



**DATE: September 9, 2011**

**STATE OF VERMONT**

**DEPARTMENT OF VERMONT HEALTH ACCESS**

**SEALED BID**

**REQUEST FOR PROPOSALS**

**TITLE: HEALTH-CARE RELATED TAX STUDY**

**REQUISITION NUMBER: 03410-101-12**

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# **CHAPTER 1**

## **INFORMATION FOR THE BIDDER**

**1. GENERAL PROVISIONS****1.1. INTRODUCTION**

The Department of Vermont Health Access, (hereinafter called DVHA) is seeking to establish service agreements with one or more companies that can assist the DVHA in the development of systems and collection of data necessary to administer health-care-related tax. Work will include documentation of all steps involved to conduct the required work, coupled with a list of required data and information resources, and to submit a final written health-care-related tax work process and practice document to the State. The 2011 legislative session granted authority to the Secretary of Administration to explore the functionality and practicality of establishing any health-care-related tax under 42 C.F.R. part 433.50 et seq. which Vermont does not currently levy, including an analysis of the base to which such a tax would apply and mechanisms for collection. Under the Secretary's authority administration of this project has been delegated to the DVHA. Any resulting contract(s) shall be written as a performance based contract and as such all submitted proposals shall be written with that structure.

**1.2. SCHEDULE OF EVENTS**

The expected timetable, including the Proposal Due Date and other important dates are set forth below.

RFP Posted	September 9, 2011
Intent to Bid	September 16, 2011
Bidder's Questions Due	September 16, 2011
Dept Response to Questions	September 20, 2011
Proposal Due/Closing Date	September 28, 2011
Bid Opening	September 28, 2011
Selection Notification	October 30, 2011
Commencement of Contract	November 1, 2011

**1.3. SINGLE POINT OF CONTACT**

All communications concerning this Request For Proposal (RFP) are to be addressed in writing to the attention of Kate Jones, 312 Hurricane Lane, Suite 201, Williston, VT 05495 (802)879-8256, [kate.jones@ahs.state.vt.us](mailto:kate.jones@ahs.state.vt.us), will be the sole contact for this proposal. Attempts by bidders to contact any other party could result in the rejection of their proposal.

**1.4. LETTER OF INTENT - PRE-REQUISITE**

In order to ensure all necessary communication with the appropriate bidders and to prepare for the review of proposals, one letter of intent to bid must be submitted per bidder. The letter must identify the programs for which it is intending to submit a proposal.

Letters of Intent must be submitted by September 21, 2011 by 4:30 p.m. to:

Kate Jones, Contracts Administrator  
312 Hurricane Lane, Suite 201,  
Williston, VT 05495  
[kate.jones@ahs.state.vt.us](mailto:kate.jones@ahs.state.vt.us)

**1.5. QUESTION AND ANSWER PERIOD**

Any vendor requiring clarification of any section of this proposal must submit specific questions in writing according to the Schedule listed in Section 1.2. Questions must be e-mailed to the RFP Contact listed

Section 1.3 of this proposal. Any question not raised in writing on or before the last day of the initial question period is waived. Responses to the questions sent will be posted to the Electronic Bulletin Board website.

**1.6. INSTRUCTIONS TO BIDDERS**

The Proposal Packet: A proposal packet is the entire package of information sent by one bidder in response to one or more program RFPs described in this document. Each bidder may submit only one proposal packet. A bidder may submit a proposal for more than one program in its packet. Each bidder may submit only one proposal in the catchment area called for in the RFP. If you send multiple proposals for the same program, DVHA will reject all of your proposals. Your proposal must include:

- 1.6.1. Certification and Assurances: One copy of the signed Certifications and Assurances, found in Appendix A, signed by a person authorized to bind your Company to a contract.
- 1.6.2. 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.
- 1.6.3. Insurance certificate: As part of the proposal packet the Bidder must provide current certificates of insurance of which may or may not meet the minimum requirements laid out in the section 4 of this document. Any questions a bidder may have concerning the necessary insurance coverage must be raised during the question and answer period set out in section 1.5 of this document. In the absence of a question, and upon contract negotiations the apparently successful bidder must provide a certificate of insurance that meets the minimum coverage specified in section 4 of this document.
- 1.6.4. Any other attachments to the proposal labeled and attached.
- 1.6.5. Letter of Submittal: One letter of submittal, signed by a person authorized to bind your organization to a contract. Your letter must include:
  - 1.6.5.1. Identifying information about your organization and any sub-contractors. Include the name of the organization, names, addresses, telephone numbers, and address of principal officers and project/program leader, and a description of the type of organization you operate.
  - 1.6.5.2. A detailed list of all materials and enclosures being sent in the proposal.
  - 1.6.5.3. Any other statements you wish to convey to DVHA.
  - 1.6.5.4. Any alternative contract language you wish to propose. If alternate contract language is longer than one page, attach it to your letter in a separate document.
- 1.6.6. Your proposal should respond to the following four identified areas (see Section 2-1\_SCORING for more detail).
  - 1.6.6.1. Quality of Bidder Experience
  - 1.6.6.2. Bidder Capacity
  - 1.6.6.3. Technical Proposal/Program Specifications
  - 1.6.6.4. Program Costs
- 1.6.7. Proposal Format:
  - 1.6.7.1. Use standard 8.5" x 11" white paper. Documents must be single-spaced and use not less than a twelve point font.
  - 1.6.7.2. Send two (2) identical copies of each Program Proposal you are submitting and include a

computer file copy of the document on a CD using Microsoft Word, Word Perfect or straight text file formats in the proposal packet.

1.6.7.3. State your organization's name on each page of your program proposals and on any other information you are submitting.

1.6.7.4. Write the program proposal in the order given in the scoring criteria charts (bidder capacity, bidder experience, program specifications, and program costs).

