

**REQUEST FOR PROPOSAL**

**SEALED BID**

**EYEGASSES, LENSES AND FRAMES**

<i>Date of Issuance:</i>	<i>March 16, 2009</i>
<i>Due Date for Letter of Intent:</i>	<i>March 27, 2009</i>
<i>Questions Due:</i>	<i>March 27, 2009</i>
<i>Responses to Questions:</i>	<i>April 3, 2009</i>
<i>Proposal Due Date:</i>	<i>April 10, 2009</i>
<i>Time of Bid Opening:</i>	<i>3:00 p.m.</i>
<i>Location of Bid Opening:</i>	<i>Office of Vermont Health Access</i> <i>312 Hurricane Lane, Suite 201,</i> <i>Williston, Vermont</i>

This Request for Proposal, and any modifications, amendments and related documents, is available on the Office of Vermont Health Access web site  
<http://ovha.vermont.gov/administration/request-for-proposals-issued-in-2009>

It is the responsibility of the Bidder/Responder to check for updates and information related to this RFP. The State of Vermont Office of Vermont Health Access takes no responsibility for contacting vendors with additional information.

## 1. OVERVIEW

1.1. **SCOPE AND BACKGROUND:** The State of Vermont, Agency of Human Services (AHS), Office of Vermont Health Access (OVHA) is issuing this Request for Proposal (RFP) to solicit responses from qualified providers to establish a purchasing agreement for Eyeglasses, Lenses, Frames and Related Parts for eligible beneficiaries of the Vermont Medicaid program. The successful provider will provide eyeglasses, lenses, frames and related parts of high quality with consideration of cost effectiveness and customer service.

Eyeglasses will be purchased under the state's single source provider agreement. The OVHA has contracted for the provision of eyeglasses to eligible Medicaid beneficiaries (eligibles) since February 1, 1985. The current provider agreement expires June 30, 2009.

1.2. **VERMONT MEDICAID:** The State of Vermont, Agency of Human Services (AHS), Office of Vermont Health Access (OVHA) is the designated state agency for administration of Vermont's publicly funded health insurance programs including the Vermont Medicaid Program. The number of covered lives in the health insurance programs (excluding Healthy Vermonters) is over 142,000 people, and over 59,000 of that number are children. Eyeglasses, lenses, and frames are a covered benefit for Vermont Medicaid members under 21 years of age. Adult Medicaid beneficiaries (age 21 and older) are not covered for vision care devices. Any purchasing agreement arising from this RFP will be for the provision of eyeglasses (includes lenses, frames and related parts) for eligibles of the Vermont Medicaid Program.

1.3. **TERM OF AGREEMENT:** The provider agreement arising from this RFP will be for a period of two years with an option to renew for two additional one-year periods. Proposed start date will be July 1, 2009.

1.4. **VALUE/QUANTITY:** The estimated annual value of this provider agreement is \$206,000.00. Estimated annual volume is 6,500 frames, 12,000 single-vision lenses, and 700 multi-vision lenses. Estimated quantities by description are on the Pricing Sheets, Attachment B. The annual value and quantities are estimates based on prior usage; actual purchases may be higher or lower.

1.5. **SINGLE POINT OF CONTACT:** All communications concerning this RFP are to be addressed in writing to the attention of Judy Jamieson, Provider Relations Specialist. Judy Jamieson is the sole contact for this proposal. Actual contact with any other party or attempts by bidders to contact any other party could result in the rejection of their proposal.

Judy Jamieson, Provider Relations Specialist  
Office of Vermont Health Access  
312 Hurricane Lane  
Williston, VT 05495-2807  
E-mail: [judith.jamieson@ahs.state.vt.us](mailto:judith.jamieson@ahs.state.vt.us)

The OVHA will administer the agreement. Contact for administration is:

Judy Jamieson, Provider Relations Specialist  
Office of Vermont Health Access  
312 Hurricane Lane  
Williston, VT 05495-2807  
E-mail: [judith.jamieson@ahs.state.vt.us](mailto:judith.jamieson@ahs.state.vt.us)  
Phone: (802) 879-5929

Alternative contact:  
Melissa Jenkins, Financial Manager  
Office of Vermont Health Access  
312 Hurricane Lane  
Williston, VT 05495-2807  
E-mail: [melissa.jenkins@ahs.state.vt.us](mailto:melissa.jenkins@ahs.state.vt.us)  
Phone: (802) 879-8256

- 1.6. **PROCUREMENT TIMETABLE:** The RFP procurement schedule is below. The State reserves the right to modify any dates pertinent to this RFP.

ESTIMATED PROCUREMENT SCHEDULE	DATE
RFP Issued	March 16, 2009
Letter of Intent Due	March 27, 2009
Questions Due	March 27, 2009
Response to Questions	April 3, 2009
RFP Closing and Public Bid Opening	April 10, 2009, 3:00 p.m.
Proposal Review - Award	April 24, 2009
Start Date for Provider Agreement	July 1, 2009

A **Letter of Intent** to submit a proposal in response to this RFP should be received by Judy Jamieson (single point of contact) by 3:00 p.m. on March 27, 2009 and must include an e-mail address. E-mail address for the Letter of Intent is [judith.jamieson@ahs.state.vt.us](mailto:judith.jamieson@ahs.state.vt.us). Interested parties who submit a Letter of Intent before the deadline will receive an e-mail notification of any modifications to this RFP. Modifications and pertinent information will be posted to the OVHA web site at <http://ovha.vermont.gov/administration/request-for-proposals-issued-in-2009>.

