



**Department of Public Safety**

45 State Drive  
Waterbury VT

[phone] 802-798-9777

## **SEALED BID REQUEST FOR PROPOSAL**

### **Statewide Public Safety Communications System Planning (Version 2)**

<b>ISSUE DATE</b>	<b>August 22, 2023</b>
<b>QUESTIONS DUE</b>	<b>September 8, 2023 – 3:00 PM (EST)</b>
<b>RFP RESPONSES DUE BY</b>	<b>October 13, 2023 – 3:00 PM (EST)</b>

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

<https://www.vermontbusinessregistry.com>

**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.**

<b>STATE CONTACT:</b>	<b>Alastair Gee</b>
<b>TELEPHONE:</b>	<b>(802) 798-9777</b>
<b>E-MAIL:</b>	<b>alastair.gee@vermont.gov</b>

## 1. OVERVIEW:

- 1.1. **SCOPE AND BACKGROUND:** Through this Request for Proposal (RFP) by the Department of Public Safety (DPS) on behalf of the Public Safety Communications Task Force (hereinafter the “State” or “Task Force”) is seeking to establish contracts with one or more companies that can provide professional services and subject matter expertise to the Task Force as it oversees and manages the transition to a statewide, reliable, secure and interoperable public safety communications system and fulfills the requirements established in sections c.114 – c.115 of Act 78 - An act relating to making appropriations for the support of government.

**BACKGROUND:** In Act 78, the Vermont General Assembly found that “protecting the public safety and welfare is an essential function of State government and it is in the public interest to establish a statewide reliable, secure, and interoperable public safety communications system, comprising integrated 911 call-taking and regional dispatch systems, and to ensure that the system is equitably and sustainably financed and universally accessible by all persons throughout the State.”

The General Assembly further specified that it is “not the intent of the General Assembly to establish a public safety communications system that disrupts or in any way jeopardizes the exceptional dispatch services currently in place or the existing 911 system, but rather to support, enhance, strengthen and build upon those efforts and initiatives.”

Act 78 established the Public Safety Communications Task Force to “oversee and manage all phases of the development, design, and implementation of a statewide public safety communications system...”.

The Task Force seeks subject matter expertise to develop multiple potential models for the establishment of a statewide public safety communications system that may include new regional dispatch centers and/or an expansion of existing regional dispatch centers.

**CURRENT ENVIRONMENT:** There are currently 38 dispatch centers operating in Vermont, six of which also serve as Public Safety Answering Points (PSAPs) that provide 911 call-taking services for the Vermont Enhanced 911 Board. Additionally, there are 6 out of state dispatch centers that provide dispatch services for some Vermont emergency response agencies. Governance of the dispatch centers may be at the local, county, regional or state level.

The Department of Public Safety’s Radio Technology Services group provides and supports the following services for a variety of designated organizations and State of Vermont first responders.

- Land Mobile Radio Systems – Provide and support mission critical Land Mobile Radio (LMR) technology – largely push-to-talk - systems used by state, municipal, and federal police, fire, and emergency medical services, for operations and interoperability to prevent or respond to incidents that harm or endanger persons or property. This technology provides the communications links between base stations and the first responders operating in the field.
- Microwave Network – LMR systems require reliable connectivity between dispatch centers and remote mountain top radio sites, this solution ensures this functionally. This technology provides the communications links between base stations (typically located on mountain tops) and dispatch centers.
- Vermont Communication System (VCOMM) – Vermont’s only statewide interoperable land mobile radio system dedicated for interoperability between all first responders. This system is based on the national calling and tactical channels set aside for this purpose.
- FirstNet –The mission of the First Responder Network Authority (“FirstNet”) is to build, operate, maintain and improve a high-speed, nationwide wireless broadband network dedicated to public safety. RTS serves as the liaison between FirstNet and the State of Vermont

The Agency of Digital Services provides and supports the following IT Products and Services for many of Vermont's first responders:

- Network Infrastructure – Support and maintenance of agencies and locations that require interconnectivity. Provides support and life cycle management of hardware, software and associated network services.
- Security – Cybersecurity Standards created and issued to all executive branch State Agencies for the purposes of safeguarding the State of Vermont's information and information systems.
- IT Systems and Applications – Manages and supports a portfolio of line of business specific applications and systems that contribute to the success of State of Vermont Agency and Department business functions and missions.