1.6.8. Closing Date & Proposal Packet Delivery:

1.6.8.1. Send Five (5) copies of your proposal packet to:

Kate Jones, Contracts Administrator  
312 Hurricane Lane, Suite 201,  
Williston, VT 05495

1.6.8.2. Your proposal, (all components including hard copies AND CD copy) whether mailed or hand delivered, must arrive at the DVHA **no later than 3:00 PM**, September 28, 2011. Late responses shall not be accepted and shall automatically be disqualified from further consideration. The method of delivery shall be at your discretion, and shall be at your sole risk to assure delivery at the designated office. DVHA does not take responsibility for any problems in mail or delivery, either within or outside DVHA. Receipt by any other office or mailroom is not equivalent to receipt by DVHA.

1.7. **FACSIMILE COMMUNICATION**

You may use facsimile communication (FAX) for any communication required in this RFP - EXCEPT for your proposal and protest, if any. You may not send your proposal or protest by facsimile communication.

1.8. **BID OPENING**

The bid opening will be held on September 28, 2011 at 312 Hurricane Lane, Suite 201, Williston, VT 05495 and is open to the public. Typically, the State will open the bid, read the name and address of the bidder, and read the bid amount. Bid openings are open to members of the public. However no further information which pertains to the bid will be available at that time other than the bid amount, name and address of the bidder. The State reserves the right to limit the information disclosed at the bid opening to the name and address of the bidder when, in its sole discretion, it is determined that the nature, type, or size of the bid is such that the State cannot immediately (at the opening) establish that the bids are in compliance with the RFP. As such, there will be cases in which the bid amount will not be read at the bid opening. Bid results are a public record however, the bid results are exempt from disclosure to the public until the award has been made and the contract is executed with the apparently successful bidder.

1.9. **PUBLIC RECORD**

All bid proposals and submitted information connected to this RFP may be subject to disclosure under the State's access to public records law. The successful bidder's response will become part of the official contract file. Once the contract is finalized, material associated with its negotiation is a matter of public record except for those materials that are specifically exempted under the law. One such exemption is material that constitutes trade secret, proprietary, or confidential information. If the response includes material that is considered by the bidder to be proprietary and confidential under 1 V.S.A., Ch. 5 Sec. 317, the bidder shall clearly designate the material as such prior to bid submission. The bidder must identify each page or section of the response that it believes is proprietary and confidential and provide a written explanation relating to each

marked portion to justify the denial of a public record request should the State receive such a request. The letter must address the proprietary or confidential nature of each marked section, provide the legal authority relied on, and explain the harm that would occur should the material be disclosed. Under no circumstances can the entire response or price information be marked confidential. Responses so marked may not be considered and will be returned to the bidder.

**1.9.1.** All proposals shall become the property of the State.

**1.9.2.** All public records of DVHA may be disclosed, except that submitted bid documents shall not be released until the Contractor and DVHA have executed the contract. At that time, the unsuccessful bidders may request a copy of their own score sheets as well as request to view the apparently successful bidder's proposal at DVHA Central Office. The name of any Vendor submitting a response shall also be a matter of public record. Other persons or organizations may also make a request at that time or at a later date.

**1.9.3.** Consistent with state law, DVHA will not disclose submitted bid documents or RFP records until execution of the contract(s). At that time, upon receipt of a public records request, information about the competitive procurement may be subject to disclosure. DVHA will review the submitted bids and related materials and consider whether those portions specifically marked by a bidder as falling within one of the exceptions of 1 V.S.A., Ch. 5 Sec. 317 are legally exempt. If in DVHA's judgment pages or sections marked as proprietary or confidential are not proprietary or confidential, DVHA will contact the bidder to provide the bidder with an opportunity to prevent the disclosure of those marked portions of its bid.

**1.10. COSTS OF PROPOSAL PREPARATION**

DVHA will not pay any bidder costs associated with preparing or presenting any proposal in response to this RFP.

**1.11. RECEIPT OF INSUFFICIENT COMPETITIVE PROPOSALS**

If DVHA receives one or fewer responsive proposals as a result of this RFP, DVHA reserves the right to select the Contractor which best meets DVHA's needs. That Contractor will be selected by DVHA management. The Contractor selected need not be the sole bidder but will be required to document their ability to meet the requirements identified in this RFP. DVHA reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal or any part thereof. Failure of a bidder to respond to a request for additional information or clarification could result in rejection of that bidder's proposal.

**1.12. NON-RESPONSIVE PROPOSALS/WAIVER OF MINOR IRREGULARITIES**

Read all instructions carefully. If you do not comply with any part of this RFP, DVHA may, at its sole option, reject your proposal as non-responsive. DVHA reserves the right to waive minor irregularities contained in any proposal.

**1.13. RFP AMENDMENTS**

DVHA reserves the right to amend this RFP. DVHA will post any RFP amendments to on the Electronic Bulletin Board (<http://www.vermontbidsystem.com>).

**1.14. REJECTION RIGHTS**

Read all instructions carefully. DVHA reserves the right to waive any requirements contained in this RFP. If you do not comply with any part of this RFP, DVHA may, at any time and at its sole discretion and without penalty, reject any and all proposals and issue no contract as a result of this RFP. Furthermore a proposal may be rejected for one or more of the following reasons or for any other reason deemed to be in the best interest of the State:

- 1.14.1. The failure of the bidder to adhere to one or more provisions established in this RFP.
- 1.14.2. The failure of the bidder to submit required information in the format specified in this RFP.
- 1.14.3. The failure of the bidder to adhere to generally accepted ethical and professional principles during the RFP process.

**1.15. AUTHORITY TO BIND DVHA**

The Commissioner and Deputy Commissioners of DVHA (in parent AHS Secretary or Deputy Secretary) are the only persons who may legally commit DVHA to any contract agreements.

