



STATE OF VERMONT
LEGISLATIVE JOINT FISCAL OFFICE

REQUEST FOR PROPOSAL

PROVIDING AN ANALYSIS OF DECARBONIZATION METHODS IN VERMONT

ISSUE DATE: July 2, 2018

QUESTIONS DUE BY: July 13, 2018

DUE DATE: July 20, 2018

CONTACT: Catherine Benham
Joyce Manchester
Legislative Joint Fiscal Office
1 Baldwin Street
Montpelier, Vermont 05633
(802) 828-2295
JFORFP@leg.state.vt.us

The State will make no attempt to contact vendors with updated information. It is the responsibility of each vendor to periodically check http://www.leg.state.vt.us/jfo/decarbonization_study.aspx for any and all notifications, releases, and amendments associated with the RFP.

OVERVIEW:

- 1.1. **BACKGROUND:** In June 2018, the Vermont General Assembly passed H.16, an act that includes a study of regulatory and pricing decarbonization mechanisms (see Attachment A).
- 1.2. **CONTRACT PERIOD:** The proposed start date is after August 1, 2018. A progress report and outline are due October 15, 2018, with additional deliverables and meetings to be specified in the contract. A complete draft report for internal use is due on or before December 10, 2018; the final report is due on or before January 15, 2019. The proposal shall include options for public input to occur prior to submission of the draft report. Following submission of the final report, the contractor will be available for up to three days for presentations of the report to legislative committees to be scheduled between January 15 and February 15, 2019.

QUESTIONS: Any consultant requiring clarification of any section of this proposal or wishing to comment on any requirements or other portion of the RFP should direct their inquiry to JFORFP@leg.state.vt.us no later than 5:00 p.m. on July 13, 2018. Responses to questions will be posted on the JFO website at http://www.leg.state.vt.us/jfo/decarbonization_study.aspx.

- 1.3. **INSTRUCTIONS FOR BIDDERS:** See sections 5 and 6 of this RPF.

2. DETAILED REQUIREMENTS:

BACKGROUND: H.16 An Act Relating to Making Appropriations for the Support of Government, Financing Education and Vital Records requires that the Joint Fiscal Committee shall contract for independent professional assistance to analyze the costs and benefits for Vermont of adopting and implementing policies to reduce greenhouse gas (GHG) emissions caused by Vermont's consumption of fossil fuels.

The analysis shall include the comparative ability or potential of the policies to address the following broad goals:

- Achieve reductions in GHG emissions
- Spur economic development in the State
- Encourage innovation in the State
- Cause shifts in employment, including job creation, job loss, and sectors affected
- Affect the cost of living in Vermont

The analysis should include rigorous, quantitative analysis of at least one of the pricing approaches listed below as well as qualitative comparisons of the effectiveness of at least one of the regulatory approaches listed below. If possible, quantitative analysis of one of the regulatory approaches would be helpful as well.

- Pricing approaches
 - Fee-invest-and-tax-cuts as in H.412 (2015)

- Fee-and-income tax reform as in H.528 (2017)
- Fee-and-dividend as in H.531 (2017) – The Vermont Case for Carbon Dividends
- Fee-and-property tax reform as in H.532 (2017)
- Fee-and-sales tax reform as in H.533 (2017)
- Fee-and-rebate as in H.791 or S.284 (2018) – The ESSEX Plan
- Regulatory approaches
 - Expanding cap-and-trade if Vermont joined the Western Climate Initiative (WCI)
 - Expanding cap-and-trade if RGGI covered transportation fuels as considered in the Transportation and Climate Initiative (TCI)

2.1. SCOPE OF WORK: This RFP is for an analysis of costs and benefits of different decarbonization methods. The analysis creates a frame for evaluating the distribution of costs and benefits and comparisons of any proposed decarbonization methods. The vendor will create a methodological approach to address this issue. The vendor will communicate with the Joint Fiscal Office throughout the project to be sure that the approach meets the State's needs.

The State has research needs that will include an economic model that can analyze at least one pricing approach and perhaps two or more different scenarios related to regulatory or pricing approaches to reducing GHG emissions. GHG emissions will be the primary focus, but effects on State revenues, sources of energy used, different end-use sectors of the economy, and various employers and households are also of interest.