All aspects of Vermont's fully-hosted statewide Next Generation 911 system are governed by the Vermont Enhanced 911 Board ("the Board"), an independent state Board established by 30 V.S.A §§ 7051 – 7061. The Board partners with the Department of Public Safety, three local police departments, and one county sheriff's office for the provision of 911 call handling services at six Public Safety Answering Points (PSAPs) in Vermont. 911 calls are delivered to the appropriate PSAP where they are answered by a certified Vermont 911 call-taker. The call-taker may also be the dispatcher for the needed responders or, if not, will transfer the 911 call and caller to the needed dispatch agency for notification to responders.

The State of Vermont has several statewide in-flight initiatives, strategic roadmaps in development and other Vermont programs that could impact or be impacted by the Task Force's scope and expected deliverables. Listed are a subset of initiatives.

- Vermont State 10-Year Telecommunications Plan
- Vermont Internet for All Plans: Broadband Equity, Access, & Deployment and Digital Equity
- Enabling Middle Mile Broadband Infrastructure Grant Program
- Next Generation (NG911) system

- 1.2. **CONTRACT PERIOD:** Contracts arising from this RFP will be for a period of **24 months** with an option to renew for up to two additional twelve-month periods. The State anticipates the start date for such contract(s) will be November 01, 2023.
- 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. Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.
- 1.4. **QUESTION AND ANSWER PERIOD:** Any bidder 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 question 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. 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 <https://www.vermontbusinessregistry.com>. 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.
- 1.5. **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 <https://www.vermontbusinessregistry.com>. Modifications from any other source are not to be considered.

## 2. DETAILED REQUIREMENTS/DESIRED OUTCOMES:

- 2.1. The establishment of a statewide public safety communications system shall occur in essentially three phases, which include data collection and analysis, design, and implementation. Certain aspects of each phase may occur simultaneously as deemed appropriate by the Task Force. The State of Vermont is

interested in obtaining bids to meet the following business need(s): Professional Services and subject matter expertise to complete the scope of work outlined in the following sections. While the State desires a single contract, the state reserves the right to award multiple contracts or portions of the statement of work. Vendors are encouraged to respond appropriately to some or all of the following sections.

The State does not expect the work outlined in the aforementioned sections to be accomplished in a linear format, parallel efforts to expedite the needs of Vermonters is preferred in the vendor's response. To that end the state of Vermont expects innovative thought leadership in development of plans to complete the scope of work

The contractor is to be an integral part of this project team and is expected to be available during standard business hours (EST 7:45 am – 4:30 M-F) and designate a point of contact(s) to attend Task Force Meetings (Remote/In-Person), Present information, and provide comprehensive project updates to include risks and issues.

## **2.2. Assessment of Existing Governance Models and Communications Standards and deliverables**

Contractor will conduct an assessment of governance models and all public safety communications standards currently implemented in each existing dispatch center.

- a) technical and operational standards and protocols that ensure an interoperable and resilient system that incorporates computer-aided dispatch systems and land mobile radios.
  - a.1 Standard used for assessment (Best Practice)
  - a.2 Gap Analysis (Current State vs. Best Practices)
  - a.3 Gap Closure Plan
- b) technology life-cycle standards to ensure system and database upgrades are timely, sufficiently financed, and properly managed.
  - b.1 Standard used for assessment (Best Practice)
  - b.2 Gap Analysis (Current State vs. Best Practices)
  - b.3 Gap Closure Plan
- c) system and database security and cybersecurity compliance with standards.
  - c.1 Standard used for assessment (Best Practice)
  - c.2 Gap Analysis (Current State vs. Best Practices)
  - c.3 Gap Closure Plan
- d) continuity of operations standards and best practices that encompass failover procedures and other system redundancies to ensure the continuous performance of mission-critical operations.
  - d.1 Vermont specific Business Continuity Plan
  - d.2 Vermont Disaster Recovery Plan
  - d.3 Gap Closure Plan with critical path activities to reach compliance.
- e) Document workforce training standards and other staffing best practices that support the retention and well-being of dispatch personnel.
  - e.1 Standard used for assessment (Best Practice)
  - e.2 Gap Analysis (Current State vs. Best Practices)
  - e.3 Gap Closure Plan

Assessment to be conducted vs. industry best practices and standards with the purpose of establishing a gap analysis and closure plan in a Plan of Action and Milestones (POAM) that identifies tasks needing to be accomplished. It details resources required to accomplish the elements of the plan, any milestones in meeting the tasks, Cost estimates and scheduled completion dates for the milestones.