**2. PROPOSAL REVIEW**

A review team of knowledgeable individuals will evaluate each proposal. The team members will represent the DVHA, the Agency of Human Services and the Agency of Administration if appropriate. The review team shall review all proposals for compliance with RFP procedural instructions. If the procedural instructions are not followed, the proposal shall be considered non-responsive. Non-responsive proposals will be eliminated from further evaluation.

**2.1. SCORING**

For each program proposal, the four sections outlined in this section (Quality of Bidder Experience, Bidder Capacity, Technical Proposal and Program Costs) must be responded to in your proposal. Proposals will be scored by individual team members. Scoring is intended to clarify strengths and weaknesses of proposals relative to one another and to provide guidance to decision-makers. The sum of the scores of the members will become the proposal's final score. (see criteria for scoring on the following pages).

<b>CRITERIA FOR SCORING</b>	Total possible points
<b>1 INFORMATION FROM THE BIDDER</b>	
<b>A. Quality of Bidder's Experience</b>	<b>25</b>
<ul style="list-style-type: none"> <li>Provide a description of the bidder's contracting experience within the past five years providing services in data collection, analysis and process implementation highlighting contracts for the same or similar services to those called for in this RFP.</li> <li>Describe the bidder's experience with DVHA and/or other Vermont State offices served by this proposal. If not currently operating with DVHA, describe bidder's experience with the other non related State agencies. Please provide data on bidder performance on same or similar contracts, grants and collaborative activities.</li> </ul>	10
<ul style="list-style-type: none"> <li>Describe the Bidder's experience with providing consultation related to health-care-related tax assessment. Please specifically include any consultations to state Medicaid agencies. If bidder does not hold experience in this specific form of consultation, include a strategic plan for networking, collaborating and connecting with the potential providers affected and the solution identified for the mechanism to collect the tax.</li> <li>Please provide data on the number of individuals served, funds expended and sources of funds for same or similar services to those called for in this RFP.</li> </ul>	15
<b>B. Bidder's Capacity to Perform</b>	<b>25</b>
<ul style="list-style-type: none"> <li>Provide a description of the organizational structure of the bidder. Provide a staff organizational chart that identifies the major operational components of the organization, and the lines of authority and responsibility.</li> <li>Indicate how this program fits into the organization's structure.</li> </ul>	10
<ul style="list-style-type: none"> <li>Organizational Quality – describe licensures or accreditations of the organization or other indicators of quality review that attest to the quality of bidder programs.</li> </ul>	5
<ul style="list-style-type: none"> <li>DVHA recognizes that not all bidders will currently have the capacity (staff, staff training...) to offer these services at the onset of the contract period. Please include a detailed strategic plan as to how your company would build this capacity (include timelines, training plans if applicable) in your narrative.</li> </ul>	5
<ul style="list-style-type: none"> <li>Experience Managing Contracts/Grants of Comparable Scale/Scope/Complexity. (include information on these funds in the Summary of Funding form in Appendix B)</li> </ul>	5
<b>2 TECHNICAL PROPOSAL/PROGRAM SPECIFICATIONS</b>	
<b>A. Responsiveness to Specifications</b>	<b>25</b>
<ul style="list-style-type: none"> <li>Provide a description of how bidder will respond to program goals, which research based approaches, will be employed and how the bidder will evaluate its performance and quality.</li> <li>Describe how the bidder will ensure that all included services will be readily accessible and provided in a timely manner.</li> </ul>	15
<ul style="list-style-type: none"> <li>Describe how the bidder will work with affected State agencies, and other community stakeholders (providers, organizations, and individuals)</li> </ul>	5
<ul style="list-style-type: none"> <li>Describe how this program is supported by the bidder's mission and other policies of the bidder.</li> </ul>	5
<b>B. Program Cost</b>	<b>25</b>
<b>Schedule A: Summary Program Costs</b>	
<ul style="list-style-type: none"> <li>Use form Schedule A Budget Submittal Form to itemize your program costs. Include the total number of direct service and supervision FTEs funded by this contract</li> </ul>	15
<b>Schedule B: Detail of Expenses</b>	
<ul style="list-style-type: none"> <li>In narrative form explain how figures for salary, benefits, phone, mileage, buildings and facilities were determined.</li> </ul>	5
<b>Schedule C: Allocation Methods</b>	
<ul style="list-style-type: none"> <li>In narrative form, describe your method for allocating your administrative costs (<b>not to exceed 13%</b>).</li> </ul>	5
<b>Schedule D: Related Party Disclosure</b>	
<ul style="list-style-type: none"> <li>In narrative form, disclose all related party relationships including cost purpose and approval process.</li> </ul>	0
<b>OVERALL TOTAL SCORE</b>	<b>100</b>

**2.2. SELECTION OF THE APPARENTLY SUCCESSFUL BIDDER**

The Review Team will evaluate the proposals based on responsiveness to RFP key points and forward the completed scoring tools as well as copies of the proposals to the Deputy Commissioner of the Division of Policy, Fiscal and Support for final review and determination of the Apparently Successful Bidder.

**2.3. NOTIFICATION OF AWARD**

DVHA will notify all bidders in writing of selection of the Apparently Successful Bidder(s).

DVHA will notify all bidders when the contract(s) resulting from this RFP are signed by posting to the Electronic Bulletin Board (<http://www.vermontbidsystem.com>).

**3. CONTRACT DEVELOPMENT**

**3.1. CONTRACT TERM**

Tentatively, the period of performance of the work to be performed as a result of this RFP is November 1, 2011 to October 31, 2012. DVHA has the option to continue to contract with the successful bidder pursuant to this RFP for up to two additional years.

