



Green Mountain Care Board
144 State Street
Montpelier VT 05633
<http://gmcboard.vermont.gov>

[phone]802-828-2177

**SEALED BID
REQUEST FOR PROPOSAL
FOR**

Vermont Health Care Expenditures and Low-value Care Comparative Analyses

Expected RFP Schedule Summary (*subject to change and will be posted as an addendum to the RFP on the GMCB website*):

ISSUE DATE	Friday, March 4, 2022
QUESTIONS DUE	Thursday, March 10, 2022 by 4:30 PM (EST)
WRITTEN RESPONSES TO QUESTIONS	Tuesday, March 15, 2022 by 4:30 PM (EST)
RFP RESPONSES DUE BY	Thursday, April 7, 2022 by 4:30 PM (EST)
SELECTION NOTIFICATION	Monday, May 9, 2022
WORK START DATE:	Monday, August 15, 2022

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

<http://gmcboard.vermont.gov/publications/rfps-contracts-grants>

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

STATE CONTACT: Jessica Mendizabal, Director Data Management Analysis & Integration
TELEPHONE: (802) 828-2177
E-MAIL (Preferred): jessica.mendizabal@vermont.gov

USE SUBJECT LINE: Health Care Spending Benchmarking and Low-value Care Analyses RFP

1 OVERVIEW

1.1 Scope and Background: Through this Request for Proposal (RFP), the State of Vermont, Green Mountain Care Board (GMCB or State) is seeking to establish contracts with one or more companies to perform a comparative healthcare spending per capita analysis which shall include analysis of potentially avoidable utilization and/or low-value care.

In 2021, DK Healthcare Consulting LLC was hired by the Vermont legislative Task Force on Affordable, Accessible Health Care to develop a report with recommendations to manage costs and improve Vermont's health care delivery system to the Senate Health and Welfare Committee. The objective of the report included assessing the availability and gaps in information that can identify factors driving healthcare cost in Vermont, best opportunities to reduce cost or cost growth, and their regulatory structure implications. The full report can be found here: <https://ljfo.vermont.gov/assets/Uploads/9e3a5a8e00/REPORT-FOR-HROC-OPPORTUNITIES-FOR-REGULATORY-EVOLUTION-REVISED-12.20.2021.pdf>. Priority recommendations from this report include the assessment of comparative spending per capita and low-value care analysis to provide insight on where to improve value and lower cost in the system.

The need to understand how Vermont compares in health care expenditures is intended to inform the development of spending targets on health care, as originated in Massachusetts and adopted by other states. Vermont seeks to compare its per capita spending to national trends, including relevant subgroup comparisons (e.g. similar states, high-performing states, Accountable Care Organizations). In conjunction, a low-value care analysis will be conducted to determine how Vermont compares with peers. By identifying and quantifying low-value care in Vermont, it can help improve quality of care, decrease adverse outcomes, and reduce per capita spending on health care.

The GMCB is an independent five-member Board whose mission is to improve the health of Vermonters through a high-quality, accessible, affordable, and sustainable health care system. See 18 V.S.A. §§ 9372, 9374. More information regarding the GMCB and its work is available at <https://gmcboard.vermont.gov/>.

1.2 Contract Period: Contracts arising from this RFP will be for a period of one (1) year. The State anticipates the start date will be August 15, 2022.

1.3 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. **USE SUBJECT LINE: Health Care Spending Benchmarking and Low-value Care Analyses RFP.** Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.

1.4 Bidders' Conference: A bidders' conference will not be held.

1.5 Question and Answer Period: Any vendor requiring clarification of any section of this RFP or wishing to comment on any requirement 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 e-mailed to the point of contact on the front page of this RFP. **USE SUBJECT LINE: Health Care Spending Benchmarking and Low-value Care Analyses RFP.** Questions or comments not raised in writing on or before the last day of the question period are thereafter 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

<http://gmcboard.vermont.gov/publications/rfps-contracts-grants>. 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.

1.6 **Changes to this RFP:** Any modifications to this RFP will be made in writing by the State through the issuance of an Addendum to this RFP and posted online at <http://gmcboard.vermont.gov/publications/rfps-contracts-grants>. Verbal instructions or written instructions from any other source are not to be considered.

2 DETAILED REQUIREMENTS AND DESIRED OUTCOMES

The GMCB aims to work with a consultant with proven expertise in health care cost analyses to conduct a comparative assessment of Vermont's per capita spending and estimated proportion of low-value care. In collaboration with stakeholders, GMCB will seek guidance from contractor to identify appropriate methodologies, definitions, data sources, and relevant comparison groups used in these analyses. It is expected that the work may include, but is not limited to the following:

- a. Data analysis and aggregation of data, potentially including:
 - o Claims data analysis using the Vermont Health Care Uniform Reporting and Evaluation System (VHCURES), Vermont's All-Payer Claims Database;
 - o State fiscal estimates using the Vermont Health Care Expenditure Analysis (VHCEA);
 - o Hospital discharge records Vermont Uniform Hospital Discharge Data System (VUHDDS);
 - o other national or related data sources
- b. Detailed methodology for estimating Vermont's spending, which:
 - o must apply to "all providers and payers in the healthcare system" and be measurable on a statewide, per capita, and healthcare entity basis.
 - o must be age and risk-adjusted for providers and payers to account for differences in health status.
 - o must include software code, reference files, and raw data files used to derive estimates whenever possible
- c. Provide detail documentation of definitions used in the analysis
- d. Consideration of replicating established and standardized benchmark model (Massachusetts model)
- e. Comparison of Vermont spending to other states, better performers, national values, as well as recommended comparative peer groups
- f. Summary of Vermont per capita spending by mutually agreed upon geographic groups
- g. Detailed methodology of low-value care analysis, including:
 - o software code, reference files, and raw data files used to derive estimates whenever possible

- documentation of definitions used in low-value care analysis
- h. Consideration of replicating existing low-value care methodology used by the States of Virginia, Oregon, Colorado, and Maine
- i. Analysis of low-value care by cost, volume, and unique lives impacted
- j. Publish report that summarizes comparison of Vermont's per capita spending, proportion of low-value care, as well as significant cost drivers with recommendations for opportunities to reduce low-value care and/or potentially avoidable utilization.

