

SIMPLIFIED REQUEST FOR PROPOSALS
Agency of Human Services, Department of Vermont Health Access

Title: Cost Report Auditing and Cost Settlement Services

Date: October 11, 2012

Requisition Number: (03410-106-13)

CHAPTER 1: INFORMATION FOR THE BIDDER

- 1 **BACKGROUND AND SCOPE:** The Vermont Department of Vermont Health Access (hereinafter called DVHA) is seeking to establish service agreements with one company that can provide Cost Report Auditing and Cost Settlement Services.
- 2 **CONTRACT PERIOD:** Any contract arising from this request for proposals will be for a period of one year with an option to renew for two additional one year periods. The proposed start date will be February 1, 2013.
- 3 **SINGLE POINT OF CONTACT:** All communications concerning this Request For Proposal (RFP) are to be addressed in writing to the attention of:

Sawyer Joecks – Procurement Manager
Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495
802-879-5922
Sawyer.Joecks@state.vt.us

Sawyer Joecks will be the sole contact for this proposal. Attempts by bidders to contact any other party could result in the rejection of their proposal.

- 4 **COSTS OF PREPARATION:** The bidder shall be solely responsible for all expenses incurred in the preparation of a response to this RFP and shall be responsible for all expenses associated with any presentation or demonstrations associated with this request and or proposals made. The bidder shall also be solely responsible for the cost preparing responses to scope of work requests submitted by departments over the course of the contract.
- 5 **REJECTION RIGHTS:** DVHA may, at any time and at its sole discretion and without penalty, reject any and all proposals in any ‘catchment’ area and issue no contract in that area as a result of this RFP. Further more 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:
 - 5.11.1 The failure of the bidder to adhere to one or more provisions established in this RFP.
 - 5.11.2 The failure of the bidder to submit required information in the format specified in this RFP.
 - 5.11.3 The failure of the bidder to adhere to generally accepted ethical and professional principles during the RFP process.

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 any requirements contained in this RFP.

- 6 **PUBLIC RECORD DISCLOSURE:**
 - 6.11.1 All proposals shall become the property of the State.
 - 6.11.2 All public records of DVHA are available for disclosure, except for RFPs prior to the release to potential bidders; and proposals and bids received in response to the RFP, until the Contractor and DVHA have executed the contract. At that time, the unsuccessful bidders may request a copy of

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their own score sheets as well as request to view the successful bidder's proposal at DVHA Central Office.

6.11.3 DVHA will not disclose RFP records until execution of the contract(s). At that time, all information about the competitive procurement is disclosed except those portions specifically marked by the bidder as falling within one of the exceptions of 1, V.S.A., Ch. 5 Sec. 317.

- 7 **AUTHORITY TO BIND DVHA:** The Commissioner and Deputy Commissioner of DVHA (in parent AHS Secretary or Deputy Secretary) are the only persons who may legally commit DVHA to any contract agreements. The Contractor shall not incur, and DVHA shall not pay, any costs incurred before a contract is fully executed.
- 8 **QUESTION AND ANSWER PERIOD:** Any vendor requiring clarification of any section of this proposal must submit specific questions in writing to the single point of contact by 4:30pm on October 18, 2012. Questions must be e-mailed to the RFP Contact listed Section 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 on October 23, 2012.
- 9 **CLOSING DATE & PROPOSAL PACKET DELIVERY:** Your proposal, (all components including hard copies AND e-mail and/or CD copy) whether mailed or hand delivered, must arrive at the DVHA **no later than 3:00 PM**, October 31, 2012. 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.
- 10 **PROPOSAL REVIEW:** A review team of knowledgeable individuals will evaluate each proposal. The team members will be from the host district and the central office of DVHA. The Program Management Unit 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.
 - 10.11 **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 12 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 8 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 12 of this document.
 - 10.12 **Proposal Format:**
 - 10.12.1 Use standard 8.5" x 11" white paper. Documents must be single-spaced and use not less than a twelve point font.
 - 10.12.2 Send seven (7) identical copies of each Program Proposal you are submitting and include a computer file copy of the document on a CD using Microsoft Word or straight text file formats in the proposal packet.
 - 10.12.3 State your organization's name on each page of your program proposals and on any other information you are submitting.
 - 10.13 **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.
- 11 **SCORING:** For each program proposal, the four sections outlined in this section (Quality of Bidder

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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).