**3.2. CONTRACT STIPULATIONS**

DVHA reserves the right to incorporate standard contract provisions which can be mutually agreed upon into any contract negotiated as a result of any proposal submitted in response to this RFP. These provisions may include such things as the normal day-to-day relationships with the vendor, but may not substantially alter the requirements of this RFP. Further, the successful vendor is to be aware that all material submitted in response to this RFP, as well as the RFP itself, may be incorporated as part of the final contract. The selected vendor(s) will sign a contract with DVHA to provide the items named in their responses, at the prices listed. This contract will be subject to review throughout its term. DVHA will consider cancellation upon discovery that the selected vendor is in violation of any portion of the agreement, including an inability by the vendor to provide the products, support and/or service offered in their response. If two or more organizations' joint proposal is apparently successful, one organization must be designated as the Prime Bidder. The Prime Bidder will be DVHA's sole point of contact and will bear sole responsibility for performance under any resulting agreement.

**3.3. REMITTANCE OF PAYMENT**

Contractor must specify the address to which payments will be sent and provide a current W-9 to DVHA upon request.

**3.4. CONTRACT ACCEPTANCE**

If the Apparently Successful Bidder(s) refuses to sign the agreement within ten (10) business days of delivery, DVHA may cancel the selection and award to the next highest-ranked bidder(s).

**4. STATE AND AGENCY CUSTOMARY CONTRACTING PROVISIONS**

**ATTACHMENT C  
CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS**

- 1. 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.
- 2. Applicable Law.** This Agreement will be governed by the laws of the State of Vermont.
- 3. 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.

4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.
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, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. 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 Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

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.

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.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverage is 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 coverage 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.

**General Liability and Property Damage:** With respect to all operations performed under the 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 Per Occurrence
- \$1,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

***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: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

***Professional Liability:*** Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of ***N/A*** per occurrence, and ***N/A*** aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **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, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at:

<http://finance.vermont.gov/forms>

10. **Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter 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. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.

11. **Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.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. Party further agrees to include this provision in all subcontracts.

12. **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.

13. **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.

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.

14. **Child Support:** (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.

15. **Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

- 16. **No Gifts or Gratuities:** Party shall not give title or possession of any thing 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.
- 17. **Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.
- 18. **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.

State of Vermont – Attachment C  
Revised AHS – 1-11-11

**ATTACHMENT E  
BUSINESS ASSOCIATE AGREEMENT**

THIS BUSINESS ASSOCIATE AGREEMENT (“AGREEMENT”) IS ENTERED INTO BY AND BETWEEN **THE STATE OF VERMONT AGENCY OF HUMAN SERVICES OPERATING BY AND THROUGH ITS DEPARTMENT, OFFICE, OR DIVISION OF ( DEPARTMENT OF VERMONT HEALTH ACCESS)** (“COVERED ENTITY”) AND (          **INSERT NAME OF THE CONTRACTOR**) (“BUSINESS ASSOCIATE”) AS OF (          **INSERT DATE**) (“EFFECTIVE DATE”). THIS AGREEMENT SUPPLEMENTS AND IS MADE A PART OF THE CONTRACT TO WHICH IT IS AN ATTACHMENT.

Covered Entity and Business Associate enter into this Agreement to comply with 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.

The parties agree as follows:

- 1. **Definitions.** All capitalized terms in this Agreement have the meanings identified in this Agreement, 45 CFR Part 160, or 45 CFR Part 164.

The term “Services” includes all work performed by the Business Associate for or on behalf of Covered Entity that requires the use and/or disclosure of protected health information to perform a business associate function described in 45 CFR 160.103 under the definition of Business Associate.

The term “Individual” includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

The term “Breach” means the acquisition, access, use or disclosure of protected health information (PHI) in a manner not permitted under the HIPAA Privacy Rule, 45 CFR part 164, subpart E, which compromises the security or privacy of the PHI. “Compromises the security or privacy of the PHI” means poses a significant risk of financial, reputational or other harm to the individual.

- 2. **Permitted and Required Uses/Disclosures of PHI.**

2.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services, as specified in the underlying contract with Covered Entity. 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.

- 2.2 Business Associate may make PHI available to its employees who need access to perform Services provided that Business Associate makes such employees aware of the use and disclosure restrictions in this Agreement and binds them to comply with such restrictions. Business Associate may only disclose PHI for the purposes authorized by this Agreement: (a) to its agents (including subcontractors) in accordance with Sections 8 and 16 or (b) as otherwise permitted by Section 3.
3. **Business Activities.** Business Associate may use PHI received in its capacity as a “Business Associate” to Covered Entity if necessary for Business Associate’s proper management and administration or to carry out its legal responsibilities. Business Associate may disclose PHI received in its capacity as “Business Associate” to Covered Entity for Business Associate’s proper management and administration or to carry out its legal responsibilities if a disclosure is Required by Law or if (a) Business Associate obtains reasonable written assurances via a written agreement from the person to whom the information is to be disclosed that the 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 (b) the person notifies Business Associate, within three business days (who in turn will notify Covered Entity within three business days after receiving notice of a Breach as specified in Section 5.1), in writing of any Breach of Unsecured PHI of which it is aware. Uses and disclosures of PHI for the purposes identified in this Section must be of the minimum amount of PHI necessary to accomplish such purposes.
4. **Safeguards.** Business Associate shall implement and use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. With respect to any PHI that is maintained in or transmitted by electronic media, Business Associate shall comply with 45 CFR sections 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards) and 164.316 (policies and procedures and documentation requirements). Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to prevent impermissible uses or disclosures of PHI.
5. **Documenting and Reporting Breaches.**
  - 5.1 Business Associate shall report to Covered Entity any Breach of Unsecured PHI as soon as it (or any of its employees or agents) become aware of any such Breach, and in no case later than three (3) business days after it (or any of its employees or agents) becomes aware of the Breach, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security.
  - 5.2 Business Associate shall provide Covered Entity with the names of the individuals 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 individuals, as set forth in 45 CFR §164.404(c), and, if requested by Covered Entity, 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 to it.
  - 5.3 When Business Associate determines that an impermissible acquisition, use or disclosure of PHI by a member of its workforce does not pose a significant risk of harm to the affected individuals, it shall document its assessment of risk. Such assessment shall include: 1) the name of the person(s) making the

assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low risk of harm. When requested by Covered Entity, Business Associate shall make its risk assessments available to Covered Entity.

