VERMONT

Department of Vermont Health Access
5 Pilgrim Park Waterbury, VT 05671-1010
802-879-5900
https://dvha.vermont.gov/

SEALED BID
Request For Proposal

45 CFR 155 Programmatic and Financial Audits
RFP #03410-255-27

ISSUE DATE	**October 20, 2026**
QUESTIONS DUE	**October 30, 2026**
RFP RESPONSES DUE BY	**November 6, 2026 – 4:30 PM (EST)**

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.

STATE CONTACT: Emily Weidman

E-MAIL: AHS.DVHAGrantsContracts@vermont.gov

OVERVIEW:

1.1. **SCOPE AND BACKGROUND:** Through this Request for Proposal (RFP) the Agency of Human Services through the Department of Vermont Health Access (hereinafter the "State") is seeking to establish contracts with one or more companies that can provide 45 CFR 155 Programmatic and Financial Audits. The State is soliciting proposals to contract a CPA firm independent of State Medicaid Agency and subject Vermont Health Connect, a State Based Exchange (SBE), to perform Programmatic and Financial audits for State Fiscal Year (SFY) 2026 through SFY2030 in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and issue reports on the Department of Vermont Health Access (hereinafter "DVHA") Vermont Health Benefit Exchange's compliance with the requirements in 45 CFR 155 Programmatic and Financial Audits.

1.2. **CONTRACT PERIOD:** Contracts arising from this RFP will be for a period of two (2) years with an option to renew for up to two additional twelve-month periods. The State anticipates the start date will be November 1, 2026.

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 http://www.bgs.state.vt.us/pca/bids/bids.php . Every effort will be made to post this information as soon as possible after the question period ends, contingent on the number and complexity of the questions.

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 http://www.bgs.state.vt.us/pca/bids/bids.php . Modifications from any other source are not to be considered.

2. **DETAILED REQUIREMENTS/DESIRED OUTCOMES:**

The Program Integrity Rule Part II (PI Reg), 45 CFR 155.1200(c) states; the State [Marketplace] must engage an independent qualified auditing entity which follows generally accepted governmental auditing standards (GAGAS) to perform an annual independent external financial and programmatic audit and must make such information available to the

U.S. Department of Health and Human Services for review by June 1 annually. The regulation also states that the Marketplace will submit to CMS, concurrent with the annual report, the results of the audit along with proposals on how it will remedy any material weakness or significant deficiency conducted annually by an independent external audit firm. The auditor chosen by the Marketplace must comply with 45 CFR 155.1200(c).
2.1. The independent audit must address the following areas:
2.1.1. Accurate accounting of Marketplace receipts and expenditures in accordance with GAAP.
2.1.2. Compliance with 45 CFR Part 155.
2.1.3. Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions.
2.1.4. Identification of errors that resulted in incorrect eligibility determinations.

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.

3.2. **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. **CONFLICTS OF INTEREST:**

3.3.1. **Organizational Conflict of Interest (OCOI):** An OCOI arises when a bidder as a business entity has interests (for example, customers, partners, contracts) that could undermine, or reasonably be perceived to undermine, its faithful and unbiased performance of a contract with the State that may result from this solicitation.

3.3.2. **Personal Conflict of Interest (PCOI):** A PCOI arises when an interest held by an individual, agent or employee of a bidder could undermine, or reasonably be perceived to undermine, its faithful and unbiased performance of a contract with the State that may result from this solicitation.

3.3.3. Requirements: The State does not seek to contract with any individual or business entity having a conflict of interest which cannot be mitigated to the State's satisfaction. To ensure the State's awareness of actual, potential, or reasonably perceived PCOIs and OCOIs, bidders shall:

a) Prior to submitting a proposal, conduct an internal review of its current affiliations and activities and identify actual, potential, or reasonably perceived PCOIs or OCOIs relative to a contract with the State that may result from this solicitation.
b) Disclose in your proposal any actual or potential PCOI or OCOI or the existence of any facts that may cause a reasonably prudent person to perceive a PCOI or OCOI with respect to a contract with the State that may result from this solicitation. Disclose, also, any actions proposed to mitigate the PCOI or OCOI.

3.3.4. The State shall have sole discretion to determine whether a PCOI or OCOI can be mitigated to the State's satisfaction and may discuss the conflict with the bidder if and to the extent the State deems discussion necessary to its determination. The State reserves the right to (a) reject from further consideration any proposal having a PCOI or OCOI that cannot be mitigated to the State's full satisfaction and (b) terminate a contract upon discovery that a contractor failed to disclose facts pertaining to a PCOI or OCOI in its proposal, or otherwise misrepresented relevant information to the State.

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. **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.

CRITERIA FOR SCORING	Total possible points
1. INFORMATION FROM THE BIDDER	
A. Quality of Bidder's Experience	**40**
In this Section the bidder is telling the State about the related experience the bidder has with these services, health information technology/exchange, related policy activity, etc.; including details of experience in research and evaluations of this nature; knowledge of health care reform and health information exchanges are preferred	40
2. TECHNICAL PROPOSAL & EXAMINATION APPROACH /PROGRAM SPECIFICATIONS	
A. Responsiveness to Specifications	**30**

In this Section the bidder is telling the State of their strategy for responding to the evaluation and reporting requirements. The State prefers bidders who place an emphasis on demonstrating the statistical validity of their research and sampling methodology.	30
3. PROGRAM COST	**30**
In this Section the bidder is detailing how they will be funded to accomplish this work and how they will bill the State for the work performed.	30
OVERALL TOTAL SCORE	**100**

3.7. **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.

3.8. **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 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.

3.9.1. **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/ .

3.9.2. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.

3.9.3. **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.

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

3.9.5. **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 solicitation.

4.1. **Unsolicited Bidder-Confidential Information Prohibited.** Bidders are hereby expressly directed not to include any confidential information in their proposal submissions, except as specifically permitted below. By submitting a proposal in response to this RFP, bidders acknowledge and agree to abide by the terms and conditions outlined in this document, including the prohibition on submitting confidential information. This prohibition reduces the burden on the State while preventing bidder-confidential information from entering the public record.

4.2. **Disclosure under Public Records Act.** All information received by the State in response to this solicitation will become part of the contract file and subject to public disclosure in accordance with the State's Public Records Act, 1 V.S.A. § 315 et seq. The State may also choose to publicly post responses to this solicitation and the resulting agreement(s), following conclusion of this procurement process.

4.3. **Unsolicited Confidential Materials.** This RFP does not solicit bidder confidential information and bidders are expressly prohibited from providing confidential information in response to this RFP. All materials furnished by bidders in response to this RFP, including those marked as confidential by bidders, are subject to disclosure if requested under the Public Records Act, or public posting.