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CRITERIA FOR SCORING	Total possible points
1 INFORMATION FROM THE BIDDER	
A. Quality of Bidder's Experience	25
<ul style="list-style-type: none"> The description of the bidder's contracting experience within the past three years providing like services are called out for in this RFP, as outlined within the scope of work (Schedule A). To include, specified targeted outcomes, the number of years and geographic areas served by the bidder. If Bidder has previous experience, describe the bidder's experience with State of Vermont. If no experience with the State of Vermont, describe bidder's experience with like government entity. 	25
B. Bidder's Capacity to Perform	25
<ul style="list-style-type: none"> 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. Indicate how this program fits into the organization's structure. Identify the members of the applicant's Board of Directors. 	10
<ul style="list-style-type: none"> Organizational Quality – describe licensures or accreditations of the organization or other indicators of quality review that attest to the quality of bidder programs. 	5
<ul style="list-style-type: none"> What is your experience managing Contracts of Comparable Scale/Scope/Complexity? 	10
2 TECHNICAL PROPOSAL & EXAMINATION APPROACH /PROGRAM SPECIFICATIONS	
A. Responsiveness to Specifications & Examination Approach	25
<ul style="list-style-type: none"> 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. Describe how the bidder will ensure that all included services will be readily accessible and provided in a timely manner. 	15
<ul style="list-style-type: none"> Describe how the bidder will work with district office(s), and other community stakeholders (providers, organizations, and individuals) 	5
<ul style="list-style-type: none"> Describe how this program is supported by the bidder's mission and other policies of the bidder. 	5
B. Program Cost	25
Schedule A: Summary Program Costs	
<ul style="list-style-type: none"> Use form Schedule A Budget Submittal Form to itemize your program costs. 	15
Schedule B: Detail of Expenses	
<ul style="list-style-type: none"> In narrative form explain how figures for salary, benefits, phone, mileage, buildings and facilities were determined. 	5
Schedule C: Allocation Methods	
<ul style="list-style-type: none"> In narrative form, describe your method for allocating your administrative costs 	5
OVERALL TOTAL SCORE	100

CHAPTER 2: INFORMATION FROM THE BIDDER

1. QUALITY OF BIDDER'S EXPERIENCE:

Bidder must describe their contracting experience, within the past three years, providing like or similar services, as outlined with the scope of work (Schedule A), working with publicly operated facilities and/or other provider reimbursement cost report auditing and cost settlement services. Proposal must also include its targeted outcomes experience including number of years, and geographic areas served.

If Bidder has previous experience working with the State of Vermont or other government body, Bidder must describe experience with each government agencies on their performance, which may include contract work, grants and/or collaborative activities. Please also provide agencies name, contact person, description of work performed and outcomes for same or similar services called for within this RFP.

The Bidder or assigned staff must have either, a Bachelor's degree with at least 3 years of experience completing Medicare and Medicaid Cost Reports, or 3 years of Medicare Cost Report (MCR) audit experience. Bidder must provide a job description for each staff position, which should include job title, tasks and activities, percentage of time allocated to proposed audit schedule.

Total points for this section is 25 (see Proposal Review and the criteria for scoring chart (Part 1, Section A))

2. BIDDER'S CAPACITY:

2.1. **Organizational Structure:** Bidder must describe how the Bidder's organizational components communicate and work together in both an administrative and functional capacity from the top down and/or vertical. This section should contain a brief narrative setting out the Bidder's management philosophy including, but not limited to, the role of quality control, professional practices, supervision, distribution of work, and communication systems. Describe how your organizational structure will best meet the work expectations of this RFP. This section should include an organizational chart displaying the Bidder's overall structure.

2.2 **Organization Experience:** Bidder must provide the organization's experience managing audits or projects of comparable scale, scope and complexity.

Relevant Corporate Experience:

2.2.1 Bidder proposal should include what the firm has on record of prior successful experiences completing Medicare and Medicaid Cost Reports and MCR audits, specific to the services sought through this RFP. Bidders should include statements specifying the extent of responsibility on prior projects and a description; including projects' scope and similarity to the work to be performed outlined in this RFP. All experience under this section should be in sufficient detail to allow an adequate evaluation by DVHA. The Bidder should have, within the last 24 months, completed similar work to be performed stated in this RFP.

2.2.2 Bidder should give at least two (2) relevant references for projects completed within the last 24 months from the date of issue of this RFP. References should include the name, email address and telephone number of each contact person.

2.2.3 Only as applicable, a statement of the proposer's involvement in litigation that could affect this work should be included. If no such litigation exists, proposer should so state.

