & Federal Standards, Policies, and Laws	Comply	Vendor’s Description of Compliance
<input checked="" type="checkbox"/> Publicly available information	<ul style="list-style-type: none"> ▪ NIST 800-171 		
<input checked="" type="checkbox"/> Confidential Personally Identifiable Information (PII)	<ul style="list-style-type: none"> ▪ State law on Notification of Security Breaches ▪ State Law on Social Security Number Protection ▪ State law on the Protection of Personal Information ▪ National Institute of Standards & Technology: NIST SP 800-53 Revision 4 “Moderate” risk controls ▪ Privacy Act of 1974, 5 U.S.C. 552a. 		
<input checked="" type="checkbox"/> Personal Health Information (PHI)	<ul style="list-style-type: none"> ▪ Health Insurance Portability and Accountability Act of 1996: HIPAA ▪ The Health Information Technology for Economic and Clinical Health Act HITECH ▪ Code of Federal Regulations 45 CFR 95.621 		

Type of Data	Applicable State & Federal Standards, Policies, and Laws	Comply	Vendor's Description of Compliance
☒ Affordable Care Act Personally Identifiable Information (PII)	<ul style="list-style-type: none"> ▪ Internal Revenue Service Tax Information Security Guidelines for Federal, State and Local Agencies: IRS Pub 1075 ▪ Minimum Acceptable Risk Standards for Exchanges MARS-E 2.0 		
☒ Medicaid Information	<ul style="list-style-type: none"> ▪ Medicaid Information Technology Architecture MITA3.0 ▪ Code of Federal Regulations 45 CFR 95.621 		
☒ Prescription Information	<ul style="list-style-type: none"> ▪ State law on the Confidentiality of Prescription Information 		
	<ul style="list-style-type: none"> ▪ 		

PART 5: IMPLEMENTATION/PROJECT MANAGEMENT APPROACH

1. Describe the approach you would recommend for project managing this engagement.
2. Provide a list of the standard project management deliverables that you would normally produce for this type of engagement.
3. Provide a proposed list of project phases, major milestones, and an implementation time-line. **[Label this Attachment #5.](#)**
4. What types of difficulties have other clients experienced with implementation of the proposed solution?
5. Describe the experience and qualifications of the Project Manager you would offer as the resource for this engagement. **[Provide a copy of their resume and label it Attachment #6.](#)**

PART 6: TECHNICAL SERVICES

1. Describe the technical services included in your proposal (e.g., business analysis, configuration, testing, implementation, etc.).
2. Provide a list of the standard deliverables for the technical services described above.
3. Provide a description of the roles/services/tasks the State will be expected to cover as part of this engagement. Describe any additional roles/services/tasks that are optional, but would be beneficial for the State to provide.
4. Describe your typical conversion plan to convert data from existing systems to your proposed solution.
5. Describe and attach your typical Implementation Plan (label it Attachment #7), which shall include planning for the transition to maintenance and operations.
7. Describe the experience and qualifications of the technical resources proposed for this engagement. Provide their resume(s) and label them Attachment #8.
6. Describe the training that is included in your proposal.
7. Describe the system, administrator, and/or user documentation that is included in your proposal.

PART 7: MAINTENANCE AND SUPPORT SERVICES

1. Provide answers to the questions below regarding your company's Maintenance and Support Services:

Questions	Vendor Response
Service: Customer Phone &/or Email Support	
What is the method for contacting technical support?	
What are the hours of operation for support?	
What is the turnaround time for responses?	
What is the escalation process for support issues?	
Who comprises the support team and what are their qualifications?	
Define your response resolution metrics and how you capture and report them.	
Service: Incident/Security Breach Notification and Process	
Describe your identification and notification process for security breaches.	
Service: Data Management	
Describe how data is stored, retained and backed-up (including frequency).	
Service: Hosting	
Describe the hosting service and associated service levels.	

Questions	Vendor Response
Service: Scheduled Maintenance/Downtime	
What is the frequency of scheduled maintenance and downtime?	
What is the notification process for scheduled maintenance and downtime?	
Describe how “maintenance” updates are tested with customers prior to installing them in their live environments.	
Service: System Upgrades	
Are software upgrades provided as part of the software support contract?	
Describe your software upgrade process.	
How often are new versions released?	
Is documentation and training provided for system upgrades?	
Are there additional costs for upgrades and/or new releases?	
Describe how and when the State will have an opportunity to test system upgrades/releases prior to live installation.	
Describe how the State will validate post installation and how changes will be backed out in the event that a problem is encountered.	

Questions	Vendor Response
Service: Bug Fixes and Minor Enhancements	
Describe the frequency and process for providing, testing, and installing bug fixes and minor enhancements.	
Service: Disaster Recovery	
Describe the disaster recovery services included in this proposal for any non-state hosted services.	
What is your standard RPO and RTO?	
Describe the plan your company has in place for its own disaster recovery of any sites that may be involved in support of this proposal.	

2. Describe any other services not mentioned in the above list that are included in your standard Service Level Agreement (SLA) and include a copy of your SLA with your response to this RFP. [Label the SLA Attachment #9.](#)
3. Describe how adherence to your service levels is measured and what remedies you would provide the State when performance doesn't meet the standard?

PART 8: PRICING

1. Submit pricing for your proposed solution in the table below. Fill in only the lines that are applicable to your proposal. **Insert lines for additional costs, but do not delete or rename any lines in the Table. Total each column and provide a total of all columns in the “Total Implementation, plus 5 Year Costs” box on the next page.**

Cost Type	One Time (Implementation)	Year 1	Year 2	Year 3	Year 4	Year 5
Software						
Enterprise Application: License Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance &/or License Fee Add-Ons	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Subscription cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Storage Limitations and/or Additional Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Database Software: License Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Middleware Tools: License Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Operating System Software: License Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Upgrade Costs for Later Years	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Support and Maintenance Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Implementation Services						
Project Management	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Requirements	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Design (Architect Solution)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Development (Build, Configure or Aggregate)/Testing	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
System Testing	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Defect Removal	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Implement/Deploy or Integrate	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Quality Management	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Cost Type	One Time (Implementation)	Year 1	Year 2	Year 3	Year 4	Year 5

Implementation Services Continued						
Training	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Telecom						\$0.00
Bandwidth	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Hardware						\$0.00
Computing Hardware	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Storage and Backup Hardware	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Network Hardware	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Facilities/Data Center	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Hosting						\$0.00
Hosting Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Base Costs	\$0.00					

Total Implementation plus Five Year Costs \$ 0.00

2. Describe any assumptions you have made in relation to the above cost and pricing information.
3. Provide pricing information for any volume discounts that are available based on the number of software licenses purchased or support years purchased.
4. Provide pricing for any Functional Requirements marked as “C” (feature is not available in the core solution, but can be provided with customization).

PART 9: TERMS AND CONDITIONS

In deciding which Respondent/s to shortlist the State will take into consideration each Respondent's willingness to meet the State's terms and conditions. Indicate any objections or concerns to our stated terms and conditions in the RFP or any of the exhibits, addendums or attachments including **Attachment C**. Add lines to the table below as needed.

Important: Bidder will be bound to all terms and conditions stated in the State's RFP, exhibits, attachments, and/or addendums except and then only to the extent specifically set forth in the table below, and only if and to the extent expressly agreed and incorporated in writing in a resulting contract. Note that exceptions to contract terms may cause rejection of the proposal.

Clause Location	Concern	Proposed Verbiage
[indicate RFP, exhibit, attachment or addendum, section & page number]	[briefly describe your concern about this clause]	[describe your suggested alternative wording for the clause or your solution]
[indicate RFP, exhibit, attachment or addendum, section & page number]	[briefly describe your concern about this clause]	[describe your suggested alternative wording for the clause or your solution]
[indicate RFP, exhibit, attachment or addendum, section & page number]	[briefly describe your concern about this clause]	[describe your suggested alternative wording for the clause or your solution]

PART 10: AUTHORIZED COMPANY SIGNATURE

I am authorized to submit a proposal to the State of Vermont in response to this RFP on behalf of my organization. The information provided as part of my organization's response is a true and accurate representation of my organization's ability to meet the State of Vermont's business needs as expressed in this RFP.