1. Deliverables:

The consultant team shall provide the following deliverables in the form of a formal written report, which includes the following:

- A. Provide comparative spending analysis summary that includes:
 - i. Vermont statewide health care spending per capita
 - 1. Age and risk-adjusted analysis
 - 2. Over time (2017 to 2021, or other mutually agreed upon time period)
 - ii. Health care spending per capita by hospital service area or other mutually agreed upon geographic unit
 - 1. Age and risk-adjusted analysis
 - 2. Over time (2017 to 2021, or other mutually agreed upon time period)
 - iii. Expenditure comparisons
 - 1. By health insurance type, including commercial insurer differences
 - 2. By provider, especially regulated hospitals
 - iv. Comparisons of estimates to national value, other states, better performers, and other mutually agreed upon reference groups
- B. Provide low-value care and/or potentially avoidable utilization analysis summary that includes:
 - i. Expenditure Summary, which shall include
 - 1. Total expenditures
 - 2. Proportion of overall expenditures
 - 3. Stratification by geography (e.g., Hospital service areas)
 - 4. Stratification by type of service or procedure
 - 5. Stratification by type of payer
 - 6. Longitudinal trends
 - 7. Expenditures from insurers compared with estimated expenditures by patients
 - ii. Volume Summary, which shall include
 - 1. Total number of expenditures considered low-care value and/or potentially avoidable

2. Percent of services
 3. Stratification by payer type (e.g., private, Medicare, etc.)
 4. Stratification by geography (e.g., Hospital service areas)
 5. Stratification by type of service or procedure
 6. Stratification by type of payer
 7. Longitudinal trends
- iii. Unique Lives Impacted Summary, which shall include
1. Number and percent of people with low-value care service or potentially avoidable utilization
 2. Longitudinal trends
 3. Stratification by type of service or procedure
 4. Stratification by type of payer

When preparing the above deliverables, the consultant team will work closely with GMCB and other key stakeholders.

Pricing for the above deliverables should assume at least one public presentation.

3 GENERAL REQUIREMENTS

- 3.1 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. 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.
- 3.2 Retainage:** In the discretion of the State, a contract resulting from this RFP may provide that the State withhold ten percent 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.
- 3.3 Statement of Rights:** 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. The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. 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.
- 3.3.1 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. 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.
- 3.3.2 Presentation:** An in-person or webinar presentation by some Bidders may be required by the State if it will help the State's evaluation process. The State will factor information presented

during presentations into the evaluation. Bidders will be responsible for all costs associated with providing the presentation.

3.4 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.

3.4.1 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.

3.4.2 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 at <http://bgs.vermont.gov/purchasing-contracting/forms>. **The subcontractor reporting form is not required to be submitted with the bid response.**

3.5 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.

3.6 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.

3.6.1 Minimum Qualifications. Bidders must demonstrate previous work in this area and provide examples as part of the bid response as well as timeliness of deliverables.

3.6.2 **Evaluation Criteria.** Proposals will be evaluated using the following criteria:

Criteria	Weight
Experience and Qualifications	40%
Understanding of Work	30%
Accessibility and Responsiveness	10%
Price	20%

3.7 **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 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.

3.8 **Cost of Preparation.** Bidder 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.

3.9 **Contract Terms.** The selected bidder(s) will be expected to sign a contract with the State, including the Standard Contract Form and Attachment C, which are attached to this RFP for reference. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.

3.10 **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/>.

3.11 **Payment Terms.** All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. Payment terms are Net 30 days from receipt of an error-free invoice with all applicable supporting documentation. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.

4 **CONTENT AND FORMAT OF RESPONSES:** The content and format requirements listed below are the minimum requirements for State evaluation. These requirements are not intended to limit the content of a Bidder’s proposal. Bidders may include additional information or offer alternative solutions for the State’s consideration. However, the State discourages overly lengthy and costly proposals, and Bidders are advised to include only such information in their response as may be relevant to the requirements of this RFP.

4.1 The bid should include a Cover Letter and Technical Response and Price Schedule.

4.2 Cover Letter

- 4.2.1 **Confidentiality.** To the extent a bid contains information the Bidder considers to be proprietary and confidential, the Bidder must comply with the following requirements concerning the contents of the cover letter and the submission of a redacted copy of the bid (or affected portions thereof).
- 4.2.2 All responses to this RFP will become part of the contract file and will become a matter of public record under the State's Public Records Act, 1 V.S.A. § 315 et seq. (the "Public Records Act"). If a response must include material that the Bidder considers to be proprietary and confidential under the Public Records Act, the cover letter must clearly identify each page or section of the response that the Bidder considers proprietary and confidential. The cover letter must also include a written explanation **for each marked 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 the response for portions that are considered 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 may the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.
- 4.2.3 **Exceptions to Contract Terms and Conditions.** If a Bidder wishes to propose an exception to any terms and conditions set forth in the Standard Contract Form and its attachments, such exceptions must be included in the cover letter to the RFP response. Failure to note exceptions when responding to the RFP will be deemed to be acceptance of the State contract terms and conditions. If exceptions are not noted in the response to this RFP but raised during contract negotiations, the State reserves the right to cancel the negotiation if deemed to be in the best interests of the State. Note that exceptions to contract terms may cause rejection of the proposal.

4.3 Technical Response. In response to this RFP, a Bidder shall:

- 4.3.1 Provide details concerning its form of business organization, primary business location, company size and resources, and ownership structure.
- 4.3.2 Describe its ability to perform the Work outlined in this RFP and its relevant experience.
- 4.3.3 Identify the individuals who would perform and oversee the work and describe the experience, education, training, certifications, and other qualifications of the identified individuals.
- 4.3.4 Describe the proposed team structure for the individuals that would perform and oversee the Work.
- 4.3.5 Describe the internal controls (e.g., processes, policies, or procedures) that will be used to ensure that the Work is performed in a timely and quality manner.
- 4.3.6 Identify all current or past State projects.
- 4.3.7 Identify the names of all subcontractors it intends to use and the portions of the work the subcontractors will perform and address the background and experience of the subcontractor(s) as per Section 4.3.3 above.
- 4.3.8 Disclose any discipline or censure by any regulatory body and describe the principal facts and outcomes, if applicable.

- 4.3.9 Disclose any litigation or other legal proceedings within the last five (5) years and, if applicable, provide an explanation and current status or disposition.
- 4.3.10 Describe the Bidder's approach to dealing with any conflicts or potential conflicts of interest.
- 4.4 **References:** Provide the names, addresses, and phone numbers of at least three references with whom the Bidder has transacted similar business in the last three (3) years with strong preference for regulatory agency references. The Bidder must include contact names who can talk knowledgeably about performance.
- 4.5 **Reporting Requirements:** Provide a sample of any reporting documentation that may be applicable to the Detailed Requirements and Desired Outcomes specified in this RFP, including previously compiled reports and other relevant work products.
- 4.6 **Price Schedule:** The contract(s) resulting from this RFP will be fixed price deliverables-based. Bidders shall submit their pricing information in the Price Schedule attached to the RFP. The Green Mountain Care Board expects to be allocated an amount not to exceed \$500,000 for a consultant to perform per capita benchmarking analyses with comparisons to national, peers and better performers. This shall include an analysis of avoidable utilization and low value care.
- 4.7 **Certificate of Compliance:** This form must be completed and submitted as part of the response for the proposal to be considered valid.