2.3 **Personnel Qualifications:** The purpose of this section is to evaluate the relevant experience, resources, and qualifications of the proposed staff to be assigned to the work to be performed. The experience of proposer's personnel in implementing similar services to those to be provided under this RFP will be evaluated. The adequacy of personnel for the proposed project team will be evaluated on the basis of project tasks assigned, allocation of staff, professional skill mix, and level of involvement of personnel. Personnel should be identified, and should be the individuals who will work directly on the project. Percentage of time, work hours committed or other identification of the proposed level of effort should be submitted.

Total points for this section – 25 points (see Proposal Review and the Criteria For Scoring chart (Part 1, Section B)).

3. RESPONSIVENESS TO SPECIFICATIONS & EXAMINATION APPROACH:

3.1. Bidder must describe how the Bidder's organization can meet the required responsiveness to the specifications and examination approach in a functional capacity, see Schedule A. Bidder will outline how it will meet program goals, responsiveness, and its research base approach. The Bidder should state the approach it intends to use to achieve each objective and deliverable of the contract, including major

activities and methodologies utilized. Bidder will be evaluated on its performance based on meeting its planned examination approach, program goals & responsiveness, and its research base approach. The work plan should include the following:

3.2. Examination Approach: Bidder must provide details on its examination approach, which must include but is not limited to;

3.2.1 Estimate time involved in completion of tasks;

3.2.2 Identify all assumptions or constraints on tasks;

3.2.3 Refer to specific documents and reports that are to be produced as a result of completing tasks.

Total points for this section – 25 (see Proposal Review and Criteria For Scoring chart (Part 2, Section A))

4. PROGRAM COSTS

4.2 Contract Value / Quantity: 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.

4.1.3. Suggested or required number of direct service FTEs to be funded by this contract is 3 - 4.

4.1.4. Proposer shall specify costs for performance of tasks. Proposal shall include all anticipated costs of successful implementation of all deliverables outlined in this RFP. An item by item breakdown of costs shall be included in the proposal. Proposers shall submit the breakdown in a similar format to the attached sample cost template form (See Appendix A) for each year of the contract to demonstrate how cost was determined. Travel expenses shall not be reimbursed as a separate item.

4.1.5. Bidder shall also provide a unit price for each cost report per year.

Total points for this section – 25 (see Proposal Review and Criteria For Scoring chart (Part 2, Section B)).

CHAPTER 3: TECHNICAL PROPOSAL

SPECIFIC WORK TO BE PERFORMED

1. The Contractor shall audit provider cost reports to determine their acceptability and to determine the amount of any Vermont Medicaid cost-settlement for the cost-based-reimbursed providers identified in Listing of Agencies and Facilities Subject to Audit.
2. The Contractor will conduct reviews of each Rural Health Clinic (RHC), Federally Qualified Health Clinic (FQHC) and any outstanding hospital cost settlements, at least annually or as otherwise assigned.
3. The Contractor will furnish to DVHA or assigned designated parties, as required by the State, copies of the limited desk review determinations, the audited cost report, interim rate determinations and the Notice of Program Reimbursement (NPR) issued upon final settlement of the cost report. During or because of an audit, the Contractor will prepare any adjustments occurring after the NPR is issued for such reasons as appeal hearings or Quality Assurance (QA) reviews.
4. The Contractor will provide an audited cost report and NPR for each Vermont facility as indicated in the Listing of Agencies and Facilities Subject to Audit. In addition, the Contractor will provide the State quarterly reports on the current settlement status. Listing of tracking data elements that must be included in the quarterly report are provided within the sample worksheet for tracking.
5. The Contractor and the State will permit access to each other's audit work papers, to review and copy as desired, upon reasonable notice, at their respective either electronically or in the office during normal working hours.
6. The State will furnish to the Contractor pertinent Vermont Title XIX audit information upon request at no additional cost. Contractor will be required to send request letters to the providers asking them to submit their cost report.
7. As a result of the desk review determination, the Contractor shall have the capacity to conduct field audits, which may be through use of the Contractor's in-house audit staff or through subcontract. The Contractor may enter into subcontracts that might be necessary to accomplish field audits under the common audit, but the State will retain the right to approve all subcontractors.
8. In the event that Vermont Medicaid has incomplete desk reviews for Medicaid cost reports specific to services, which are cost based reimbursed. Contractor will, under Vermont Title XIX, complete cost settlement desk audits. Contractor will notify providers and the State of underpayments and overpayments to be paid or refunded. Then the State will make payment or obtain a refund.
9. Audits FQHCs and RHCs shall be completed within 15 months of the acceptance of the cost report. If the Contractor is unable to meet the schedule for timely completion of any audit, the State may grant an exception for good cause.
10. In order to perform its audit function under this Contract, the Contractor will be provided information by the State's Medicaid Fiscal Agent (HP). It may also become necessary to secure additional information to complete an audit. Consequently, if the contractor's performance is delayed because of missing information, then the State holds the Contractor harmless and will release the Contractor from its timely performance obligations.