Signature:	
Full name:	
Title:	
Company:	
Date:	

EXHIBIT D

STANDARD CONTRACT FOR TECHNOLOGY SERVICES

[USE OF THIS TEMPLATE: ALL HIGHLIGHTED LANGUAGE MAY BE DELETED OR MODIFIED, AS APPLICABLE]

1. **Parties.** This is a contract for services between the State of Vermont, [REDACTED] (hereinafter called “State”), and [REDACTED], with a principal place of business in [REDACTED], (hereinafter called “Contractor”). Contractor’s form of business organization is [REDACTED]. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of [REDACTED]. Detailed services to be provided by Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$ [REDACTED].00.

4. **Contract Term.** The period of Contractor’s performance shall begin on [REDACTED], 20 [REDACTED] and end on [REDACTED], 20 [REDACTED].

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.

8. **Attachments.** This contract consists of [REDACTED] pages including the following attachments which are incorporated herein:

Attachment A – Statement of Work

- Exhibit 1 – State Technical and Functional Requirements
- Exhibit 2 – Preliminary Implementation Master Schedule
- Exhibit 3 – State Third Party Software
- Exhibit 4 – Contractor Software

Attachment B – Payment Provisions

Attachment C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)

Attachment D – Other Terms and Conditions for Information Technology Contracts
Attachment ___ – [OTHER DEPARTMENT ATTACHMENTS, AS APPLICABLE]
Attachment ___ – Contractor’s [License] Agreement
Attachment ___ – [Maintenance and Support/Service Level Terms]

9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- 1) Standard Contract
- 2) Attachment D Other Terms and Conditions for Information Technology Contracts
- 3) Attachment C (Standard State Provisions for Contracts and Grants)
- 4) Attachment A with Exhibits
- 5) Attachment B
- 6) List other attachments as applicable

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By the Contractor:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTACHMENT A SPECIFICATIONS OF WORK TO BE PERFORMED

1. PURPOSE

This Contract sets forth the terms and conditions under which Contractor agrees to provide to the State with a [web-based,] Contractor-supported _____ (the “Solution”). The Solution shall _____.

The Contractor shall provide [development and design services, project and operations management, support and maintenance, consulting, training, engineering and application development, monitoring, support, backup and recovery, change management, technology updates and upgrades and other professional services as described herein] (individually and collectively referred to herein as the “Services”), as necessary for the State’s productive use of the Solution as further set forth in this Contract. This Contract specifies the obligations of each party with additional provisions detailed in the attached Attachments and Exhibits.

2. EXISTING SYSTEMS.

[DESCRIBE]

3. OBJECTIVE

This Contract identifies the tasks required by each party to implement and support the Solution through the following major activities: [development of project management planning documentation; requirements collection and validation, Solution design, data migration, configuration, integration and testing; deployment and training; operations, support, and maintenance services], all as detailed herein.

The project will be executed in phases as described herein.

The successful outcome of the project is defined by the following:

- completed in accordance with this Contract and applicable project management planning documentation;
- Resolution of all material functional and operational deficiencies prior to deployment in the production environment;
- completed within budget;
- configured to meet all specified requirements and needs of the State;
- the Solution meets and adheres to all requirements and timeframes set forth in service level terms set forth herein;
- the Solution is fully documented, including but not limited to requirements specifications, architecture, design, configuration, operational environment and user manuals; and
- trained State staff and stakeholders.

2.3. PERIOD OF INSTALLATION AND IMPLEMENTATION AND TRAINING

Revised: March 2017

The period of installation and implementation and training shall not exceed _____ months from the date of this Contract. Support and maintenance shall begin [upon Solution deployment] and shall continue through the Contract Term as the same may be extended by the parties.

3. DEFINITIONS. Capitalized terms used in this Contract not specifically defined in the text shall have the following meanings:

- (a) **“Certificate of Acceptance”** means written certification, delivered to Contractor and signed by an authorized representative of the State, stating that any Defects in a particular Phase or the Solution discovered after implementation and testing have been corrected as required under this Contract, and that the Phase complies in all material respects with all of the applicable Requirements.
- (b) **“Certificate of Completion”** means written certification, delivered to the State and signed by an authorized representative of Contractor, stating that any Defects in a particular Phase or the Solution discovered after implementation, testing and Acceptance have been corrected as required under this Contract, and that the Phase or Solution complies in all material respects with all of the applicable Solution Requirements. The State must provide written acceptance to Contractor of any and all Certificates of Completion for them to become effective.
- (c) **“Contractor Personnel”** means and refers to Contractor’s employees and employees of Contractor’s permitted subcontractors or permitted agents assigned by Contractor to perform Services under this Contract.
- (d) **“Defect”** means any failure by the Solution or any Phase or component thereof to conform in any material respect with applicable Requirements.
- (e) **“Defect Correction”** means either a modification or addition that, when made or added to the Solution, establishes material conformity of the Solution to the applicable Requirements, or a procedure or routine that, when observed in the regular operation of the Solution, eliminates the practical adverse effect on the State of such nonconformity.
- (f) **“Documentation”** means any and all descriptions and specifications of the Requirements included herein or created or developed hereunder, operational, functional and supervisory reference guides, manuals and instructive materials, in whatever form and regardless of the media on which it may be contained, stored or transmitted, which is developed, prepared, used or otherwise available from Contractor and/or Contractor’s suppliers, in connection with and applicable to the provision, use, operation and support of the Services hereunder. Documentation shall be sufficient to enable State personnel to understand, operate, use, access, support, maintain, update and modify Services, notwithstanding that Contractor is or may be responsible for any or all of the

foregoing obligations. Documentation shall also include all standards applicable to the Services, including those applicable to: (i) Contractor for its own comparable items or services; (ii) the State for its own comparable items or services; and (iii) such standards and guidelines as the parties mutually agree apply to the Services involved.

- (g) **“Final Acceptance”** means the issuance of Certificate of Acceptance executed by the State which specifies the mutually agreed upon Go Live Date for the Solution.
- (h) **“Facilities”** means the physical premises, locations and operations owned or leased by the State (a “State Facility”) or the Contractor (a “Contractor Facility”), and from or through which the Contractor and/or its permitted contractors will provide any Services.
- (i) **“Go Live Date.”** The date that the all or any part of the entire Solution is first available for use by the State in an operational, non-test environment, utilizing actual production data.
- (j) **“Phases.”** A particular portion of the Solution, as set forth in the Implementation Master Schedule or as may be modified in accordance with this Contract. Unless modified by written agreement of the parties, the five project Phases are [Solution Definition and Design, Requirements Gathering, Customization, Deployment, Training and Maintenance and Support].
- (k) **“Requirements”** means the State’s baseline Functional and Technical Requirements attached as Exhibit 1 to Attachment A of this Contract.
- (l) **“Service Level”** means the specific level of performance Contractor is required to comply with and adhere to in providing the Services in conformity with the Requirements, consistent with the criteria and parameters specified in this Contract. Service Level Terms are set forth in Attachment [redacted] to this Contract.

4. PROJECT MANAGEMENT

The scope of work as detailed below describes the services, deliverables and key assumptions. Contractor will develop an overall project schedule that details the tasks, timelines, and deliverables for the fully integrated solution.

