



**REQUEST FOR PROPOSAL
SEALED BID**

**Research, Analytical, and Reporting Services for
The Vermont Healthcare Claims Uniform Reporting and Evaluation System**

RFP ISSUE DATE:	Monday, August 2, 2010
WRITTEN QUESTIONS DUE BY:	Friday, August 20, 2010
BIDDERS CONFERENCE:	Friday, September 3, 2010, 10:00 a.m. EDST Department of Banking, Insurance, Securities & Health Care Administration 3rd Floor, Large Conference Room 89 Main Street Montpelier, VT 05620-3101 Dial-in (877) 278-8686 PIN# 028797
DEPARTMENT'S WRITTEN RESPONSES TO QUESTIONS:	Friday, September 10, 2010
BID DUE ON OR BEFORE: EDST	Friday, September 24, 2010, 4:00 p.m.
BID OPENING:	Monday, September 27, 2010, 10:00 a.m. Department of Banking, Insurance, Securities & Health Care Administration 89 Main Street, 3rd Floor Montpelier, Vermont 05620-3101
SELECTION ANNOUNCEMENT:	Monday, October 11, 2010
WORK TO COMMENCE:	Monday, January 3, 2011
DEPARTMENT CONTACT: MAILING ADDRESS:	Janet Richard Department of Banking, Insurance, Securities & Health Care Administration 89 Main Street Montpelier, VT 05620-3101
TELEPHONE:	(802) 828-2901
FAX:	(802) 828-2949
E-MAIL:	Janet.Richard@state.vt.us

SEALED BID INSTRUCTIONS

All bids must be sealed and must be addressed to the State of Vermont, Department of Banking, Insurance, Securities and Health Care Administration, 3rd Floor, 89 Main Street, Montpelier, Vermont 05620-3601. **BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE REQUISITION NUMBER AND/OR BID TITLE, OPENING DATE AND NAME OF BIDDER.**

All bidders are hereby notified that sealed bids must be in the office of the Department of Banking, Insurance, Securities and Health Care Administration (the State) at the above address by the bid due date and time. Bidders are cautioned that it is their responsibility to originate the sending of bids in sufficient time to insure receipt by the State on or before the bid due date. Hand carried bids shall be delivered to a representative of the State on or before the bid due date. Bids not in possession of the State by the due date and time will not be considered. Delivery to any office other than the one at the address stated above will not constitute binding delivery.

The State may change the date and/or time of bid openings. If a change is made, the State will make a reasonable effort to inform all bidders.

All bids will be opened publicly. Any interested party may attend bid openings. Bid results may be requested in writing and are available once an award has been made. After bids are publicly opened, they are subject to public review pursuant to Vermont's Public Records laws.

FAXED bids will NOT be accepted.

ELECTRONIC bids will NOT be accepted.

REQUEST FOR PROPOSAL

THIS FORM MUST BE COMPLETED AND SUBMITTED AS PART OF THE BID FOR IT TO BE CONSIDERED VALID.

**THIS IS A SEALED BID
BIDS MUST BE RECEIVED ON OR BEFORE September 24, 2010, 4:00 p.m. EDST**

Date: _____

Bidder Name: _____

FEIN#: _____

Business Address: _____

Contact Telephone #: _____

Contact E-mail Address: _____

The undersigned has read, understood, and accepted all provisions, terms, and conditions of this bid.

Chapter 2 VERMONT TAX CERTIFICATE

To meet the requirements of Vermont Statute 32 V.S.A. § 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. § 3113.

In signing this bid, the bidder certifies under the pains and penalties of perjury that the company/individual is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date this statement is made.

(Bid Not Valid Unless Signed)

Quotation Valid for _____ Days Date: _____

By: _____ **Name:** _____
Bidder Officer Signature (Type or Print)

Title: _____

1. BACKGROUND

- 1.1 In 2006, Governor James Douglas and the Vermont General Assembly enacted health care reform legislation with multiple components including the development of a multipayer healthcare claims database referred to herein as the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES). Per 18 V.S.A. § 9410 and to the extent allowed by HIPAA, VHCURES data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in Vermont. VHCURES data is de-identified and the data set does not include any direct identifiers. The statute envisions that VHCURES will include Medicaid, Medicare, and other government payer data on a voluntary basis in addition to the mandated participation of commercial health insurers including third party administrators (TPA) and pharmacy benefits managers (PBM) providing services to Vermont residents.
- 1.2 As of June 2010, the VHCURES consolidated data set included eligibility and claims (medical and pharmacy claims) data for over 330,000 commercially insured Vermont residents with insured and self-insured comprehensive health benefits for the incurred claims period of January 2007 through June 2010 with paid claims through March 31, 2010. This represented over 80 percent of the commercial market for comprehensive major medical insurance in Vermont. Since VHCURES has a minimum reporting threshold requirement of 200 Vermont covered lives, the data set is not intended to be a 100 percent file but is a robust sample due to concentration of enrollment among a few major insurers. In addition to comprehensive major medical insurers, VHCURES also includes eligibility data for Medicare Supplement and eligibility and claims files for Medicare Part C and Medicare Part D for prescription drugs.
- 1.3 Initial VHCURES reporting focused on developing and publishing a series of standard reports focused on utilization, expenditures, and enrollment demographics and disease/condition prevalence (See references cited in section 3.1 below). Reports are done on a population basis by hospital service area (HSA) as defined by the State and by major insurers. Enhancements to initial reports include episode-grouping, risk-grouping, and additional performance measures.
- 1.4 VHCURES is also being used as a data source for evaluation of expenditures and utilization for the medical home component of the Blueprint for Health. Major insurers have been flagging members attributed to participating primary care practices. As the Blueprint medical home program expands to include all insurers including government insurers, the reporting needs are expanding to also include a comparative matched cohort study.
- 1.5 Under Vermont Act 49 of 2009, VHCURES was used to evaluate variations in population-based use of specified health services and selected health expenditures for the commercially insured population under 65 (See “Tri-State Variation in Health Services Utilization & Expenditures in Northern New England” in section 3.1 below). The State

expects to continue to use the VHCURES data set to measure variation in utilization, expenditures and utilization.

- 1.6 With recent efforts underway to integrate Medicaid data into the VHCURES data set, reporting activity will increase for comparative research across payers as well as for Medicaid-specific reporting needs. The State anticipates future inclusion of Medicare data to create a comprehensive All Payer Claims Data Base to support evaluation of state and federal efforts in health care reform address access, cost, utilization, and quality. The State anticipates the development of a consolidated Master Provider Index (MPI) that will facilitate accurate attribution of claims and patients to single providers and/or provider groups that will greatly enhance the capability to measure system performance.