## **2.3. Inventory Collection and Analysis of Current Statewide Equipment and Services and Deliverables**

On or before September 15, 2024, the contractor shall conduct a complete inventory and assessment of all aspects of dispatch service currently provided in Vermont and, to the extent possible, dispatch service currently

provided outside Vermont for response agencies located in Vermont. The data collection and analysis must include:

- a) An inventory of all existing dispatch infrastructure and equipment including facilities (and any power back up), hardware, software, applications, backhaul and land mobile radio systems to include FCC licenses and radio frequencies., referring to any existing relevant data collected by a State or municipal entity.
  - o Resource inventory including, as applicable, physical location, serial number, asset number, product name, product version, product purpose/use.
- b) The number of full-time and part-time personnel currently performing dispatch service, taking into account personnel who have other responsibilities in addition to providing dispatch service.

Human resource roster including de-identified personnel identifier, physical location of individual's workstation, dispatch area, full/part time designation.
- c) The current total spending on dispatch service in Vermont that includes and itemizes for each municipality and dispatch center all federal, State and municipal appropriations and fees, every contract for dispatch or first responder service and projected budgets.
  - o Identify Funding Sources by type.
  - o Annual operating expenses by major objects (staffing, goods, and services)
- d) Identification of the communications dead zones in the State, meaning those areas where the present infrastructure does not support public safety land-mobile-radio (LMR) communications or cellular voice and data service, or neither, and taking into consideration all cell towers, including those that are part of the FirstNet statewide public safety radio access network; cellular mapping efforts conducted by the Department of Public Service; and any existing, relevant mapping data collected by a dispatch center, State Agency, Department or other entity, including a mechanism to receive public input regarding communications dead zones;
  - o The respondent shall provide results in GIS format (specifically ESRI File-Geodatabase format) depicting H3 resolution 8 polygons where service is likely not available for each of the six facilities-based providers in the state, including AT&T, Firstnet, T-Mobile, Verizon, US Cellular, and VTel Wireless. The respondent may use the data collected by the state in 2022. The respondent may also use additional data sources, including the publicly available propagation coverage maps from the FCC, or other data sources, for areas not tested by the state.
  - o The respondent shall obtain propagation maps for all LMR dispatch radio networks, and shall process these to prepare results to prepare a unified statewide LMR availability coverage map using the identical H3 resolution 8 polygons.
  - o Each polygon shall also specify the quantity of E-911 locations and road miles within that polygon. Each polygon shall also identify the dispatch center responsible for that location for a.) EMS, b.) Fire, and c.) Law Enforcement. The product shall also include a report that summarizes the quantity of locations and road miles lacking access, summarized on a.) town, b.) county, and c.) dispatch center basis.
  - o The data set must assign a unique identifier to each 'dead zone' for the purpose of reference from other deliverables and reports. Ideally, the data set represents levels of dead-zone severity across dead zones in a fine-grained model.
  - o Comprehensive, itemized report of 'dead zones' inclusive of, at minimum, the following data points:
    - i. Unique identifier assigned to the 'dead zone' in the GIS data set.
    - ii. Estimate of daytime population (e.g., estimate derived in-part from LandScan USA) and nighttime population within the 'dead zone'.
    - iii. Counties in which the 'dead zone' is located.
    - iv. Towns in which the 'dead zone' is located.
    - v. Dispatch areas in which the 'dead zone' is located.