4.1. CONTRACTOR PROJECT MANAGEMENT AND SUPPORT

4.1.1 CONTRACTOR’S PROJECT MANAGER

Contractor will designate an individual to serve as the **“Contractor Project Manager”** who will: (i) be a senior employee within Contractor’s organization, with the information, authority and resources available to properly discharge the responsibilities required hereunder; (ii) serve as primary point of contact and the single-point of accountability and responsibility for all Contract-related questions and issues and the provision of Services by Contractor; (iii) have day-to-day responsibility for, and authority to manage,

State customer satisfaction; (iv) devote full time and dedicated efforts to managing and coordinating the Services; and (v) be located at State Facilities or such other appropriate location as Contractor and the State may mutually agree.

Contractor’s Project Manager shall be responsible for all tasks necessary to manage, oversee, and ensure success of the project. These tasks include documenting requirements, developing and updating project plans, assigning staff, scheduling meetings, developing and publishing status reports, addressing project issues, risks, and change orders, and preparing presentations for the State.

Contractor’s project manager shall be responsible for the successful delivery of all Contractor tasks and subtasks defined in the Project Management Plan (as defined herein). Progress will be monitored and plans adjusted, as necessary, in project status meetings. The Project Management Plan deliverables (for both State and Contractor tasks) shall be updated by the Contractor, subject to review and approval of the State, and reports printed for each status meeting.

Contractor’s project manager shall be responsible for developing and implementing the following project management documentation:

Deliverable	Description	Update Frequency
Project Charter	The Project Charter provides basic information about the project. It includes a: Scope Statement (what’s in and out of scope); list of Project Deliverables; high level Project Timeline; Key Roles & Responsibilities; known Risks, Assumptions and/or Constraints. It should be signed off on by the State.	Once unless there are changes
Project Management Plan	The Project Management Plan will dictate specifics on how the Contractor Project Manager will administer the project and will include the following documentation: <ol style="list-style-type: none"> 1. Change Management Plan (will dictate how changes will be handled including any Service level terms on over/under estimates) 2. Communication Management Plan (will dictate what will be communicated, to who, and how often) 3. Requirements Management Plan (will dictate the approach that the requirements will be gathered, approved, and maintained) 4. Human Resources Management Plan (will dictate what resources will be assigned to the project, for how long, under what allocation, who they report to, and how to handle changes to the resource plan) 	

	<p>5. Procurement Management Plan (will dictate how the vendor(s) will interact with the project and expectations regarding vendor relations with State resources)</p> <p>6. Quality Management Plan (will dictate the quality controls over the work being done on the project as well as determine Key Performance Indicators – this document is not limited to deliverables)</p> <p>7. Risk and Issues Management Plan (will dictate how risks and issues will be managed over the course of the project)</p> <p>8. Scope Management Plan (will dictate how the scope will be maintained to prevent “scope creep”)</p>	
Formal Acceptance Criteria	Criteria that establishes what the acceptance and rejection criteria of each document on this list.	
Formal Acceptance Sign Off	Obtain sign-off at the completion of each project deliverable as defined by the formal acceptance criteria.	
Change Requests	Formal document which outlines any changes to the Contract scope, schedule, budget, and resources.	
Change Requests Log	Tracks the specific change requests approved and their impact to the project scope, budget and schedule.	
Budget Log	Outlines original Contract costs by deliverable with billed and paid-to-date information.	
Risk Log	A log of all risks (opened or closed) that could impact the project. Risks should be outlined by their impact and their potential to occur. All risks should have an owner.	
Issue/Action Items/Decision Log	A Log of open and resolved/completed Issues. Issues should be outlined by their impact, owner, date of occurrence, and remediation strategy.	
Decision Log	A log of all decisions made over the course of the project. Decisions should have a date and name of decider.	
Requirements Documents	<p>Finalized list of the project requirements to be approved by the State. The approach is dictated by the Requirements Management Plan (see Project Management Plan), and can include:</p> <ul style="list-style-type: none"> • Stated requirements document (SRD): The SRD contains current state process flows, user stories, and business rules and states the business need at a high level. 	

	<ul style="list-style-type: none"> • Business requirements document (BRD): The BRD contains a medium level of requirements as well as required metrics of project success. • Functional requirements document (FRD): The FRD contains detailed requirements that can be handed off to the Contractor for execution. 	
Test Plans	A description of the testing approach, participants, sequence of testing and testing preparations	Once
Test Cases & Results	The specific test cases to be tested and the testing results. Test Cases tie back to the project requirements (to ensure each one has been met).	Create once then update with Results
Implementation Master Schedule	The IMS outlines how the project will go-live and will include a mini-project plan for the exact events that need to occur assigned to the resources that need to do them and the timeframe for when they need to get done. (See Section 4.4 for more detail.)	Once per implementation
Project Status Reports	Provides an update on the project health, accomplishments, upcoming tasks, risks and significant issues. The Status Report and the project color being report shall be developed in consultation with the State business lead and State project manager, as set forth in greater detail in Section 4.2.2.	Weekly
Project Phase Audit/Gate Check	At the end of each Phase, the Contractor Project Manager shall submit an audit of all deliverables and milestones achieved during the Phase to the State Project manager for review.	Once per phase.
Meeting Agenda/Minutes	All scheduled meetings will have an agenda and minutes. The minutes shall contain risk issues, action items, and decision logs. Minutes shall be transcribed over to the main logs.	Per occurrence
End of Project Metrics	These are metrics that reflect how well the project was performed. Metrics will be outlined in the Quality Management Plan	
Lessons Learned	A compilation of the lessons learned having 20/20 hindsight. Lessons learned shall be delivered in an Excel template and collected from each of the State and Contractor project team members to get a full 360 degree view of the project in retrospect.	Once
Closeout Report	This report will include all the lessons learned, project metrics, and a summary of the project's implementation and outcome in operation.	Once

Contractor shall use State templates for the foregoing, unless otherwise approved by the State. The State Project Manager shall be responsible for the review and acceptance of project management documentation.

Contractor's project manager shall assist the State's project manager (upon request) in creating materials for periodic presentations to State project sponsors and key stakeholders. Contractor's project manager may be required to present information to, and answer questions from, State stakeholders at these presentations.

4.1.2 PROJECT MANAGEMENT AND SUPPORT

The Contractor will apply PMI (Project Management Institute's PMBOK) principles to ensure on-time and within-budget delivery of the Solution, while meeting all of the Requirements in this Contract. The State will approve all project management methods and tools used during the project. These project management methods and tools are considered project deliverables.

4.1.3 KEY PROJECT STAFF

Contractor will perform and support the Services consistent with this Contract and the Solution Requirements. Contractor Personnel will be properly educated, trained and qualified for the Services they are to perform and Contractor will put appropriate training in place to meet initial and ongoing training requirements of Contractor Personnel assigned to perform Services.

- (a) Contractor shall be responsible, at its own cost and expense, for any and all recruitment, hiring, Contractor-specific training, education and orientation for all Contractor Personnel assigned or to be assigned to perform Services or support the Requirements.
- (b) All Contractor Personnel, in addition to any Contractor security policies and procedures, shall be required to comply with the security requirements in this Contract
- (c) Contractor shall conduct its hiring process in compliance with all applicable Federal and State laws to include, but not be limited to, anti-discrimination laws.
 - (i) **Eligibility for Employment:** Contractor shall verify that all prospective employees are eligible for employment in the United States.
 - (ii) **Criminal Records:** Contractor or an agent of Contractor shall perform criminal background checks on all prospective employees utilizing a national criminal database acceptable to the State. Before any Contractor Personnel begin work on the Services x) such background check shall have returned a "no record" result or, y) to the extent that the result revealed that a felony record or records exist for a given individual, the associated conviction(s) shall be unrelated to the work to be performed as specified under the Equal Employment Opportunities Commission's EEOC Enforcement Guidance regarding the employment of convicted felons issued April 25, 2012. Contractor shall provide the State with notice of proposed Contractor Personnel with felony or misdemeanor convictions that involve a crime against a person; a crime involving the use or misuse of computer network; a crime involving weapons, explosives or arson; a crime involving trade secret/proprietary information;

a crime involving theft, dishonesty, embezzlement, breach of fiduciary duty, identity theft, or other financial-related crimes; a felony conviction for drug possession; or a crime involving the distribution or trafficking of illegal drugs and/or controlled substances.