**Questions and Answers:** Any interested party requiring clarification of the content of this RFP or wishing to comment or take exception to any requirements or other portion of the RFP must submit specific questions in writing no later than 3:00 p.m. on March 27, 2009. Questions may be e-mailed to: [judith.jamieson@ahs.state.vt.us](mailto:judith.jamieson@ahs.state.vt.us). Any objection to the RFP, or to any provision of the RFP, that is not raised in writing on or before the last day of the question period is waived. At the close of the

question period, a copy of all questions or comments and the State's responses will be posted on the OVHA web site at <http://ovha.vermont.gov/administration/request-for-proposals-issued-in-2009>. Every effort will be made to have these available as soon after the question period ends, contingent on the number and complexity of the questions.

## 2. ACRONYMS & DEFINITIONS

AHS	Vermont Agency of Human Services
CMS	Centers for Medicare and Medicaid Services
EDS	Electronic Data Systems, the State's contracted Medicaid fiscal agent
Eyeglass Provider	Provider for resulting Eyeglass Provider Agreement
Eyeglasses	Reference includes eyeglasses, lenses, frames, and related parts
HIPAA	Health Insurance Portability and Accountability Act of 1996
MCO	Managed Care Organization; OVHA is a Medicaid Managed Care Organization
MMIS	Medicaid Management Information System (claims payment system)
OVHA	Office of Vermont Health Access
PA	Prior Authorization
SFY	State Fiscal Year
State	State of Vermont
Vision Care Devices	The provision of eyeglasses, lenses and frames to correct impaired vision
Vision Service Providers	Medicaid enrolled (prescribing/dispensing) ophthalmologists, optometrists, opticians and licensed physicians

## 3. PROGRAM DESCRIPTION

**3.1. BENEFICIARY ELIGIBILITY:** It is the responsibility of the vision service providers (enrolled ophthalmologists, optometrists, opticians and licensed physicians) to verify Medicaid eligibility before issuing/sending a prescription/order to the provider selected in response to this RFP. It is strongly recommended that the eyeglass provider resulting from this RFP re-verify that the beneficiary was Medicaid eligible at the time the prescription/order was issued. If the beneficiary was not eligible for the benefit on the date the prescription was issued, the eyeglass provider will not be paid by Medicaid. In cases where Medicaid payment is denied, the eyeglass provider may bill the dispensing provider at Medicaid rates.

Verification of eligibility is obtained by accessing the information on the web <http://www.vtmedicaid.com/Interactive/login2.html> or the voice response system (VRS) at EDS (fiscal agent for OVHA/Medicaid) at (800) 925-1706 or (802) 878-7871.

**3.2. EYEGLASS & VISION CARE SERVICES/BENEFITS:** Eyeglasses, lenses, frames, related parts, repairs and replacements will be a covered benefit for eligible Medicaid beneficiaries under the resulting provider agreement with the OVHA. Vision service providers must procure eyeglasses, frames, lenses and replacement parts from the resulting provider agreement.

Coverage is limited to one pair of eyeglasses every two years per beneficiary. Earlier replacement is limited to the following circumstances:

- Eyeglasses (frames or lenses) have been lost, broken beyond repair, or scratched to an extent that visual acuity is compromised, and are certified as such on the order form by the beneficiary's dispensing provider.
- A change of at least one-half diopter in lens strength is certified on the order form.

**3.3. ORDERS FROM DISPENSING PROVIDERS:** Medicaid vision service providers will submit orders directly to the eyeglass provider. Orders must specify whether the lenses are to be glass or plastic, lens power, axis size of the lenses, necessary concentration, frame name, manufacturer, size and color, etc. Add-ons and polycarbonate lenses will require Prior Authorization (PA); vision service provider obtains PA from the OVHA. Eligibility verification number and PA number will be stated on the order.

**3.4. PROVIDER PROCEDURE MANUALS:** Provider Manuals are available on the OVHA web site <http://ovha.vermont.gov/for-providers/provider-manuals>.

#### **4. BIDDER/PROVIDER RESPONSIBILITIES:**

Bidders/Provider must have the ability to successfully supply eyeglasses, lenses, frames, and related parts for Medicaid beneficiaries and to perform all of the functions and responsibilities as set forth in this RFP. Materials supplied under a resulting provider agreement will be first quality and in strict adherence to prescribed guidelines regarding quality and safety.

The eyeglass provider selected will make sample frame kits available to all vision care providers who request one. The eyeglass provider may charge for the cost of the sample kit and the dispensing provider is responsible for payment. Charges, if assessed, may not exceed the contracted cost. The OVHA will not be responsible for payment of costs associated with any sample frame kit.

Responses to this RFP should state if there will be a charge to dispensing providers for a sample kit and, if so, the proposed price.

The provider will, within one week of finalized provider agreement: 1) notify enrolled active vision care providers regarding the provider agreement; 2) provide a list, free of charge, of Vermont Medicaid covered frames; 3) provide ordering form and instructions. The eyeglass provider will provide frame information and assistance to dispensing providers on procedures and ordering throughout the term of any resulting provider agreement.

Bidder/Provider will demonstrate the ability to consistently provide appropriate technical and professional service to vision care providers and the OVHA.

Bidder/Provider is encouraged to propose methods and work proactively with the OVHA to positively impact health outcomes and reduce costs.

#### **4.1. FRAMES**

##### **4.1.1. Frame Standards & Bid Requirements**

The bidder/provider shall offer a selection of 10-15 frames with a good representation of sizes and colors appropriate to ages 0 to 21, male and female. Variety and selection of frame styles will include options for metal and plastic, colors, eye sizes, bridge sizes and temple lengths. Frames must be current and readily available. All frames must meet current federal and state requirements and be sturdy and of good quality. Frames may be from one manufacturer or from a mix of manufacturers and must be frames that are also available to the public. No discontinued or close-out frames or special "Medicaid" frames are permitted, either in response to this RFP or subsequently provided under any resulting provider agreement.

The eyeglass provider will maintain an adequate supply of frames to meet delivery requirements.