5 SUBMISSION INSTRUCTIONS

- 5.1 **Closing Date:** Bids must be received by the State by the due date specified on the front page of this RFP. Late bids will not be considered.
 - 5.1.1 The State may, for cause, issue an addendum to change the date and/or time when bids are due. If a change is made, the State will inform all bidders by posting at the webpage indicated on the front page of this RFP.
 - 5.1.2 There will not be a public bid opening. However, the State will record the name, city and state for any and all bids received by the due date. This information will be posted as promptly as possible following the due date online at: <https://gmcboard.vermont.gov/publication/rfps-contracts-grants/rfp>. Bidders are hereby notified to review the information posted after the bid opening deadline to confirm receipt of bid by the State. Any bidder that submitted a bid, and is not listed on the bid tabulation sheet, shall promptly notify the State Contact listed on the front page of this RFP. Should a bidder fail to notify the State Contact listed on the front page of this RFP within two weeks of posting the bid tabulation sheet, the State shall not be required to consider the bid.
- 5.2 **Bid Delivery Instructions**
 - 5.2.1 ELECTRONIC: Electronic bids will be required as the only acceptable method of delivering bids.
 - 5.2.1.1 E-MAIL BIDS. Bids will be accepted via email submission to jessica.mendizabal@vermont.gov
USE SUBJECT LINE: Health Care Spending Benchmarking and Low-value Care Analyses RFP. 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 40 MB. It is the Bidder's responsibility to compress the PDF file containing its bid if necessary in order to meet this size limitation.

5.2.1.2 FAX BIDS: Faxed bids will not be accepted.

5.2.2 U.S. MAIL OR EXPRESS DELIVERY OR HAND DELIVERY: U.S. Mail or Express Delivery or Hand Delivery of bids will not be accepted.

6 **BID SUBMISSION CHECKLIST:**

- ✓ Cover Letter
- ✓ Technical Response
- ✓ Redacted Technical Response, if applicable
- ✓ Reporting Requirements
- ✓ References
- ✓ Price Schedule
- ✓ Signed Certificate of Compliance

7 **ATTACHMENTS**

- 7.1 Certificate of Compliance
- 7.2 Price Schedule
- 7.3 Worker Classification Compliance Requirement; Subcontractor Reporting Form
- 7.4 Standard State Contract with its associated attachments, including but not limited to, Attachment C: Standard State Provisions for Contracts and Grants (December 15, 2017).
- 7.5 Attachment D Other Provisions for IT Services
- 7.6 Attachment E Organizational Conflict of Interest (OCOI)
- 7.7 Attachment F GCMCB Data Use Agreement **(for reference only and not required with bid submission)**
- 7.8 Attachment G - Deliverable Expectation Document (DED) and Deliverable Acceptance Form (DAF) **(for reference only and not required with bid submission)**

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 Contract Provisions, 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. 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

PRICE SCHEDULE

The contracts resulting from this RFP will be deliverables-based and will be for a period of one-year. The Green Mountain Care Board expects to be allocated an amount not to exceed \$500,000 for a consultant to perform per capita benchmarking analyses with comparisons to national, peers and better performers. This shall include an analysis of avoidable utilization and low value care.

Deliverable Description	Fixed Price
Deliverable A:	\$
Deliverable B:	\$
Total Project Cost	\$

Name of Bidder: _____

Signature of Bidder: _____

Date: _____

RFP/PROJECT:

DATE:

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: Green Mountain Care Board
144 State Street
Montpelier, VT 05609-3001

STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, _____ (hereinafter called "State"), and _____, with a principal place of business in _____, (hereinafter called "Contractor"). Contractor's form of business organization is _____. 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 _____. 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 \$_____.00.

4. **Contract Term.** The period of Contractor's performance shall begin on _____, 20__ and end on _____, 20__.

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 ___ pages including the following attachments which are incorporated herein:

Attachment A - Statement of Work

Attachment B - Payment Provisions

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

Attachment D – Other Provisions for IT Services

Attachment F – GMCB Data Use Agreements

Attachment G - Deliverable Expectation Document (DED) and Deliverable Acceptance Form (DAF)

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 Provisions for IT Services
- (3) Attachment C (Standard State Provisions for Contracts and Grants)
- (4) Attachment A
- (5) Attachment B
- (6) Attachment F
- (7) Attachment G - Deliverable Expectation Document (DED) and Deliverable Acceptance Form (DAF)

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

The GMCB aims to work with a consultant with proven expertise in health care cost analyses to conduct a comparative assessment of Vermont's per capita spending and estimated proportion of low-value care. In collaboration with stakeholders, GMCB will seek guidance from contractor to identify appropriate methodologies, definitions, data sources, and relevant comparison groups used in these analyses. It is expected that the work may include, but is not limited to the following:

- k. Data analysis and aggregation of data, potentially including:
 - o Claims data analysis using the Vermont Health Care Uniform Reporting and Evaluation System (VHCURES), Vermont's All-Payer Claims Database;
 - o State fiscal estimates using the Vermont Health Care Expenditure Analysis (VHCEA);
 - o Hospital discharge records Vermont Uniform Hospital Discharge Data System (VUHDDS);
 - o other national or related data sources

- l. Detailed methodology for estimating Vermont's spending, which:
 - o must apply to "all providers and payers in the healthcare system" and be measurable on a statewide, per capita, and healthcare entity basis.
 - o must be age and risk-adjusted for providers and payers to account for differences in health status.
 - o must include software code, reference files, and raw data files used to derive estimates whenever possible

- m. Provide detail documentation of definitions used in the analysis

- n. Consideration of replicating established and standardized benchmark model (Massachusetts model)

- o. Comparison of Vermont spending to other states, better performers, national values, as well as recommended comparative peer groups

- p. Summary of Vermont per capita spending by mutually agreed upon geographic groups

- q. Detailed methodology of low-value care analysis, including:
 - o software code, reference files, and raw data files used to derive estimates whenever possible
 - o documentation of definitions used in low-value care analysis

- r. Consideration of replicating existing low-value care methodology used by the States of Virginia, Oregon, Colorado, and Maine

- s. Analysis of low-value care by cost, volume, and unique lives impacted
- t. Publish report that summarizes comparison of Vermont's per capita spending, proportion of low-value care, as well as significant cost drivers with recommendations for opportunities to reduce low-value care and/or potentially avoidable utilization.