In addition, to the extent resources are available, the State is interested in a discussion of possible rebate or distribution options connected with a pricing approach to mitigate some of the hardship for low-income and/or rural Vermonters.

We encourage vendors who respond to this RFP to consider an outline of how they might provide a resource for the broader research goals. In particular, JFO has an interest in obtaining ownership or maintaining access to the output and models developed for this project to facilitate future analysis. Proposals should address this need.

The contractor will work directly with the Joint Fiscal Office and with other contractors as needed. Vermont legislation allocates \$120,000 to this project to be shared among the project contractor, evaluators of the project report, and other contractors.

Further suggestions regarding the content of the final report appear in Attachment B.

3. GENERAL REQUIREMENTS:

- 3.1. **INVOICING:** All invoices must be submitted by the consultant on the consultant's standard billhead and forwarded directly to the Joint Fiscal Office. The invoice shall specify the address to which payments will be sent.
- 3.2. **CANCELLATION:** The State specifically reserves the right to cancel the contract, or any portion thereof, if, in the opinion of the Legislature's Chief Fiscal Officer, the services or materials supplied by the consultant are not satisfactory or are not consistent with the terms of the contract.
- 3.3. **EVALUATION CRITERIA AND CONSULTANT INDEPENDENCE:** Proposals will be evaluated for their responsiveness to the scope of work and other specifications in this RFP. In particular, the State intends to select a consultant or entity that is professionally qualified and has demonstrated independence from interest or advocacy groups involved in the debate over climate change policy issues.
- 3.4. **CONFIDENTIALITY:** The successful response will become part of the contract file and will become a matter of public record, as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under 1 V.S.A., chapter 5, the bidder shall clearly designate the material as such, explaining why such material should be considered confidential. The bidder must identify each page or section of the response that it believes is proprietary and confidential with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the bidder if the identified material were to be released. Under no circumstances may the entire response or price information be marked confidential. Responses so marked may not be considered.
- 3.5. **CONTRACT TERMS:** The selected consultant will sign a contract with the Joint Fiscal Office to provide the evaluation named in their response at the price listed or agreed upon. The contract will include the standard State provisions described in Attachment B. The terms and conditions from this RFP, and the consultant's response will become part of the contract. This contract will be subject to review throughout its term. The State will consider cancellation upon discovery that the consultant is in violation of any portion of the agreement, including an inability by the consultant to provide the services offered in their response.
- 3.6. **STATEMENT OF RIGHTS:** The State reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Failure of a 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 interests 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.

- 3.7. **TAXES:** Most State purchases are not subject to federal or state sales or excise taxes and must be invoiced tax free. An exemption certificate will be furnished upon request covering taxable items. If taxes are to be applied to a purchase it must be so noted in the response.
 - 3.8. **ORDER OF PRECEDENCE:** The order of preference for documentation will be the contract and attachments, the RFP, and the contractor's response and any amendments.
 - 3.9. **AMENDMENTS:** 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 the consultant.
 - 3.10. **NO-COLLUSION:** The State is conscious of and concerned about collusion. It should therefore be understood by all that in signing bid and contract documents they agree 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 consultant. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, all bidders should understand that this paragraph might be used as a basis for litigation.
4. **BIDDER RESPONSE CONTENT AND FORMAT:** The content and format requirements listed below are the minimum required for our evaluation. They are not intended to limit the content of the proposals; bidders may include additional information or offer alternatives that may be considered.
 - 4.1. **NUMBER OF COPIES:** Submit one original and two copies unless submitting electronically as a PDF.
 - 4.2. **BACKGROUND AND EXPERIENCE:** Provide a description of your technical experience and qualifications, including a list of any work done for other entities in Vermont and a brief description of work done independently of any interest or advocacy group involved in the debate over climate change policy issues.
 - 4.3. **PROJECT PLAN:** Describe the project management structure, major project milestones, and timing of periodic updates to the Joint Fiscal Office. Describe the process for involving and soliciting input from key stakeholders in the State.
 - 4.4. **PROJECT STAFFING:** Describe the qualifications of key personnel and the role each of them is expected to play. Identify how team member(s) will acquire knowledge of the regulatory system for Vermont's emissions, Vermont's current decarbonization initiatives, and relevant data sets. Describe the assistance you expect from Vermont State employees, including legislative and agency staff, as well as from other Vermont stakeholders. The legislation provides for some assistance from legislative staff and State agency personnel, but this should supplement, not substitute for, expertise on the consultant's team.