##### **4.1.2. Frame Substitution/Potential Problems**

If at any time during the term of the provider agreement, a frame(s) listed in the bid is to be discontinued by the manufacturer, the eyeglass provider is required to substitute another frame of equal quality at the same price as the discontinued frame, subject to approval by the OVHA. The OVHA must be notified in writing at least 30 days in advance of the change. The eyeglass provider must notify vision care providers and will pay the cost of such notification.

The eyeglass provider will notify the OVHA of any potential problems in providing eyeglasses, lenses, frames, etc.

##### **4.1.3. Frame Replacement & Repairs**

Manufacturer warranties will be stated for frames proposed. Beyond warranty, the provider must at no cost to the vision care providers or the OVHA, maintain an inventory of replacement parts, temples and hinges for frames offered in the provider agreement. The replacement parts will be available to the prescribing provider upon request for the vision care provider to make repairs in his or her office.

If a beneficiary breaks a frame provided under this agreement, the eyeglass provider must send a replacement frame to the vision care provider upon request. If a beneficiary breaks a frame not under this agreement, the eyeglass provider shall replace it with a pair of eyeglasses at the rate per the

provider agreement. Medicaid shall pay for replacement frames at rates per the provider agreement. BIDDER PROPOSALS SHOULD INDICATE THE NATURE AND EXTENT OF ANY GUARANTEES REGARDING FRAME DAMAGE.

## **4.2. LENSES**

### **4.2.1. Lens Standards & Bid Requirements**

All lenses supplied must be first quality ophthalmic lenses, clear glass or plastic single vision, bifocal and trifocal lenses and must meet current standards set by the American National Standards Institute (ANSI) Z80.1. Polycarbonate lenses will require PA for medical necessity.

### **4.2.2. Lens Mounting Requirements**

Lenses ordered with frames under this agreement shall be hardened, edged and mounted in those frames covered under the agreement by the eyeglass provider. There must be no additional charge for edging lenses for use with metal frames.

Where lenses alone are ordered and the vision care provider sends along the frames and these frames are not covered under the provider agreement, the provider shall mount these lenses at no additional cost; except that:

- If the provider makes a professional judgment that mounting these lenses is either impossible or may reasonably be expected to damage the frames, the provider will be under no obligation to mount the lenses in such frames; and/or
- If the provider makes a professional judgment that the frames are new frames which have not been worn (e.g., the frames have price tags attached, glass or plastic demo plugs in the lens housing or are otherwise obviously new frames), the provider will be under no obligation to mount the lenses in such frames.

Whenever the eyeglass provider determines that either of the exceptions cited above apply, the frames, along with the prescription, must be returned to the vision care provider with the eyeglass provider's explanation as to why they were not mounted. In such situations, the lens prescriptions cannot be filled.

### **4.2.3. Cosmetic Requirements**

In the interest of appearance and cosmetics, the OVHA will consider Prior Authorization when requested by the prescribing provider for special surfaced high (+) lenses. This may be a consideration for lenses to correct

hyperopia in the higher powers (over a +3) when lens thickness may affect appearance.

#### **4.2.4. Lens Replacement Requirements**

If a beneficiary's lenses are lost, broken or scratched to the extent that visual acuity is compromised (determined by dispensing provider), the eyeglass provider shall replace the lenses at the contracted price (requires PA). If the lenses are from frames not covered under the provider agreement and the lenses cannot be adapted to the frames, then a new pair of lenses and frames must be ordered and dispensed.

#### **4.2.5. Inspection, Defects & Errors**

The eyeglass provider shall complete all orders according to vision care provider instructions. The eyeglass provider is responsible for inspection and assuring the product shipped meets requirements (bench adjustments, axis, etc.). The eyeglass provider shall replace at no cost to the OVHA, lenses containing defects or errors caused in the provision of lenses. Such defects or errors include, but are not limited to, lenses which are broken, scratched or chipped when received by the provider or lenses which deviate from the provider's prescription beyond deviation standards permitted by the ANSI Z80.1-2005 standard.

#### **4.2.6. Special Lenses & Miscellaneous Services**

The provider shall supply special lenses and miscellaneous services as necessary to complete a prescription order. Prior Authorization (PA) may be required. It is the responsibility of the eyeglass provider resulting from this RFP to verify that a PA number was received by the dispensing provider and is on the order form.

### **4.3. PRESCRIPTION & ORDER FORMS**

The eyeglass provider shall develop, prepare and print order forms for vision care materials which meet format and substantive requirements below. These forms, which must be approved by the OVHA, shall be distributed to all Medicaid enrolled vision care providers by the eyeglass provider. The eyeglass provider shall bear all costs associated with the design, development, printing and distribution of the order forms.

Order forms must include, but are not limited to, fields for input of the following: the date of order by dispensing provider; date form received by the eyeglass provider; date of exam; prescribing provider's name, Medicaid provider number and National Provider Identification (NPI) number; Medicaid beneficiary's name and nine digit identification number; all pertinent prescription and order detail including a field for Eligibility Verification number and PA number. The eyeglass provider will be responsible for ensuring there is a PA number obtained by the

provider if required. All orders must be in writing; no telephone orders will be accepted.

#### **4.4. SHIPPING COSTS**

The provider will be responsible for all shipping and handling costs relating to ordering and delivery of eyeglasses, lenses, frames and related parts under this provider agreement. No additional charges are allowed beyond bid prices.

#### **4.5. CONTACT INFORMATION**

The eyeglass provider shall maintain a toll-free telephone number accessible from Vermont, New Hampshire, New York and Massachusetts. Live voice response and hours of operation will include 8:00 a.m. through 4:30 p.m. Eastern Standard Time, Monday through Friday excluding holidays. The provider will specify primary contact regarding this RFP and any resulting provider agreement.