- (d) All Contractor Personnel providing or assigned to provide Services or otherwise in a position to obtain or have access to State Information, shall execute a non-disclosure agreement in a form acceptable to the State.
- (e) The timing for transfer, reassignment or replacement of Contractor Personnel will be coordinated with requirements for timing and other elements of the Services so as to maintain continuity in the performance of the Services and avoid interruption or disruption to the Services or any failures to maintain Service Levels.

Contractor shall assign the following Contractor staff (“Key Project Staff”), to meet the Requirements of this Contract:

[INSERT]

Contractor will cause the Contractor Personnel filling the Key Project Staff positions to devote full time and dedicated effort to the provision of the Services and the achievement of Service Levels required for the Services, unless a lesser allocation during certain Project Phases may be agreed in writing.

4.1.4 KEY PROJECT STAFF CHANGES

Contractor shall not change the project assignment of _____, _____, and _____ for the period of project implementation. Contractor shall not change other members of Key Project Staff without providing the State written justification, a comprehensive transition plan and obtaining prior written approval of the State. State approvals for replacement of Key Project Staff will not be unreasonably withheld.

The replacement of Key Project Staff shall have comparable or greater skills and applied experience than being replaced and be subject to reference and background checks described above. If Contractor removes Key Project Staff for any reason without the State’s approval, Contractor agrees to replace the new Key Project Staff member if performance is unacceptable to State and provide the first thirty (30) days of a replacement resource with equivalent skill at no charge.

Notwithstanding the foregoing, the State acknowledges that Key Project Staff may become unavailable due to termination of employment for any reason, through disability or death, illness, or through leave of absence such as FMLA or National Guard duty for example. In such circumstances, Contractor shall promptly notify the State in writing of the impending or actual departure of any Key Personnel and of the qualifications and

identity of proposed replacement Key Project Staff. The State has the right to reasonably disapprove of any replacement Key Project Staff.

4.1.5 CONTROL OF CONTRACTOR PERSONNEL. Contractor shall be fully responsible for the management, compensation, and performance of all Contractor Personnel, and the filing of any and all returns and reports and the withholding and/or payment of all applicable federal, State, and local wage tax, or employment-related taxes, including, but not limited to, income taxes, gross receipt taxes, taxes measured by income, social security taxes, and unemployment taxes for Contractor and Contractor's employees. Notwithstanding the foregoing, Contractor's employees shall adhere to the State's policies and procedures, of which Contractor is made aware while on State Premises, and shall behave and perform in a professional manner. The State, may, in its reasonable discretion, require Contractor to replace any Contractor Personnel, including but not limited to Key Project Staff, working hereunder who does not adhere to, behave, and perform consistent with the State's policies and procedures, or otherwise engages in unprofessional or unethical conduct, or abuses any illegal substance or alcohol, or engages in illegal activities or consistently underperforms. The State shall provide written notice to Contractor of the requirement of replacement, or with whom there are irresolvable personality conflicts. Contractor shall use reasonable efforts to promptly and expeditiously replace Key Project Staff and replace all other personnel within fifteen (15) business days of receipt of the written notice unless otherwise mutually agreed. The State's right to request replacement of Contractor personnel hereunder relates solely to the removal of individuals from work on this Contract with the State and does not create an employment relationship. Nothing in this Contract authorizes the State to direct the Contractor's termination of the employment of any individual.

4.1.6 CONTRACTOR THIRD PARTY CONTRACTS. The State acknowledges and understands that Contractor will enter into third party contracts with the following Contractor subcontractors: (i) _____ for _____; (ii) _____ for _____; and (iii) _____ for the performance of Services hereunder. Contractor shall deliver a copy of all such third party contracts to the State for review upon request. The State hereby consents to the use by Contractor of these subcontractors, provided however that any such consent is not deemed acceptance of the terms of any subcontracts by the State.

4.2. PROJECT PLANNING

The State and Contractor Project Managers will arrange for kick-off dates and procedures for managing the project – such as reporting status and resolving issues. This will provide an opportunity to introduce all key members of the project teams and walk through the project management plan and key milestones.

4.2.1. MEETING PROTOCOLS

For regular weekly project status meetings, Contractor's Project Manager shall provide a meeting agenda and any handouts at least one business day in advance of the scheduled meeting.

4.2.2. PROJECT DOCUMENT STORAGE

The Contractor will establish a SharePoint site, or some other collaboration mechanism, that is accessible to the Contractor and the State. This will provide a common area for Contractor's project documents, artifacts, and deliverables. Access to all SharePoint sites (or other medium of collaboration) and all project material contained therein shall be delivered to the State upon completion of the project.

4.2.3. STATUS REPORTS

Contractor's Project Manager shall provide project documentation and collaboration to meet the State's vendor reporting requirements. If requested, the Contractor shall use the State's Status Report template. If no template is provided to the Contractor, the status information shall include, at a minimum: all planned tasks accomplished for the reporting period; planned tasks that are incomplete, or behind schedule in the previous week (with reasons given for those behind schedule); all tasks planned for the upcoming two weeks; an updated status of tasks (entered into the Master Project Work Plan and attached to the status report – e.g., percent completed, resources assigned to tasks, etc.); and the status of any corrective actions undertaken. The report will also contain items such as the current status of the project's technical progress and contractual obligations; achievements to date; risk management activities; unresolved issues; requirements to resolve unresolved issues; action items; problems; installation and maintenance results; and significant changes to Contractor's organization or method of operation, to the project management team, or to the deliverable schedule, where applicable. For all project services performed on a time and materials basis, as provided herein, the Contractor shall also provide details on staff hours, cost per activity, all expenditures and a summary of services performed for the reporting period.

The State Project Manager and Contractor's Project Manager will come to agreement on the exact format of the project documentation and collaboration reports, at or before the project kick-off meeting.

Each report shall include a project dashboard at the top outlining the overall status of the project in terms of the standard triple constraint: cost, time, resources (using a legend or icon of green, yellow, and red based upon the following definitions):

- Green – on track to deliver committed scope by committed deadline with committed resources/funding.
- Yellow – not on track to deliver committed scope by committed deadline with committed resources/funding, but have a plan to get back to green.
- Red – not on track and currently do not have a plan to get back to green. Need project management intervention or assistance.

In the event of yellow or red overall project status, there should be a specific task(s) and/or issue(s) identified as yellow or red which are the root cause of the overall project status being yellow or red. These items shall be presented in sufficient detail to determine the root-cause. The Status Report shall provide a link to the Risks and Issues Log for more detail.

The report shall include a budget section outlining original contract costs by deliverable with billed and paid-to-date information by deliverable and in total.

4.3 IMPLEMENTATION MASTER SCHEDULE

The Contractor has compiled a preliminary “baseline” implementation master schedule (“IMS”) using the best available knowledge at the time of Contract signing which is attached to this Attachment A as Exhibit 2. The Contractor shall update the IMS after execution of this Contract during the Project Development as required pursuant to the terms herein (e.g., updated tasks and task descriptions, updated meeting dates, updated resource assignments, updated milestone dates). Any such changes shall be communicated in writing by the Contractor to the State Contract Manager by executing a new or revised IMS or other documentation acceptable to the State. Such changes are subject to State review and approval. The parties shall work together to implement the IMS changes in accordance with the terms of this Contract; provided, however, in no event shall revisions to the IMS be deemed to amend this Contract. Changes to project scope, term or maximum amount shall require a Contract amendment.