- 4.5. DATA SETS AND MODELS: Summarize the analytic approaches and data sets you expect to use for this evaluation including the factors set forth in the legislation.
- 4.6. REFERENCES: Provide names, addresses, and telephone numbers of at least two clients with whom you have transacted similar business in the last three years. You must include contact names who can speak knowledgeably about your performance.
- 4.7. PRICING: Any and all costs that you wish the State to consider must be submitted. The cost structure for the project should be described including billing rates and estimated hours for key staff, payments to any subcontractors, overhead rates, and estimated non-salary expenses, including travel.

5. SUBMISSION INSTRUCTIONS:

- 5.1. CLOSING DATE: The closing date for the receipt of proposals is 5:00 p.m. July 20, 2018. Questions accepted until 5:00 p.m. on July 13, 2018.

5.2. DELIVERY METHODS:

- 5.2.1. ELECTRONIC: Electronic bids may be submitted as a PDF file.
- 5.2.2. U.S. MAIL: Bidders are cautioned that it is their responsibility to originate the mailing of bids in sufficient time to ensure bids are received and time stamped by the Joint Fiscal Office prior to the time of the bid opening.
- 5.2.3. EXPRESS DELIVERY: If bids are sent via an express delivery service, be certain that the RFP designation is clearly shown on the outside of the delivery envelope or box. Express delivery packages will not be considered received by the State until the express delivery package has been received and time stamped by the Joint Fiscal Office.
- 5.2.4. HAND DELIVERY: Hand carried bids shall be delivered to the Joint Fiscal Office and time stamped prior to the bid opening.
- 5.2.5. FAXED BIDS: Faxed responses are not acceptable.

6. ATTACHMENTS:

- 6.1. Attachment A: Legislation
- 6.2. Attachment B: Additional Content Suggestions
- 6.3. Attachment C: Additional Resources

6.4. Attachment D: State Contract Provisions

ATTACHMENT A: LEGISLATION

H.16 An Act Relating to Making Appropriations for the Support of Government, Financing Education and Vital Records, As Passed the House and Senate on June 25, 2018; Pages 121-122 of 287

Sec. C.110(b)

(3) Study regulatory and market decarbonization mechanisms: The Joint Fiscal Committee shall contract for independent professional assistance to analyze the costs and benefits for Vermont of adopting and implementing policies to reduce GHG emissions caused by Vermont's consumption of fossil fuels. There is \$120,000 appropriated in Sec. C.1000(a)(1) of this act to the Joint Fiscal Committee for this study.

(A) The analysis shall include the comparative ability or potential of the policies to achieve reductions in GHG emissions; to spur economic development in the State; to encourage innovation in the State; to cause shifts in employment, including job creation, job loss, and sectors affected; and to affect the cost of living in Vermont.

(B) The Joint Fiscal Office and the contractor shall consult with the Climate Commission and the Chairs of the House Committees on Energy and Technology and on Natural Resources, Wildlife, and Water Resources and the Senate Committee on Natural Resources and Energy. On or before January 15, 2019, the Joint Fiscal Office shall submit the analysis to those same standing committees, with a copy to the Climate Commission.

ATTACHMENT B: ADDITIONAL CONTENT SUGGESTIONS

The authorizing legislation requires a comparative impact analysis of potential decarbonization mechanisms; the analysis must forecast the costs and benefits of those mechanisms along five dimensions. That analysis should be as quantitative and specific as possible, with an understanding that some aspects of the study may require the researchers to estimate potential policy unknowns, such as the price per ton of carbon sold through a carbon auction.