2. OVERVIEW

- 2.1 **SCOPE:** The Department of Banking, Insurance, Securities and Health Care Administration (BISHCA) and the Agency of Human Services Department of Vermont Health Access (DVHA) (collectively the State) are seeking to establish service agreements with companies that can provide research, analytical, and reporting services and also technical assistance for the development of in-house reporting capability for the State based on the eligibility and claims data set from commercial and government insurers available in the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES). The selected contractor will be expected to enter into two separate contracts as specified in Section 3.
- 2.2 **CONTRACT PERIOD:** Contracts arising from this request for proposal will be for a period of two years. Proposed contract start date will be Monday, January 3, 2011.
- 2.3 **SINGLE POINT OF CONTACT:** All communications concerning this Request For Proposal (RFP) are to be addressed in writing to the attention of:

Janet Richard
Division of Health Care Administration
Department of Banking, Insurance, Securities
& Health Care Administration
89 Main Street, Montpelier, Vermont 05620-3101.
Janet.Richard@state.vt.us

Janet Richard is the sole contact for this RFP.

- 2.4 **ATTACHMENTS:** Exhibit A: BISHCA Sample Contract, includes Attachments A, B, C, D. Exhibit B: Sample Contract, includes Attachments A, B, C, E, F.

3. SCOPE OF WORK: PERFORMANCE EXPECTATIONS AND CONTRACTOR RESPONSIBILITIES

The scope of work is outlined in the Sample Contracts, attached as Exhibits A and B. Successful bidders are expected to sign two separate contracts. The selected bidder's contract with BISHCA shall be identical in substance to Exhibit A. The selected bidder's contract with DVHA shall contain the material elements described in Exhibit B. If a bidder determines that it would not want to agree to any elements of Exhibits in A or B, this is material to the bid and must be identified clearly in the bid.

3.1 **SUPPORTING REFERENCES AND DOCUMENTS:** The following references and supporting documents are available on the State websites and should be reviewed prior to preparing a bid as they provide contextual information relating to the VHCURES database. Should the bidder have a problem opening any of the links below, cut and paste each link into your Internet browser.

3.1.1 **Index Page for the VHCURES Program**

<http://www.bishca.state.vt.us/health-care/health-insurers/vermont-healthcare-claims-uniform-reporting-and-evaluation-system-vhcure>

3.1.2 **Regulation H-2008-01: Vermont Healthcare Claims Uniform Reporting and Evaluation System** (including appendices with reporting requirements and file layouts)

http://www.bishca.state.vt.us/sites/default/files/REG_H-2008-01.pdf

3.1.3 **Current and Pending VHCURES Reports:**

Note: This provides examples of current reporting and the impending enhanced report card. Bids may include options for revising or replacing current reports with alternative options for measuring utilization, expenditures, and performance.

http://www.bishca.state.vt.us/health-care/health-insurers/vermont-healthcare-claims-uniform-reporting-and-evaluation-system-vhcure#VHCURES_Reports

Tri-State Variation in Health Services Utilization & Expenditures in Northern New England

Note: This report is an example of the type of special study that may be requested during the term of the contract.

<http://www.bishca.state.vt.us/sites/default/files/Act49-Tri-State-Commercial-Variation.pdf>

Federal DHHS Grant Application for Health Insurance Rate Review

Note: Refer to PDF pages 22-39 and 167-170 in the grant application regarding proposed use of VHCURES data for this project.

<http://www.bishca.state.vt.us/sites/default/files/Grants-to-States-HealthIns-PremRev-Cycle1-VTapp.pdf>

3.14. **Additional References Internal to the State**

Insurer Market Share Reports for Vermont Residents (Earned Premium)

Note: Provided context for VHCURES program that requires reporting from insurers including TPAs and PBMs providing services for comprehensive major medical benefit plans, Medicare Supplement, Medicare Part C, and Medicare Part D.

<http://www.bishca.state.vt.us/health-care/health-insurers/market-share-reports-earned-premiums-year>

Annual Vermont Health Care Expenditure Analysis & Forecast Reports

Note: Some VHCURES reporting is based on the health care expenditure categories and VHCURES analysis and reporting is also used in the annual expenditure analysis.

<http://www.bishca.state.vt.us/health-care/hospitals-health-care-practitioners/health-care-expenditure-analysis-reports>

Index Page for the Vermont Blueprint for Health

Note: Analysis and reporting for the Blueprint for Health medical home program is included in this RFP.

<http://healthvermont.gov/blueprint.aspx>

Index Page for the Vermont Health Care Information Technology Fund

Note: The VHCURES program provides paid claims reports to other agencies administering the fund. The paid claims report provides the basis for calculating the insurers' surcharges and is included in this RFP.

http://hcr.vermont.gov/improve_quality/healthcare_IT_fund

4. **INSTRUCTIONS FOR BID PREPARATION**

- 4.1 The bid is the State's primary vehicle for obtaining essential information upon which contract award decisions are based. Instructions contained in the RFP must be met in order to qualify for consideration for award. Bids that do not meet or comply with all instructions may be considered non-responsive and may be discarded. Mere reiterations of RFP-stated services are discouraged, as they do not provide insight into the bidder's understanding of the required tasks and responsibilities, nor the uniqueness of the bidder's performance capabilities.
- 4.2 **Bidders must submit an original and three (3) copies of their bid to the State** (see page 1 for address and submission deadline). The bid must include a transmittal letter and bidder general information sheet. The transmittal letter shall be signed by an individual in the organization authorized to bind the organization to the proposal. The information sheet should include the name and mailing address of the company, the street address for purposes of oversight/express mail delivery, the direct phone number, the FAX number,

and an e-mail address. If the organization has a business account number with the Vermont Department of Taxes, that should also be included.

- 4.3 **CLOSING DATE:** The closing date for the receipt of bids is **September 24, 2010, 4:00 p.m. EDST**. Bids must be delivered to: **Vermont Division of Health Care Administration, 89 Main Street, 3rd Floor, Montpelier, Vermont 05620-3101** prior to that time. Bids submitted after that time will not be accepted and will be returned to the bidder. Bidders are cautioned that it is their responsibility to originate the mailing of bids in sufficient time to ensure receipt by the state prior to the date and time specified. **FAXED BIDS WILL NOT BE ACCEPTED. ELECTRONIC BIDS WILL NOT BE ACCEPTED.**
- 4.4 **BIDDER'S CONFERENCE:** The Bidders' Conference will be held on **September 3, 2010 at 10:00 a.m. EDST** at the offices of the Department of Banking, Insurance, Securities and Health Care Administration, 89 Main Street, City Center Building, 3rd Floor Conference Room, Montpelier, Vermont. Attendance is optional. Bidders may attend via telephone by contacting Janet Richard at (802) 828-2964 at least 24 hours in advance.
- 4.5 **BID OPENING:** The bid opening will be held at the Department of Banking, Insurance, Securities and Health Care Administration, 89 Main Street, Montpelier, Vermont at the date and time listed on the cover page and is open to the public. One (1) original bid and three (3) copies are required. All bids shall be submitted in a sealed package and must be clearly marked as follows:

**Sealed Bid for Research, Analytical, and Reporting Services for
The Vermont Healthcare Claims Uniform Reporting and Evaluation System.**

If bids are being sent via an express delivery service, be certain that this designation is clearly shown on the outside of the delivery envelope or box.