4.4. **State Not Responsible for Disclosure of Unmarked Bidder-Confidential Information.** It is the sole responsibility of the bidder to ensure that, other than where specifically directed or permitted by this RFP and accordingly marked as described below, no information that should not be publicly disclosed is included in their proposal materials, including any 1) trade secrets or intellectual property, 2) proprietary financial or business information, 3) personal information, or 4) any other information that should not be disclosed to the public. For example, bidders should avoid including specific details of their proprietary technologies or methodologies that they consider confidential, and any references to previous client engagements should be presented in a manner that does not disclose the client's confidential information.

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

4.6. **COVER LETTER:**

4.6.1. 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, and that the State's non-rejection of a proposal on this basis does not indicate acceptance of the exceptions.

4.7. **TECHNICAL RESPONSE.** In response to this RFP, a bidder shall:

4.7.1. Provide details concerning your form of business organization, company size and resources.

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

4.7.3. If you have experience working with the State of Vermont, identify all current or past State projects. Provide the name of the Vermont department or agency and the project title or a brief description of the work. Do not include references or statements from State of Vermont agencies or employees.

4.7.4. 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), in response to the questions described above in this section.

4.8. **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. Do not list a State of Vermont agency or employee as a reference.

4.9. **REPORTING REQUIREMENTS:** Provide a sample of any reporting documentation that may be applicable to the Detailed Requirements of this RFP.

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

4.11. **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.

5.2. **ELECTRONIC BIDS ONLY:** All bids under this RFP must be submitted electronically in accordance with the submission requirements herein.

5.2.1. Electronic bids will be accepted via email submission to AHS.DVHAGrantsContracts@vermont.gov he subject line of the email submission must reference the Project Title as indicated on the front page of this RFP.

5.2.1.1. Bids must consist of a single email with digitally searchable PDF attachments containing all components of the bid. Multiple emails will not be accepted.

5.2.1.2. 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. It is also the Bidder's responsibility to ensure that their own email system can send and receive messages up to this size.

6. BID SUBMISSION CHECKLIST:

- ✓ Cover Letter
- ✓ Technical Response
- ✓ Redacted Technical Response, if applicable
- ✓ References
- ✓ Signed Certificate of Compliance

7. ATTACHMENTS:

7.1. Certificate of Compliance

7.2. Worker Classification Compliance Requirement; Subcontractor Reporting Form

7.3. Standard State Contract with its associated attachments

RFP/PROJECT:
DATE:

CERTIFICATE OF COMPLIANCE

For your 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℠ 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

F. **Certification Regarding Use of Contract Funds for Lobbying -** Applicable to contracts over $100,000.00 when federal monies are involved - this clause must be included in all subcontracts over $100,000.00.

1. The prospective contractor certifies, to the best of his or her knowledge and belief, under the penalties of perjury under the laws of the State of Vermont and the United States that on behalf of the person, firm, association, or corporation he or she represents, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan,

or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective contractor also agrees that they shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

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

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: AHS.DVHAGrantsContracts@vermont.gov

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 November 1, 2026 and end on October 31, 2029.

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 – Specifications of Work to be Performed

Attachment B - Payment Provisions

Attachment C – "Standard State Provisions for Contracts and Grants" a preprinted form (revision date 02/13/2026)

Attachment D – Other Provisions for IT Professional Services

Attachment E – Business Associate Agreement

Attachment F – Agency of Human Services' Customary Contract-Grant Provisions

Attachment G - State of Vermont – Federal Terms Supplement - Non-Construction (December 30, 2024)

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
(4) Attachment G
(5) Attachment A
(6) Attachment B
(7) Attachment E
(8) Attachment F

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

Contractor will provide an independent examination of the State of Vermont's compliance with the federal government regulations for state health insurance exchanges (known as State-Based Exchanges or SBE's) and Qualified Health Plan (QHP) issuers for services rendered in the initial reporting period. This examination and the related reports must meet the requirements of the CMS final rule (9957-F) issued August 30, 2013, effective October 1, 2013 (amended Dec. 27, 2019) and 45 CFR 155.1200, Exchange Establishment Standards and Other Related Standards under the Affordable Care Act.

The Examination and accompanying Audit Reports are referred to herein as the Examination. The Contractor's Examination will result in a Financial Statement Audit Report and a Programmatic Compliance Audit Report, to be issued by the Contractor in writing, that details the methodology and outcome of the Examination. The Examination and accompanying Audit Reports will comply with all regulatory requirements regardless of whether those requirements are directly referenced within this agreement. No Examination shall be considered complete without at least the following areas of Oversight and Financial Integrity:

a. Financial Reporting: Accuracy for accounting of receipts and expenditures in accordance with GAAP.

b. Control Framework: Assessment of design and implementation of processes for all activities for effectiveness, efficiency, integrity, transparency, and accountability.

c. Monitoring: Assessment of financial and programmatic monitoring activities to include the Advanced Premium Tax Credit (APTC), and Privacy and Security Information Technology requirement safeguards.

d. Reporting: Assessment of reporting activities for APTC/CSR (Cost Sharing Reductions) calculations, eligibilities and enrollment data, enrollee satisfaction, and results of financial and programmatic audits.

e. Performance Information: Assessment of the selection of Quality Rating System (QRS) health plan measures, the organization of these measures, the organization of measures, and strategy for collecting, calculating and submitting QRS data.

The Examination shall include an analysis of Specific Exchange Compliance Focus Areas, and shall comply with 45 CFR Part 155 and assess:

a. Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions.

b. Identification of errors that resulted in incorrect eligibility determinations.

Contractor shall inquire into and assess all relevant data sources, including, but not limited to, those included in CMS-9957-F and 45 CFR Part 155 for the Examination. Contractor's Examination shall utilize at a minimum the following primary data sources:

A. Quarterly and annual Outcomes Metrics Reports

B. Performance Monitoring data under 45 CFR Subpart M, 155.200(a)(3)

C. State-Blueprint Profiles through SERVIS

D. State of Vermont Comprehensive Annual Financial Reports (ACFR)

E. State of Vermont A-133 Single Audit Report

The Contractor warrants that Contractor has reviewed the requirements set forth in 45 CFR 155, Subparts C, D, E, and K and will assess SBE's compliance with each subpart. Requirements and documentation to review for each subpart are provided below:

PI Reg.	Required Elements to Review
Subpart C— General Functions of the Exchange	• Processes and procedures for privacy and security of navigators. • Processes and procedures for addressing complaints. • Processes and procedures for providing assistance in culturally and linguistically appropriate manner. • Training standards. • Breaches of Security or Privacy by a navigator grantee. • Standards designed to prevent and mitigate any conflicts of interest, financial or otherwise. • Confirmation that ensures funding for navigator grants does not come from federal funds. • Privacy and Security Safeguards. • Call center information provided to applicants in plain language and in a manner that is accessible to individuals with
Subpart D— Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs	• Standard operating procedures (SOPs) and processes for making accurate eligibility determinations in compliance with Federal regulations (including resolution of inconsistencies). • Management review/internal controls associated with the prevention of improper eligibility determinations. • Management review/internal controls associated with the identification of incorrect eligibility determinations. • Management review/internal controls associated with compliance with the requirements regarding confidentiality, disclosure, maintenance, and use of information. • Current and fully executed agreements with other entities specifying their respective responsibilities in connection with eligibility determinations, including (if appropriate) those
Subpart E— Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans	• SOPs and processes for making accurate enrollments in compliance with Federal regulations. • Management review/internal controls associated with the prevention of improper enrollment transactions, including processes to ensure that enrollees are receiving accurate advance premium tax credits (APTCs), cost-sharing reductions (CSRs), and premiums (and for correction of any discrepancies). • Compliance with Centers for Medicaid & Medicare Services (CMS)-issued Standard Companion Guides (e.g., ASC X12 820 and 834). • Processes to reconcile enrollment information with qualified

Subpart K— Exchange Functions: Certification of	• Process for recertification of QHPs. • Process for decertification of QHPs. • Policies and procedures for certification of health plans.