#### **4.6. DELIVERY REQUIREMENTS**

The eyeglass provider shall fill all orders and ship to the ordering provider within six working days of receiving the order. The first of the six working days will be the work day immediately following the date the order is received; orders shall be date-stamped by the provider on the date of receipt. The provider will maintain a delivery system to ensure orders are completed and delivered within these timeframes. The provider shall promptly notify the provider in instances when a prescription will require more than six working days for completion. The eyeglass provider must notify the vision care provider within 48 hours of receipt of order if the prescription cannot be filled as requested.

The eyeglass provider will inspect materials with strict adherence to ANSI Z80.1-2005 standard and correct any issues prior to shipping. Successful delivery also includes proper packaging to ensure no damage occurs in transit and the correct material is shipped within the specified period.

#### **4.7. REPORTING & AUDIT REQUIREMENTS**

The eyeglass provider shall furnish the OVHA with workload status reports, indicating the number of eyeglasses, lenses, frames and repairs completed upon request.

The provider will meet with the OVHA as requested.

The provider shall maintain files and records of orders, prescriptions and related information for the term of any provider agreement and a minimum of three years after and make those available to the OVHA upon request.

#### **4.8. BILLING REQUIREMENTS**

The provider will bill directly to Vermont Medicaid. Provider reimbursement will be made through the Medicaid Management Information System (MMIS) operated by the state fiscal agent, Electronic Data Systems (EDS). The provider shall submit a claim/billing invoice to EDS for each order completed.

The provider must be an enrolled provider in the Vermont Medicaid program prior to start date of the provider agreement.

The provider will update and maintain billing codes as required by HIPAA; all coding must be HIPAA compliant on the date of service.

#### **4.9. OTHER PROVIDER DUTIES**

##### **4.9.1. Liaison**

The provider shall effect and maintain liaison with and fully cooperate with designated OVHA personnel with respect to the direction and performance of contractual responsibilities.

##### **4.9.2. Performance/Problem Reporting**

The provider shall, no later than three days after the discovery of any problem that may jeopardize the successful completion of its contractual responsibilities and obligations, notify the OVHA in writing regarding the problem and including a recommendation for expeditious resolution.

##### **4.9.3. Suspected Fraud, Waste & Abuse**

The OVHA's Program Integrity (PI) Unit strives to ensure that Medicaid funds are utilized appropriately through the identification and reduction of Medicaid fraud, waste and abuse. Quality control measures designed to control rising costs and protect diminishing state resources help protect the integrity of the Medicaid program. The provider shall refer to the OVHA any suspected fraudulent or abusive practices encountered by the provider in the performance of its contractual responsibilities. The provider shall provide, on a timely basis, any documentation possessed by the provider which may be necessary to investigate or document suspected instances of Medicaid fraud or abuse. Additional information and a reporting form is located at <http://ovha.vermont.gov/for-providers/program-integrity-reporting-suspected-fraud-waste-and-abuse>

##### **4.9.4. Security**

The provider will ensure that all eligibility information is confidentially and securely maintained in conformity with applicable state and federal requirements and the safety and security of all information, data, and procedures is protected in the performance of the provider agreement. All hardware and software used to support operations shall comply with the Health Insurance Portability and Accountability Act (HIPAA).

## **5. OVHA RESPONSIBILITIES**

### **5.1. PURCHASE OF MATERIALS**

The OVHA shall reimburse the provider resulting from this RFP for eyeglass materials as described under any resulting provider agreement ordered by enrolled Medicaid providers as Vermont Medicaid Program benefits for eligible beneficiaries.

### **5.2. PAYMENT**

The OVHA, through its fiscal agent, shall render full payment to the provider in accordance with all applicable provisions of the Vermont Medicaid State Plan.

### **5.3. POLICY CHANGES**

The OVHA will notify the provider of any policy changes that might affect the volume of materials to be dispensed prior to implementation.

### **5.4. PROVIDER LIST**

The OVHA will provide the provider with a list of Medicaid-enrolled vision care providers. The list will be updated by the OVHA as necessary. Currently, there are approximately 600 enrolled active vision care providers.

### **5.5. PRIOR AUTHORIZATION LIST**

The OVHA will provide the provider with a list of vision codes that require PA.

## **6. PROPOSALS**

### **6.1. General Conditions & Requirements**

Cost of proposal development is the sole responsibility of the bidder.

All proposals will become the property of the State of Vermont and will be public records.

All bid submissions must contain one original and four complete copies of the proposal, and include one complete copy on compact disk (CD). Only one sample frame kit is required.

All bids must be sealed and addressed to Judy Jamieson, Office of Vermont Health Access, 312 Hurricane Lane, Suite 201, Williston, VT 05495-2807. Bid envelopes must be clearly marked with 'SEALED BID', 'EYEGASSES', bid opening date and name of bidder. Bid proposals must be received prior to 3:00 p.m. on April 10, 2009 at which time a public bid opening will occur at the same address. Hand carried bids must be delivered to a representative of OVHA on or before the due date/time and stamped by a representative with date/time received. Bids not in possession of OVHA by the due date and time will not be considered and will be returned to the bidder unopened.

Faxed bids will NOT be accepted. Electronic bids will NOT be accepted.

The OVHA may change the date/time of bid openings. If a change is made, the OVHA will make a reasonable effort to inform known bidders and will post change to the OVHA web site <http://ovha.vermont.gov/administration/request-for-proposals-issued-in-2009>

All bids will be opened publicly and any interested party may attend bid openings. Only names and locations of bidders submitting 'Vision' proposals will be read. Bidders do not have to attend the bid opening in order for their proposals to be considered.

The OVHA reserves the right to accept or reject any or all bids.

Proposals will be evaluated by the Office of Vermont Health Access. If a proposal is selected for final consideration, representatives of that company will be invited to negotiate a provider agreement. A provider agreement resulting from successful negotiation must provide for eyeglasses and associated parts effective on and after July 1, 2009.