- The Vermont Public Service Department mobile wireless drive test data is available in the format specified above and posted on the PSD website here:
    - i. <https://publicservice.vermont.gov/telecommunications-and-connectivity/mobile-wireless-drive-test>
  - The maps showing wireless coverage reported to FCC are here:
    - i. <https://www.fcc.gov/BroadbandData/MobileMaps/mobile-map>
- e) With the assistance of the Vermont Leagues of Cities and Towns, delivery of a needs assessment to determine where and to what extent there are gaps in dispatch service and/or significant challenges to the delivery of dispatch service. Analysis to identify those municipalities that are likely to be most affected by either the curtailment of dispatch service from the two State-run public safety answering points or from a new financing mechanism for the continuation of such service;
- Strengths/Weakness/Opportunities/Threats (SWOT) Analysis of the current state of dispatch services across the State.
  - Risk assessment of the impact of curtailment of dispatch from the existing State-run public safety answering points to the current state of dispatch services across the State.
  - Risk assessment of the sustainability of financing for continuation of the current state of dispatch services across the State.
  - Consolidation to a two (2) state-run public safety answering points.
    1. Impact statements regarding closure of Derby/Rutland
    2. Qualitative assessment of consolidation
    3. Financing models/mechanisms
      - a. Implementation (CapEx)
      - b. Operations and maintenance (O&M)
- f) An assessment of service provided by each dispatch center and identification of particular challenges or vulnerabilities, if any, including with regard to workforce, failover procedures, Disaster Recovery equipment, communications technology and current redundancy, costs and governance; and
- g) Collection and assessment of any other information the Task Force deems relevant.
- Consolidated Point of View (POV) of deliverables requested deliverables.

#### **2.4. Identification of Potential Models for the Statewide Public Safety Communications System**

The preliminary designs must outline the benefits, risks, costs, and implementation timelines associated with each and must identify any additional data or resources that will be needed to develop a final design on or before December 15, 2024.

Preliminary designs must include:

- (A) recommendations on state vs. Regional roles and duties
- (B) recommendations for location of and how many existing or proposed regional sites is optimal from both cost and resilience perspectives

Any final design proposed must include:

- (A) technical and operational standards and protocols that ensure an interoperable and resilient system that incorporates but not limited to; computer-aided dispatch systems, cellular devices and, land mobile radios.
- (B) P25 digital encryption options and Integration with legacy analog conventional narrowband voice with seamless tone and voice paging.

- (C) technology life-cycle standards to ensure system and database upgrades are timely, sufficiently financed, and properly managed.
- (D) system and database security and cybersecurity standards.
- (E) continuity of operations standards and best practices that encompass failover procedures and other system redundancies to ensure the continuous performance of mission-critical operations.
- (F) workforce training standards and other staffing best practices that support the retention and well-being of dispatch personnel.
- (G) a resource allocation plan that ensures dispatch service is available in all regions of the State, including the establishment of new dispatch centers or expanded capacity and capability of existing dispatch centers, if deemed appropriate by the Task Force.
- (H) a process for annually reviewing the budgets of dispatch centers.
- (I) a recommended governance model to ensure effective State and regional oversight, management, and continuous improvement of the system, including identification of staffing or operational needs to support such oversight and management of the system;
- (J) Final design must support statewide data exchange and interoperability that meets the needs of police, fire and EMS.
- (K) a Cost Breakdown Structure (CBS) for implementing the system in Vermont, including operational and capital costs per regional or other applicable format.
- (L) options for sustainably and equitably structuring the financing of the public safety communications system, taking into consideration:
  - (i) existing budgets for regional and local dispatch;
  - (ii) the population, grand list, and call volume of each municipality;
  - (iii) existing and potential State funding streams;
  - (iv) available federal funding opportunities for public safety agencies and emergency communications systems, including equipment, network infrastructure, and services;
  - (v) current telecommunications, property and services taxes including existing revenue sources (USF, ROW, rental fees, etc.) and uncollected potential revenues
  - (vi) financing models adopted in other jurisdictions for public safety communications systems; and
  - (vii) any other standards or procedures deemed necessary or appropriate by the Task Force.

## **2.5. Pilot Projects**

If the Task Force determines pilot projects are feasible and desired, the contractor will work with the task force to develop proof of concepts to demonstrate current technologies and recommended operational standards, to include business continuity requirements that demonstrate alignment with Public Safety Emergency Communications. Contractor will assist Task Force in developing necessary presentations to the Joint Fiscal Committee.

- (i) The pilot project plan shall include a description, the resources needed, and an explanation of how the project will align with, inform, and further the development of a statewide public safety communications system and ensure transparency and accountability, particularly with respect to the expenditure of State funds pursuant to this subsection.
- (ii) where feasible, pilot projects will leverage existing inventory and staffing
- (iii) Pilot projects will include best practices project management processes and artifacts such as: schedules, pilot costs, scalability, bill of materials and planning requirements for consideration.

## **2.6. Stakeholder Engagement Strategy**

Contractor will propose a strategy for two way communication with impacted stakeholder groups. Strategy shall ensure robust feedback from stakeholders and be cataloged for easy reference by Task Force members and the public.