2. Deliverables:

The consultant team shall provide the following deliverables in the form of a formal written report, which includes the following:

- A. Provide comparative spending analysis summary that includes:
 - i. Vermont statewide health care spending per capita
 - 1. Age and risk-adjusted analysis
 - 2. Over time (2017 to 2021, or other mutually agreed upon time period)
 - ii. Health care spending per capita by hospital service area or other mutually agreed upon geographic unit
 - 1. Age and risk-adjusted analysis
 - 2. Over time (2017 to 2021, or other mutually agreed upon time period)
 - iii. Expenditure comparisons
 - 1. By health insurance type, including commercial insurer differences
 - 2. By provider, especially regulated hospitals
 - iv. Comparisons of estimates to national value, other states, better performers, and other mutually agreed upon reference groups
- B. Provide low-value care and/or potentially avoidable utilization analysis summary that includes:
 - i. Expenditure Summary, which shall include
 - 1. Total expenditures
 - 2. Proportion of overall expenditures
 - 3. Stratification by geography (e.g., Hospital service areas)
 - 4. Stratification by type of service or procedure
 - 5. Stratification by type of payer
 - 6. Longitudinal trends
 - 7. Expenditures from insurers compared with estimated expenditures by patients
 - ii. Volume Summary, which shall include
 - 1. Total number of expenditures considered low-care value and/or potentially avoidable
 - 2. Percent of services
 - 3. Stratification by payer type (e.g., private, Medicare, etc.)
 - 4. Stratification by geography (e.g., Hospital service areas)

5. Stratification by type of service or procedure
 6. Stratification by type of payer
 7. Longitudinal trends
- iii. Unique Lives Impacted Summary, which shall include
1. Number and percent of people with low-value care service or potentially avoidable utilization
 2. Longitudinal trends
 3. Stratification by type of service or procedure
 4. Stratification by type of payer

Approach

Contractor shall provide a project manager to work as the primary point of contact with the State. As a part of its project management duties, the Contractor Project Manager will attend an agreed upon number of informational and status meetings and, when appropriate, call and lead such meetings. Such meetings may include the Project Management Team, the Contract Administrator, other consultants, elected officials, and other stakeholders as designated by the State. The Contractor Project Manager shall work directly with the State Project Manager to define, manage, and control the project scope, timeline, issue escalation and resolution processes. Contractor shall deliver written status reports on a weekly basis.

Status information shall include, at a minimum: all planned tasks accomplished, 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 project 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.

In addition, Contractor will create and routinely update the project plan, if any, to reflect changes in the nature and timing of project activities, all changes being subject to the State Project Manager’s approval. Project deliverables and activities will be subject to the State’s quality management process to be defined by the State prior to the project kick-off.

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. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly.
5. Expenses: The fee for services shall be inclusive of Contractor expenses.
6. Invoices shall be submitted to the State via email to: GMCB.BusinessOffice@vermont.gov.
7. The payment schedule for delivered products, or rates for services performed, are as follows: monthly.
8. Price Schedule to be reflected here once confirmed.

**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 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
INFORMATION TECHNOLOGY PROFESSIONAL SERVICES
TERMS AND CONDITIONS (rev. 3/21/19)

1. OWNERSHIP AND LICENSE IN DELIVERABLES

1.1 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.

1.2 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.

1.3 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.

2. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING

2.1 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.

2.2 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.

2.3 Confidentiality of State Information. In performance of this Contract, and any exhibit or schedule hereunder, the Party 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"). [In addition to the provisions of this Section, the Contractor shall ensure that any employee who has access to State Data has signed and delivered to the State and Individual User Affidavit ("IUA") in the form provided by the State, and the Contractor shall ensure any employee required to sign an IUA complies with the terms of the IUA]. Before receiving or controlling 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.

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

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.

3. SECURITY OF STATE INFORMATION.

3.1 Security Standards. To the extent Contractor has access to, processes, handles, collects, transmits, stores 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 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.

3.2 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 addition to the requirements set forth in any applicable IUA as may be attached to this Contract, 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.

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.

4. CONTRACTOR’S REPRESENTATIONS AND WARRANTIES

4.1 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 pending 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 services 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 services 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.

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

- (i) 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.
- (ii) 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.
- (iii) 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.

5. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE

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, \$2,000,000 aggregate. To the extent Contractor has access to, processes, handles, collects, transmits, stores or otherwise deals with State Data, Contractor shall maintain first party Breach Notification Coverage of not less than \$2,000,000.

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.

6. REMEDIES FOR DEFAULT. 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.

7. TERMINATION

7.1 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 Data, State Intellectual Property or other State information and materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting any and all State data, 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.

7.2 Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to State all State Intellectual Property and State Data (including without limitation any Deliverables for which State has made payment in whole or in part), 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.

8. DESTRUCTION OF STATE DATA. At any time during the term of this Contract within thirty days of (i) the State's written request or (ii) termination or expiration of this Contract for any reason, Contractor shall securely dispose of all copies, whether in written, electronic or other form or media, of State Data according to National Institute of Standards and Technology (NIST) approved methods, and certify in writing to the State that such State Data has been disposed of securely. Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location according to National Institute of Standards and Technology (NIST) approved methods 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.

9. IRS TERMS IF FEDERAL TAX INFORMATION WILL BE PROCESSED OR STORED (Per IRS Publication 1075)

To the extent Contractor's performance under this Contract involves the processing or storage of Federal tax information, then, pursuant to IRS Publication 1075, the following provisions shall apply in addition to any other security standard or requirements set forth in this Contract:

A. PERFORMANCE

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

1. All work will be done under the supervision of the Contractor or the Contractor's employees.

2. The Contractor and the Contractor's employees with access to or who use Federal tax information must meet the background check requirements defined in IRS Publication 1075.
3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
5. The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or his or her designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
7. All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
8. No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS.
9. The Contractor will maintain a list of employees authorized access. Such list will be provided to the State and, upon request, to the IRS reviewing office.
10. The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

B. CRIMINAL/CIVIL SANCTIONS:

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
2. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract.

Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431, and set forth at 26 CFR 301.6103(n)-1.

3. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to State records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
4. Prior to Contractor having access to Federal tax information, Contractor shall certify that each Contractor employee or other individual with access to or who use Federal tax information on Contractor's behalf pursuant to this Contract understands the State's security policy and procedures for safeguarding Federal tax information. Contractor's authorization to access Federal tax information hereunder shall be contingent upon annual recertification. The initial certification and recertification must be documented and placed in the State's files for review. As part of the certification, and at least annually afterwards, Contractor will be advised of the provisions of IRCs 7431, 7213, and 7213A (see IRS Publication 1075 *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Publication 1075, Section 10). For both the initial certification and the annual certification, the Contractor must sign a confidentiality statement certifying its understanding of the security requirements.

C. INSPECTION:

The IRS and the State, with 24 hours' notice, shall have the right to send its officers, employees, and inspectors into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. for compliance with the requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology assets that access, store, process or transmit Federal tax information. On the basis of such inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

10. SOV Cybersecurity Standard 19-01

All products and service provided to or for the use of the State under this Contract shall be in compliance with State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL:

<https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

ATTACHMENT E - ORGANIZATIONAL CONFLICTS OF INTEREST (OCOI)

Definition: Organizational conflict of interest means that because of other activities or relationships with other persons or entities, a contractor *as a business entity*:

1. Is unable or potentially unable to render impartial assistance or advice to the State; or
2. Is or might be otherwise impaired in its objectivity in performing the contract work (Example: A firm has a contract to inspect work by firms that are its business affiliates); or
3. Has an unfair competitive advantage. (Example: a firm participates in systems engineering and technical direction; preparing specifications or work statements; participates in development and design work; and/or gains access to the information of other companies in performing advisory and assistance services for the government drafting a scope of work for a project, then bids on the project itself.)

Screening:

1. The Contractor will conduct an internal review of its current affiliations and will require its team members to identify potential, real, or perceived OCOIs relative to the scope of work of this contract.
2. The Contractor shall require from its subcontractors screening for actual, apparent or potential organizational conflicts of interest.

Disclosure:

1. The contractor shall make an immediate and full disclosure, in writing, to the Vermont Deputy Secretary of Administration of any potential or actual OCOI or the existence of any facts that may cause a reasonably prudent person to question the contractor's impartiality because of the appearance or existence of bias or an unfair competitive advantage for itself or any subcontractor.
2. Such disclosure shall include a description of the actions the contractor has taken or proposes to take in order to avoid, neutralize, or mitigate any resulting conflict of interest.

Remedies:

1. In the event the State determines that an OCOI exists, the State will discuss the matter with the contractor to determine whether the OCOI can be mitigated to the State's satisfaction.
2. If the State does not deem mitigation practicable, the State may terminate all or a portion of the contract for default, or pursue such other remedies as may be permitted by law or this contract.
3. If a contractor fails to disclose facts pertaining to the existence of a potential or actual OCOI or misrepresents relevant information to the State, the State may terminate the contract for default, or pursue such other remedies as may be permitted by law or this contract.

Attachment F

Data Use Agreement for Release of a VHCURES Limited Use Health Care Claims Research Data Set (for reference only and not required with bid submission)

1. Parties

This agreement is made and entered into by and between the GMCB _____ (“Contractor”). The Agreement supplements and is made part of the contract to which it is attached.

2. Definitions

For purposes of this Agreement,

- A. “Agent” means those persons who are agents of the Authorized User, in accordance with the federal common law of agency.
- B. “Agreement” means this data use agreement detailing the Authorized User’s commitment to data privacy and security and setting forth restrictions, limitations, and conditions on the use and disclosure of the Data Set. The Agreement includes the following attachments:
 - 1. the Application, including the Authorized User’s Data Governance Policies and Procedures and all other attachments to the Application (Attachment A);
 - 2. if the Data Set includes Medicare data, the GMCB’s data use agreement with CMS (Attachment B);
 - 3. if the Data Set includes Medicaid data, the GMCB’s data use agreement with DVHA (Attachment C); and
 - 4. for Vermont agencies, the Vermont Agency Addendum (Attachment D).
- C. “Application” means the Authorized User’s Application for Access to VHCURES Limited Use Health Care Claims Research Data Set, as filed with and approved by the GMCB and, if applicable, DVHA.
- D. “Authorized User” means the individual or entity being given access by GMCB, and in the case of the Medicaid data subset, by DVHA, to the Data Set pursuant to this Agreement.
- E. “CMS” means the Centers for Medicare & Medicaid Services.
- F. “Data Set” means the VHCURES Limited Use Health Care Claims Research Data Set being released to the Authorized User, and all data therein.
- G. “Disclose” means to release, transfer, provide access to, or divulge in any manner information outside of the entity holding the information.
- H. “DVHA” means the Department of Vermont Health Access.
- I. “GMCB” means the Green Mountain Care Board established in Title 18, chapter 220 of the Vermont Statutes Annotated.

- J. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, including the Standards for the Privacy of Individually Identifiable Health Information at 45 CFR Parts 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.
- K. “IUA” means an Individual User Affidavit, a form maintained by the GMCB.
- L. “Non-State Entity” means an individual or entity that is not a Vermont State Entity.
- M. “Principal Investigator” means the individual designated by the Authorized User to be responsible for ensuring compliance with the requirements in this Agreement. The Authorized User may also be the Principal Investigator.
- N. “Research” means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.
- O. “State” means the State of Vermont, including the GMCB.
- P. “Sub-User” means any person or entity (e.g., contractor, subcontractor, grantee, or subgrantee) that is given access to the Data Set by the Authorized User, other than as a member of the Authorized User’s workforce.
- Q. “Vermont State Entity” means an agency of the State of Vermont (a “Vermont agency”) or a contractor or other organization performing research that is directed and partially funded by the State of Vermont.
- R. “VHCURES” means the Vermont Health Care Uniform Reporting & Evaluation System, a health care database maintained by the GMCB pursuant to 18 V.S.A. § 9410.

3. Authority and Purpose

Pursuant to 18 V.S.A. § 9410, the GMCB maintains certain health care claims and eligibility data within VHCURES to enable it to carry out its statutory duties, including

- A. determining the capacity and distribution of existing resources; identifying health care needs and informing health care policy;
- B. evaluating the effectiveness of intervention programs on improving patient outcomes;
- C. comparing costs between various treatment settings and approaches;
- D. providing information to consumers and purchasers of health care; and
- E. improving the quality and affordability of patient health care and health care coverage.