5. BID SUBMISSION CONTENTS

Each copy of the bid must be submitted in one volume (where practical), divided into three easily identifiable sections as described in 5.1 - 5.3, and must include the Vermont Tax Certificate (see page 3 of this RFP).

- 5.1 **SECTION 1 - TECHNICAL BID:** This section must describe the bidder's approach and plans for accomplishing the work outlined in Exhibits A and B of this RFP. These plans and approaches must be described in sufficient detail to permit the State to evaluate them fairly. Further, the bidder must describe the effort and skills necessary to complete the project. The section must contain at least the following information:
- 5.1.1 A brief introduction outlining the bidder's overall technical approach to completing the requirements. The narrative must demonstrate to the State an understanding of the process that is to be implemented, and must persuade the State that the bidder understands the objectives the project is designed to meet, the nature of the required work, and the level of effort required. The bidder must demonstrate depth

of knowledge and proven experience in research and statistical methods related to research in health services, health care administration, health policy and/or public health using claims and eligibility data from both commercial and government insurers to measure expenditures, utilization, and performance for commercial and government insurers and different insured populations.

- 5.1.2 A description of how the work will be accomplished. Simple statements that a task will be completed or a reiteration of the RFP will not be considered adequate responses for this technical bid section. Using Exhibits A and B as a guides, the bidder must describe in specific detail how it will fulfill responsibilities related to every specified deliverable in the exhibits. The work anticipated to fulfill the requirements outlined in Exhibits A and B should be described separately.
 - 5.1.3 A summary of the challenges that the bidder might reasonably expect to encounter and solutions to those anticipated challenges must be provided.
 - 5.1.4 Adequate information must be provided so that the State is assured that the Contractor will be prepared to immediately establish operations on the contract's effective start date to keep the deliverables specified in both Exhibits A and B on schedule.
 - 5.1.5 The bidder must disclose detailed information concerning any subcontractors that are proposed for use during the performance of the responsibilities under the contracts specified under both Exhibits A and B including the specific deliverables that will be assigned to any subcontractor.
- 5.2 **SECTION 2 - ORGANIZATIONAL EXPERIENCE:** This section of the bid must contain pertinent information relating to the bidder's organization, personnel, and experience, including references together with a contact name and telephone number that will substantiate the bidder's qualifications and performance record. The bid must contain at least the following:
- 5.2.1 Location of the bidder's headquarters and offices.
 - 5.2.2 A description of the following information about the bidder and any parent corporation and all subsidiaries and affiliates: 1) an organizational chart of all affiliated and sub-contracted entities; 2) the names and addresses of each affiliated and subcontracted entity; and 3) the names and addresses of members of the governing board of each entity.
 - 5.2.3 A description of the bidder's background and experience in research, analyses, and reporting related to health services, health policy, Medicaid, human services, and public health, and its general understanding of the health insurance and health care system in Vermont. Documentation that clearly demonstrates the bidder's proven experience and excellent performance in producing similar work as described in Exhibits A and B must be included. Bidders must include a list of references that

reflect this experience. Bidder must ensure that references and contact information are current and that references familiar with the bidder's work can be contacted by the State. Bidders with prior experience analyzing and generating reports from multipayer claims data sets should make this clear in the bid. Familiarity with commercial and Medicaid claims data, use of statistical methods and tools for risk-adjusting and episode-grouping applicable to claims analysis, and publication of Medicaid reports and studies are important considerations.

- 5.2.4 Bidders must provide a full description of credentials and qualifications of staff to be assigned to this project and any proposed subcontractors and consultants, including the relevant credentials, skills, knowledge and experience of the staff and subcontractors or consultants who would be assigned to this project. Bidders must identify the Project Manager and Principal Investigator who may be the same person who will be the primary contact between the Contractor and the State. Bidders must provide a list professional personnel who would be assigned to this project and include titles, credentials, licenses, skills, experience, and knowledge that are relevant to research, use of administrative health data including claims data, analysis and health care/health policy studies. Employing staff or consultants with clinical expertise who are licensed physicians, nurses or other licensed professionals who understand and have experience with research and statistical methods for research in health services, health care administration, health policy and/or public health is an important consideration.
- 5.2.5 A list of all health insurers, health care facilities and other health care providers with whom the bidder or its directors, owners, employees, or contractors maintains any health related business arrangements. This list shall include a brief description of the nature of any such arrangement.
- 5.2.6 Documentation to show proof of the bidder's financial capacity to undertake the responsibilities required under this contract.
- 5.2.7 Documentation that the bidder is free of actual or apparent conflict of interest with respect to provisions of 18 V.S.A. § 9414, Rule 10, Rule H-2009-03, 8 V.S.A § 4089a and Regulation 95-2.
- 5.2.8 Documentation that the bidder will procure and maintain professional liability insurance for any and all services performed under the contract, with minimum coverage of \$1,000,000 per occurrence.

5.3 SECTION 3 – COST BID:

- 5.3.1 The bidder should offer a cost proposal, distinct from the technical proposal, to include a flat fee estimate of the total cost not to be exceeded for the two separate proposed contracts under Exhibits A and B. All pricing proposed in the bid must remain firm and constant during the entire contract period and any extension. Rates provided must be all inclusive, incorporating all direct and indirect costs,

including profit, clerical support, software licensing fees, materials, supplies, managerial support, travel, lodging, meals, and all documents, forms and reproductions thereof.

5.3.2 Cost bids must be related to the functions and responsibilities outlined in Exhibits A and B. The cost bid must include number of hours and hourly rates per assigned staff or subcontractor, and indirect costs for each component listed below for Exhibits A and B.

5.3.2.1 Separate cost bids must be submitted for the following components of Attachment A in Exhibit A for BISHCA: (1) Standard Analytical and Reporting Series; (2) Health Insurance Rate Review (This deliverable is contingent upon grant funding that has been applied for by the State of Vermont. See <http://www.bishca.state.vt.us/sites/default/files/Grants-to-States-HealthIns-PremRev-Cycle1-VTapp.pdf>); (3) Ad Hoc Reports and Special Studies; and (4) Development and Support of In-house Reporting Capability.

5.3.2.2 Separate cost bids must be provided for the following components of Attachment A in Exhibit B for DVHA: (1) Custom Medicaid Studies; (2) Custom Blueprint Studies; and (3) Special reports and studies for other Agency of Human Services departments.