The IMS is an ongoing tool for anticipating and tracking changes to expectations for all project tasks, deliverables and milestones. The complete IMS is an integrated plan – that is, it includes actions and deliverables from all project areas – both Contractor and State. The complete IMS, which includes the detailed tasks and milestones, shall reside in **[Microsoft Project (.mpp) format (Version 2007 or higher)]** and will be shared in the ongoing communication meetings to discuss changes. State shall sign off on all deliverables from each Phase of the IMS before subsequent phase work is initiated. Once sign off is complete, Contractor and State will assess readiness to proceed with next phase.

5. SCOPE OF SERVICES.

5.1 DESCRIPTION OF SERVICES. Contractor agrees to provide and shall perform the Services described herein in accordance with and subject to the terms and conditions set forth in this Contract.

5.2 Project Major Phases, Warranty and Options. [DESCRIBE PROJECT PHASES AND DELIVERABLES FOR EACH PHASE; THIS SECTION SHOULD INCLUDE PAYMENT MILESTONES WHICH ARE THEN REITERATED IN ATTACHMENT B WITH PAYMENT AMOUNTS]

The Contractor shall, at a minimum, provide State **access to a [web-based] Solution** that meets the tools and functionality requirements of the State set forth in Exhibit 1 to this Attachment A. Contractor shall use system development and configuration control methodologies and the desirable sequence of project major Phases as described herein. Estimated dates in the following table shall be finalized in the IMS as described in Section **4.4**, “Implementation Project Schedule.”

PHASE	ESTIMATED DATES	PHASE DESCRIPTION
[Initiation]		Kick-off meeting, Planning and preparation of project management planning documentation.
[Requirements Gathering]		Contractor performs necessary requirements gathering to finalize functional and technical requirements and identify gaps between State requirements and Solution capabilities.
[Implementation]		Contractor installs and configures the Solution in a Test environment.
[Testing]		State subject matter experts perform Solution testing in in a test (not live) environment accordance with Contractor-developed Test plans.
[Training]		Contractor performs training of State personnel (train the trainer or train the user).
[Legacy Data Migration]		Contractor shall perform all necessary legacy data migrations using State-approved migration plan and data mapping templates.
[Deployment]		Contractor implements the tested and State-approved Solution in the production environment for additional State testing and Go-Live.
[Post-Implementation Support/Warranty]		Contractor shall be responsible for fixing all Defects found during the Warranty Period. All Defects found within the Warranty Period, shall be corrected by Contractor at no additional cost to the State.

5.3. State-Caused Delays. Contractor acknowledges that the State may not be able to meet the time frames specified in an IMS or that the State may determine that it is necessary to delay and/or modify the timing and sequencing of the implementation as provided in the IMS. While the State is committed to the project and shall use reasonable efforts to provide staff and resources necessary to satisfy all such time frames, the State shall not be held responsible or deemed in default for any delays in Solution implementation provided the State uses its reasonable efforts to accomplish its designated responsibilities and obligations as set forth in the IMS. In addition, the State may, at its option, delay implementation and installation of the Solution, or any part thereof. Notwithstanding any provision to the contrary, if the State Significantly Delays implementation of the Solution, either party may make a Change Request in accordance with Section 8, “Change Order Process,” and, if required, an amendment to this Contract. Contractor agrees to adjust the IMS and Payment Milestones deadlines to take into account any State-caused delays; provided, however, that Contractor shall continue to

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perform any and all activities not affected by such State-caused delay. In the event the State's adjustment to the IMS causes Contractor scheduling conflicts or personnel unavailability, the State and Contractor shall prepare a revised mutually agreeable IMS which may delay the commencement and completion dates of the project and shall take into consideration the readjusted time frames and any necessary resequencing of the activities. Such readjustment, rescheduling or modification of the Project shall be at no additional cost to the State if the delays are less than or equal to thirty (30) days.

For purposes of this Section, a "Significant Delay" shall mean any delay that in itself will cause a slippage of thirty (30) calendar days or more in a Go Live date.

5.4 Third Party Resources. From time to time State may request that Contractor obtain and provide to the State, at the State's expense, third party Resources related to the Services but outside the scope of what Contractor is then obligated to provide hereunder, including the benefit of any volume purchasing discounts, pricing or terms available to the State or its supplier. Contractor shall notify the State at the time of any such request of any relationships Contractor may have with such suppliers that may be of benefit to the State in this respect. To the extent that State may have a more favorable relationship with any third party supplier, upon notice from State, Contractor agrees to consider such Resources from State's designated supplier. Contractor will not add an administrative fee or other markup to any third party Resources it procures on behalf of or for the benefit of State and the Services provided hereunder.

5.5 State Third Party Software. A list of all Third Party Software licensed by the State for purposes of Contractor's performance of the Services is attached to this Attachment A as Exhibit 3. Contractor will assume operational and financial responsibility for such Third Party Software and any related maintenance obligations to the same extent as if Contractor were the licensee of such Third Party Software. Contractor will cease use of such Third Party Software upon expiration or termination of this Contract.

6. ACCEPTANCE

6.1. Acceptance Testing by the State Following Implementation. After Contractor provides written notice to the State that it has completed a Phase of the Solution, the State shall, in accordance with the Formal Acceptance Criteria agreed by the parties, and with full cooperation and assistance from Contractor, conduct all such inspections and tests of the Phase as the State may deem necessary or appropriate to determine whether any Defects exist in the Phase as implemented and whether the Phase as installed materially complies with all of the Installation Test Specifications and Phase specifications as set forth in the Requirements and detailed IMS. Such inspections and tests shall be over a duration mutually agreed upon by the State and Contractor, per Phase, from the date a notice of completion is issued (the "Acceptance Period"). Contractor shall correct all Defects during the Acceptance Period, demonstrate to the State that correction of such Defects has been made, and after so demonstrating correction, shall issue to the State a

written Certificate of Completion indicating that no Defects are known to exist in the Phase and/or Solution. The State shall be deemed to have accepted and approved the particular Phase or Solution only upon the State's delivery to Contractor of a signed, written Certificate of Acceptance indicating that the Phase or the Solution, as the case may be, as completed, materially performs in accordance with the Requirements.

If at the end of the Acceptance Period, the State has not issued a signed Certificate of Acceptance to Contractor for that Phase or the Solution, the State may, in its sole discretion, extend the Acceptance Period; provided, however, that the State shall respond within five (5) business days of a written request by Contractor issued after the end of the original Acceptance Period to provide Contractor with the State's status of approval or disapproval for that Phase or the Solution. Any rejection must be in writing and specify the reason for the rejection and must be based upon the continued existence of a Defect in the Phase or Solution or failure of the Phase or Solution to materially perform in accordance with the Requirements. The Certificate of Acceptance shall not be unreasonably withheld by the State. If a Certificate of Acceptance for a Phase or the Solution is signed and delivered by the State, Contractor shall sign said Certificate, with both parties receiving a copy thereof.

7. THIRD PARTY COOPERATION

The State may hire other independent contractors as it may require to assist with the project. Contractor will cooperate with the State and the third party, including provision of: (i) written Documentation requested by the State; (ii) commercially reasonable assistance and support services to such third party; and (iii) reasonable access to Contractor as necessary for such third parties to perform their work. The State shall use reasonable efforts to require such third parties to comply with Contractor's reasonable requirements regarding confidentiality, operations, standards, and security. Contractor shall support and maintain such third party work product, provided the service provider complies with any Documentation applicable to Contractor in respect of the Services involved.

8. CONTRACT/PROJECT CHANGE ORDER PROCESS

[NOTE: AS EXPLAINED HEREIN, THIS SECTION IS NOT APPLICABLE FOR ANY AND EVERY RFP AND SHOULD BE DELETED AS APPROPRIATE]

For projects involving IT Implementation services, where frequent and/or multiple minor changes to the project schedule or deliverables are anticipated, the following process may be utilized to effectuate such minor changes without undue project delays ("Change Orders").