6. **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. If requested by Covered Entity, Business Associate shall make its mitigation and corrective action plans available to Covered Entity.
7. **Providing Notice of Breaches.**
  - 7.1 If Covered Entity determines that an impermissible acquisition, access, use or disclosure of PHI for which one of Business Associate's employees or agents was responsible constitutes a Breach as defined in 45 CFR §164.402, and if requested by Covered Entity, Business Associate shall provide notice to the individuals whose PHI was the subject of the Breach. When requested to provide notice, 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. The cost of notice and related remedies shall be borne by Business Associate.
  - 7.2 The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to Covered Entity.
  - 7.3 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).
  - 7.4 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.
8. **Agreements by Third Parties.** Business Associate shall ensure that any agent (including a subcontractor) to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity agrees in a written agreement to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. For example, the written contract must include those restrictions and conditions set forth in Section 14. Business Associate must enter into the written agreement before any use or disclosure of PHI by such agent. 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 to Covered Entity upon request. Business Associate may not make any disclosure of PHI to any agent without the prior written consent of Covered Entity.
9. **Access to PHI.** 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 three (3) 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.

10. **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 three (3) 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.

11. **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 three (3) business days, Business Associate shall forward to Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.

12. **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 received from Covered Entity or created or received by Business Associate on behalf of Covered Entity available to the Secretary in the time and manner designated by the Secretary. Business Associate shall make the same information available to Covered Entity (without regard to the attorney-client or other applicable legal privileges) 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.

13. **Termination.**

13.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity subject to Section 17.7.

13.2 If Business Associate breaches any material term of this Agreement, Covered Entity may either: (a) provide an opportunity for Business Associate to cure the breach and Covered Entity may terminate this Contract without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate this Contract without liability or penalty if Covered Entity believes that cure is not reasonably possible; or (c) if neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary. Covered Entity has the right to seek to cure any breach by Business Associate and this right, regardless of whether Covered Entity cures such breach, does not lessen any right or remedy available to Covered Entity at law, in equity, or under this Contract, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.

14. **Return/Destruction of PHI.**

- 14.1 Business Associate in connection with the expiration or termination of this Contract shall return or destroy, at the discretion of the Covered Entity, all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this Contract 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 the PHI. Business Associate shall certify in writing for 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.
- 14.2 Business Associate shall provide to Covered Entity notification of any conditions that Business Associate believes make the return or destruction of PHI infeasible. If Covered Entity agrees that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI.
15. **Penalties and Training.** 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. If requested by Covered Entity, Business Associate shall participate in training regarding the use, confidentiality, and security of PHI.
16. **Security Rule Obligations.** The following provisions of this Section apply to the extent that Business Associate creates, receives, maintains or transmits Electronic PHI on behalf of Covered Entity.
- 16.1 Business Associate shall implement and use administrative, physical, and technical safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312 with respect to the Electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to protect such Electronic PHI.
- 16.2 Business Associate shall ensure that any agent (including a subcontractor) to whom it provides Electronic PHI agrees in a written agreement to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the Electronic PHI. Business Associate must enter into this written agreement before any use or disclosure of Electronic PHI by such agent. 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. Business Associate shall provide a copy of the written agreement to Covered Entity upon request. Business Associate may not make any disclosure of Electronic PHI to any agent without the prior written consent of Covered Entity.
- 16.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an agent, including a subcontractor). Business Associate shall provide this written report as soon as it becomes aware of any such Security Incident, and in no case later than three (3) business days after it becomes aware of the incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.
- 16.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity

implements to obtain compliance under the Security Rule.

17. **Miscellaneous.**

- 17.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Contract, the terms of this Agreement shall govern with respect to its subject matter. Otherwise the terms of the Contract continue in effect.
- 17.2 Business Associate shall cooperate with Covered Entity to amend this Agreement from time to time as is necessary for Covered Entity to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA.
- 17.3 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.
- 17.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule) in construing the meaning and effect of this Agreement.
- 17.5 As between Business Associate and Covered Entity, Covered Entity owns all PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity.
- 17.6 Business Associate shall abide by the terms and conditions of this Agreement with respect to all PHI it receives from Covered Entity or creates or receives on behalf of Covered Entity under this Contract 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.
- 17.7 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 11 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

(AHS Rev: 8/31/10)

**ATTACHMENT F**  
**AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT PROVISIONS**

- 1. **Agency of Human Services – Field Services Directors** will share oversight with the department (or field office) that is a party to the contract for provider performance using outcomes, processes, terms and conditions agreed to under this contract.
- 2. **2-1-1 Data Base:** The Contractor providing a health or human services within Vermont, or near the border that is readily accessible to residents of Vermont, will provide relevant descriptive information regarding its agency, programs and/or contact and will adhere to the "Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211. If included, the Contractor will provide accurate and up to date information to their data base as needed. The "Inclusion/Exclusion" policy can be found at [www.vermont211.org](http://www.vermont211.org)

**3. Medicaid Program Contractors:**

Inspection of Records: Any contracts accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid program must fulfill state and federal legal requirements to enable the Agency of Human Services (AHS), the United States Department of Health and Human Services (DHHS) and the Government Accounting Office (GAO) to:

Evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed; and Inspect and audit any financial records of such Contractor or subcontractor.