Contractor explicitly warrants that the Examination completed under this agreement will meet or exceed Vermont's examination and audit requirements under applicable law.

Examination and Audit Report Completion and Submission

The Examination and Audit Report, Financial Statement, must be completed by March 27th each Contract year, unless the State provides a revised date in writing to the Contractor. The Examination and Audit Report, Programmatic Compliance, must be completed by May 15th each Contract year, unless the State provides a revised date in writing to the Contractor. The Examination and Audit Report on the financial statement, sent electronically, must be received by the Commissioner's Office, Department of Vermont Health Access (DVHA), at no later than 4:00 p.m. Eastern Standard Time, on March 27th of each contract year. The Examination and Audit Report on programmatic compliance must be received electronically by the Commissioner's Office, Department of Vermont Health Access (DVHA), no later than 4:00 p.m. Eastern Standard Time, on May 15th of each contract year. If both Examination and Audit Reports are not timely received, payment for services completed to date will be forfeited. The Contractor shall be at the sole risk to ensure timely delivery to the DVHA Commissioner's office. The State does not take responsibility for any problems in the method of delivery, either within or outside the State.

Time is of the essence with respect to the Contractor's completion and submission of the Examination and Audit Report under this Contract.

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: AHS.DVHAInvoices@vermont.gov
6. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are as follows: TBD

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED FEBRUARY 13, 2026

"Attachment C: Standard State Provisions for Contracts and Grants" (revision version dated February 13, 2026) constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the Contractor and 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. 12/09/2025)

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 the performance of 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.

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 the latest version of NIST *Special Publication 800-53* 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 Business Associate Agreement 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. 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.

6. TERMINATION

6.1. 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.

6.2. 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.

7. **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.

ATTACHMENT E
BUSINESS ASSOCIATE agreement
(Revised 7/29/2026)

THIS AGREEMENT SUPPLEMENTS AND IS MADE A PART OF THE CONTRACT OR GRANT ("CONTRACT OR GRANT") TO WHICH IT IS ATTACHED. THIS BUSINESS ASSOCIATE AGREEMENT ("AGREEMENT") IS ENTERED INTO BY AND BETWEEN THE STATE OF VERMONT ("COVERED ENTITY") AND THE CONTRACTOR OR GRANTEE ("BUSINESS ASSOCIATE") IDENTIFIED IN THE CONTRACT OR GRANT.

Covered Entity and Business Associate enter into this Agreement to comply with the standards promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 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 (HITECH), and any associated federal rules and regulations.

The parties agree as follows:

1. Definitions. All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations. Terms defined in this Agreement are italicized. Unless otherwise specified, when used in this Agreement, defined terms used in the singular shall be understood if appropriate in their context to include the plural when applicable.

"*Agent*" means an *Individual* acting within the scope of the agency of the *Business Associate*, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c) and includes Workforce members and *Subcontractors*.

"*Breach*" means the acquisition, Access, Use or Disclosure of *Protected Health Information* (*PHI*) which compromises the Security or privacy of the *PHI*, except as excluded in the definition of *Breach* in 45 CFR § 164.402.

"*Business Associate*" shall have the meaning given for "Business Associate" in 45 CFR § 160.103 and means Contractor or Grantee and includes its Workforce, *Agents* and *Subcontractors*.

"*Electronic PHI*" shall mean *PHI* created, received, maintained or transmitted electronically in accordance with 45 CFR § 160.103.

"*Individual*" includes a Person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

"*Protected Health Information*" ("*PHI*") shall have the meaning given in 45 CFR § 160.103, limited to the *PHI* created or received by *Business Associate* from or on behalf of Covered Entity.

"*Required by Law*" means a mandate contained in law that compels an entity to make a use or disclosure of *PHI* and that is enforceable in a court of law and shall have the meaning given in 45 CFR § 164.103.

"*Report*" means submissions required by this Agreement as provided in section 2.3.

"*Security Incident*" means the attempted or successful unauthorized Access, Use, Disclosure, modification, or destruction of Information or interference with system operations in an Information System relating to *PHI* in accordance with 45 CFR § 164.304.

"*Services*" includes all work performed by the *Business Associate* for or on behalf of Covered Entity that requires the Use and/or Disclosure of *PHI* to perform a *Business Associate* function described in 45 CFR § 160.103.

"*Subcontractor*" means a Person to whom *Business Associate* delegates a function, activity, or service, other than in the capacity of a member of the workforce of such *Business Associate*.

"*Successful Security Incident*" shall mean a *Security Incident* that results in the unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System.

"*Unsuccessful Security Incident*" shall mean a *Security Incident* such as routine occurrences that do not result in unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System, such as: (i) unsuccessful attempts to penetrate computer networks or services maintained by *Business Associate*; and (ii) immaterial incidents such as pings and other broadcast attacks on *Business Associate's* firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above with respect to *Business Associate's* Information System.

"*Targeted Unsuccessful Security Incident*" means an *Unsuccessful Security Incident* that appears to be an attempt to obtain unauthorized Access, Use, Disclosure, modification or destruction of the Covered Entity's *Electronic PHI*.

2. <u>Contact Information for Privacy and Security Officers and Reports.</u>

2.1 *Business Associate* shall provide, within ten (10) days of the execution of this Agreement, written notice to the Contract or Grant manager the names and contact information of both the HIPAA Privacy Officer and HIPAA Security Officer of the *Business Associate.* This information must be updated by *Business Associate* any time these contacts change.

2.2 Covered Entity's HIPAA Privacy Officer and HIPAA Security Officer contact information is posted at: https://humanservices.vermont.gov/rules-policies/health-insurance-portability-and-accountability-act-hipaa

2.3 *Business Associate* shall submit all *Reports* required by this Agreement to the following email address: AHS.PrivacyAndSecurity@vermont.gov

3. <u>Permitted and Required Uses/Disclosures of PHI</u>.