## **2.7. CJIS Requirements of Contractor and Sub Contractors**

Selected Bidder must supply Personnel who are properly educated, trained, and qualified for the Services they are to perform, and Selected Bidder agrees to train its Personnel consistent with initial and ongoing training requirements for Selected Bidder's Personnel assigned to perform Services. Selected Bidder shall ensure that assigned Key Project Staff and potential subcontractors have completed a fingerprint supported background

check compliant with Criminal Justice Information Services (CJIS) Security policy and are up to date with applicable CJIS training requirements. Evidence of such shall be provided to the State's representative prior to starting work. See CJIS Security Policy, v5.9.2 at <https://le.fbi.gov/cjis-division/cjis-security-policy-resource-center>.

Technical documentation related to configuration and accessibility of CJIS platforms may require CJIS data protections. Selected Bidder's personnel must apply CJIS compliant protections to artifacts of this project throughout the artifact lifecycle during creation, storage and transfer of all resulting documentation.

Selected Bidder's Personnel may be required to have physical or logical access to Vermont State Police (VSP) data and/or facilities. Selected Bidder's personnel will be required to undergo an additional background check executed by the VSP.

## **2.8. Supplemental Questions**

As part of this RFP, please answer the following supplemental questions regarding previous project planning and execution: Section 4.3

### **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. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State.
  - 3.1.1. 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.
  - 3.1.2. **Cooperative Agreements.** Bidders that have been awarded similar contracts through a competitive bidding process with another state and/or cooperative are welcome to submit the pricing in response to this solicitation.
  - 3.1.3. **Retainage.** In the discretion of the State, a contract resulting from this RFP may provide that the State withhold a percentage of the total amount payable for some or all deliverables, such retainage to be payable upon satisfactory completion and State acceptance in accordance with the terms and conditions of the contract.
- 3.2. **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 bidder to respond to a request for additional information or clarification could result in rejection of that bidder'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.
  - 3.2.1. **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.
  - 3.2.2. **Presentation.** An in-person or webinar presentation by the Bidder 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.



3.3. **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.

3.3.1. 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.

3.3.2. 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.**

3.4. **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.

3.5. **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.

3.5.1. **Evaluation Criteria:** Consideration shall be given to the Bidder's project approach and methodology, qualifications and experience, ability to provide the services within the defined timeline, cost, and/or success in completing similar projects, as applicable, and to the extent specified below.

<u>Criteria</u>	<u>Maximum Possible Points</u>
<b>A. Prior experience (not to exceed 10 pages)</b>	<b>30</b>
1. Completed work of similar type	
2. Demonstrated understanding of industry standards and best practices for emergency services dispatching and communications system design and operations, resiliency, security and interoperability.	

3. Prior interaction and work with emergency service dispatching or related/similar systems	
4. Three (3) references with contact information (Section 4.4 References)	
<b>B. Quality of staff (not to exceed 10 pages)</b>	<b>10</b>
1. Qualification of staff to be assigned (education, position in firm, years and types of experience will be considered)	
<b>C. Project Proposal</b>	<b>45</b>
1. Demonstrated understanding of work to be performed.	
2. Proposal outlines realistic timelines for accomplishing scope of work.	
3. Proposal meets the goals of the scope of work as outlined.	
4. Evaluation of the plan (Quality of approach, details)	
5. Demonstrated understanding of the problem statement	
6. Pragmatic approach based on experiences	
7. Project proposal is clear, concise, and thorough.	
<b>D. Cost</b>	<b>10</b>
1. Price	
2. Value - does the project proposal reflect high value for the price?	
<b>E. Special consideration given to small, women, minority, or veteran owned businesses</b>	<b>5</b>
<b>Maximum Points</b>	<b>100</b>

- 3.6. **CONTRACT NEGOTIATION:** Upon completion of the evaluation process, the State may select one or more bidders 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 bidder, the State reserves the option of negotiating with another bidder, or to end the proposal process entirely.
- 3.7. **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.
- 3.8. **CONTRACT TERMS:** The selected bidder(s) will be expected to sign a contract with the State, including the Standard Contract Form and Attachment C as attached to this RFP for reference. If IT Attachment D is included in this RFP, terms may be modified based upon the solution proposed by the Bidder, subject to approval by the Agency of Digital Services.
- 3.8.1. **Business Registration.** To be awarded a contract by the State of Vermont a bidder (except an individual doing business in his/her own name) must be registered with the Vermont Secretary of State's office <https://sos.vermont.gov/corporations/registration/> and must obtain a Contractor's Business Account Number issued by the Vermont Department of Taxes <http://tax.vermont.gov/> .
- 3.8.2. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.
- 3.8.3. **Payment Terms.** 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.