## **6.2. Proposal Format**

To be considered, each bidder must submit a complete response to this RFP including:

- Transmittal Letter
- Corporate Background and Experience (including contracting with state Medicaid programs)
- Business Organization and Staffing
- Implementation Plan (including dispensing providers method(s) for submitting prescriptions/orders)
- Sample Frame Kit
- Pricing Proposal (Must use attached Pricing Sheets, Attachment B)

The proposal should be prepared simply and economically, providing straightforward, concise descriptions of the bidder's ability to fulfill the requirements of the RFP.

### **6.2.1. Transmittal Letter**

To be considered, a proposal must be accompanied by a transmittal letter signed in ink by an official authorized to bind the bidder to proposal provisions.

The transmittal letter must include the following statements:

- RFP terms are accepted
- The price was arrived at without conflict of interest.

In addition, a “bidder information sheet” must be attached to the transmittal letter providing the following information:

- Name of company or individual
- Mailing address
- Street address (for FEDEX or other mail service)
- Company Federal ID Number (or if an individual, social security number)
- Vermont Department of Taxes Business Account Number (if any)
- Name and title of person who would sign the provider agreement
- Name and title of the company contact person (if different)
- For each key person:
  - direct telephone number
  - fax number
  - e-mail address

#### **6.2.2. Corporate Background & Experience**

To qualify to bid on this proposal, bidder must meet performance requirements for Optical Laboratories and guidelines for quality and safety.

Bids shall include proof of the capability of the bidding company to carry out the contract requirements and suitable evidence of financial ability to perform. Such evidence must include at least:

- Three business letters of recommendation (preferably state agencies)
- A list of all state Medicaid contracts presently held or held in the past, if any, and the name and phone number of a contact person for each
- A list of seven references including at least three customers, three suppliers and one lending institution
- Annual financial reports for each of the last two years.

#### **6.2.3. Business Organization & Staffing**

Proposals shall include a description of the business organization and an organizational chart.

#### **6.2.4. Implementation Plan**

A plan for the transition from the current provider to the successful bidder must accompany the bid. The plan must address, but is not limited to, the distribution of sample kits to providers, and the development and distribution of order forms and include a transition schedule.

#### **6.2.5. Sample Kits**

The provider shall assemble a sample kit representative of the styles and colors of metal and plastic frames appropriate for beneficiaries 0 to 21 years of age, appropriate for males and females, to be available under the provider agreement. The frames/sample kit will be subject to the

approval of the OVHA. Sample kits will be returned to each bidder at the OVHA's expense prior to August 1, 2009.

#### **6.2.6. Pricing Proposal**

Prices quoted on the Pricing Sheets (Attachment B) shall be effective through June 30, 2011.

Proposed prices for frames and lenses shall include all costs, including shipping and handling. No additional charges will be allowed.

Bidder proposals must indicate the nature and extent of any guarantees regarding frame damage. Proposal should address manufacturer warranty and process related to warranties and guarantees.

Frame prices offered should correspond to the bidder's sample kit.

Proposed pricing must be offered in the format of the attached Pricing Sheets (Attachment B). The Pricing Sheets, Attachment B, are posted on the web at <http://ovha.vermont.gov/administration/request-for-proposals-issued-in-2009> in Excel and bidders will submit pricing in this format. 'Bid Price Per Unit' entered in the 5 Excel worksheets will populate the 'Cost Estimate' and 'Subtotal' columns.

## **7. PROPOSAL EVALUATION**

### **7.1. General Evaluation Process**

The OVHA will conduct a comprehensive and impartial evaluation of proposals received in response to this RFP.

The following are the components and point system for the evaluation:

Evaluation of RFP Minimum Requirements (Pass or Fail)	0 points
Evaluation of the Organization	20 points
Evaluation of Samples and Materials	30 points
Evaluation of Pricing Proposals	50 points
Ranking of Proposals	0 points

#### **7.1.1. Minimum Requirements**

Each proposal will be reviewed to ensure it is sufficiently responsive to the RFP to allow a complete evaluation of the Sample Frame Kit and the Pricing Proposal. Failure to comply with the instructions to bidders shall deem the proposal non-responsive and subject to rejection without further consideration. The OVHA reserves the right to waive minor irregularities.

Proposals will be deemed to have either passed or failed the Minimum Requirements.

The State reserves the right to reject any and all proposals.

### **7.1.2. Evaluation of the Organization**

Only those proposals passing minimum requirements will be considered.

The OVHA will evaluate the experience, corporate resources and corporate qualifications of the bidder. The OVHA will determine to what extent the organization has the capabilities to take on the additional workload to be generated by the resulting provider agreement and the bidder's financial capacity to enter into the agreement. References will be checked and the bidder's implementation plan for the transition to a new provider will be reviewed.

### **7.1.3. Evaluation of Samples & Materials**

Materials will be judged on quality, variety and ability to meet ophthalmic standards. For frames, quality, durability, style, variety and warranty will be considered.

### **7.1.4. Evaluation of the Pricing Proposals**

The pricing proposal will be examined to determine if it meets requirements, is consistent with proposed supplies and materials and pricing.

Any pricing proposal that is incomplete or in which there are significant inconsistencies or inaccuracies may be rejected by the State.

### **7.1.5. Ranking of Proposals**

After the proposals have been rated, awarded points will be totaled to determine proposal rankings.

## **7.2. Award**

Award will be made in the best interest of the state. The State's fundamental commitment is to contract for results and "best value". This RFP primarily describes the State's requirements and desired results. "Best value" is the optimum combination of economy and quality that is the result of fair, efficient, and practical business processes that meet the requirements and the State's desired results as set forth in this RFP.

## **8. ATTACHMENTS**

- 8.1. Vermont Tax Certification
- 8.2. Attachment B: Pricing Sheets
- 8.3. Attachment C: Standard State Contract Provisions (January 20, 2009)
- 8.4. Attachment E: Business Associate Agreement
- 8.5. Attachment F: Other AHS Contract Provisions

**VERMONT TAX CERTIFICATION  
REQUEST FOR PROPOSAL: EYEGLASSES**

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 Contractor, the Terms of Sales 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 Contractor 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.