Subcontracting for Medicaid Services: Having a subcontract does not terminate the Contractor, receiving funds under Vermont's Medicaid program, from its responsibility to ensure that all activities under this agreement are carried out. Subcontracts must specify the activities and reporting responsibilities of the Contractor or subcontractor and provide for revoking delegation or imposing other sanctions if the Contractor or subcontractor's performance is inadequate. The Contractor agrees to make available upon request to the Agency of Human Services; the Department of Vermont Health Access; the Department of Disabilities, Aging and Independent Living; and the Center for Medicare and Medicaid Services (CMS) all contracts and subcontracts between the Contractor and service providers.

Medicaid Notification of Termination Requirements: Any Contractor accessing payments for services under the Global Commitment to Health Waiver and Medicaid programs who terminates their practice will follow the Department of Vermont Health Access, Managed Care Organization enrollee notification requirements.

Encounter Data: Any Contractor accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid programs must provide encounter data to the Agency of Human Services and/or its departments and ensure that it can be linked to enrollee eligibility files maintained by the State.

Federal Medicaid System Security Requirements Compliance: All contractors and subcontractors 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) to support audit compliance with 45CFR95.621 subpart F, *ADP (Automated Data Processing) System Security Requirements and Review Process*.

4. **Non-discrimination Based on National Origin as evidenced by Limited English Proficiency.** The Contractor agrees to 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, which require that contractors and subcontractors receiving federal funds must assure that persons with limited English proficiency can meaningfully access services. To the extent the Contractor provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services in compliance with this requirement, such individuals cannot be required to pay for such services.

5. **Voter Registration.** When designated by the Secretary of State, the Contractor agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.

6. **Drug Free Workplace Act.** The Contractor will assure a drug-free workplace in accordance with 45 CFR Part 76.

7. **Privacy and Security Standards.**

Protected Health Information: The Contractor shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this contract. The Contractor shall follow federal and state law relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the Contractor or subcontractor shall be maintained in compliance with any applicable state or federal laws or regulations and specifically set out in 42 CFR Part 2.

Other Confidential Consumer Information: The Contractor agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to information. The Contractor agrees to comply with any applicable Vermont State Statute, including but not limited to 12 VSA §1612 and any applicable Board of Health confidentiality regulations. The Contractor shall ensure that all of its employees and subcontractors performing services under this agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non-public nature.

Social Security numbers: The Contractor agrees to comply with all applicable Vermont State Statutes to assure protection and security of personal information, including protection from identity theft as outlined in Title 9, Vermont Statutes Annotated, Ch. 62.

8. **Abuse Registry.** The Contractor agrees not to employ any individual, use any volunteer, or otherwise provide reimbursement to any individual in the performance of services connected with this agreement, who provides care, custody, treatment, transportation, or supervision to children or vulnerable adults if there is a substantiation of abuse or neglect or exploitation against that individual. The Contractor will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the Contractor holds a valid child care license or registration from the Division of Child Development, Department for Children and Families, the Contractor shall also check the Central Child Protection Registry. (See 33 V.S.A. §4919(a)(3) & 33 V.S.A. §6911(c)(3)).
9. **Reporting of Abuse, Neglect, or Exploitation.** Consistent with provisions of 33 V.S.A. §4913(a) and §6903, any agent or employee of a Contractor who, in the performance of services connected with this agreement, has contact with clients or is a caregiver and who has reasonable cause to believe that a child or vulnerable adult has been abused or neglected as defined in Chapter 49 or abused, neglected, or exploited as defined in Chapter 69 of Title 33 V.S.A. shall make a report involving children to the Commissioner of the Department for Children and Families within 24 hours or a report involving vulnerable adults to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. This requirement applies except in those instances where particular roles and functions are exempt from reporting under state and federal law. Reports involving children shall contain the information required by 33 V.S.A. §4914. Reports involving vulnerable adults shall contain the information required by 33 V.S.A. §6904. The Contractor will ensure that its agents or employees receive training on the reporting of abuse or neglect to children and abuse, neglect or exploitation of vulnerable adults.
10. **Intellectual Property/Work Product Ownership.** All data, technical information, materials first gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement - including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement - or are a result of the services required under this grant - shall be considered "work for hire" and remain the property of the State of Vermont, regardless of the state of completion - unless otherwise specified in this agreement. Such items shall be delivered to the State of Vermont upon 30 days notice by the State. With respect to software computer programs and / or source codes first developed for the State, all the work shall be considered "work for hire," i.e., the State, not the Contractor or subcontractor, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

The Contractor shall not sell or copyright a work product or item produced under this agreement 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's materials.

11. **Security and Data Transfers.** The State shall work with the Contractor to ensure compliance with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Contractor of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Contractor to implement any required.

The Contractor will ensure the physical and data security associated with computer equipment - including desktops, notebooks, and other portable devices - used in connection with this agreement. The Contractor will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Contractor will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, the Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Computing and Communication:** The Contractor shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Contractor as part of this agreement. Options include, but are not limited to:

1. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.
2. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

The State will not supply e-mail accounts to the Contractor.

13. **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.

14. **Non-discrimination.** The Contractor will prohibit 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, or on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. No person shall on the grounds of sex (including, in the case of a woman, on the grounds that the woman is pregnant) or on the grounds of religion, be 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 and/or federal funds.

The Contractor will also not 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 under Title 9 V.S.A. Chapter

139.

15. **Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, child care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds.

The law does not apply to children's services provided in private residences; 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.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

Contractors are prohibited from promoting the use of tobacco products for all clients. Facilities supported by state and federal funds are prohibited from making tobacco products available to minors.