3.1 Subject to the terms in this Agreement, *Business Associate* may Use or Disclose *PHI* to perform *Services*, as specified in the Contract or Grant. Such Uses and Disclosures are limited to the minimum necessary to provide the *Services*. *Business Associate* shall not Use or Disclose *PHI* in any manner that would constitute a violation of the Privacy Rule if Used or Disclosed by Covered Entity in that manner. *Business Associate* may not Use or

Disclose *PHI* other than as permitted or required by this Agreement or as *Required by Law* and only in compliance with applicable laws and regulations.

3.2 *Business Associate* may make *PHI* available to its Workforce, *Agent* and *Subcontractor* who need Access to perform *Services* as permitted by this Agreement, provided that *Business Associate* makes them aware of the Use and Disclosure restrictions in this Agreement and binds them to comply with such restrictions.

3.3 *Business Associate* shall be directly liable under HIPAA for impermissible Uses and Disclosures of *PHI*.

4. Business Activities. *Business Associate* may Use *PHI* if necessary for *Business Associate's* proper management and administration or to carry out its legal responsibilities. *Business Associate* may Disclose *PHI* for *Business Associate's* proper management and administration or to carry out its legal responsibilities if a Disclosure is *Required by Law* or if *Business Associate* obtains reasonable written assurances via a written agreement from the Person to whom the information is to be Disclosed that such *PHI* shall remain confidential and be Used or further Disclosed only as *Required by Law* or for the purpose for which it was Disclosed to the Person, and the Agreement requires the Person to notify *Business Associate*, within five (5) business days, in writing of any *Breach* of Unsecured *PHI* of which it is aware. Such Uses and Disclosures of *PHI* must be of the minimum amount necessary to accomplish such purposes.

5. Electronic PHI Security Rule Obligations.

5.1 With respect to *Electronic PHI*, *Business Associate* shall:

a) Implement and use Administrative, Physical, and Technical Safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312;

b) Identify in writing upon request from Covered Entity all the safeguards that it uses to protect such *Electronic PHI*;

c) Prior to any Use or Disclosure of *Electronic PHI* by an *Agent* or *Subcontractor*, ensure that any *Agent* or *Subcontractor* to whom it provides *Electronic PHI* agrees in writing to implement and use Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of *Electronic PHI*. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *Electronic PHI*, and be provided to Covered Entity upon request;

d) Report in writing to Covered Entity any *Successful Security Incident* or *Targeted Unsuccessful Security Incident* as soon as it becomes aware of such incident and in no event later than five (5) business days after such awareness. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available;

e) Following such *Report*, provide Covered Entity with the information necessary for Covered Entity to investigate any such incident; and

f) Continue to provide to Covered Entity information concerning the incident as it becomes available to it.

5.2 Reporting *Unsuccessful Security Incidents. Business Associate* shall provide Covered Entity upon written request a *Report* that: (a) identifies the categories of Unsuccessful Security Incidents; (b) indicates whether *Business Associate* believes its current defensive security measures are adequate to address all *Unsuccessful Security Incidents*, given the scope and nature of such attempts; and (c) if the security measures are not adequate, the measures *Business Associate* will implement to address the security inadequacies.

5.3 *Business Associate* shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

6. Reporting and Documenting Breaches.

6.1 *Business Associate* shall *Report* to Covered Entity any *Breach* of Unsecured *PHI* as soon as it, or any Person to whom *PHI* is disclosed under this Agreement, becomes aware of any such *Breach*, and in no event later than five (5) business days after such awareness, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available.

6.2 Following the *Report* described in 6.1, *Business Associate* shall conduct a risk assessment and provide it to Covered Entity with a summary of the event. *Business Associate* shall provide Covered Entity with the names of any *Individual* whose Unsecured *PHI* has been, or is reasonably believed to have been, the subject of the *Breach* and any other available information that is required to be given to the affected *Individual*, as set forth in 45 CFR § 164.404(c). Upon request by Covered Entity, *Business Associate* shall provide information necessary for Covered Entity to investigate the impermissible Use or Disclosure. *Business Associate* shall continue to provide to Covered Entity information concerning the *Breach* as it becomes available.

6.3 When *Business Associate* determines that an impermissible acquisition, Access, Use or Disclosure of *PHI* for which it is responsible is not a *Breach*, and therefore does not necessitate notice to the impacted *Individual*, it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). *Business Associate* shall make its risk assessment available to Covered Entity upon request. It shall include 1) the name of the person making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the *PHI* had been compromised.

7. Mitigation and Corrective Action. *Business Associate* shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible Use or Disclosure of *PHI*, even if the impermissible Use or Disclosure does not constitute a *Breach*. *Business Associate* shall draft and carry out a plan of corrective action to address any incident of impermissible Use

or Disclosure of *PHI*. *Business Associate* shall make its mitigation and corrective action plans available to Covered Entity upon request.

8. <u>Providing Notice of Breaches</u>.

8.1 If Covered Entity determines that a *Breach* of *PHI* for which *Business Associate* was responsible, and if requested by Covered Entity, *Business Associate* shall provide notice to the *Individual* whose *PHI* has been the subject of the *Breach*. When so requested, *Business Associate* shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. *Business Associate* shall be responsible for the cost of notice and related remedies.

8.2 The notice to affected *Individuals* shall be provided as soon as reasonably possible and in no case later than sixty (60) calendar days after *Business Associate* reported the *Breach* to Covered Entity.

8.3 The notice to affected *Individuals* shall be written in plain language and shall include, to the extent possible: 1) a brief description of what happened; 2) a description of the types of Unsecured *PHI* that were involved in the *Breach*; 3) any steps *Individuals* can take to protect themselves from potential harm resulting from the *Breach*; 4) a brief description of what the *Business Associate* is doing to investigate the *Breach* to mitigate harm to *Individuals* and to protect against further *Breaches*; and 5) contact procedures for *Individuals* to ask questions or obtain additional information, as set forth in 45 CFR § 164.404(c).

8.4 *Business Associate* shall notify *Individuals* of *Breaches* as specified in 45 CFR § 164.404(d) (methods of *Individual* notice). In addition, when a *Breach* involves more than 500 residents of Vermont, *Business Associate* shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR § 164.406.

9. <u>Agreements with Subcontractors</u>. *Business Associate* shall enter into a Business Associate Agreement with any *Subcontractor* to whom it provides *PHI* to require compliance with HIPAA and to ensure *Business Associate* and *Subcontractor* comply with the terms and conditions of this Agreement. *Business Associate* must enter into such written agreement before any Use by or Disclosure of *PHI* to such *Subcontractor*. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *PHI*. *Business Associate* shall provide a copy of the written agreement it enters into with a *Subcontractor* to Covered Entity upon request. *Business Associate* may not make any Disclosure of *PHI* to any *Subcontractor* without prior written consent of Covered Entity.