Contractor 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 issuance of Purchase Order. If the certificate of insurance is not received by the Division of Purchasing and Contract Administration within five (5) days, the State of Vermont reserves the right to select another Contractor. 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)

Lenses - Single Vision		Bid Price Per Unit			Est. Units Per Year	Glass Cost Estimate	Plastic Cost Estimate
		Glass	Plastic	Polycarb			
Code	Procedural Description						
V2100	Sphere, single vision, plano to plus or minus 4.00, per lens				4,500	0	0
V2101	Sphere, single vision, plus or minus 4.12 to plus or minus 7.00d, per lens				385	0	0
V2102	Sphere, single vision, plus or minus 7.12 to plus or minus 20.00d, per lens				30	0	0
V2103	Spherocylinder, single vision, plano to plus or minus 4.00d sphere, 0.12 to 2.00d cylinder, per lens				5,600	0	0
V2104	Spherocylinder, single vision, plano to plus or minus 4.00d sphere, 2.12 to 4.00d cylinder, per lens				700	0	0
V2105	Spherocylinder, single vision, plano to plus or minus 4.00d sphere, 4.25 to 6.00d cylinder, per lens				60	0	0
V2106	Spherocylinder, single vision, plano to plus or minus 4.00d sphere, over 6.00d cylinder, per lens				5	0	0
V2107	Spherocylinder, single vision, plus or minus 4.25 to plus or minus 7.00 sphere, 0.12 to 2.00d cylinder, per lens				700	0	0
V2108	Spherocylinder, single vision, plus or minus 4.25d to plus or minus 7.00d sphere, 2.12 to 4.00d cylinder, per lens				200	0	0
V2109	Spherocylinder, single vision, plus or minus 4.25 to plus or minus 7.00d sphere, 4.25 to 6.00d cylinder, per lens				30	0	0
V2110	Spherocylinder, single vision, plus or minus 4.25 to 7.00d sphere, over 6.00d cylinder, per lens				5	0	0
V2111	Spherocylinder, single vision, plus or minus 7.25 to plus or minus 12.00d sphere, 0.25 to 2.25d cylinder, per lens				100	0	0
V2112	Spherocylinder, single vision, plus or minus 7.25 to plus or minus 12.00d sphere, 2.25d to 4.00d cylinder, per lens				20	0	0
V2113	Spherocylinder, single vision, plus or minus 7.25 to plus or minus 12.00d sphere, 4.25 to 6.00d, cylinder per lens				5	0	0
V2114	Spherocylinder, single vision, sphere over plus or minus 12.00d, per lens				10	0	0
V2115	Lenticular (myodisc), per lens, single vision				5	0	0
V2118	Aniseikonic lens, single vision				1	0	0
V2121	Lenticular lens, per lens, single				1	0	0
V2199	Not otherwise classified, single vision lens				1	0	0
<b>Subtotal for Single Vision Lenses</b>						<b>0</b>	<b>0</b>

Bidder: \_\_\_\_\_

By: \_\_\_\_\_

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

LENSES - Bifocal		Bid Price Per Unit			Est. Units Per Year	Glass Cost Estimate	Plastic Cost Estimate
		Glass	Plastic	Polycarb			
Code	Procedural Description						
V2200	Sphere, bifocal, plano to plus or minus 4.00d, per lens				260	0	0
V2201	Sphere, bifocal, plus or minus 4.12 to plus or minus 7.00d, per lens				20	0	0
V2202	Sphere, bifocal, plus or minus 7.12 to plus or minus 20.00d, per lens				5	0	0
V2203	Spherocylinder, bifocal, plano to plus or minus 4.00d sphere, 0.12 to 2.00d cylinder, per lens				300	0	0
V2204	Spherocylinder, bifocal, plano to plus or minus 4.00d sphere, 2.12 to 4.00d cylinder, per lens				25	0	0
V2205	Spherocylinder, bifocal, plano to plus or minus 4.00d sphere, 4.25 to 6.00d cylinder, per lens				5	0	0
V2206	Spherocylinder, bifocal, plano to plus or minus 4.00d sphere, over 6.00d cylinder, per lens				5	0	0
V2207	Spherocylinder, bifocal, plus or minus 4.25 to plus or minus 7.00d sphere, 0.12 to 2.00d cylinder, per lens				40	0	0
V2208	Spherocylinder, bifocal, plus or minus 4.25 to plus or minus 7.00d sphere, 2.12 to 4.00d cylinder, per lens				5	0	0
V2209	Spherocylinder, bifocal, plus or minus 4.25 to plus or minus 7.00d sphere, 4.25 to 6.00d cylinder, per lens				2	0	0
V2210	Spherocylinder, bifocal, plus or minus 4.25 to plus or minus 7.00d sphere, over 6.00d cylinder, per lens				1	0	0
V2211	Spherocylinder, bifocal, plus or minus 7.25 to plus or minus 12.00d sphere, 0.25 to 2.25d cylinder, per lens				10	0	0
V2212	Spherocylinder, bifocal, plus or minus 7.25 to plus or minus 12.00d sphere, 2.25 to 4.00d cylinder, per lens				2	0	0
V2213	Spherocylinder, bifocal, plus or minus 7.25 to plus or minus 12.00d sphere 4.25 to 6.00d cylinder, per lens				5	0	0
V2214	Spherocylinder, bifocal, sphere over plus or minus 12.00d, per lens				5	0	0
V2215	Lenticular (myodisc), per lens, bifocal				5	0	0
V2218	Aniseikonic, per lens, bifocal				5	0	0
V2219	Bifocal seg width over 28mm				5	0	0
V2220	Bifocal add over 3.25d				5	0	0
V2221	Lenticular lens, per lens, bifocal				1	0	0
V2299	Specialty bifocal (by report)				1	0	0
<b>Subtotal for Bifocal Lenses</b>						<b>0</b>	<b>0</b>