To the extent allowed by HIPAA, the GMCB seeks to make some of this data available as a resource for individuals and entities to continuously review health care utilization, expenditures, and performance in Vermont. The purpose of this Agreement is to specify the conditions under which the GMCB will release VHCURES data, and to ensure that the data is accessed, maintained, used, and disclosed in compliance with all applicable statutory, regulatory, and contractual requirements.

4. Data Referenced by this Agreement

Claims and eligibility data within VHCURES that may be available under a data use agreement can be broadly grouped into three lines of business: commercial, Medicaid, and Medicare. The GMCB has independent discretion to manage data for the commercial line of business, while DVHA and the GMCB share discretion with respect to the Medicaid line of business. DVHA must approve the use and disclosure of Medicaid data and, if the Authorized User will be receiving Medicaid data, DVHA must sign this Agreement. Recipients of Medicaid data must comply, and, by signing this Agreement, agree to comply, with the requirements of the data use agreement between the GMCB and DVHA (Attachment C). Pursuant to a data use agreement between the GMCB and CMS, Medicare data is available only to Vermont State Entities for purposes of Research. Recipients of Medicare data must comply, and by signing this Agreement, agree to comply, with the requirements of the data use agreement between the GMCB and CMS (Attachment B).

The table below identifies the types of data that will be disclosed to the Authorized User under this Agreement.

FOR GMCB USE ONLY

File Type	Commercial Insurers	Medicaid	Medicare
Medical Eligibility	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Medical Claims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pharmacy Eligibility	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable
Pharmacy Claims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable
Medical Eligibility- 5% Medicare National Sample	Not applicable	Not applicable	<input checked="" type="checkbox"/>
Medical Claims- 5% Medicare National Sample	Not applicable	Not applicable	<input checked="" type="checkbox"/>
Medicare Part D Event - VT Residents	Not applicable	Not applicable	<input checked="" type="checkbox"/>
Medicare Part D Event - 5% National Sample	Not applicable	Not applicable	<input checked="" type="checkbox"/>
Medicare MEDPAR	Not applicable	Not applicable	<input checked="" type="checkbox"/>

5. Responsibilities of the Principal Investigator

The Principal Investigator will act as the steward of the Data Set, including, but not limited to,

- A. ensuring that the GMCB has an IUA on file for each person that will be given access to the Data Set and that each such person understands and observes all the restrictions, limitations, and conditions specified in this Agreement;
- B. ensuring appropriate safeguards are implemented to protect the confidentiality of the Data Set and prevent its unauthorized use or disclosure;
- C. tracking and reporting to the GMCB on the uses and disclosures of the Data Set, including notifying the GMCB and, if appropriate, CMS, of any unauthorized uses or disclosures;
- D. seeking and obtaining the consent of the GMCB and, when applicable, DVHA, before disclosing the Data Set to a Sub-User or to any other entity not identified in the Application as the data user; and
- E. providing the GMCB with copies of any materials that contain data from the Data Set or information derived from the Data Set prior to its publication or release.

The Principal Investigator may delegate technical responsibility to other personnel within Authorized User's organization, as identified in Attachment A to this Agreement, for the implementation of appropriate safeguards to protect the confidentiality of the Data Set and to prevent its unauthorized disclosure or use.

6. Restrictions, Limitations, and Conditions of Use and Disclosure

The Authorized User, by and through the Principal Investigator, will ensure compliance with the following restrictions, limitations, and conditions:

- A. The Authorized User may not use, disclose, or otherwise grant access to the Data Set or any derivative data, including statistical tabulations derived from the data,
 - i. in a manner that is contrary to law; or
 - ii. for purposes other than those expressly specified in the Application and permitted by this Agreement, without the express written consent of the GMCB and, if applicable, DVHA, unless required by law.
- B. The Authorized User may not disclose the identity of enrollees, members, beneficiaries, patients, employer groups, purchaser groups, or abortion services providers from information contained in the Data Set and may not disclose any direct findings, listings, or other information from the Data Set that could be used to identify one or more of these individuals or groups.
- C. The Authorized User may not use the Data Set to identify or contact enrollees, members, beneficiaries, or patients, and must obtain the express written approval of the GMCB before attempting to link the Data Set in any manner with other data containing personally identifiable information that may enable the identification of one or more entities or individuals named in subsection B of this section.
- D. The Authorized User may not disclose, with or without direct physician identifiers, direct findings, listings, or information derived from Medicare data, if such findings, listings, or information can, by themselves or in combination with other data, be used to deduce a physician's total Medicare reimbursements.
- E. Prior to calculating aggregated values based on observations or elements, the Authorized User must censor any cell in a data table with a count of 10 or fewer along with another cell in the same row and another cell in the same column to prevent the identification of the cell with a count of 10 or fewer in a table.
- F. The Authorized User may not decrypt or attempt to decrypt any encrypted data for any purpose or disclose any information that has been encrypted or removed from the Data Set.
- G. The Authorized User may not produce, publish, disseminate, or make public any information that could be used to determine or ascertain information about insurers or providers that would be deemed proprietary, such as the amount paid by identified insurers or to identified providers for individual procedure codes. This prohibition on public reporting is not applicable to reporting paid amounts at aggregate service levels, such as service bundles, episodes of care, and other types of service aggregations.

7. Disclosures Required by Law

The Authorized User may not disclose the Data Set on the basis that such disclosure is required by law without notifying the GMCB so that the GMCB and, if the Data Set includes Medicaid data, DVHA, have the opportunity to object to the disclosure and seek appropriate relief. If the GMCB or DVHA objects to the disclosure, the Authorized User shall refrain from disclosing the Data Set until the GMCB or DVHA have exhausted all alternatives for relief.

8. Safeguards

The Authorized User shall implement appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Data Set and prevent its unauthorized use or disclosure. Such safeguards must comply with HIPAA and, if the Data Set includes Medicare data, with section 7 of Attachment B.

9. Review of Publications

Unless a different time period is specified by the GMCB, the Authorized User must provide the GMCB a preview copy of any materials proposed to be published or otherwise disclosed at least fifteen (15) business days prior to publication or disclosure, if the materials contain data from the Data Set or information derived from the Data Set (this includes materials understood by the Authorized User to be consistent with the uses stated in the Application). The GMCB will review the proposed materials and determine whether they comply with all pertinent provisions of this Agreement. When multiple reports of a similar nature will be created from the Data Set, the GMCB may, on request, waive the requirement that any subsequent reports or publications be provided to the GMCB prior to release.

10. Reporting

While this DUA is in effect, the Authorized User must file periodic reports, at times specified by the GMCB, with updated information on

- A. the status of each individual data user for whom an IUA has been filed;
- B. proposed new users that will require access to the Data Set and who will be filing IUAs prior to gaining access to the Data Set; and
- C. details about data disposition and location, as required by the GMCB.