*Attachment F - Revised AHS -12/10/10*

## **CHAPTER 2**

### **INFORMATION FROM THE BIDDER**

1. **QUALITY OF BIDDER'S EXPERIENCE**

In this section the bidder is telling the DVHA about the related experience their company has with these services, this community, DVHA, etc.

Total points for this section –25. (see Proposal Review and the criteria for scoring chart, Section II-1, for additional detail)

2. **BIDDER'S CAPACITY**

In this section the bidder is telling the DVHA about the capacity of their company to provide the services outlined in this RFP. Describe the companies organizational structure and how this program fits into this structure.

Total points for this section – 25 points. (see Proposal Review and the criteria for scoring chart, Section II-1 for additional detail)

# **CHAPTER 3**

## **TECHNICAL PROPOSAL/PROGRAM SPECIFICATIONS**

1. **ATTACHMENT A SPECIFICATION OF WORK TO BE PERFORMED**

The State of Vermont, Department of Vermont Health Access has been granted authority to perform a study based on the development and implications a provider/ health-care-related tax assessment could offer. In the 2011 legislative session the Secretary of Administration was called to develop a system to identify and collect the data necessary to administer any health-care-related tax under 42 C.F.R. part 433.50 et seq. that is permitted by federal law but not currently levied in Vermont, including an analysis of the base to which such a tax would apply and mechanisms for collection. Further guidance and regulations relating to the provider tax can be found in 42 C.F.R. part 433.50 et seq. and 433.70 et seq.

In SFY 11 Vermont generated \$1,121,546,880.00 in revenue collected from the following provider classes and authority:

1. Hospitals (33 V.S.A. § 1953)
2. Nursing Homes (33 V.S.A. § 1954)
3. ICF/MR (Intermediate Care Facilities for Persons with Mental Retardation) (33 V V.S.A. § 1955)
4. Home Health (33 V.S.A. § 1955a)
5. Pharmacy (33 V.S.A. § 1955b)

The following provider classes are currently not levied a provider tax in Vermont but are allowed under federal law.

1. Services of managed care organizations (including health maintenance organization, preferred provider organization, and such other similar organizations as the Secretary may specify by regulation)
2. Ambulatory surgical center services, defined to include facility services only and do not include surgical procedures
3. Dental services
4. Podiatric services
5. Chiropractic services
6. Optometric/optician services
7. Psychological services
8. Therapist services, defined to include physical therapy, speech therapy, occupational therapy, respiratory therapy, audiological services, and rehabilitative specialist services;
9. Nursing services, defined to include all nursing services, including services of nurse midwives, nurse practitioners, and private duty nurses
10. Laboratory and x-ray services, defined as services provided in licensed, free-standing laboratory or x-ray facility. Does not include laboratory or x-ray services provided in a physician's office, hospital inpatient department, or hospital outpatient department
11. Emergency ambulance services
12. Physicians

This Request for Proposals (RFP) calls for two deliverables. The first deliverable is an evaluation of the expansion of provider classes not currently levied in Vermont, including an assessment of what revenues could be

obtained, existing data sources available to be used for the assessment if any, and additional data collection necessary to implement an expanded provider tax. The second deliverable is a proposal improving Vermont's provider tax, including mechanisms used to collect both any new classes recommended for assessment and a recommendation on changing the current mechanism, including data sources, used for the state's existing provider taxes in order to produce a streamlined, efficient and verified mechanism.

The selected contractor will be expected to report back to DVHA on their findings specifying initial recommendations of potential assessments by December 31, 2011 with further analysis and final recommendations no later than January 15, 2012. Any recommendation contained in the report should focus on compliance with 42 C.F.R., uniform approach to assessments, transparency in calculations, administrative ease in managing the assessments, and integrity and accuracy of base data used to calculate the assessments.

### **1.1. TECHNICAL PROPOSAL**

This section describes the format of the bidder's response to key points in the program specifications detailed in Attachment A.

Total points for this section – 25.

(see Proposal Review and criteria for scoring chart, Section II-1 for additional detail)

#### **I. PROGRAM SUMMARY**

#### **II. PROGRAM GOALS**

#### **III. OUTCOMES EXPECTED FROM CONTRACTOR'S PERFORMANCE:**

#### **IV. RESPONSIBILITIES OF CONTRACTOR**

#### **V. ROLE OF DVHA**

#### **VI. PROGRAM EVALUATION**

#### **VII. CONTRACT ADMINISTRATION**

#### **VIII. RECORD KEEPING**

#### **IX. REPORTS**

### **2. ATTACHMENT B PROGRAM COSTS/PAYMENT PROVISIONS**

#### **2.1. PROGRAM COSTS**

In this section, describe the bidder's proposed costs and rates for this program by submitting the completed budget form (Schedule A) which can be found in Appendix B.

Proposals will be evaluated on total costs, administrative versus direct service costs and the narrative describing your company's experience fiscally managing contracts of comparable scale, scope and complexity.

Total points for this section – 25.

(see Proposal Review and the criteria for scoring chart, Section II-1 for additional detail)

#### **2.2. CONTRACT VALUE/QUANTITY**

The estimated annual value of this contract is undetermined at this time however DVHA is working within a budget amount obligated for this program which must include contractual costs along with program costs. Contract issuance is contingent upon funding availability. The maximum dollar amount

payable under this contract is not intended to guarantee any amount of payment. The Contractor will be paid at the billable rates for services actually performed, up to the maximum allowable amount. Since there will be no opportunity for Bidders to revise the pricing, and there will not be a Best and Final Offer (BAFO) process, the Bidder should carefully calculate and propose its prices for the services requested herein.

**2.3. INVOICES**

Contractor will bill the State on or about the first of each month for services authorized under the contract and provided during the previous month. Upon timely and accurate submission of invoices, the State will pay the Contractor for the services on a NET 30 days payment term.