Bidder: \_\_\_\_\_

By: \_\_\_\_\_

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

LENSES - Trifocal		Bid Price Per Unit			Est. Units Per Year	Glass Cost Estimate	Plastic Cost Estimate
Code	Procedural Description	Glass	Plastic	Polycarb			
V2300	Sphere, trifocal, plano to plus or minus 4.00d, per lens				5	0	0
V2301	Sphere, trifocal, plus or minus 4.12 to plus or minus 7.00d per lens				5	0	0
V2302	Sphere, trifocal, plus or minus 7.12 to plus or minus 20.00, per lens				1	0	0
V2303	Spherocylinder, trifocal, plano to plus or minus 4.00d sphere, 0.12 to 2.00d cylinder, per lens				5	0	0
V2304	Spherocylinder, trifocal, plano to plus or minus 4.00d sphere, 2.25 to 4.00d cylinder, per lens				5	0	0
V2305	Spherocylinder, trifocal, plano to plus or minus 4.00d sphere, 4.25 to 6.00 cylinder, per lens				2	0	0
V2306	Spherocylinder, trifocal, plano to plus or minus 4.00d sphere, over 6.00d cylinder, per lens				1	0	0
V2307	Spherocylinder, trifocal, plus or minus 4.25 to plus or minus 7.00d sphere, 0.12 to 2.00d cylinder, per lens				5	0	0
V2308	Spherocylinder, trifocal, plus or minus 4.25 to plus or minus 7.00d sphere, 2.12 to 4.00d cylinder, per lens				5	0	0
V2309	Spherocylinder, trifocal, plus or minus 4.25 to plus or minus 7.00d sphere, 4.25 to 6.00d cylinder, per lens				5	0	0
V2310	Spherocylinder, trifocal, plus or minus 4.25 to plus or minus 7.00d sphere, over 6.00d cylinder, per lens				1	0	0
V2311	Spherocylinder, trifocal, plus or minus 7.25 to plus or minus 12.00d sphere, 0.25 to 2.25d cylinder, per lens				1	0	0
V2312	Spherocylinder, trifocal, plus or minus 7.25 to plus or minus 12.00d sphere, 2.25 to 4.00d cylinder, per lens				1	0	0
V2313	Spherocylinder, trifocal, plus or minus 7.25 to plus or minus 12.00d sphere, 4.25 to 6.00d cylinder, per lens				1	0	0
V2314	Spherocylinder, trifocal, sphere over plus or minus 12.00d, per lens				1	0	0
V2315	Lenticular, (myodisc), per lens, trifocal				1	0	0
V2318	Aniseikonic lens, trifocal				1	0	0
V2319	Trifocal seg width over 28 mm				2	0	0
V2320	Trifocal add over 3.25d				5	0	0
V2321	Lenticular lens, per lens, trifocal				1	0	0
V2399	Specialty trifocal (by report)				1	0	0
<b>Subtotal for Trifocal Lenses</b>						<b>0</b>	<b>0</b>

Bidder: \_\_\_\_\_

By: \_\_\_\_\_

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

LENSES - Variable/Miscellaneous Code Procedural Description		Bid Price Per Unit			Est. Units Per Year	Glass Cost Estimate	Plastic Cost Estimate
		Glass	Plastic	Polycarb			
<b>Variable Asphericity Lens</b>							
V2410	Variable asphericity lens, single vision, full field, glass or plastic, per lens				1	0	0
V2430	Variable asphericity lens, bifocal, full field, glass or plastic, per lens				1	0	0
V2499	Variable sphericity lens, other type				1	0	0
<b>Miscellaneous</b>							
V2700	Balance lens, per lens				1	0	0
V2702	Deluxe lens feature				1	0	0
V2710	Slab off prism, glass or plastic, per lens				2	0	0
V2715	Prism, per lens				140	0	0
V2718	Press-on lens, Fresnel prism, per lens				1	0	0
V2730	Special base curve, glass or plastic, per lens				1	0	0
V2744	Tint, photochromatic, per lens				40	0	0
V2745	Addition to lens; tint, any color, solid, gradient or equal, excludes photochromatic, any lens material, per lens				1	0	0
V2756	Eye glass case				1	0	0
V2760	Scratch resistant coating, per lens				1	0	0
V2762	Polarization, any lens material, per lens				1	0	0
V2780	Oversize lens, per lens				1	0	0
V2781	Progressive lens, per lens				1	0	0
V2784	Lens, polycarbonate or equal, any index, per lens				1	0	0
V2799	Vision Service, miscellaneous				1	0	0
<b>Subtotal for Variable/Miscellaneous</b>						<b>0</b>	<b>0</b>

Bidder: \_\_\_\_\_

By: \_\_\_\_\_

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

**FRAMES**

Frame offering and pricing proposal should include 10 to 15 frame options and offer a good representation for size and fitting, ages 0 to 21, male and female). Submit a sample of each frame style offered.

Estimated annual quantity of frames is 6,500 units.