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

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 your bid contains information you consider to be proprietary and confidential, you must comply with the following requirements concerning the contents of your cover letter and the submission of a redacted copy of your bid (or affected portions thereof).

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 your response must include material that you consider to be proprietary and confidential under the Public Records Act, your cover letter must clearly identify each page or section of your response that you consider proprietary and confidential. Your 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, you must include a redacted copy of your 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 your 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 your form of business organization, company size and resources.

4.3.2. Describe your capabilities and particular experience relevant to the RFP requirements.

4.3.2.1. Identify all current or past State projects.

4.3.3. Identify the names of all subcontractors you intend to use, the portions of the work the subcontractors will perform, and address the background and experience of the subcontractor(s), as per RFP section 4.3.2 above.

4.4. **REFERENCES.** Provide the names, addresses, and phone numbers of at least three companies with whom you have transacted similar business in the last 12 months. You 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 of this RFP.

4.6. **PRICE SCHEDULE:** Bidders shall submit their pricing information in the Price Schedule attached to the RFP.

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://www.vermontbusinessregistry.com>. 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 only be accepted.

5.2.1.1. **E-MAIL BIDS.** Emailed bids will be accepted. Bids will be accepted via email submission to [Alastair.gee@vermont.gov](mailto:Alastair.gee@vermont.gov). Bids must consist of a single email with a single, digitally searchable PDF attachment containing all components of the bid. Multiple emails and/or multiple attachments will not be accepted. There is an attachment size limit of 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.

5.3. **U.S. MAIL OR EXPRESS DELIVERY OR HAND DELIVERY** will not be accepted

6. **BID SUBMISSION CHECKLIST:**

- ✓ Cover Letter
- ✓ Technical Response
- ✓ Redacted Technical Response, if applicable
- ✓ 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)

## 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. **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.

D. **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 Challenge<sup>SM</sup> 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:
- 
- 
-

E. Executive Order 02 – 22: Solidarity with the Ukrainian People

- By checking this box, Bidder certifies that none of the goods, products, or materials offered in response to this solicitation are Russian-sourced goods or produced by Russian entities. If Bidder is unable to check the box, it shall indicate in the table below which of the applicable offerings are Russian-sourced goods and/or which are produced by Russian entities. An additional column is provided for any note or comment that you may have.

Provided Equipment or Product	Note or Comment

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**

**A. Fixed Price Deliverables:**

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

**B: Hourly Labor Rates:**

Service Category/Title of Positions	Hourly Rate
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$

Name of Bidder: \_\_\_\_\_

Signature of Bidder: \_\_\_\_\_

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:      Office of Purchasing & Contracting  
    133 State Street, 5<sup>th</sup> Floor  
    Montpelier, VT 05633-8000

## 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 - Information Technology Professional Services Terms and Conditions (rev. 03/10/2023)

Attachment E - Other Provisions

Additional attachments may be lettered as necessary

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

(3) Attachment C (Standard Contract Provisions for Contracts and Grants)

(4) Attachment A

(5) Attachment B

(6) Attachment E

List other attachments, if any, in order of precedence

**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 – STATEMENT OF WORK

The Contractor shall: \_\_\_\_\_

Refer to Sections 1.1 and 2.1 - 2.6 for scope of work components.

## 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. Invoices shall be submitted to the State at the following address: \_\_\_\_\_
6. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are as follows: \_\_\_\_\_

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

**“Attachment C: Standard State Provisions for Contracts and Grants” (revision version dated December 15, 2017) constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.**

ATTACHMENT D  
INFORMATION TECHNOLOGY PROFESSIONAL SERVICES  
TERMS AND CONDITIONS (rev. 03/10/2023)

**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"). 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 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 \$2,000,000.00 per claim, \$2,000,000.00 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 \$2,000,000.00.

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

**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. SOV Cybersecurity Standard Update 2023-01:** Contractor confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with *State of Vermont Cybersecurity Standard 2023-01*, which prohibits the use of certain branded products in State information systems or any vendor system that is supporting State information systems, and is available on-line at:

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