**2.3.1.** Invoice will be in such form as may be required by the State and will contain the following:

**2.3.1.1.** Contract number (listed on the front page of the contract)

**2.3.1.2.** Contractor's signature

**2.3.1.3.** Date of Service

**2.3.1.4.** Unique invoice number and date of invoice

**2.3.1.5.** Contractor's remittance address

**2.3.2.** The invoice requirements apply to all the programs covered under this RFP.

**2.3.3.** Invoices are to be sent to party identified with in the executed contract.

**2.3.4.** Suggested or required number of direct service FTEs to be funded by this contract is \_\_\_\_\_.  
*(this can be a range, ie. 6-9)*

**APPENDIX A**  
**REQUIRED GENERAL FORMS**

**REQUEST FOR PROPOSAL  
HEALTH-CARE RELATED TAX STUDY**

This form must be completed and submitted as part of the response for the proposal to be considered valid. The undersigned agrees to furnish the products or services listed at the prices quoted and, unless otherwise stated by the vendor, the Terms of Sale are Net 30 days from receipt of service or invoice, whichever is later. 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.

**VERMONT TAX CERTIFICATE AND INSURANCE CERTIFICATE**

To meet the requirements of Vermont Statute 32 V.S.A. subsection 3113, by law, no agency of the State may enter into extend or renew any contract for the provision of goods, services or real estate space with any person unless such person first certifies, under the pains and penalties of perjury, that he or she is in good standing with the Department of Taxes. A person is in good standing if no taxes are due, if the liability for any tax that may be due is on appeal, or if the person is in compliance with a payment plan approved by the Commissioner of Taxes, 32 V.S.A. subsection 3113. In signing this bid, the bidder certifies under the pains and penalties of perjury that the company/individual is 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 as of the date this statement is made.

Bidder further certifies that the company/individual is in compliance with the State’s insurance requirements as detailed in section 21 of the Purchasing and Contract Administration Terms and Conditions. All necessary certificates must be received prior to contract issuance. If the certificate of insurance is not received by the identified single point of contact prior to contract issuance, the State of Vermont reserves the right to select another vendor. Please reference this RFP# when submitting the certificate of insurance.

Insurance Certificate: Attached \_\_\_\_\_ Will provide upon notification of award: \_\_\_ (within 5 days)

Delivery Offered \_\_\_\_\_ Days After Notice of Award                      Terms of Sale \_\_\_\_\_

Quotation Valid for \_\_\_\_\_ Days \_\_\_\_\_                                      Date: \_\_\_\_\_

Name of Company: \_\_\_\_\_    Telephone Number: \_\_\_\_\_

Fed ID or SS Number: \_\_\_\_\_    Fax Number: \_\_\_\_\_

By: \_\_\_\_\_    Name: \_\_\_\_\_  
Signature (Bid Not Valid Unless Signed)    (Type or Print)

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**This is NOT AN ORDER**

All returned quotes and related documents must be identified with our request for quote number.

**CERTIFICATIONS AND ASSURANCES**

I/we make the following certificates and assurances as a required element of the bid or proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. The prices and/or cost data have been determined independently, without consultation, communication or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal or bid.
2. The attached proposal or bid is a firm offer for a period of 120 days following receipt, and it may be accepted by the DVHA without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 120 day period.
3. In preparing this proposal or bid, I/we have not been assisted by any current employee of the State of Vermont whose duties related (or did relate) to this proposal, bid or prospective contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this proposal or bid. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document).
4. I/we understand that the DVHA will not reimburse me/us for any costs incurred in the preparation of this proposal or bid. All proposals or bids become the property of DVHA.
5. I/we understand that any contract(s) awarded as a result of this RFP will incorporate terms and conditions substantially similar to those attached to the RFP. I/we certify that I/we will comply with these or substantially similar terms and conditions if selected as a Contractor.
6. I hereby certify that I have examined the accompanying RFP forms prepared by: \_\_\_\_\_ for the funding period beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that to the best of my knowledge and belief, the contents are true, and correct, and complete statements prepared from the books and records of the provider in accordance with applicable instructions, except as noted.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**APPENDIX B**  
**REQUIRED COVER SHEET AND REPORTING FORMS**

DEPARTMENT OF VERMONT HEALTH ACCESS

APPLICANT INFORMATION SHEET

(To be included in the proposal packet)

\*\*NOTE: This information sheet must be included as the cover sheet of the application being submitted. Be sure to complete this form in its entirety. Please fill out and attach an fw-9 to this form signed by the duly appointed signing official for your company.

Applicant Organization: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Town, State, ZIP: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax #: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Fiscal Agent (Organization Name): \_\_\_\_\_

FY Starts: \_\_\_\_\_ FY Ends: \_\_\_\_\_

Financial Contact Person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Town, State, ZIP: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax #: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Federal Tax ID Number: \_\_\_\_\_

Whom should we contact if we have questions about this application?

Name \_\_\_\_\_ Phone Number \_\_\_\_\_

**SUMMARY OF FUNDS**  
(to be included in the proposal packet)

Organization Name \_\_\_\_\_  
Fed ID # \_\_\_\_\_

Summary of Funds received during your current fiscal year  
\_\_\_\_\_ to \_\_\_\_\_

Source of Funds	Contract/grant total award	Briefly describe activities supported by these funds
Income total		

**SCHEDULE B DETAIL OF EXPENSES**

In narrative form explain how figures for salary, benefits, phone, mileage, buildings and facilities were determined.

**SCHEDULE C ALLOCATION OF EXPENSES**

In narrative form, describe your method for allocating your administrative costs.

**SCHEDULE D RELATED PARTY DISCLOSURE**

Please identify all related party relationships including cost purpose and approval process.