Changes to a Contract during its term may incur additional costs and possible delays relative to the project schedule, or may result in less cost to the State (for example, the State decides it no longer needs a deliverable in whole or part) or less effort on the part of a selected vendor. A Change Order shall define the effort involved in implementing the

change, the total cost or associated savings to the State, of implementing the change, and the effect, if any, of implementing the change on the project schedule.

Any change that alters the essential terms of the original contract, including any change that expands or decreases the statement of work, the contract duration, the payment terms and/or the contract maximum amount, shall require a Contract Amendment in accordance with State contracting policies and procedures. Under no circumstances may a Change Order be used where a Contract Amendment is otherwise required pursuant to the Contract Amendments, Approval and Execution process set forth in State Administrative Bulletin 3.5.

Change Orders will be developed jointly and every effort will be made to adhere to the approved Project Plan. The Project Manager for the State and the Project Manager for a Contractor will decide whether a Change Order is necessary. If a Change Order is necessary, the Project Manager for requesting party will prepare a Change Order Request detailing the impacts on scope, schedule, deliverables, resources, and cost. The Change Order Request must be submitted to the non-requesting party for review. The non-requesting party will make its best efforts to either approve or deny the Change Order in writing within (10) business days. In no event shall any delay in the approval or denial of a Change Request constitute a deemed approval by the State.

The State will not pay for the effort involved in developing a Change Order. The Contractor shall bear the cost of estimating the cost or savings, time, and Contractor resources required to implement all Change Order Requests forthcoming from the State during the course of the Project.

All Change Orders that are mutually agreed upon must:

- a. be in writing and describe, with specific reference to the applicable section(s) of the contract, what is being added, deleted or otherwise modified;
- b. be signed by both the State and the Contractor;
- c. include the original contract number and a sequential Change Order number;
- d. include Contractor certifications regarding Taxes, Debarment, and Child Support, as detailed in State Administrative Bulletin 3.5, Section XIII(A)(c); and
- e. be consolidated into a formal Contract Amendment whenever an amendment would otherwise be required by State Administrative Bulletin 3.5.

ATTACHMENT B PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
 - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract # for this contract.
4. Invoices shall be submitted to the State at the following address:
[REDACTED]
5. Contractor shall submit invoices to the State upon State Acceptance of a deliverable in accordance with the schedule for delivered products, or rates for services performed set forth below:

- Specify Milestone Deliverable Payment Schedule, retainage (if any) and release point(s).
- Hardware/Software
- Monthly Services
- Other Included Services
- Optional Services
- Withheld Amount

5. **EXPENSES:** The fee for services shall be inclusive of Contractor expenses.
6. **RETAINAGE:** In the discretion of the State, a contract resulting from this RFP may provide that the State withhold a percentage of the total amount payable for some or all deliverables, such retainage to be payable upon satisfactory completion and State acceptance in accordance with the terms and conditions of the contract. **IF AGENCY/DEPT KNOWS AT THE TIME OF RFP THAT IT WILL REQUIRE PARTICULAR RETAINAGE PROVISIONS, IT SHOULD SPECIFY THOSE DETAILS IN ATTACHMENT B OF THE STANDARD CONTRACT FORM THAT WILL BE ATTACHED TO THIS RFP.**

Revised: March 2017

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be Revised: March 2017

entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and

employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of

Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A. is not under any obligation to pay child support; or
- B. is under such an obligation and is in good standing with respect to that obligation; or
- C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20

("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

26. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

27. Termination:

A. Non-Appropriation: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

ATTACHMENT D
OTHER TERMS AND CONDITIONS FOR INFORMATION TECHNOLOGY
CONTRACTS

INFORMATION TECHNOLOGY SYSTEM IMPLEMENTATION
TERMS AND CONDITIONS

1. MODIFICATIONS TO CONTRACTOR DOCUMENTS

The parties specifically agree that the Contractor Documents are hereby modified and superseded by Attachment C and this Attachment D.

“Contractor Documents” shall mean one or more document, agreement or other instrument required by Contractor in connection with the performance of the products and services being purchased by the State, regardless of format, including the license agreement, end user license agreement or similar document, any hyperlinks to documents contained in the Contractor Documents, agreement or other instrument and any other paper or “shrinkwrap,” “clickwrap,” “browsewrap” or other electronic version thereof.

2. NO SUBSEQUENT, UNILATERAL MODIFICATION OF TERMS BY CONTRACTOR

Notwithstanding any other provision or other unilateral license terms which may be issued by Contractor during the Term of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for the products and services being purchased by the State, as applicable, the components of which are licensed under the Contractor Documents, or the fact that such other agreement may be affixed to or accompany the products and services being purchased by the State, as applicable, upon delivery, the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

3. TERM OF CONTRACTOR’S DOCUMENTS; PAYMENT TERMS

Contractor acknowledges and agrees that, to the extent a Contractor Document provides for alternate term or termination provisions, including automatic renewals, such sections shall be waived and shall have no force and effect. All Contractor Documents shall run concurrently with the term of this Contract; provided, however, to the extent the State has purchased a perpetual license to use the Contractor’s software, hardware or other services, such license shall remain in place unless expressly terminated in accordance with the terms of this Contract. Contractor acknowledges and agrees that, to the extent a Contractor Document provides for payment terms which differ from the payment terms set forth in Attachment B, such sections shall be waived and shall have no force and effect and the terms in Attachment B shall govern.

4. OWNERSHIP AND LICENSE IN DELIVERABLES

4.1 Contractor Intellectual Property. Contractor shall retain all right, title and interest in and to any work, ideas, inventions, discoveries, tools, methodology, computer

programs, processes and improvements and any other intellectual property, tangible or intangible, that has been created by Contractor prior to entering into this Contract (“Contractor Intellectual Property”). Should the State require a license for the use of Contractor Intellectual Property in connection with the development or use of the items that Contractor is required to deliver to the State under this Contract, including Work Product (“Deliverables”), the Contractor shall grant the State a royalty-free license for such development and use. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property, provided the State shall be granted an irrevocable, perpetual, non-exclusive royalty-free license to use any such Contractor Intellectual Property that is incorporated into Work Product.

4.2 State Intellectual Property. The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, “State Intellectual Property”).

Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

4.3 Work Product. All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of law or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

“Work Product” means any tangible or intangible ideas, inventions, improvements, modifications, discoveries, development, customization, configuration, methodologies or processes, designs, models, drawings, photographs, reports, formulas, algorithms, patterns, devices, compilations, databases, computer programs, work of authorship, specifications, operating instructions, procedures manuals or other documentation, technique, know-how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection),

that is specifically made, conceived, discovered or reduced to practice by Contractor, either solely or jointly with others, pursuant to this Contract. Work Product does not include Contractor Intellectual Property or third party intellectual property.

To the extent delivered under this Contract, upon full payment to Contractor in accordance with Attachment B, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to all Deliverables, except to the extent they include any Contractor Intellectual Property; and (ii) grants to State a perpetual, non-exclusive, irrevocable, royalty-free license to use for State's internal business purposes, any Contractor Intellectual Property included in the Deliverables in connection with its use of the Deliverables and, subject to the State's obligations with respect to Confidential Information, authorize others to do the same on the State's behalf. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor Intellectual Property.

The Contractor shall not sell or copyright a Deliverable without explicit permission from the State.

If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor Intellectual Property or Contractor Intellectual Property developed outside of this Contract with no assistance from State.

5. CONFIDENTIALITY AND NON-DISCLOSURE; COMPLIANCE

5.1 For purposes of this Contract, confidential information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party's possession prior to its receipt from the disclosing party; (c) is independently developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is not exempt from disclosure under applicable State law.