11. Transition:

11.1 Upon issuance of a new contract for these services, the new contractor will be expected to work with the existing audit entity to ensure an orderly transition so that all contract requirements are met. The existing entity is responsible to complete reviews through FYEs in 2009, RHC through 2010 and hospitals through 2008. The new contractor will be expected to complete any outstanding audits and henceforth scheduled audits going forward. If necessary, facilities can be asked to resubmit cost reports to the contractor for an audit of a period, which occurred before the new contract. The existing contractor will be expected to complete all audits in progress.

11.2 Interim Settlements which are done for certain providers, specifically dental providers, which are often completed after every quarter, is a function that will be required by the new contractor.

LISTING OF AGENCIES AND FACILITIES SUBJECT TO AUDIT

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The following agencies, facilities, and organizations are those subject to audit under the provisions of the cost report and settlement contract. It should be understood that this list is subject to adjustment, which is based on the Centers for Medicare and Medicaid Services (CMS) rules impacting Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) operations.

Rural Health Clinics:

0473830 Arlington Family Practice
0473824 Cold Hollow Family Practice
0303809 David Fagan, M.D. Terminated on 3/30/10
0473826 Francis W. Cook, M.D Terminated on 3/15/08
0473821 Keeler Bay Family Practice
0473829 Mtn Valley Health Council d/b/a Mtn Valley Med
0473814 Newport Pediatrics and Adolescent Medicine
0473827 Ryder Brook Pediatrics
0303806 Summit Medical
0473988 NVRH Corner Medical Center
0473989 NVRH – St. Johnsbury Pediatrics
0473990 NVRH – Orleans Medical
0473981 Grace Cottage Family Health
0473979 North Country Hospital & Health Center, Inc d/b/a Community Medical Associates
0473980 North Country Hospital & Health Center, Inc. d/b/a Family Practice of Newport
0473982 North Country Hospital & Health Center, Inc. d/b/a. North Country OB/GY Services
0473987 North Country Hospital & Health Center, Inc. d/b/a Barton Clinic
0303975 Weeks Memorial Hospital - Lancaster
0303976 Weeks Memorial Hospital - Whitefield
0303977 Weeks Memorial Hospital - Groveton

Federally Qualified Health Centers (includes dental services or pharmacy when provided by the FQHC):

0000F02 Community Health Center of Burlington (Medical)
0001692 Community Health Center of Burlington (The Dental Center)
0471801 Northern Counties Health Care – Three Rivers
0471802 Northern Counties Health Care – Danville
0471803 Northern Counties Health Care – Hardwick
0471804 Northern Counties Health Care – Island Pond
0471808 Northern Counties Health Care – St. Johnsbury
0471809 Northern Counties Health Care – Calendonía
1006335 Northern Counties Health Care – Island Pond Dental
0007175 Northern Counties Health Care – Island Pond Pharmacy
0104229 Northern Counties Health Care
0471807 Richford Health Center – Richford (0000F04)
0471811 Richford Health Center – Swanton (0000F04)
0471812 Richford Health Center – Enosburg (0000F04)
0471813 Richford Health Center – Alburgh (0000F04)
1006168 Richford Health Center – Richford Dental Clinic
1017783 Richford Health Center – Notch Dental Clinic
0471824 Little Rivers Health Care – Valley (1012615)
0471825 Little Rivers Health Care – Bradford (1012615)
0471826 Little Rivers Health Care – Wells River (1012615)
0301804 Ammonoosuc Community Health Services - Littleton
0301805 Ammonoosuc Community Health Services – Woodsville
0301806 Ammonoosuc Community Health Services – Warren
0301807 Ammonoosuc Community Health Services – Whitefield
0301812 Ammonoosuc Community Health Services – Franconia
0301819 Indian Stream Health Center
0471814 Community Health Center of Rutland Regional - Brandon Internal Medicine
0471815 Community Health Center of Rutland Regional - Castleton Family Health Center
0471816 Community Health Center of Rutland Regional - Mettowee Valley Family Health Center
0471836 Community Health Center of Rutland Regional - Rutland Community Health Center
0471838 Community Health Center of Rutland Regional - Common St Health Center
0471842 Community Health Center of Rutland Regional - Pediatrics
0471817 Northeast Washington County Community Health Center d/b/a Cabot Health Services
0471818 Northeast Washington County Community Health Center d/b/a The Health Center
1006333 Northeast Washington County Community Health Center d/b/a Dental Unit -The Health Center
0471819 Community Health Center of Lamoille Valley d/b/a Copley Professional Service Group