10. <u>Access to PHI</u>. *Business Associate* shall provide access to *PHI* in a Designated Record Set to Covered Entity or as directed by Covered Entity to an *Individual* to meet the requirements under 45 CFR § 164.524. *Business Associate* shall provide such access in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any request for Access to *PHI* that *Business Associate* directly receives from an *Individual*.

11. Amendment of PHI. *Business Associate* shall make any amendments to *PHI* in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526, whether at the request of Covered Entity or an *Individual*. *Business Associate* shall make such amendments in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any request for amendment to *PHI* that *Business Associate* directly receives from an *Individual*.

12. Accounting of Disclosures. *Business Associate* shall document Disclosures of *PHI* and all information related to such Disclosures as would be required for Covered Entity to respond to a request by an *Individual* for an accounting of disclosures of *PHI* in accordance with 45 CFR § 164.528. *Business Associate* shall provide such information to Covered Entity or as directed by Covered Entity to an *Individual*, to permit Covered Entity to respond to an accounting request. *Business Associate* shall provide such information in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any accounting request that *Business Associate* directly receives from an *Individual*.

13. Books and Records. Subject to the attorney-client and other applicable legal privileges, *Business Associate* shall make its internal practices, books, and records (including policies and procedures and *PHI*) relating to the Use and Disclosure of *PHI* available to the Secretary of Health and Human Services (HHS) in the time and manner designated by the Secretary. *Business Associate* shall make the same information available to Covered Entity, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether *Business Associate* is in compliance with this Agreement.

14. Termination.

14.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all the *PHI* is destroyed or returned to Covered Entity subject to Section 18.8.

14.2 If *Business Associate* fails to comply with any material term of this Agreement, Covered Entity may provide an opportunity for *Business Associate* to cure. If *Business Associate* does not cure within the time specified by Covered Entity or if Covered Entity believes that cure is not reasonably possible, Covered Entity may immediately terminate the Contract or Grant without incurring liability or penalty for such termination. If neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary of HHS. Covered Entity has the right to seek to cure such failure by *Business Associate*. Regardless of whether Covered Entity cures, it retains any right or remedy available at law, in equity, or under the Contract or Grant and *Business Associate* retains its responsibility for such failure.

15. Return/Destruction of PHI.

15.1 *Business Associate* in connection with the expiration or termination of the Contract or Grant shall return or destroy, at the discretion of the Covered Entity, *PHI* that *Business Associate* still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. *Business Associate* shall not retain any copies of *PHI*. *Business Associate* shall certify in writing and report to Covered Entity (1) when all *PHI* has

been returned or destroyed and (2) that *Business Associate* does not continue to maintain any *PHI*. *Business Associate* is to provide this certification during this thirty (30) day period.

15.2 *Business Associate* shall report to Covered Entity any conditions that *Business Associate* believes make the return or destruction of *PHI* infeasible. *Business Associate* shall extend the protections of this Agreement to such *PHI* and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible for so long as *Business Associate* maintains such *PHI*.

16. Penalties. *Business Associate* understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of *PHI* and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations.

17. Training. *Business Associate* understands its obligation to comply with the law and shall provide appropriate training and education to ensure compliance with this Agreement. If requested by Covered Entity, *Business Associate* shall participate in Covered Entity's training regarding the Use, Confidentiality, and Security of *PHI*; however, participation in such training shall not supplant nor relieve *Business Associate* of its obligations under this Agreement to independently assure compliance with the law and this Agreement.

18. Miscellaneous.

18.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Contract or Grant, the terms of this Agreement shall govern with respect to its subject matter. Otherwise, the terms of the Contract or Grant continue in effect.

18.2 Each party shall cooperate with the other party to amend this Agreement from time to time as is necessary for such party to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA. This Agreement may not be amended, except by a writing signed by all parties hereto.

18.3 Any ambiguity in this Agreement shall be resolved to permit the parties to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.

18.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule, Security Rule, and HITECH) in construing the meaning and effect of this Agreement.

18.5 *Business Associate* shall not have or claim any ownership of *PHI*.

18.6 *Business Associate* shall abide by the terms and conditions of this Agreement with respect to all *PHI* even if some of that information relates to specific services for which *Business Associate* may not be a "*Business Associate*" of Covered Entity under the Privacy Rule.

18.7 *Business Associate* is prohibited from directly or indirectly receiving any remuneration in exchange for an *Individual's PHI*. *Business Associate* will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. *Reports* or data containing *PHI* may not be sold without Covered Entity's or the affected Individual's written consent.

18.8 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for *Business Associate* to return or destroy *PHI* as provided in Section 14.2 and (b) the obligation of *Business Associate* to provide an accounting of disclosures as set forth in Section 12 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

ATTACHMENT F: STANDARD VERMONT AGENCY OF HUMAN SERVICES PROVISIONS FOR CONTRACTS AND GRANTS
REVISED SEPTEMBER 2, 2025

1. Definitions.

A. As used in this Attachment F, the terms **"Agreement"** and **"Party"** are defined in Attachment C.

B. **"State Data:"** For the purposes of this Agreement, the term State Data, defined in Attachment C as "data received, obtained, or generated by Party in connection with performance under this Agreement," does not include AHS-Funded Service Data.

C. **"AHS-Funded Service Data"** means data that is received, obtained, or generated by Party in the course of providing goods or services for the direct benefit of third parties under this Agreement, except a) when such goods or services are provided on behalf of the State or b) to the extent such data is collected or used to provide services to the State.

D. "**Work Product**" means:

i. 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) and any derivative thereof

ii. that is specifically made, conceived, discovered or reduced to practice under this agreement, including Jointly Developed Work.

E. "**Deliverables**" means all items that Party is required to deliver to the State under this Agreement.

F. "**Licensed Intellectual Property**" means any work, ideas, inventions, discoveries, tools, methodology, computer programs, processes and improvements and any other intellectual property, tangible or intangible, that is provided, purchased, or licensed by or to Party for the use or benefit of the State under this Agreement and:

i. was created prior to the execution of this Agreement or

ii. was not created or obtained using State funds or specifically for the benefit of the State.

G. "**State Intellectual Property**" means:

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 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 Agreement,

ii. all information that is created for the direct benefit of State under this Agreement including, but not limited to, all data, reports, or records generated through the use by Party, the State, or any third party of any technology systems or knowledge bases that are developed, purchased, or licensed in connection with this Agreement, and

iii. any work, ideas, inventions, discoveries, tools, methodology, computer programs, processes and improvements and any other intellectual property, tangible or intangible, that has been licensed to State by a third party under a separate agreement with State for the use or benefit of State under this Agreement.

H. "**Jointly Developed Work**" is a subset of Work Product and means:

i. any materials jointly created under this Agreement by the State and Party or any third party and

ii. any modifications, enhancements, and/or reconfigurations of or to Licensed Intellectual Property and/or derivative works based on Licensed Intellectual Property completed as part of this Agreement.