5.3.3 Because of the inherent unpredictability of the total workload, the bidder should provide the workload assumptions on which the total cost and unit cost estimations are based.

5.3.4 Bidder must specify address where contract payments shall be sent.

6. METHOD OF AWARD

6.1 **CONTRACT AWARD:** The State may award one or more contracts and reserves the right to make no awards or to make additional awards to other bidders who submitted bids at any time during the first year of the contract if such award is deemed to be in the best interest of the State.

6.2 **EVALUATION CRITERIA:** Proposals that meet the specifications of this RFP, and that are received in this office by the appointed deadline, will be evaluated by a review committee(s) composed of State staff. Bidders may be invited to make a formal presentation to the committee(s) and answer questions from the committee members. The evaluation of proposals will include a focus on evidence of proven experience, superior knowledge and technical competence, and evidence of excellent performance in delivering the specific services described in this RFP. Proposal review criteria and weighting on a total scale of 100 points are as follows:

Proven experience and excellent performance with similar deliverables in research, analyses, and reporting using health data including health insurance claims and eligibility data from commercial insurers and government payers: (30%)

Depth of knowledge, and experience, and qualifications of assigned project staff including any subcontractors related to research methods and use of administrative health data including claims data for research in health services, health care administration, health policy and/or public health: (30%)

Fee structure and proposed estimated costs: (25%).

Operational capacity to perform the required work: (15%)

- 6.3 **RFP QUESTION AND ANSWER PERIOD:** Any bidder requiring clarification of any section of this RFP or wishing to comment on the RFP must submit specific questions or comments in writing no later than **August 20, 2010**. Questions may be e-mailed to Janet.Richard@state.vt.us, faxed to (802) 828-2949, or sent through the mail to: Andrea Grishman, Division of Health Care Administration, Department of Banking, Insurance, Securities and Health Care Administration, 89 Main Street, Montpelier, VT 05620-3101. At the close of the question period, a copy of all questions or comments and the State's responses will be posted on the State's web site www.bishca.state.vt.us and will be distributed to those persons who submitted written questions or comments and to those who request a copy of the State's responses. The State's response will be made available as soon as possible after the question and answer period closes, contingent on the number and complexity of the questions. The State anticipates having a written response to questions available by September 10, 2010. Questions and answers will be available to all bidders.

7. ADDITIONAL PROVISIONS

- 7.1 **STATEMENT OF RIGHTS:** The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a bid.
- 7.2 **NON-COLLUSION:** The State of Vermont is conscious of and concerned about collusion. It must therefore be understood by all that in signing bid and contract documents bidders agree that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, all bidders must understand that this paragraph might be used as a basis for litigation.
- 7.3 **CONFIDENTIALITY:** The successful bid will become part of the contract file and will become a matter of public record as will all other bids received. If a bid includes material that is considered by the bidder to be proprietary and confidential under 1 V.S.A., Chapter 5, the bidder shall clearly designate the material as such, explaining why such material

must be considered confidential. The bidder must identify each page or section of the bid that it believes is proprietary and confidential with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the bidder if the identified material were to be released. The Department will determine if such designated information meets statutory requirements pertaining to materials exempted from Vermont's public records law. Under no circumstances can the entire bid or price information be marked confidential. Bids so marked may not be considered.

8. CONFLICTS OF INTEREST

The bidder, employees, and subcontractors of the program, including immediate family or household members, cannot have any conflict of interest relating to the performance of the responsibilities set forth in this RFP. The following would be considered conflicts of interest:

- 8.1 Direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, mental health service review agent or health care provider that is subject to the Rules referenced in this RFP.
- 8.2 Direct ownership interest or investment interest in a health care facility, health insurer, mental health service review agent or a health care provider that is subject to the Rules referenced in this RFP.
- 8.3 Employment by, or participation in, the management of a health care facility, health insurer, mental health service review agent or health care provider that is subject to the Rules referenced in this RFP.
- 8.4 Receiving, or having the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health care insurer, mental health service review agent or health care provider that is subject to the Rules referenced in this RFP.

EXHIBIT A

STATE OF VERMONT
STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, Department of Banking, Insurance, Securities and Health Care Administration (hereafter called “State”), and _____ (hereafter called “Contractor”) with principal place of business in _____. Contractor’s form of business organization is _____. It is the Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of _____. Detailed services to be provided by the Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$ _____. The State does not guarantee the assignment of any minimum number of hours or other work under this contract.

4. **Contract Term.** The period of Contractor’s performance shall begin on ____ and end on _____.

5. **Prior Approvals.** If approval by the Attorney General’s Office, Secretary of Administration or the CIO/Commissioner DII is required (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by any or all such persons.

- Approval by the Attorney General’s Office /is/is not/ required.
- Approval by the Secretary of Administration /is/is not/ required.
- Approval by the CIO/Commissioner DII /is/is not/ required.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Cancellation.** This contract may be canceled by the State by giving written notice at least 30 days in advance. The Contractor may cancel this contract by giving 120 days written notice in advance.

8. **Attachments.** This contract consists of ____ pages including the following attachments which are incorporated herein:

- Attachment A - Specifications of Work to be Performed
- Attachment B - Payment Provisions
- Attachment C – Standard State Contract Provisions
- Attachment D - Other Contract Provisions.

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.

By the State of Vermont:
Date: _____

By the Contractor:
Date: _____

Signature: _____
Name: Michael S. Bertrand, Commissioner _____
Agency: Banking, Insurance, Securities, and Health
Care Administration

Signature: _____
Name: _____
Title: _____

**EXHIBIT A
ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED**

As directed by the State, Contractor shall do the following:

1. Background

- 1.1 In 2006, Governor James Douglas and the Vermont General Assembly enacted health care reform legislation with multiple components including the development of a multipayer healthcare claims database referred to herein as the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES). As requested, Contractor shall assist the State in the development and production of standardized reports and customized analyses, reports, and studies using VHCURES data as more fully described herein.
- 1.2 To the extent allowed by federal and state laws, these data shall be made available as a resource for the review of health care utilization, expenditures, and performance in Vermont. The State shall own the data included in VHCURES and, per applicable state and federal law and any data use agreements in place with the Centers for Medicare and Medicaid Services (CMS) pertaining to Medicare or Medicaid data, the State shall administer policies and procedures for the collection, management, analysis, reporting and release of VHCURES data.