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0471820	Stowe Family Practice Community Health Center of Lamoille Valley d/b/a Copley Professional Service Group Morrisville Family Health
0471821	Community Health Center of Lamoille Valley d/b/a Copley Professional Service Group Behavioral Medicine
0471822	Health Center of Lamoille Valley d/b/a Copley Professional Service Group Hardwick Women Center
0471823	Community Health Center of Lamoille Valley d/b/a Copley Professional Service Group Morrisville Women Center
1017657	Community Health Center of Lamoille Valley d/b/a Community Dental Clinic
0301820	Springfield Medical Care Systems d/b/a Charlestown Family Practice
0471828	Springfield Medical Care Systems d/b/a Rockingham Medical HC of Bellows Falls
0471829	Springfield Medical Care Systems d/b/a Women's Health Center
0471830	Springfield Medical Care Systems d/b/a Chester Family Medicine
0471831	Springfield Medical Care Systems d/b/a Pediatric Network
0471833	Springfield Medical Care Systems d/b/a Ludlow Family Practice
0471834	Springfield Medical Care Systems d/b/a Family Medicine Associates
0471835	Springfield Medical Care Systems d/b/a Internal Medicine
0471837	Springfield Medical Care Systems d/b/a Ridgewood Associates
0471842	Springfield Medical Care Systems d/b/a Springfield Medical Group
1018998	Springfield Medical Care Systems d/b/a Ludlow Dental Clinic

In addition the State, in order to calculate Upper Payment Limit (UPL) and Disproportionate Share Hospital (DSH) payments, the contractor may be requested to provide the Department of Vermont Health Access a copy of the revised Medicare cost report and audit adjustment report for each Medicare certified hospital facility listed below or any new facility receiving Medicare certification during the period covered by the contract:

Hospitals:

0470001, 047S01	Central Vermont Hospital
0470003	Fletcher-Allen Health Care
0471301	Gifford Memorial Hospital
0470005	Rutland Regional Medical Center
0471307	Porter Medical Center
0471304	North Country Hospital
0471305	Copley Hospital
0470011	Brattleboro Memorial Hospital
0470012	Southwestern Vermont Medical Center
0471302	Mt. Ascutney Hospital
0471306	Springfield Hospital
047M306	Springfield Hospital, DBA Windham Psychiatry
0471300	Grace Cottage Hospital
0471303	Northeastern Vermont Regional Hospital
0470024	Northwestern Medical Center
0474001	Retreat Health Center (Brattleboro)
1006874	Retreat Health Center (Brattleboro)
1007212	Retreat Health Center (Brattleboro)
0474002, 03	Vermont State Hospital (not currently Medicare certified, but seeking certification)

Hospitals outside of the State of Vermont:

0300016	Alice Peck Day Memorial Hospital
0300019	The Cheshire Medical Center
0301301	Cottage Hospital
0300003	Mary Hitchcock Memorial Hospital
0301308	Valley Regional Hospital
0301303	Weeks Medical Center
0301302	Littleton Regional Hospital
0301300	Upper Connecticut Valley Hospital
0330013	Albany Medical Center

Format for Required Reporting:

Quarterly Worksheet Status Reports – Required Performance Indicators Data Elements
State
Provider Number

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Organization Name

Site or Location

Certification Date

Provider Type

Urban or Rural

Desk Review Type

Date FYE of Submitted Cost Report

Date MCR Submitted by Provider (5 months after FYE)

Acceptance of Submitted Report (Preliminary Review) 30 days from Provider Submission Date

Required Completion Date 15 months from Acceptance of MCR

Budget Limited Desk Review to Start

Budget Limited Desk Review to Complete

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12 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.
- 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.

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.

- 19. 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.

State of Vermont – Attachment C
Revised AHS – 7-1-2012

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 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 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 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.

(Rev: 1/31/11)

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

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