I. "**Non-State Work Product**" means information:

i. that is submitted to Party by a third party or created by Party on behalf of a third party under this Agreement,

ii. that the State is restricted from accessing by law or, when permitted under the terms of this Agreement, confidentiality terms adopted or agreed to by Party.

2. Authority of Agency of Human Services. The Agency of Human Services has oversight authority for all contracts and grants executed by its departments, boards, offices, and business units, however denominated. AHS has shared authority over contracts, grants, and scopes of work executed by the Agency of Digital Services on behalf of AHS, its departments, boards, offices, and business units, however denominated.

A. The Agency of Human Services, through the business office of the Office of the Secretary, and through its Field Services Directors, will share with any named AHS-associated party to this Agreement oversight, monitoring and enforcement responsibilities.

B. Party agrees to cooperate with both the named AHS-associated party to this Agreement and with the Agency of Human Services itself with respect to the resolution of any issues relating to the performance and interpretation of this Agreement, payment matters and legal compliance.

3. Medicaid Program Agreements. The following terms apply to Agreements funded under Vermont's Medicaid Program through the Centers for Medicare and Medicaid Services (CMS):

A. General:

i. In addition to any other requirement under this Agreement or at law, Party must fulfill all state and federal legal requirements and comply with all requests appropriate to enable AHS, the U.S. Department of Health and Human Services (along with its Inspector General and CMS), the Comptroller General, the Government Accountability Office, or any of their designees, to audit and evaluate through inspection or any other means of the quality, appropriateness and timeliness of services provided under this Agreement.

ii. In addition to the requirements of Attachment C for Sub-Agreements, Party is responsible for ensuring a) that the Agreement is fully performed according to its terms, b) that subcontractor agrees to and remains in compliance with the terms applicable to Party under this Agreement as well as terms applicable to the service or activity delegated under the subcontract, and c) that subcontractor complies with all state and federal laws and regulations relating to the Medicaid program in Vermont.

B. **Managed Care Program Contracts:** The following terms apply to Parties providing managed care program services and services related to state-operated Managed Care Organization entity operations.

i. Party will extend the rights provided under Section 3.A.i. to include the right to audit, evaluate, and inspect any books, records, contracts, computer or other electronic systems of Party or its Subcontractors that pertain to any aspect of services and activities performed, or determination of amounts payable under this Agreement.

ii. Party must make available for the purposes of audit, evaluation, or inspection its premises, physical facilities, equipment, books, records, contracts, computer, or other electronic systems relating to Medicaid enrollees.

iii. Party must retain records and ensure the right to audit will exist through 10 years from the final date of the Agreement period or from the date of completion of any audit, whichever is later.

iv. Subcontracts, and any service provider agreements entered into by Party in connection with the performance of this Agreement, must clearly specify in writing the responsibilities of the subcontractor or other service provider and Party must retain the authority to revoke its subcontract or service provider agreement or to impose other sanctions if the performance of the subcontractor or service provider is inadequate or if its performance deviates from any requirement of this Agreement.

v. Party must make available on request all contracts, subcontracts and service provider agreements between Party, subcontractors and other service providers to the Agency of Human Services and any of its departments as well as to the Center for Medicare and Medicaid Services.

vi. Party shall follow the Department of Vermont Health Access Managed-Care-Organization enrollee-notification requirements, to include the requirement that Party provide timely notice of any termination of its practice.

vii. Party shall provide encounter data to the Agency of Human Services and/or its departments and ensure further that the data and services provided can be linked to and supported by enrollee eligibility files maintained by the State.

C. **Medicaid Automated Data Processing (ADP)**: The following terms apply to Parties providing ADP services and solutions.

i. Party must provide for the purposes of audit or evaluation the ADP system in all of its aspects, including design developments, operation, and cost records of Party and subcontractors at such intervals as are deemed necessary by the US Department of Health and Human Services to determine whether conditions for funding approval are being met and to determine the efficiency, economy, and effectiveness of the system.

ii. Party must provide a security plan, risk assessment, and security controls review document within three months of the start date of this Agreement (and update it annually thereafter) in order to support audit compliance with 45 CFR 95.621(f), *ADP System Security Requirements and Review Process*.

4. **Terms Relating to Direct Services or Interactions with AHS Program Individuals or Populations:** The following terms apply only to Agreements under which Party will directly interact with individuals receiving services from or otherwise involved in AHS programs.

A. **Children and Vulnerable Adults - Abuse Registries:** The following terms apply with respect to any services involving the care, custody, treatment, transportation, or supervision provided directly to children or to vulnerable adults:

i. Such services may not be performed by an employee, volunteer or other service provider of the Party, or otherwise reimbursed under the Agreement, if there has been a substantiation of abuse, neglect, or exploitation involving the individual performing the service.

ii. Party must verify, as provided under 33 V.S.A. § 6911(c)(3), through the Adult Abuse Registry maintained by the Department of Disabilities, Aging and Independent Living that no such substantiated allegation of abuse, neglect, or exploitation exists against any individual providing services to vulnerable adults.

iii. Party must verify, as provided under 33 V.S.A. § 4919(a), through the Department for Children and Families that no such substantiated allegation of abuse, neglect, or exploitation exists against any individual providing services to children.

B. **Children and Vulnerable Adults - Reporting of Abuse, Neglect, or Exploitation:** The following terms apply with respect to services performed under this Agreement in which Party and any of its agents or employees are caregivers or have any other direct contact with clients:

i. Party must ensure its agents or employees receive appropriate training on the reporting of abuse and neglect to children as required under 33 V.S.A. §§ 4911 et seq., and/or abuse, neglect or exploitation of vulnerable adults as provided under 33 V.S.A. §§ 6901 et seq.

ii. Party, its agents, or employees having a reasonable cause to believe that a child has been abused or neglected must make a report within 24 hours to the Commissioner of the Department for Children and Families containing the information required by 33 V.S.A. §4914.

iii. Party, its agents, or employees having a reasonable cause to believe that a vulnerable adult has been abused, neglected, or exploited must make a report within 48 hours to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living containing the information required by 33 V.S.A. §6904.

C. **Direct Social and Mental Health Services – Workplace Violence Prevention and Crisis Response:** Parties providing direct social or mental health services under this Agreement must establish a written workplace violence prevention and crisis response policy meeting the requirements of Act 109 (2016), 33 VSA §8201(b), for the benefit of employees delivering such direct services.

i. Party must, in preparing its policy, consult with the guidelines promulgated by the U.S. Occupational Safety and Health Administration for Preventing Workplace Violence for Healthcare and Social Services Workers, as those guidelines may from time to time be amended.

ii. Party, through its violence protection and crisis response committee, must evaluate the efficacy of its policy, and update the policy as appropriate, at least annually. Party must provide the policy and any written evaluations thereof to employees delivering direct social or mental health services.

iii. Party must ensure that any subcontractor and sub-grantee who hires employees (or

contracts with service providers) who deliver social or mental health services directly to individual recipients of such services, complies with all requirements of this Section.