2. State Expectations and General Contractor Responsibilities

- 2.1 In carrying out the duties of this contract, Contractor shall comply with the State's confidentiality and security requirements and shall also comply with all applicable state and federal laws regarding the claims data and "Protected Health Information" as that term is defined by federal law.
- 2.2 Contractor shall not sell the research, analyses, and reports generated under the terms of this contract. Contractor shall include a citation for the Department of Banking, Insurance, Securities, and Health Care Administration, the Vermont Healthcare Claims Uniform Reporting & Evaluation System and display the State logo on the cover of all reports published under this contract.
- 2.3 The State regulates and monitors key sectors of Vermont's health care system to ensure that all Vermonters have access to health care that is affordable and meets accepted standards for quality. Per the VHCURES statutory mandate and to the extent allowed by federal and state laws, the data shall be widely available for the review of health care performance in Vermont. Contractor shall provide research, analyses and reports in a cost-effective manner that is timely, accurate, well researched, and applies high standards for methods as used in health care services and health policy research. Contractor shall provide analyses and reports in formats that make the information and findings clearly articulated, accessible, meaningful, and useful to wide variety of users including insurers,

employers, providers, purchasers of health care, state agencies, regulators, consumers and policy makers.

- 2.4 As directed by the State, Contractor shall provide a detailed Plan of Operation that includes specified deliverables, key services and tasks, time line and completion targets, staffing and resources required for completing reports, analysis and studies required under the contract. Contractor shall submit invoices that are keyed to the Plan of Operations and Progress Reports as described in section 2.4. Contractor shall modify the Plan as approved or directed by the State.
- 2.5 Contractor shall submit written Progress Reports keyed to the Plan of Operations on a quarterly basis and upon completion of each deliverable specified under sections 3 through 6. Contractor shall report on performance measures as addressed in section 2.2 including cost-effectiveness, timeliness, accuracy, depth of research, application of recognized methods, and specific efforts taken to make research, analyses, and reports clearly presented, accessible, meaningful, and useful to users. Contractor shall identify challenges and actions being taken related to delays or inability to complete tasks per the Plan or Operations and/or shortfalls in performance in the areas described above.
- 2.6 In addition to performance in areas identified in 2.4, Contractor shall include performance measures related to flexibility and extra effort applied towards accommodating unanticipated requests by the State for special studies and ad hoc reporting as addressed in section 5. State may provide incentives based on Contractor performance.
- 2.7 Contractor shall identify a Project Manager who is preferably the principal investigator or a research director as the person who oversees the work required under this contract and is the contact for the State. Contractor shall notify the State immediately if this position is reassigned
- 2.7.1 On a monthly basis, or more frequently if requested by the State, Contractor's Project Manager shall convene teleconferences at Contractor's expense with State staff and other interested parties specified by the State as needed to discuss project progress, concerns, and next steps to solve problems and meet objectives for contract deliverables.
- 2.7.2 Every six months, beginning in the first month of the contract, the Project Manager shall meet in person in Vermont with the State and other parties identified by the State at a meeting convened by the State to consult, plan, review, and make presentations related to contract deliverables. Contractor shall draft the agendas and meeting materials in electronic format for advance review and approval by the State and provide electronic and/or hardcopy packets of final materials as requested by the State. Contractor shall provide all equipment needed for meetings including computers, projectors and associated hardware and software required for presenting materials.
- 2.8 Contractor project staff shall be readily accessible by telephone and email to consult with State staff as needed on a timely basis.

- 2.9 Contractor shall provide all work products, including drafts, upon completion in electronic file formats and applications as requested by the State. Contractor shall format all reports including spreadsheets to be fitted to page, properly formatted with titles and pagination, and printer ready.
- 2.10 Contractor shall provide the State with drafts for all reports in electronic formats and applications as requested by the State at least 30 days prior to the due date for each report.
- 2.11 At the conclusion of this contract, as directed by the State, Contractor shall give to the State all data provided by the State under data use agreements related to this contract and provide electronic versions of all final analyses, studies, reports and technical documentation in formats and applications as requested by the State. The State shall own the data included in VHCURES and, per applicable state and federal law and any data use agreements in place with the Centers for Medicare and Medicaid Services, the State shall administer policies and procedures for the collection, management, release and final disposition of VHCURES data.
- 2.12 Before conclusion of this contract and in the event that the contract is terminated and/or the contract is awarded to another vendor, Contractor shall develop a transition plan prior to and during the transition for continued operations that shall assist the State in maintaining timely analyses and reporting of the data. In the event that the subsequent contract is awarded to a new vendor and/or the analysis and reporting is developed within the State, Contractor shall provide the State complete and timely transfer of raw data files, analyses, summary reports and necessary technical documentation and any other information or materials necessary for a smooth transition. Upon expiration of the contract, Contractor shall expunge all data and files from the Contractor's system as directed by the State.

3. Standard Analytical and Reporting Series

- 3.1 As directed by the State, Contractor shall produce a series of reports for the commercially insured Vermont population addressing enrollment, expenditures, utilization and performance generated from the VHCURES consolidated eligibility data and medical and pharmacy claims data set. Key considerations for analyses and reporting include: population-based reporting by hospital service areas and by major insurer; trending data; providing comparisons to state, regional, and national averages and benchmarks as available; adjusting rates and measures for age, gender and risk as appropriate, applicable and meaningful; applying significance testing to identify statistically significant finding in rate changes over time and point-in-time variations in rates; and providing a summary analysis of significant findings for each report. As directed by the State, Contractor shall develop reports to accommodate Vermont-specific reporting needs based on specified populations, geographic and health care service areas, insurers, and categorization of VHCURES data.

- 3.1.1 Contractor shall consult with the State and provide an Annual Expenditure & Utilization Report for the commercially insured population for comprehensive major medical insurance and benefit plans. Contractor shall consult with State regarding incremental report improvements based on prior reports published by the State per the following Internet link: http://www.bishca.state.vt.us/sites/default/files/VHCURES_EUR2008_WebFINAL.pdf. Contractor shall consult with the State to keep the reporting categories in close alignment with the Vermont Annual Health Care Expenditure Analysis and Forecast (<http://www.bishca.state.vt.us/health-care/hospitals-health-care-practitioners/health-care-expenditure-analysis-reports>). In the annual reports, Contractor shall trend the data from base years identified by the State and from the prior year. Contractor shall include an executive summary in each annual report that identifies major findings in narrative and graphical formats. Contractor shall organize the annual reports by Hospital Service Area (HSA), by insurer, and by HSA for each major insurer as identified by the State. In addition to the annual reports, Contractor shall provide the State raw data files used to generate the Expenditure & Utilization reports in a format specified by the State. Contractor shall provide the annual reports based on consolidated annual data for incurred claim period of January 1 through December 31 and run-out through March 31 no later than August 31 starting in 2011.
- 3.1.2 Contractor shall consult with the State and provide an annual Healthcare Report Card for the commercially insured population for comprehensive major medical insurance and benefit plans. Contractor shall consult with State regarding incremental report improvements based on the report published by the State per the following Internet link: <http://www.bishca.state.vt.us/sites/default/files/Enhanced-VHCURES-Report-Card-Template.pdf>. In the annual reports, Contractor shall trend the data from base years identified by the State and from the prior year. Contractor shall include an executive summary in each annual report that identifies major findings in narrative and graphical formats. Contractor shall organize the annual reports by Hospital Service Area (HSA), by insurer, and by HSA for each major insurer as identified by the State. In addition to the annual reports, Contractor shall provide the State raw data files of measures used to generate the Healthcare Utilization Report Card in a format specified by the State. Contractor shall provide the annual reports based on consolidated annual data for incurred claim period of January 1 through December 31 and run-out through March 31 no later than August 31 starting in 2011.
- 3.1.3 To support the State's need for paid claims and enrollment reports for the Health Information Technology Fund Surcharge Program (http://hcr.vermont.gov/improve_quality/healthcare_IT_fund), Contractor shall provide a paid claims report for comprehensive major medical coverage payer including health insurers, TPAs, and PBMs on a fiscal year incurred claims basis of July 1 through June 30 with run-out through September 15 or for an alternative period as identified by the State by October 1 on an annual basis starting in 2011. For the same fiscal year basis, Contractor shall provide an average enrollment