**PRICE PER FRAME: \$** \_\_\_\_\_ **PER FRAME FRONT: \$** \_\_\_\_\_ **PER PAIR OF TEMPLES: \$** \_\_\_\_\_

**PRICE FOR SAMPLE FRAME KIT \$** \_\_\_\_\_

- (1) Identifier/Description \_\_\_\_\_
- (2) Identifier/Description \_\_\_\_\_
- (3) Identifier/Description \_\_\_\_\_
- (4) Identifier/Description \_\_\_\_\_
- (5) Identifier/Description \_\_\_\_\_
- (6) Identifier/Description \_\_\_\_\_
- (7) Identifier/Description \_\_\_\_\_
- (8) Identifier/Description \_\_\_\_\_
- (9) Identifier/Description \_\_\_\_\_
- (10) Identifier/Description \_\_\_\_\_
- (11) Identifier/Description \_\_\_\_\_
- (12) Identifier/Description \_\_\_\_\_
- (13) Identifier/Description \_\_\_\_\_
- (14) Identifier/Description \_\_\_\_\_
- (15) Identifier/Description \_\_\_\_\_
- (16) Identifier/Description \_\_\_\_\_
- (17) Identifier/Description \_\_\_\_\_
- (18) Identifier/Description \_\_\_\_\_
- (19) Identifier/Description \_\_\_\_\_
- (20) Identifier/Description \_\_\_\_\_

Include manufacturer warranty information and provider guarantees.

Bidder: \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_

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**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 this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
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 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.

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**STATE OF VERMONT  
CONTRACT FOR SERVICES****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 Office 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”).

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). All references to “PHI” mean Protected Health Information. All references to “Electronic PHI” mean Electronic Protected Health Information.

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 provided that any use or disclosure would not violate the minimum necessary policies and procedures of 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 6 and 14 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 contract 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 promptly notifies Business Associate (who in turn will promptly notify Covered Entity) in writing of any instances of which it is aware in which the confidentiality of the PHI has been breached. Uses and disclosures of PHI for the purposes identified in this Section 3 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. 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. **Reporting.** Business Associate shall report in writing to Covered Entity any use or disclosure of PHI in violation of this Agreement by Business Associate or its agents including its subcontractors. Business Associate shall provide this written report promptly after it becomes aware of such use or disclosure. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate the impermissible use or disclosure. Consistent with 45 CFR 164.502(j)(1) Business Associate may use PHI to report violations of law to federal and state authorities.
6. **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 contract 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 12. Business Associate must enter into the written contract before any use or disclosure of PHI by such agent. The written contract must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the contract concerning the use or disclosure of PHI. Business Associate shall provide a copy of the written contract to Covered Entity upon request. Business Associate

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may not make any disclosure of PHI to any agent without the prior written consent of Covered Entity.

7. **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. Business Associate shall promptly forward to Covered Entity for handling any request for access to PHI that Business Associate directly receives from an Individual.
8. **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. Business Associate shall promptly forward to Covered Entity for handling any request for amendment to PHI that Business Associate directly receives from an Individual.
9. **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. Business Associate shall promptly forward to Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.
10. **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.
11. **Termination.**
  - 11.1 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 15.11.

11.2 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.

## **12. Return/Destruction of PHI.**

12.1 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.

12.2 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.

**13. Notice/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 information security awareness training regarding the use, confidentiality, and security of PHI.

**14. Security Rule Obligations.** The following provisions of this Section 14 apply to the extent that Business Associate creates, receives, maintains or transmits Electronic PHI on behalf of Covered Entity.

14.1 Business Associate shall implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of 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.
- 14.2 Business Associate shall ensure that any agent (including a subcontractor) to whom it provides Electronic PHI agrees in a written contract 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 contract before any use or disclosure of Electronic PHI by such agent. The written contract must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the contract concerning the use or disclosure of Electronic PHI. Business Associate shall provide a copy of the written contract 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.
- 14.3 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 promptly after it becomes aware of any such Security Incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.
- 14.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

## **15. Miscellaneous.**

- 15.1 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.
- 15.2 Any reference to “promptly” in this Agreement shall mean no more than seven (7) business days after the circumstance or event at issue has transpired. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended or renumbered.
- 15.3 Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to it of a use or disclosure of PHI in violation of any provision of this Agreement.
- 15.4 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.

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- 15.5 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.
- 15.6 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.
- 15.7 This Agreement may be amended or modified, and any right under this Agreement may be waived, only by a writing signed by an authorized representative of each party.
- 15.8 Nothing express or implied in this Agreement is intended to confer upon any person other than the parties hereto any rights, remedies, obligations or liabilities whatsoever. Notwithstanding the foregoing, the Covered Entity in this Agreement is the Agency of Human Services operating by and through its Office of Vermont Health Access. Covered Entity and Business Associate agree that the term “Covered Entity” as used in this Agreement also means any other Department, Division or Office of the Agency of Human Services to the extent that such other Department, Division, or Office has a relationship with Business Associate that pursuant to the Privacy or Security Rules would require entry into an agreement of this type.
- 15.9 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.
- 15.10 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.
- 15.11 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 12.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 9 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.
- 15.12 This Agreement constitutes the entire agreement of the parties with respect to its subject matter, superseding all prior oral and written agreements between the parties in such respect. (Rev: 3/28/06)

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**ATTACHMENT F**  
**AHS 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 2-1-1. 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 Office 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 Office 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.
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 who provides care, custody, treatment, services, 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 Abuse Registry. (See 33 V.S.A. §4919 & 33 V.S.A. §6911).
9. **Child Abuse Reporting.** Notwithstanding the provision of 33 V.S.A. §4913(a) any agent or employee of the contractor who has reasonable cause to believe that a child has been abused or neglected as defined in Chapter 49 of Title 33 V.S.A. shall report the suspected abuse or neglect to the Commissioner of the Department for Children and Families within 24 hours. The report shall contain the information required by 33 V.S.A.

§4914.

10. **Work Product Ownership.** All data, technical information, materials 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 contract - shall be, and remain, the property of the State of Vermont, regardless of the state of completion. 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 developed for the State, 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 and/or source codes developed.
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. **Intellectual Property Ownership.** All work products and items delivered or produced under this agreement will be the exclusive property of the State of Vermont. This includes, but is not limited to, software, documentation, and development materials. The contractor shall not sell or copyright a work product or item produced under this contract 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.
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.

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.

- Revised AHS -1/20/09