D. 2-1-1 Database: Party must review the inclusion/exclusion criteria available at www.vermont211.org. If Party provides included services in or near the border of Vermont, Party must provide Vermont 211 relevant descriptive information regarding its agency, programs and/or contact information as well as accurate and up to date information to its database as requested.

E. Children's Services – Prohibition of Environmental Tobacco Smoke, Tobacco Products and Substitutes, and Cannabis. 33 V.S.A. § 3504 and Public Law 103-227 (also known as the Pro-Children Act of 1994):

i. Party must ensure that no person is permitted: a) to use cannabis as defined in 18 V.S.A. § 4201 or tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time; b) to smoke on the premises, both indoor and in any outdoor area designated for child care, health or day care services, kindergarten, pre-kindergarten, elementary, or secondary education or library services; c) to use cannabis, tobacco products, or tobacco substitutes on the premises of a licensed or registered family child care home while children are present and in care. Party must refrain from promoting the use of tobacco products for all clients and from making tobacco products available to minors, or d) cultivate cannabis in a licensed or registered family child care home.

ii. Failure to comply with the federal tobacco prohibitions may result in the imposition of a civil monetary penalty and/or the imposition of an administrative compliance order on the responsible entity under 20 USCA § 6083. The federal Pro-Children Act of 1994, however, does not apply to portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

iii. Failure to comply with State cannabis prohibitions may result in the imposition of a misdemeanor criminal fine under 33 V.S.A. § 3504.

F. Substance Use Treatment Services: If Party provides Substance Use Treatment services, Party must Determine whether it, in its entirety or with respect to any unit, personnel, or staff, is a Part 2 Program as defined in 42 C.F.R. § 2.11. If Party is a Part 2 Program, Party must:

i. prior to the commencement of any work under this Agreement involving the creation, use, or disclosure of Substance Use records, have notified the AHS Privacy Officer of its determination, submitted all consent forms applicable to such work to the AHS Privacy Officer, and have received approval from State; and

ii. comply with provisions requiring notice of prohibition on redisclosure for Part 2 protected claims and other Part 2 protected records submitted to the State.

G. Voter Registration: Parties who, in the regular course of its business, collect and verify documents described in 17 V.S.A. § 2145b(e) may be designated as a voter registration agency by the Secretary of State. If designated by the Secretary of State, Party agrees to comply with the requirements of state and federal law pertaining to such agencies.

H. Continuity of Service and Termination Assistance: Party must maintain records reasonably necessary for continuity or coordination of services provided to third parties under this Agreement or for the resolution of matters under this Agreement in which Party directly interacted with individuals involved in AHS programs.

i. Party must employ measures to protect against destruction, loss, or damage of such records due to environmental hazards, such as fire and water damage.

ii. When complying with the Termination Assistance requirements of Attachment C section 27.C, Party must take all reasonable and prudent measures to ensure that such services provided under this Agreement are transitioned appropriately to other service providers, including coordination of care and reasonable retention and timely transfer of service records.

5. Non-Discrimination:

A. Party shall not unlawfully discriminate, and will prohibit its employees, agents, subcontractors, sub-grantees and other service providers from unlawful discrimination, on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, and on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. Party shall not unlawfully refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity as provided by Title 9 V.S.A. Chapter 139.

B. No person shall on the grounds of religion or on the grounds of sex (including, on the grounds that a woman is pregnant), be unlawfully excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by State of Vermont and/or federal funds.

C. Party further shall comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, requiring that contractors and subcontractors receiving federal funds assure that persons with limited English proficiency can meaningfully access services. To the extent Party provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services, such individuals cannot be required to pay for such services.

6. Classification of Independent Contractors: Party staff residing in or whose primary workplace is located in the State of Vermont must be appropriately classified by Party as either "employees" or "independent contractors" for all purposes, to include for purposes related to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages.

A. Party agrees to ensure that all of its subcontractors or sub-grantees also remain in legal compliance with respect to classification of staff residing in or whose primary workplace is located in the State of Vermont.

B. Party must, on request, provide to the Agency of Human Services information pertaining to the classification of such staff to include the basis for the classification. Failure to comply with these obligations may result in termination of this Agreement.

7. **Data Protection and Privacy:**

A. Compliance with Applicable Law: Party must comply with applicable State and Federal law relating to the privacy and security of data, including but not limited to Vermont's Security Breach Notice Act, 9 V.S.A. § 2435, the Social Security Number Protection Act, 9 V.S.A. § 2440, the Document Safe Destruction Act, 9 V.S.A. § 2445, protections for Exchange Personally Identifiable Information, 45 C.F.R. § 155.260, protections for Medicaid records, 33 V.S.A. § 1902a, protections for Department for Children and Families Records, 33 V.S.A. § 111, the Health Insurance Portability and Accountability Act (HIPAA) regulations, 45 CFR Parts 160 and 164, and federal rules for Confidentiality of Substance use Disorder Patient Records under 42 CFR Part 2 ("Part 2").

B. The notice required under the Use and Protection of State Information terms of Attachment C shall be provided to the Agency of Digital Services Chief Information Security Officer. https://digitalservices.vermont.gov/about-us/contacts.

C. Following termination of this Agreement for any reason, the privacy and security requirements of this Agreement will continue to apply to all data received, obtained, or generated by Party under this Agreement until it is securely returned to the State or destroyed according to the terms of this Agreement or as instructed by the State.

D. State Data:

i. Party must comply with the privacy and security requirements of Attachment C, and, as applicable, Attachments D, E, and F, with respect to all State Data.

ii. Party is bound by the provisions of 42 CFR Part 2 with respect to any applicable State Data.

iii. Party must comply with all State requests for cooperation in its compliance with applicable law, rule, and practice for the privacy and security of State Data.

iv. Party must assume responsibility at its own expense for remediation activities required under applicable law in response to a security incident that compromises State Data ("Security Breach"). Such obligations will be determined at the sole discretion of the State, including a) notice to the Attorney General or Department of Financial Regulation, b) notice to affected consumers, c) investigation and remediation including but not limited to outside investigation, forensics, counsel, crisis management, and credit monitoring.

E. Compliance With Privacy Practices for AHS-Funded Service Data: To the extent Party creates, obtains, or receives AHS-Funded Service Data, Party must adopt and adhere to privacy practices for the protection of such data. Such practices must conform with the requirements of AHS Rule No. 08-048 or applicable law and must address the use and disclosure of personal information that relates to any beneficiary or recipient of goods, services, or other forms of support.