11. Attribution

The Authorized User must prominently state in written materials, publications, and presentations that the analyses, conclusions, and recommendations drawn from the Data Set are solely those of the Authorized User or the Principal Investigator and are not necessarily those of the GMCB.

12. Minimum Necessary

The Authorized User will limit, and will ensure that any Sub-User limits, access to the Data Set to the minimum number of individuals, data elements, and records necessary to achieve the purposes described in the Application or in a sub-agreement approved by GMCB under section 18 of this Agreement.

13. Notification of Unauthorized Access, Uses and Disclosures; Mitigation

- A. The Authorized User must immediately report to the GMCB whenever it (or any of its employees or Agents) becomes aware that the Data Set has been accessed, used, or disclosed in a way that is not permitted by state or federal law or that otherwise violates the terms of this Agreement. The Authorized User must require each Sub-User to immediately report to the Authorized User whenever it becomes aware that the Data Set has been accessed, used, or disclosed in a way that is not permitted by state or federal law or that otherwise violates the terms of this Agreement.
- B. In addition to the requirements of subsection A of this section, the Authorized User must report any release, disclosure, or publication of personally identifiable information (PII) from the Medicare data, including loss of these data or disclosure to any unauthorized persons, as a potential security or privacy breach to the GMCB and to the 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, including the Principal Investigator and must cooperate fully in the federal security incident process.
- C. The Authorized User must mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible use or disclosure of the Data Set. Mitigation may include providing notices to affected individuals. The Authorized User shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of the Data Set. If requested by the GMCB, the Authorized User shall make its mitigation and corrective action plans available to the GMCB. The Authorized User shall require each Sub-User to agree to these same terms and conditions.

14. Ownership

The Authorized User agrees that it has a license to use the Data Set pursuant to this Agreement only for the term established herein and does not obtain any right, title, or interest in the Data Set.

The Authorized User must acknowledge the GMCB as the owner and VHCURES as the source of the data in any public reports, publications, presentations, or other materials generated from the Data Set.

15. Reliance on Representations

The Authorized User represents that it is authorized to bind all individuals who may have access to the Data Set to the terms of this Agreement.

The Authorized User represents that the facts and statements made in the Application are complete and accurate and represent the total uses to which the Data Set will be put. The Authorized User further represents that the Data Set is the minimum amount of data necessary to achieve the purposes described in the Application.

The disclosure of the Data Set to the Authorized User is being made in reliance upon the accuracy of all representations made by the Authorized User, including the representations made by the Authorized User in the Application.

16. Termination of Individual Users' Access; Certificates of Destruction

The Authorized User must notify the GMCB at least fifteen (15) days prior to the date an individual user will no longer need access to the Data Set and follow procedures to ensure that the individual user's access has been terminated by this date.

The Authorized User must file certificates of data destruction with the GMCB for terminated users with data or data tables that were generated using the Data Set and were stored in distributed data systems external to the Authorized User.

17. Disclaimer of Warranties

The GMCB makes no warranty concerning the accuracy of the Data Set or its fitness for any particular purpose.

18. Sub-Agreements

The Authorized User may not assign any of its rights or obligations under this Agreement or disclose the Data Set to a Sub-User without the prior written approval of GMCB, and where applicable, DVHA. The Authorized User must notify the GMCB at least thirty (30) days prior to disclosing the Data Set to a Sub-User and must provide the GMCB with the following information:

- A. an electronic copy of the agreement between the Authorized User and the Sub-User;
- B. an IUA for each proposed individual data user; and
- C. any other information requested by the GMCB.

The Authorized User must ensure that any Sub-User to whom the Authorized User or Principal Investigator provides the Data Set is bound by a written agreement to the same restrictions and conditions that apply to the Authorized User and Principal Investigator under this Agreement. The written agreement must identify the GMCB and, if applicable, DVHA, as direct and intended third-party beneficiaries with the right to enforce any breach of the agreement upon request.

The Authorized User shall be responsible and liable for any use, publication, or other disclosure or release of the Data Set by any of its Sub-Users.

19. Insurance

Before receiving the Data Set, the Authorized User must provide certificates of insurance to show that the following minimum coverages are in effect: IT Professional Liability or Technology Professional Liability insurance with minimum third-party coverage of \$1,000,000.00 per claim, \$2,000,000.00 aggregate; and first party Breach Notification Coverage of not less than \$2,000,000.00. With respect to the first party Breach Notification Coverage, the Authorized User shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

20. Defense and Indemnity

The Authorized User 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 Authorized User or of any Agent or Sub-User in connection with their receipt, use, disclosure, or other involvement with the Data Set. The State shall notify the Authorized User in the event of any such claim or suit, and the Authorized User 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 Authorized User may request recoupment of specific defense costs and may file suit requesting recoupment in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Authorized User shall be 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 Authorized User or of the Authorized User's Agent or Sub-User in connection with their receipt, use, disclosure, or other involvement with the Data Set.

The Authorized User 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 Authorized User or of an Agent or Sub-User in connection with their receipt, use, disclosure, or other involvement with the Data Set.

The Authorized User agrees that in no event shall the State be obligated to defend or indemnify the Authorized User or any third party, or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Authorized User or third party.

21. Antitrust Violations

The Authorized User agrees to not bring suit for alleged antitrust violations on the basis of this DUA.

22. 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.

23. Bankruptcy

The Authorized User agrees that, upon the filing of any petition in bankruptcy by the Authorized User or the initiation of any bankruptcy proceedings against the Authorized User or reorganization proceedings affecting the Authorized User or the claims of creditors of the Authorized User that the GRCB determines might affect the data, the data in whatever form shall automatically revert to GRCB free of all liens and encumbrances. To the extent allowed by federal law, the Authorized User hereby waives all rights to interpose any objections to the reversion or to aid or support the claims of any third party that are adverse to the rights of the GRCB under this provision.

24. Term; Survival

This Agreement shall expire at 12:00 a.m. on _____ ("Expiration Date"), unless, prior to the Expiration Date, the GRCB approves an extension or the Agreement is terminated. The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the Agreement's expiration or termination.

If the Authorized User is a Vermont agency, the Expiration Date will be two (2) years from the date the Agreement is executed. A Vermont agency must reapply at least sixty (60) days prior to the Expiration Date to ensure continuous access to data. Failure to submit new DUA applications to the GRCB in a timely and complete manner may result in gaps in access to data while the application is under review.