report for Medicare Supplement insurance by company by October 1 on an annual basis starting in 2011. Contractor shall refresh the annual reports provided October 1 by every following March 1 for the same incurred claims period starting in 2012. Contractor shall consult with the State regarding incremental report improvements based on prior reports published by the State per the following Internet link: http://hcr.vermont.gov/sites/hcr/files/HIT_Fee_Report_Refresh_December_11_2009_2.pdf

- 3.1.4 Contractor shall provide the State with an annual Medicare Products Summary Report that includes Medicare Supplement insurance (Enrollment only), Medicare Part C (Enrollment and claims), and Medicare Part D (Enrollment and pharmacy claims) at the company level for summary reporting of enrollment and paid claims amount. For Medicare Part D, Contractor shall provide an enrollment report by HSA and grouping of statewide pharmacy claims by drug classes with metrics for utilization and expenditures. Contractor shall work with the State to develop the specifics for the Medicare Part D utilization and expenditure report. Contractor shall provide the annual reports based on consolidated annual data for incurred claim period of January 1 through December 31 and run-out through March 31 no later than August 31 starting in 2011.

4. Health Insurance Rate Review

- 4.1 The State intends to enhance its insurance premium rate review processes by verifying claims experience as one component of a multifaceted approach to the overall goal of offering consistent, comprehensive and effective regulation of health insurance rates. Use of VHCURES claims data offers substantial potential for enhancing the health insurance rate review process.
 - 4.1.1 Between January and June 2011, Contractor shall consult with the State and its actuarial consultant to customize VHCURES reporting to support rate review. Contractor shall compare the VHCURES categorization applied to the Annual Expenditure & Utilization Report and the Healthcare Utilization Report Card as referred to in sections 3.1.1 and 3.1.2 above to the categorizations of enrollment/demographics, utilization and expenditures used by the State's actuaries. Contractor shall also identify an inventory of insurance product types reported to VHCURES, evaluate the categorizations in relationship to the insurance rate review process, and identify the categories that would be most applicable to the rate review process. By July 31, 2011, Contractor shall provide a report comparing current VHCURES categorizations for enrollment/demographics, utilization, expenditures, and insurance products types and recommend an approach and content for reports to enhance the rate review process.
 - 4.1.2 Starting in July 2011 and continuing through December 2011, Contractor shall develop and provide trend reports on incurred and paid claims bases for enrollment/demographics, utilization, and expenditures for the State based on the approach approved by the State per section 4.1.1 above. Contractor shall provide the

report by insurer and by insurance product types as defined in the VHCURES data set for selected insurers as directed by the state. Contractor shall provide technical assistance to the State in interpretation and use of the reports.

- 4.1.3 Between January and June 2011, Contractor shall consult with the State to develop an inventory of insurer carve-out relationships, identify how carve-out data is submitted and consolidated in VHCURES, and determine the contents and approach to generating VHCURES reports that reflect consolidation of carve-out relationships based on members and/or insurers. By July 31, 2011, Contractor shall provide a report addressing the components including the inventory of carve-out relationships, VHCURES data submission and processing issues; and recommendations for the content and approach for VHCURES carve-out reporting.
- 4.1.4 Starting in July 2011 and continuing through December 2011, Contractor shall develop and provide periodic consolidated enrollment/demographics, expenditures, and utilization reports for carve-out relationships as directed by the State.
- 4.1.5 Between January and June 2011, Contractor shall consult with the State regarding applications and improvements to the VHCURES Master Provider Index to support provider level reporting of expenditures and utilization for the insurance rate review process. Contractor shall identify approaches, methods, and issues related to provider-level reporting to identify cost drivers and enhance the rate review process. Contractor shall address provider-level reporting by insurer. By July 31, 2011, Contractor shall provide a report addressing the current status of the MPI including any shortcomings and areas for improvement and recommend approaches, methods and content for provider-level reporting of expenditures and utilization.
- 4.1.6 Starting in July 2011 and continuing through December 2011, Contractor shall develop and provide periodic provider-level reporting on expenditures and utilization by insurer as requested by the State on an ad hoc basis.

5. Special Studies and Ad hoc Reporting

Contractor shall have the capacity and flexibility to accommodate the State's unanticipated requests for special studies and ad hoc reporting. The State will work with Contractor to identify deliverables, timelines, performance expectations, and possible incentives based on Contractor performance.

- 5.1 The State anticipates at least one special study per year requiring background research and literature review, data analyses including application of statistical methods for adjusting and reporting data, and generation of a narrative report that includes background information and presentation of the purpose of the study and/or research hypothesis; executive summary of major findings and next steps; research findings presented in narrative, tabular, and graphic formats; reference citations and bibliography. For a sample of such a report, refer to the "Tri-State Variation in Health Services Utilization & Expenditures in Northern New England" posted by

the State at: <http://www.bishca.state.vt.us/sites/default/files/Act49-Tri-State-Commercial-Variation.pdf>

- 5.2 The State anticipates requests for ad hoc reports on health care utilization and expenditures related to selected health care services on any combination of population characteristics, insurer, provider or facility type bases. Contractor shall provide tables, graphs, and explanation of technical methods and specifications in electronic formats and applications as requested by the State.
- 5.3 For every special study and ad hoc report requested by the State, Contractor shall provide a detailed proposal including time line and cost itemized by hourly rates. Contractor shall obtain written approval by the State before beginning any work.

6. Development and Support of In-house Reporting Capability

Contractor shall work with the State to develop a phased plan for building VHCURES reporting capability within the State. The State anticipates supporting requests for ad hoc reporting on frequencies and amounts related to health insurance enrollment and member characteristics, utilization of and expenditures on specified services and procedures by insurer, facility or provider type.