State Law (10 V.S.A. Sec 578) laid out the following emissions goals: "It is the goal of the State to reduce emissions of FHF from within the geographical boundaries of the State and those emissions outside the boundaries of the State that are caused by the use of energy in Vermont in order to make an appropriate contribution to achieving the regional goals of reducing emissions of GHG from the 1990 baseline by

- 25% by January 1, 2012
- 50% by January 1, 2028
- If practicable using reasonable efforts, 75% by January 1, 2050

In addition, the 2016 Vermont Comprehensive Energy Plan from the Vermont Department of Public Service [available at http://publicservice.vermont.gov/sites/dps/files/documents/Pubs_Plans_Reports/State_Plans/Comp_Energy_Plan/2015/2016CEP_ES_Final.pdf] established the following goals for reduction in greenhouse gas (GHG) emissions from Vermont's energy use:

- 40% reduction below 1990 levels by 2030 (less ambitious)
- 80% to 95% reduction below 1990 levels by 2050 (more ambitious)

The analysis might show the trend, both historical and predicted, of GHG emissions under current law, in aggregate and relative to the goals above and by sector, as well as the projected amounts under the various decarbonization methods itemized above. If possible, the format should be consistent with the Agency of Natural Resources Department of Environmental Conservation Air Quality and Climate Division's Greenhouse Gas Emissions Inventory Updates [<http://dec.vermont.gov/air-quality/climate-change>]. We suggest that the contractor use the EPA Emission Factors for Greenhouse Gas Inventories published 3/9/2018 [https://www.epa.gov/sites/production/files/2018-03/documents/emission-factors_mar_2018_0.pdf].

In Vermont as of 2015, energy use was the dominant source of GHG emissions, accounting for 80% of total GHG emissions. Transportation alone contributed 47% of all GHG emissions.

The goal of this RFP is to better understand how different market-based methods for reducing GHG emissions would affect Vermont's economy and people. It would be helpful if the scope of each method is described according to:

- GHG covered
- GHG exempted
- Economic sectors covered
- Percentage of economy covered
- Point of regulation

The analysis will use Vermont-specific data where possible to determine current GHG emissions by sector and by geographic region and the impact of any market-based policies adopted. The vendor should explain:

- the proposed use and source of data (e.g. Vermont, regional, federal),
- the reason for using data when Vermont-specific data are not available, and
- the specific actions taken to convert regional and federal data to be more relevant to Vermont

The analysis would be most helpful if it provides a framework for evaluating how the analysis might change under different policy conditions (federal policy, economic growth, etc.)

To the extent possible, we would like to see results provided in groupings such as:

- a. Household – by adjusted gross income, family size, age group, or geographic area
- b. Employers
 - i. Size: small, medium, and large employers
 - ii. Type of business: NAIC codes or other category

ATTACHMENT C: ADDITIONAL RESOURCES

1. H.412 of 2015, <https://legislature.vermont.gov/assets/Documents/2016/Docs/BILLS/H-0412/H-0412%20As%20Introduced.pdf>
2. H.528 of 2017, <https://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/H-0528/H-0528%20As%20Introduced.pdf>
3. H.531 of 2017, The Vermont Case for Carbon Dividends, <https://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/H-0531/H-0531%20As%20Introduced.pdf>
4. H.532 of 2017, <https://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/H-0532/H-0532%20As%20Introduced.pdf>
5. H.533 of 2017
6. H.791 of 2018, The ESSEX Plan, <https://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/H-0791/H-0791%20As%20Introduced.pdf>
7. H.16 of 2018, An Act Relating to Making Appropriations for the Support of Government, Financing Education and Vital Records <https://legislature.vermont.gov/assets/Documents/2018.1/Docs/Bills/H-0016/H-0016%20As%20Passed%20by%20Both%20House%20and%20Senate%20Official.pdf>
8. *Confronting the Climate Challenge, U.S. Policy Options*, Lawrence Goulder and Marc Hafstead, Columbia University Press, 2018
9. “The Economic, Fiscal, Emissions, and Demographic Implications from a Carbon Price Policy in Vermont,” Regional Economic Models, Inc. (REMI), November 2014
10. Energy Action Network Vermont 2017 Annual Report, <http://eanvt.org/2017annualreport/>