5.2 Confidentiality of Contractor Information. The Contractor acknowledges and agrees that this Contract and any and all Contractor information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor

may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including, but not limited to, attorneys' fees awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor's attempts to prevent or unreasonably delay public disclosure of Contractor's information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor's attempts to prevent public disclosure of Contractor's information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor's determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.

5.3 Confidentiality of State Information. In performance of this Contract, and any exhibit or schedule hereunder, the Contractor acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("State Data").

State Data shall not be stored, accessed from, or transferred to any location outside the United States.

Unless otherwise instructed by the State, Contractor agrees to keep confidential all State Data. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in

whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to only those employees on its staff who must have the information on a "need to know" basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.

Contractor shall not access State user accounts or State Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Contract, or at State's written request.

Contractor may not share State Data with its parent company or other affiliate without State's express written consent.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third-party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

5.4 Obligations Regarding Protected Information. Contractor shall comply with its obligations under the Health Insurance Portability and Accountability Act of 1996, including the Standards for the Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and 164 ("Privacy Rule") and the Security Standards at 45 CFR Parts 160 and 164 ("Security Rule"), as amended by subtitle D of the Health Information Technology for Economic and Clinical Health Act (collectively, "HIPAA"), and other applicable state and federal laws and data use agreements between Contractor and state and federal agencies regarding protected health, personal, or otherwise confidential information and, if requested by the State, shall assure the State of Contractor's compliance as required by law.

6. SECURITY OF STATE INFORMATION

6.1 Security Standards. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor represents and warrants that it has implemented and it shall maintain during the term of this Contract the highest industry standard administrative, technical, and physical safeguards and controls consistent with NIST *Special Publication 800-53* (version 4 or higher) and *Federal Information Processing Standards Publication 200* and designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures shall include at a minimum: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this

information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include, but not be limited to, encryption at rest and multiple levels of authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

6.2 Security Breach Notice and Reporting. The Contractor shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request.

In the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise State Data (a “Security Breach”), the Contractor shall notify the State within 24 hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State. Contractor shall analyze and document the incident and provide all notices required by applicable law.

In accordance with Section 9 V.S.A. § 2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation (“DFR”), within fourteen (14) business days of the Contractor’s discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor’s subcontractors, affiliates or agents which may be “data collectors” hereunder.

In addition to the above requirements, the Contractor shall report any release, disclosure, or publication of personally identifiable information (PII) from Medicare data, including loss of these data or disclosure to any unauthorized persona, as a potential security of privacy breach to the Green Mountain Care Board (“GMCB”) and the Center for Medicare and Medicaid Services (“CMS”) Action Desk by telephone at (410) 786-2580 and by e-mail notification at

cms_it_service_desk@cms.hhs.gov within one hour of the discovery of the breach by any individual data user, and must cooperate fully in the federal security incident process.

The Contractor agrees to fully cooperate with the State and assume responsibility at its own expense for the following, to be determined in the sole discretion of the State: (i) notice to affected consumers if the State determines it to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach, including but not limited to, outside investigation, forensics, counsel, crisis management and credit monitoring, in the sole determination of the State.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

6.3 Security Policies. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor will have an information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

6.4 Operations Security. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor shall cause an SSAE 18 SOC 2 Type 2 audit report to be conducted annually. The audit results and the Contractor's plan for addressing or resolution of the audit results shall be shared with the State within sixty (60) days of the Contractor's receipt of the audit results. Further, on an annual basis, within 90 days of the end of the Contractor's fiscal year, the Contractor shall transmit its annual audited financial statements to the State.

6.5 Redundant Back-Up. The Contractor shall maintain a fully redundant backup data center geographically separated from its main data center that maintains near realtime replication of data from the main data center. The Contractor's back-up policies shall be made available to the State upon request. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

6.6 Vulnerability Testing. The Contractor shall run quarterly vulnerability assessments and promptly report results to the State. Contractor shall remediate all critical issues

within 90 days, all medium issues within 120 days and low issues within 180 days. Contractor shall obtain written State approval for any exceptions. Once remediation is complete, Contractor shall re-perform the test.

7. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

7.1 General Representations and Warranties. The Contractor represents, warrants and covenants that:

- (i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
- (ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.
- (iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.
- (iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the Deliverables as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the Deliverables or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.
- (v) The Contractor has adequate resources to fulfill its obligations under this Contract.
- (vi) Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.

7.2 Contractor's Performance Warranties. Contractor represents and warrants to the State that:

- (i) All Deliverables will be free from material errors and shall perform in accordance with the specifications therefor for a period of at least one year.
- (ii) Contractor will provide to the State commercially reasonable continuous and uninterrupted access to the Service, and will not interfere with the State's access to and use of the Service during the term of this Contract;

- (iii) The Service is compatible with and will operate successfully with any environment (including web browser and operating system) specified by the Contractor in its documentation;
- (iv) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.
- (v) All Deliverables supplied by the Contractor to the State shall be transferred free and clear of any and all restrictions on the conditions of transfer, modification, licensing, sublicensing and free and clear of any and all liens, claims, mortgages, security interests, liabilities and encumbrances or any kind.
- (vi) Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.
- (vii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

7.3 Limitation on Disclaimer. The express warranties set forth in this Contract shall be in lieu of all other warranties, express or implied.

7.4 Effect of Breach of Warranty. If, at any time during the term of this Contract, software or the results of Contractor's work fail to perform according to any warranty of Contractor under this Contract, the State shall promptly notify Contractor in writing of such alleged nonconformance, and Contractor shall, at its own expense and without limiting any other rights or remedies of the State hereunder, re-perform or replace any services that the State has determined to be unsatisfactory in its reasonable discretion. Alternatively, with State consent, the Contractor may refund of all amounts paid by State for the nonconforming deliverable or service

8. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE

Revised: March 2017

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of \$1,000,000 per claim, \$3,000,000 aggregate; and (b) first party Breach Notification Coverage of not less than \$2,000,000. With respect to the first party Breach Notification Coverage, Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.

With respect to the first party Breach Notification Coverage, Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

9. LIMITATION OF LIABILITY

CONTRACTOR'S LIABILITY FOR DAMAGES TO THE STATE ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT SHALL NOT EXCEED THREE TIMES THE MAXIMUM AMOUNT PAYABLE UNDER THIS CONTRACT, OR \$ [REDACTED], WHICHEVER IS GREATER **[TO BE NEGOTIATED WITH VENDOR]**. LIMITS OF LIABILITY FOR STATE CLAIMS SHALL NOT APPLY TO STATE CLAIMS ARISING OUT OF: (A) CONTRACTOR'S OBLIGATION TO INDEMNIFY THE STATE; (B) CONTRACTOR'S CONFIDENTIALITY OBLIGATIONS TO THE STATE; (C) PERSONAL INJURY OR DAMAGE TO REAL OR PERSONAL PROPERTY; (D) CONTRACTOR'S GROSS NEGLIGENCE, FRAUD OR INTENTIONAL MISCONDUCT; OR (E) VIOLATIONS OF THE STATE OF VERMONT FRAUDULENT CLAIMS ACT. IN NO EVENT SHALL THIS LIMIT OF LIABILITY BE CONSTRUED TO LIMIT CONTRACTOR'S LIABILITY FOR THIRD PARTY CLAIMS AGAINST THE CONTRACTOR WHICH MAY ARISE OUT OF CONTRACTOR'S ACTS OR OMISSIONS IN THE PERFORMANCE OF THIS CONTRACT.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY, SUCH AS LOSS OF ANTICIPATED BUSINESS, OR LOST PROFITS, INCOME, GOODWILL, OR REVENUE IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT.

The provisions of this Section shall apply notwithstanding any other provisions of this Contract or any other agreement.

10. TRADE SECRET, PATENT AND COPYRIGHT INFRINGEMENT

The State shall not be deemed to waive any of its rights or remedies at law or in equity in the event of Contractor's trade secret, patent and/or copyright infringement.