Authorized Users that are not Vermont agencies shall notify the GRCB at least sixty (60) days prior to the Expiration Date and request an extension. The Authorized User shall file any information required by GRCB

pertaining to a request for an extension in a timely and complete manner. The term of any extension is wholly at the discretion of GMCB, which may also deny the request and require the Authorized User to file an application for a new DUA. A DUA may not be extended more than once.

25. Enforcement; Penalties

In the event the GMCB's data use agreement with CMS or DVHA is not renewed or is terminated, or in the event the Authorized User, the Principal Investigator, a Sub-User, or an individual data user fails to adhere to the terms of this Agreement, the GMCB and, when applicable, DVHA and/or CMS, may take any or all of the following actions: (i) terminate the Agreement and recall the data or require that the data be destroyed; (ii) revoke the permission of an individual or entity to use the data; (iii) require corrective actions; and (iv) pursue civil and criminal sanctions under applicable state and federal laws and regulations.

The following are examples of civil and criminal sanctions that may apply, depending on the types of data included in the Data Set:

- A. 18 V.S.A. § 9410, providing for the assessment of administrative penalties of up to \$1,000 per violation for knowing violations of the statute; up to \$10,000 per violation for willful violations of the statute; and up to \$50,000 per violation for knowing failures to comply with the confidentiality requirements of the statute or confidentiality rules adopted pursuant to the statute through use, sale, or transfer of the data or information for commercial advantage, pecuniary gain, personal gain, or malicious harm.
- B. 33 V.S.A. § 1902a, providing for assessment of an administrative penalty of up to \$1,000 for a first violation and up to \$2,000 for any subsequent violation.
- C. Those described in section 14 of Attachment B.

26. Location of Data Set

The Data Set may not be transmitted, stored, or transferred by any means outside the continental United States without the express written permission of the GMCB and, if applicable, DVHA.

27. Destruction of the Data Set; Certificates of Destruction

The Authorized User must ensure that the Data Set is deleted, destroyed, or otherwise rendered unreadable, as directed by the GMCB, within thirty (30) days of the Expiration Date or the termination of this Agreement, or by the date the Data Set is no longer needed for the purposes described in the Application, whichever comes first. The Principal Investigator shall certify that the Data Set has been deleted, destroyed, or otherwise rendered unreadable by submitting a written certificate of destruction to the GMCB, and when applicable, DVHA.

28. Amendment

This Agreement may only be modified or amended in writing upon mutual agreement of both parties. The Authorized User shall cooperate with GMCB to amend this Agreement from time to time to the extent necessary for the GMCB to comply with changes to 18 V.S.A. § 9410, HIPAA, or other legal requirements that may apply to the Data Set.

29. Interpretation

Any ambiguity, conflict, or inconsistency in the Agreement shall be resolved to require compliance with 18 V.S.A. § 9410, HIPAA, and other requirements that may apply to the Data Set, including the GMCB's data use agreements with CMS and DVHA.

30. Governing Law, Jurisdiction, and Venue

This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Authorized User irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement.

**ATTACHMENT F: DELIVERY EXPECTATIONS DOCUMENT (DED) AND
DELIVERY ACCEPTANCE FORMS (DAF)**

DELIVERABLE EXPECTATION DOCUMENT (DED)

DELIVERABLE INFORMATION	
Client:	
Project:	
Initiated by:	
Date Initiated:	
Date Response Requested by:	
Deliverable Name:	
Deliverable Description:	
Deliverable Due Date:	
Deliverable Cost Estimate:	<input type="checkbox"/> Fixed Cost Amount: _____ <input type="checkbox"/> Time and Materials (please complete Deliverables Cost Estimate Table)*
Acceptance Criteria:	
Billing Criteria:	<input type="checkbox"/> Monthly <input type="checkbox"/> Invoiced at DAF Acceptance
File Name and Location	
Deliverable	<input type="checkbox"/> Accepted <input type="checkbox"/> Accepted; Pending Open Item Resolution <input type="checkbox"/> Rejected

Acceptance of the deliverable is conditional upon the completion of the following open items by the date indicated under resolution date.

OPEN ITEMS	RESOLUTION DATE

The above deliverable has been reviewed by the State and, subject to the open items noted above, meets the objectives expressed by the State and Contractor, as well as passes the acceptance criteria agreed by the State and Contractor for this deliverable.

APPROVALS			
Printed Name	Title	Signature	Date

***Deliverables Cost Estimate Table**

<i>Title/Role</i>	<i>Hourly Rate</i>	<i>Est. Hours</i>	<i>Total Not to Exceed Price</i>
Total*			

DELIVERABLE ACCEPTANCE FORM (DAF)

DELIVERABLE ACCEPTANCE CERTIFICATE			
Client Name:			
Project Name:			
Submitted for:	<input type="checkbox"/> Partial Completion <input type="checkbox"/> Full Completion <input type="checkbox"/> OTHER		
TO BE COMPLETED BY SUBMITTER			
Date Submitted:	/ /	Submitted by:	
Date Requested for Response:	/ /		
Submitter's email:		Submitter's Phone #	- -
Describe Milestones Achieved and Basis for Acceptance			
Defined Success Criteria:			
Signature			Title
TO BE COMPLETED BY CLIENT			
Date Returned:	/ /		
Returned by:			
Reviewers email:	@ .	Reviewer's Phone	- -
Action Taken:	<input type="checkbox"/> Accept <input type="checkbox"/> Reject <input type="checkbox"/> OTHER:		
If rejected, please indicate reason:	<input type="checkbox"/> Supporting documents are incomplete <input type="checkbox"/> Project Management Team disagrees with information provided <input type="checkbox"/> More information is needed (see below) <input type="checkbox"/> Other (see below)		
If rejected, other comments	Submitter will address the reason(s) for this rejection and resubmit this form within 10 business days.		
Other Comments, if any:			
Documents attached if any:			
Other:			

Authorized Signature		Title:
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Authorized Signature		Title:
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DELIVERABLE ACCEPTANCE CERTIFICATE		
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This is to certify Client’s final approval of the above-described Milestone. Client has conducted all inspections, analysis, and testing necessary for it to make this final determination of acceptance. This Milestone has been completed in accord with all contractual requirements relating to the Milestone. As a result of this final acceptance of the Milestone, Client authorizes Health Management Associates to issue an invoice for the dollar amount of this certificate as set forth above, which amount shall be paid by the State in accordance with the payment terms of the above-referenced Contract between the parties. The individual signing this Certificate of Final Acceptance on behalf of Client does so with full authority to bind Client.