11. Energy Costs and Burdens in Vermont: Burdensome for Whom? A report for the Vermont Low Income Trust for Electricity, Inc.; The Energy Security and Justice Program of the Vermont Law School’s Institute for Energy and the Environment, <http://www-assets.vermontlaw.edu/Assets/iee/VLS%20IEE%20Energy%20Burden%20Report.pdf>
12. “The ESSEX Carbon Tax Plan for Vermont: An Economic Analysis,” Jonathan A. Lesser, An Ethan Allen Institute Report, February 2018, <http://ethanallen.org/wp-content/uploads/2013/01/EAI-Essex-Plan-report-012418.pdf>
13. “Mapping Total Energy Burden in Vermont: Geographic Patterns in Vermonters’ Thermal, Electric, and Transportation Energy Use,” Vermont Energy Investment Corporation, July 2016. <https://www.encyvermont.com/Media/Default/docs/white-papers/efficiency-vermont-mapping-energy-burden-vermont-white-paper.pdf>
14. Memo to Steve Klein, Legislative Joint Fiscal Office, “Re: Initial FY18 Estimate of Revenue Yield Associated with Proposed Carbon Pricing Plans,” Kavet, Rockler & Associates, LLC. February 16, 2017
15. Preliminary Recommendations of the Vermont Climate Action Commission, Executive Order 12-17, December 29, 2017. <http://anr.vermont.gov/sites/anr/files/specialtopics/VTCAC/VCAC%20December%20Recommendations%20Report.pdf>
16. Transportation & Climate Initiative of the Northeast and Mid-Atlantic States. “Exploring Regional Solutions to Improve Transportation and Reduce Emissions,” <https://www.transportationandclimate.org/main-menu/exploring-regional-solutions-improve-transportation-and-reduce-emissions>
17. Vermont in the Regional Greenhouse Gas Initiative, <http://dec.vermont.gov/air-quality/climate-change/rggi>
18. Vermont CO2 Budget Trading Regulations Stakeholder Information Session, March 22, 2018 http://dec.vermont.gov/sites/dec/files/aqc/climate-change/documents/0322_VT_CO2_Budget_Trading_Regs_PP.pdf

**ATTACHMENT D: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS**

Revised July 1, 2016

- 1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.
- 2. Entire Agreement:** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
- 3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under the Agreement.

Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.
- 4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.
- 5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
- 6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.

- 7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits. In the event the State withholds approval to settle any such claim, then the Party shall proceed with the defense of the claim but under those circumstances, the Party's indemnification obligations shall be limited to the amount of the proposed settlement initially rejected by the State.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement. The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

The Party agrees that in no event shall the terms of this Agreement nor any document required by the Party in connection with its performance under this Agreement obligate the State to defend or indemnify the Party or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party except to the extent awarded by a court of competent jurisdiction.

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

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

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

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

- 9. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with the Contract, including but not limited to bills, invoices, progress reports and other proofs of work.
- 10. False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.
- 11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations

concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Federal Requirements Pertaining to Grants and Subrecipient Agreements:

A. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

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

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

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

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. “Records” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the

performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

- 14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.
- 15. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
- 16. Taxes Due to the State:**
- A.** Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
 - B.** Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
 - C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
 - D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.
- 17. Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.
- 18. Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:
- A.** is not under any obligation to pay child support; or

- B.** is under such an obligation and is in good standing with respect to that obligation; or
- C.** has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 23 ("Certification Regarding Use of State Funds"); Section 31 ("State Facilities"); and Section 32 ("Location of State Data").

- 20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.
- 21. Copies:** Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.
- 22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at:

<http://bgs.vermont.gov/purchasing/debarment>

- 23. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- 24. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.
- 25. Confidentiality:** Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.
- 26. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.
- 27. Marketing:** Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.
- 28. Termination:** In addition to any right of the State to terminate for convenience, the State may terminate this Agreement as follows:
- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.

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

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

30. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

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

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

(End of Standard Provisions)