11 REMEDIES FOR DEFAULT; NO WAIVER OF REMEDIES

In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such right, power or remedy, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

12 NO ASSUMPTION OF COSTS

Any requirement that the State defend or indemnify Contractor or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or license verification costs of Contractor, is hereby deleted from the Contractor Documents.

13 TERMINATION

Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to the State all State information, State Intellectual Property or State Data (including without limitation any Deliverables for which State has made payment in whole or in part) ("State Materials"), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.

In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Materials to State control; including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Materials.

Contractor shall reasonably cooperate with other parties in connection with all services to be delivered under this Contract, including without limitation any successor provider to whom State Materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting the State Materials, in a format usable without the use of the Services and as agreed to by State, at no additional cost.

Any transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a Transition Plan identifying transition services to be provided.

14. ACCESS TO STATE DATA:

Revised: March 2017

The State may import or export State Materials in part or in whole at its sole discretion at any time (24 hours a day, seven (7) days a week, 365 days a year), during the term of this Contract or for up to [three (3) months] after the Term (so long as the State Materials remain in the Contractor's possession) without interference from the Contractor in a format usable without the Service and in an agreed-upon file format and medium at no additional cost to the State.

The Contractor must allow the State access to information such as system logs and latency statistics that affect its State Materials and or processes.

The Contractor's policies regarding the retrieval of data upon the termination of services have been made available to the State upon execution of this Contract under separate cover. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

15. AUDIT RIGHTS

Contractor will maintain and cause its permitted contractors to maintain a complete audit trail of all transactions and activities, financial and non-financial, in connection with this Contract. Contractor will provide to the State, its internal or external auditors, clients, inspectors, regulators and other designated representatives, at reasonable times (and in the case of State or federal regulators, at any time required by such regulators) access to Contractor personnel and to any and all Contractor facilities or where the required information, data and records are maintained, for the purpose of performing audits and inspections (including unannounced and random audits) of Contractor and/or Contractor personnel and/or any or all of the records, data and information applicable to this Contract.

At a minimum, such audits, inspections and access shall be conducted to the extent permitted or required by any laws applicable to the State or Contractor (or such higher or more rigorous standards, if any, as State or Contractor applies to its own similar businesses, operations or activities), to (i) verify the accuracy of charges and invoices; (ii) verify the integrity of State Data and examine the systems that process, store, maintain, support and transmit that data; (iii) examine and verify Contractor's and/or its permitted contractors' operations and security procedures and controls; (iv) examine and verify Contractor's and/or its permitted contractors' disaster recovery planning and testing, business resumption and continuity planning and testing, contingency arrangements and insurance coverage; and (v) examine Contractor's and/or its permitted contractors' performance of the Services including audits of: (1) practices and procedures; (2) systems, communications and information technology; (3) general controls and physical and data/information security practices and procedures; (4) quality initiatives and quality assurance, (5) contingency and continuity planning, disaster recovery and back-up procedures for processes, resources and data; (6) Contractor's and/or its permitted contractors' efficiency and costs in performing Services; (7) compliance with the terms of this Contract and applicable laws, and (9) any other matters reasonably requested by the State. Contractor shall provide and cause its permitted contractors to provide full cooperation to such auditors, inspectors, regulators and representatives in connection with audit functions and with regard to examinations by regulatory authorities, including the installation and operation of audit software.

Revised: March 2017

16. DESTRUCTION OF STATE DATA

At any time during the term of this Contract within (i) thirty days of the State's written request or (ii) [three (3) months] of termination or expiration of this Contract for any reason, and in any event after the State has had an opportunity to export and recover the State Materials, Contractor shall at its own expense securely destroy and erase from all systems it directly or indirectly uses or controls all tangible or intangible forms of the State Materials, in whole or in part, and all copies thereof except such records as are required by law. The destruction of State Data and State Intellectual Property shall be performed according to National Institute of Standards and Technology (NIST) approved methods. Contractor shall certify in writing to the State that such State Data has been disposed of securely. To the extent that any applicable law prevents Contractor from destroying or erasing State Materials as set forth herein, Contractor shall retain, in its then current state, all such State Materials then within its right of control or possession in accordance with the confidentiality, security and other requirements of this Contract, and perform its obligations under this section as soon as such law no longer prevents it from doing so.

Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location and certify in writing to the State that such State Data has been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Data.

17 CONTRACTOR BANKRUPTCY.

Contractor acknowledges that if Contractor, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects this Contract, the State may elect to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State as provided in this Contract, including the right to obtain the State Intellectual Property.

18 SOFTWARE LICENSEE COMPLIANCE REPORT.

In lieu of any requirement that may be in a Contractor Document that the State provide the Contractor with access to its System for the purpose of determining State compliance with the terms of the Contractor Document, upon request and not more frequently than annually, the State will provide Contractor with a certified report concerning the State's use of any software licensed for State use pursuant this Contract. The parties agree that any non-compliance indicated by the report shall not constitute infringement of the licensor's intellectual property rights, and that settlement payment mutually agreeable to the parties shall be the exclusive remedy for any such non-compliance.

19 CHANGE PROCESS

The State, may at any time during the term of the contract, request a modification to the specifications, or an addition or reduction, or other change in the scope of the contract or the implementation for the contract (collectively, a "Contract Modification"). If the State

desires such a modification, the State shall notify Contractor in writing, describing in detail the requested Contract Modification. To the extent the requested Contract Modification requires additional work or investigation to respond to the requested Contract Modification, Contractor shall advise the State and request authorization to proceed with such an investigation, including whether time spent performing such an investigation would be chargeable on a time and materials basis. If Contractor believes that any proposed Contract Modification is impracticable or would impair the integrity of any Deliverable, Contractor shall immediately, and in no event more than fifteen (15) days after receipt of a Contract Modification request, advise the State in writing that the request cannot be accepted ("Impossibility Notice"). Within thirty (30) days after Contractor's receipt of a Contract Modification request, or such later date as may be agreed by the parties where investigation is required, Contractor will provide a final response. If Contractor accepts the Contract Modification request, the parties shall negotiate the necessary adjustments to achieve such Contract Modification and any necessary changes to the terms of this contract.

20 EXECUTIVE ORDER 2-18 INTERNET NEUTRALITY IN STATE PROCUREMENT:

To the extent Contractor's performance under this Contract involves the provision of services for accessing the Internet, the following provisions shall apply:

Definitions. As used in this agreement, the following definitions apply:

3. "Broadband Internet Access Service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the State finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this section.
4. "Reasonable Network Management" means a network management practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

Public Disclosure. Contractor shall publicly disclose to all of its customers in the State of Vermont (including but not limited to the State itself) accurate information regarding the network and transport management practices (including cellular data and wireless broadband transport), performance, and commercial terms of its broadband Internet access services sufficient for: a) consumers to make informed choices regarding use of such services and for content, application, service; and b) device providers to develop, market, and maintain Internet offerings. Compliance with the Federal Communications

Commission's transparency rule, as amended by 83 Fed. Reg. 7852, 7922 (Feb. 22, 2018), satisfies Contractor's public disclosure requirements under this paragraph.

Provision of Services. Contractor shall not, with respect to any customer in the State of Vermont (including but not limited to the State itself):

- A. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to its customers;
- B. Throttle, impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network management that is disclosed to its customers;
- C. Engage in paid prioritization or providing preferential treatment of some Internet traffic to any Internet customer;
- D. Unreasonably interfere with or unreasonably disadvantage either:
 - i. A customer's ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or
 - ii. An edge providers' ability to make lawful content, applications, services, or devices available to a customer;

Compliance. Contractor agrees to provide the State, upon request, at any time during the term of this contract, records, documentation, or any other information as required to demonstrate Contractor's compliance with the requirements of this section.