F. Use and Protection of AHS-Funded Service Data: The provisions of Attachment C Section 12 that apply to State Data also apply to AHS-Funded Service Data, except that:

i. Party may use AHS-Funded Service Data for its own purposes, provided such use is consistent with its privacy practices and applicable law, except that Party must obtain written permission before providing or allowing AHS-Funded Service Data to be used to train artificial intelligence technologies.

ii. Party must securely destroy Confidential AHS-Funded Service Data a) following any period of retention required by this Agreement, law, professional or industry standard, or regulation, or b) as required by law.

iii. Party may collect, use, or disclose AHS-Funded Service Data in any manner consistent with its privacy practices and expressly permitted under AHS Rule No. 08-048.

iv. Party must promptly notify the State of a request or demand by a court, governmental agency, or other person asserting a demand or request for AHS Funded Service Data to the extent such request relates specifically to the services provided under this Agreement.

v. Party may update or correct AHS-Funded Service Data without prior written consent of the State but must employ appropriate controls to ensure such records will not be inadvertently or maliciously altered.

vi. To the extent permitted by applicable law, professional or industry standard, or regulation, Party may allow AHS Funded Service Data to be processed, transmitted, stored, or transferred outside the United States consistent with the express terms of Party's notice of privacy practices, the express consent of the individuals who are the subject of such Data, or the express written permission of the State.

vii. Party must comply with special terms provided, as applicable, in Attachment D under the heading "Special Privacy and Security Requirements."

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

8. State Computer Equipment and System Access: Unless expressly provided in Attachment A or D, Party must supply its own computing equipment, networking equipment, and internet access. To the extent Party is provided or otherwise obtains access to State systems, equipment, or accounts:

A. Party is responsible for all damage, loss, or theft to State equipment resulting from acts or omissions of Party, its employees, agents, or subcontractors and

B. Party will complete any training and comply with all applicable laws, rules, and policies, including applicable policies of the Vermont Agency of Digital Services, related to such access.

9. Compliance with Federal Intangible Asset Regulations: For Agreements receiving Federal funds, Party must ensure that title to intangible assets vests in the State and/or reserve appropriate licenses in intangible assets to Federal partners to the extent provided under applicable regulations, as may be further described in Attachment D under the heading Ownership and License in Work Product and Deliverables.

10. Intangible Assets: Except as necessary to comply with Section 9, Party agrees to the following terms.

A. Ownership and License in Work Product:

i. Work Product will be owned by the State, regardless of the state of completion. All Work Product must be delivered to the State upon 30 days' notice by the State.

ii. Provided Party grants State license, as described herein, to use any such Licensed Intellectual Property incorporated into Deliverables, Party will not be required to grant State ownership of Licensed Intellectual Property

iii. 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, Party must immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

iv. The State will have 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 related to Work Product and State Intellectual Property.

v. The State may grant license, title, or other rights in or to Work Product to Party only to the extent permitted under applicable law and according to terms modifying this Attachment F.

B. Ownership and License in Non-State Work Product: To the extent Party creates or receives Non-State Work Product under this Agreement:

i. neither the State nor Party shall make any claim of rights, title, or ownership over Non-State Work Product; and

ii. Party must obtain from applicable third parties such rights, title, or ownership in Non-State Work Product as necessary to ensure any use or access to Non-State Work Product under this Agreement by, for the direct benefit of, or on behalf of the State.

C. Ownership and License in Licensed Intellectual Property: Except as necessary to comply with the following terms of this subsection C, Party and/or its Licensors retain all rights, title, and interest in and to Licensed Intellectual Property.

i. To the extent delivered under this Agreement, upon full payment to Party in accordance with Attachment B, and subject to the terms and conditions contained herein, Party hereby a) assigns to State all rights in and to all Deliverables, except to the extent they include Licensed Intellectual Property and b) grants to the State or must, in the case of Licensed Intellectual Property owned by a third party, obtain for the benefit of State, a perpetual, non-exclusive, irrevocable, royalty-free license to use Licensed Intellectual Property for State's internal business purposes including, but not limited to, use in any manner or for any purpose described in Attachment A and to authorize others to do the same on the State's behalf.

ii. Where the use of Licensed Intellectual Property is necessary for the development and/or use of Deliverables, Party hereby grants to the State or must, in the case of Licensed Intellectual Property created by a third party, obtain for the benefit of State a royalty-free license for such use.

iii. Party must reserve for Federal funding partners any licenses required under Section 9 of this Attachment F.

iv. Party may not sell or apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, any patents and copyrights and any applications and registrations, renewals and continuations thereof and/or any other protection related to Jointly Developed Works without written permission from the State or in any manner prohibited under Federal regulation.

D. State Intellectual Property:

i. Party may not collect, access, or use State Intellectual Property for any purpose other than as specified in this Agreement.

ii. Upon expiration or termination of this Agreement, Party will have no further right or license to State Intellectual Property and must return or destroy State Intellectual Property according to the terms of this Agreement.

iii. Party 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 may the Party claim any security interest in State Intellectual Property.

iv. If Party is operating or hosting a system or application on behalf of the State of Vermont, then the Party must 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.

11. Other Provisions:

A. Drug Free Workplace Act*:* Party will assure a drug-free workplace in accordance with 45 CFR Part 76.

B. Lobbying: No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.

C. Sub-Agreements: Party must include, as applicable, terms of this Attachment F in any subcontract, subaward, or assignment under this Agreement permitted pursuant to the terms of Attachment C. Notwithstanding such subcontract, subgrant, or assignment, Party will remain responsible for the full performance of this Agreement and compliance with this Attachment F as it applies to this Agreement, including any parts subcontracted, sub-awarded, or assigned to other parties.

ATTACHMENT G

STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)

(Revision date: *December 30, 2024*)

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

CLEAN AIR ACT

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

FEDERAL WATER POLLUTION CONTROL ACT

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

CONTRACTOR BREACH, ERRORS AND OMISSIONS

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.

2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.

3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

TERMINATION FOR CONVENIENCE

1. General

   a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.

   b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.

   c. No compensation will be allowed for items eliminated from the Contract.

   d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

2. Contractor Obligations

   After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.

b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.

c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.

d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.

e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.

f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

3. Claim by Contractor

   After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

4. Negotiation

   Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. To the extent settlement is properly based on Contractor costs, settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVELLIENCE SERVICES OR EQUIPMENT- this clause must be included in all subcontracts.

In connection with this contract, Contractors and Subcontractors are prohibited from:

(a) Utilizing, procuring or obtaining equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any

system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

SUSPENSION AND DEBARMENT - This clause must be included in all subcontracts

This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The contractor must comply with 2 C.F.R. Part 180, subpart C and 2C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by (insert name of the recipient/subrecipient/applicant). If it is later determined that the contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions

BYRD ANTI-LOBBYING CERTIFICATION - The following provision is applicable to the

Contractor for contracts over $100,000.00, and Contractor shall include this clause in all its subcontracts over $100,000.00.

Contractor has provided the certification required by the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended, and will follow the requirements for certification of each lower tier (subcontract) to disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded from tier to tier up to the Contractor who in turn will forward the certification(s) to the federal awarding agency.

DOMESTIC PREFERENCE FOR PROCUREMENTS

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”