- 6.1 Contractor shall consult with the State to identify anticipated needs for in-house reporting capability. By April 2011, Contractor shall provide a report that includes a phased plan and recommendations and requirements for staffing, initial and ongoing training by the Contractor and other consultants, customized business intelligence tools, hardware and software licenses, secure data transfer and storage, and other resources.
- 6.2 As directed by the State, Contractor shall provide consulting services and training to assigned State staff to support incremental development of in-house VHCURES reporting capability. Consulting services may include training in understanding and use of claims data and the VHCURES data set to support basic queries and custom reporting; advising on hardware and software acquisition to accommodate the size of the data set, anticipated processing time; and analytical needs; advising on security procedures; providing technical assistance to State staff in generating specific reports; and reviewing and validating reports generated by State staff. Consultant shall provide customized business intelligence tools as requested by the State to support efficient in-house use of the VHCURES data set and generation of usable reports in tabular and graphical formats.

**EXHIBIT A
ATTACHMENT B
PAYMENT PROVISIONS**

1. The maximum amount payable under this contract for service and expenses shall not exceed \$ _____. The hourly rate for staff is as follows:

The total cost for each employee category as specified above includes any indirect rate that covers the administrative expenses, occupancy fees, utilities, repair and maintenance of equipment, office maintenance, audit and legal fees, insurance, telephone, postage, supplies, etc. The State does not guarantee the assignment of any minimum number of hours or other work under this contract.

2. Payments for subcontractors will only be made upon approval (See Attachment C, #15).

3. The State shall reimburse Contractor for reasonable and necessary expenses incurred in performance of this contract. Total travel expenses under the contract shall not exceed_____.

4. Contractor will submit an invoice on a monthly basis to the State for services provided and expenses incurred during the previous month. Invoices must include a unique invoice number, dates of service, itemized hours being invoiced, a list of allowable expenses incurred, and itemized billing must be documented to reflect linkage with the Plan of Operations. A billing for mileage shall include the points of origin and destination and the number of miles traveled. Only actual charges will be paid.

Chapter 3 Invoices shall be submitted to:

Andrea Grishman
Health Care Administration
89 Main Street
Montpelier, VT 05620-3601

EXHIBIT A
ATTACHMENT C:
STANDARD STATE 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.

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 coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, 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 contract and throughout the term of this contract, the Party shall procure and maintain professional liability insurance for any and all services performed under this contract, with minimum coverage of \$1,000,000.00 per occurrence.

- 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.

- 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 this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

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.

(End of Standard Provisions)

ATTACHMENT D OTHER CONTRACT PROVISIONS

1. Confidentiality

Contractor agrees to keep information related to the State and all agencies and companies related to this contract confidential and agrees not to use any information obtained in relation to the services performed under this contract for any purpose other than as authorized by the State. Contractor agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form or authorize or permit others to do so. Contractor will take reasonable measures as are necessary to restrict access to confidential information in the Contractor's possession to those employees who must have the information to perform their job. Contractor agrees to immediately notify, in writing, the State's authorized representative in the event Contractor determines or has reason to suspect a breach of this requirement.

2. Obligations Regarding Protected Information

Contractor shall assure compliance by the State and Contractor of any and all obligations the State or Contractor may have under HIPAA and any other applicable state or federal law regarding protected health, personal, or otherwise confidential information.

3. Conflicts of Interest

If the State determines that a conflict of interest, as defined by the State, exists between a regulated entity and a member or members of the Contractor's staff, the Contractor shall substitute similarly qualified individuals for the conflicted members. If the State determines that a conflict of interest, as determined by the State, exists between Contractor and regulated entity, the State may immediately remove that assignment from the Contractor, or may invoke its right to terminate this contract pursuant to paragraph 7 on page 1 of this contract. The State reserves the right to make the ultimate determination as to whether a conflict of interest exists.

4. Protection of Personal Information

Contractor agrees to establish and maintain policies and procedures designed to ensure compliance with 9 V.S.A. Chapter 62 (Protection of Personal Information) with respect to data collected in connection with Contractor's activities pursuant to the Contract.

5. Work Papers

The working papers of the Contractor for assigned work performed for the State are the property of the State and shall be turned over to the State upon request.

EXHIBIT B
STATE OF VERMONT
CONTRACT FOR PERSONAL SERVICES

1. **Parties.** This is a contract for personal services between the State of Vermont, Department of Vermont Health Access (hereafter called "State"), and _____ with a principal place of business in _____ (hereafter called "Contractor"). The Contractor's form of business organization is a _____. It is the Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is personal services generally on the subject of _____. Detailed services to be provided by the Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$xxxxxxx.
4. **Contract Term.** The period of Contractor's performance shall begin on _____ and end on _____.
5. **Prior Approvals.** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.

Approval by the Attorney General's Office **is/is not** required.
Approval by the Secretary of Administration **is/is not** required.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
7. **Cancellation.** This contract may be cancelled by either party by giving written notice at least 30 days in advance.
8. **Attachments.** This contract consists of 18 pages including the following attachments, which are incorporated herein:

Attachment A - Specifications of Work to be Performed
Attachment B - Payment Provisions
Attachment C – Customary Provisions for Contracts and Grants
Attachment E - Business Associate Agreement
Attachment F – AHS Customary Contract Provisions

The order of precedence of documents shall be as follows:

- 1). This document
- 2). Attachment C
- 3). Attachment A
- 4). Attachment B
- 5). Attachment E
- 6). Attachment F

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.

BY THE STATE OF VERMONT:

BY THE CONTRACTOR:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: Susan Besio
Title: Commissioner
Department of Vermont Health Access

Name:
Phone:

**EXHIBIT B
ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED**

The contractor will be responsible for providing reports as requested by the Vermont Department of Vermont Health Access and other departments within the Agency of Human Services as agreed upon between the parties. Examples of possible reports include:

- Custom Medicaid studies, for purposes such as:
 - Providing information about the varying cost of procedures in different medical facilities or across provider types
 - Exploring the value equation (cost and quality) for services provided
 - Inform the design and evaluation plan of payment reform models including the medical home model and accountable care organizations
 - Evaluating the effect of health reforms on the cost, quality, and access to care in a state
 - Comparing the prevalence of disease across a population
 - Comparing utilization patterns to identify successful cost containment strategies
 - Estimate the cost of potential legislative changes affecting Medicaid and later calculating the actual cost and impact of the legislation.
- Custom Blueprint studies, for purposes such as:
 - Evaluating the impact of the Blueprint Multi-insurer Advanced Model of Primary Care Practice (MAPCP) on utilization and healthcare expenditures for patients treated in medical homes as compared to routine care.
 - Evaluating the impact of the MAPCP model on utilization and expenditures in Hospital Services Areas (HSAs) as the model expands statewide.
 - Evaluating the impact of additional payment reforms on utilization and expenditures as they are added to the MAPCP model.
 - Evaluating regional and institutional variability of healthcare quality, utilization, and expenditures as healthcare reforms expand statewide.
- Special reports and studies for other Agency of Human Services departments. These departments include Health, Aging and Independent Living, Children and Families, Mental Health, and Corrections.

**EXHIBIT B
ATTACHMENT B
PAYMENT PROVISIONS**

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for services specified in Attachment A, or services actually performed, up to the maximum allowable amount specified in this agreement. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this attachment. The following provisions specifying payments are:

1. Contractor invoices shall be submitted no more frequently than monthly, but no later than quarterly, and shall include the number of hours worked during the specified billing period and the total amount billed. The State shall pay the Contractor at the rate of \$XXXX per hour.
2. No benefits or insurance will be reimbursed by the State.
3. Invoices should reference this contract number and be submitted to:

Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 054953

4. The total maximum amount payable under this contract shall not exceed \$XXXXXXX

EXHIBIT B
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 **\$1,000,000** per occurrence, and **\$1,000,000** 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.

**EXHIBIT B
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 _____ (“Business Associate”) as of _____ (“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 permissible use or disclosure does not constitute a Breach. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by Covered Entity, Business Associate shall make its mitigation and corrective action plans available to Covered Entity.
- 7. Providing Notice of Breaches.**
- 7.1 If Covered Entity determines that an impermissible acquisition, access, use or disclosure of PHI for which one of Business Associate's employees or agents was responsible constitutes a Breach as defined in 45 CFR §164.402, and if requested by Covered Entity, Business Associate shall provide notice to the individuals whose PHI was the subject of the Breach. When requested to provide notice, Business Associate shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate.
- 7.2 The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to Covered Entity.
- 7.3 The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of what happened, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach, 4) a brief description of what the Business associate is doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR §164.404(c).
- 7.4 Business Associate shall notify individuals of Breaches as specified in 45 CFR §164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of Vermont, Business associate shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR §164.406.
- 8. Agreements by Third Parties.** Business Associate shall ensure that any agent (including a subcontractor) to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity agrees in a written agreement to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. For example, the written contract must include those restrictions and conditions set forth in Section 14. Business Associate must enter into the written agreement before any use or disclosure of PHI by such agent. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of PHI. Business Associate shall provide a copy of the written agreement to Covered Entity upon

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

9. **Access to PHI.** Business Associate shall provide access to PHI in a Designated Record Set to Covered Entity or as directed by Covered Entity to an Individual to meet the requirements under 45 CFR 164.524. Business Associate shall provide such access in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for access to PHI that Business Associate directly receives from an Individual.
10. **Amendment of PHI.** Business Associate shall make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526, whether at the request of Covered Entity or an Individual. Business Associate shall make such amendments in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for amendment to PHI that Business Associate directly receives from an Individual.
11. **Accounting of Disclosures.** Business Associate shall document disclosures of PHI and all information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Business Associate shall provide such information to Covered Entity or as directed by Covered Entity to an Individual, to permit Covered Entity to respond to an accounting request. Business Associate shall provide such information in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.
12. **Books and Records.** Subject to the attorney-client and other applicable legal privileges, Business Associate shall make its internal practices, books, and records (including policies and procedures and PHI) relating to the use and disclosure of PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity available to the Secretary in the time and manner designated by the Secretary. Business Associate shall make the same information available to Covered Entity (without regard to the attorney-client or other applicable legal privileges) upon Covered Entity's request in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether Business Associate is in compliance with this Agreement.
13. **Termination.**
 - 13.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity subject to Section 17.7.
 - 13.2 If Business Associate breaches any material term of this Agreement, Covered Entity may either: (a) provide an opportunity for Business Associate to cure the breach and Covered Entity may terminate this Contract without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate this Contract

without liability or penalty if Covered Entity believes that cure is not reasonably possible; or (c) if neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary. Covered Entity has the right to seek to cure any breach by Business Associate and this right, regardless of whether Covered Entity cures such breach, does not lessen any right or remedy available to Covered Entity at law, in equity, or under this Contract, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.

14. Return/Destruction of PHI.

14.1 Business Associate in connection with the expiration or termination of this Contract shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this Contract that Business Associate still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. Business Associate shall not retain any copies of the PHI. Business Associate shall certify in writing for Covered Entity (1) when all PHI has been returned or destroyed and (2) that Business Associate does not continue to maintain any PHI. Business Associate is to provide this certification during this thirty (30) day period.

14.2 Business Associate shall provide to Covered Entity notification of any conditions that Business Associate believes make the return or destruction of PHI infeasible. If Covered Entity agrees that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI.

15. Penalties and Training. Business Associate understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of PHI and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by Covered Entity, Business Associate shall participate in training regarding the use, confidentiality, and security of PHI.

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

16.1 Business Associate shall implement and use administrative, physical, and technical safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312 with respect to the Electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to protect such Electronic PHI.

16.2 Business Associate shall ensure that any agent (including a subcontractor) to whom it provides Electronic PHI agrees in a written agreement to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the Electronic PHI. Business Associate must enter into this written agreement before any use or disclosure of Electronic PHI by such agent. The written

agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of Electronic PHI. Business Associate shall provide a copy of the written agreement to Covered Entity upon request. Business Associate may not make any disclosure of Electronic PHI to any agent without the prior written consent of Covered Entity.

- 16.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an agent, including a subcontractor). Business Associate shall provide this written report as soon as it becomes aware of any such Security Incident, and in no case later than three (3) business days after it becomes aware of the incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.
- 16.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

17. Miscellaneous.

- 17.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Contract, the terms of this Agreement shall govern with respect to its subject matter. Otherwise the terms of the Contract continue in effect.
- 17.2 Business Associate shall cooperate with Covered Entity to amend this Agreement from time to time as is necessary for Covered Entity to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA.
- 17.3 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.
- 17.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule) in construing the meaning and effect of this Agreement.
- 17.5 As between Business Associate and Covered Entity, Covered Entity owns all PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity.
- 17.6 Business Associate shall abide by the terms and conditions of this Agreement with respect to all PHI it receives from Covered Entity or creates or receives on behalf of Covered Entity under this Contract even if some of that information relates to specific services for which Business Associate may not be a “Business Associate” of Covered Entity under the Privacy Rule.
- 17.7 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it

would be infeasible for Business Associate to return or destroy PHI as provided in Section 14.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 11 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

(AHS Rev – 01.25.10)

EXHIBIT B
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 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

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.

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 Abuse 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.
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.