



STATE OF VERMONT  
DEPARTMENT FOR CHILDREN AND FAMILIES

**APPENDIX G - VERMONT STATE APPENDIX**

**NORTHEAST COALITION OF STATES  
ELECTRONIC BENEFITS TRANSFER  
WOMEN, INFANTS AND CHILDREN  
REQUEST FOR PROPOSALS  
(NCS EBT RFP)**

**TABLE OF CONTENTS**

**Note:** In organizing this RFP, there was an attempt to correspond Sections and Appendices as much as possible with the organization of the full NCS RFP. **Any items not specifically addressed in the VT Appendix should be assumed to be consistent with the NCS EBT RFP.**

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## Section 1: Introduction

*As described in the NCS EBT RFP, plus the following Vermont specific requirements:*

### 1.1 Vermont Overview

The Vermont Department for Children and Families and Vermont Department of Health, as a member of the Northeast Coalition of States (NCS), seeks bids for Electronic Benefit Transfer (EBT) and Women, Infants and Children (WIC) services as described in detail in the 2019 NCS EBT Request for Proposals (NCS EBT RFP) and in this Vermont State Appendix to that RFP.

The New York State Office of Temporary and Disability Assistance (OTDA) is issuing the NCS EBT RFP on behalf of the Northeast Coalition of States (NCS). The purpose of the Vermont Appendix is to serve as a supplement to the NCS EBT/WIC RFP, to offer detailed and Vermont specific information necessary in preparing bids for this proposal, and to outline the State specific contract requirements. Any item not specifically and explicitly addressed in this Vermont State Appendix should be treated as described in the full NCS EBT/WIC RFP.

Vermont's current EBT contract commenced October 1, 2014; the contract end date as of the release of this RFP is September 30, 2021. DCF anticipates extending the current contract for two years, through September 30, 2023. Vermont's current WIC contract commenced June 1, 2014; the contract end date as of the release of this RFP is May 31, 2021. VDH anticipates extending the current contract for two years, through May 31, 2023.

### 1.7 Vermont Glossary of Terms & Acronyms

<b>3SquaresVT</b>	Vermont's name for the SNAP program/food benefits
<b>ACCESS</b>	Vermont's client data & eligibility system
<b>ADS</b>	Agency of Digital Services
<b>AHS</b>	Agency of Human Services
<b>Cash out</b>	3SquaresVT benefits delivered to certain eligible clients in cash
<b>Ceres</b>	Vermont WIC's client data and eligibility system
<b>DCF</b>	Department for Children & Families
<b>ESD</b>	Economic Services Division
<b>Reach Ahead</b>	State funded food benefits
<b>Reach Up</b>	Vermont's name for TANF benefits
<b>SOV</b>	State of Vermont
<b>VDH</b>	Vermont Department of Health
<b>WIC</b>	Special Supplemental Nutrition Program for Women, Infants and Children

## Section 2: Procurement Information

*As described in the NCS EBT RFP, plus the following Vermont specific requirements:*

### **2.11 Letter of Credit or Performance Bond**

Each Offeror's Administrative Section must include a statement, without exception, that it is committed to providing the required letter of credit or performance bond, as described in Article Three in the Standard Terms and Conditions, including in such statement specific information as to how it will be provided. The selected Offeror will be required to provide the State of Vermont with appropriate proof that the letter of credit or performance bond is being furnished prior to commencement of a contract resulting from this RFP and within fifteen (15) business days after the contract becomes effective under applicable state laws.

In its current contract, the State of Vermont required an irrevocable Letter of Credit in the amount of \$1,000,000.

The institution that holds the Letter of Credit or Performance Bond may not have any financial affiliation with the Offeror.

Failure to provide proof of the required letter of credit or performance bond will result in termination for cause and OTDA, in consultation with the other NCS members, reserves the right to award a new contract to another Offeror that responded to the EBT RFP.

### **2.19 Public Record**

All proposals shall become the property of the State. All public records of DCF are available for disclosure, except for RFPs prior to the release to potential bidders; and proposals and bids received in response to the RFP, until the Contractor and DCF have executed the contract. At that time, the unsuccessful bidders may request a copy of their own score sheets as well as request to view the successful bidder's proposal at DCF Central Office. DCF will not disclose RFP records until execution of the contract(s). At that time, all information about the competitive procurement is disclosed except those portions specifically marked by the bidder as falling within one of the exemptions of 1 V.S.A. § 317.

### **2.20 Authority to Bind DCF**

The Commissioner of DCF or his/her delegate (in parent AHS Secretary or Deputy Secretary) are the only persons who may legally commit DCF to any contract agreements.

### **2.21 Contract Stipulations**

DCF reserves the right to incorporate standard contract provisions, which can be mutually agreed upon, into any contract negotiated as a result of any proposal submitted in response to this RFP. These provisions may include such things as the normal day-to-day relationships with the vendor but may not substantially alter the requirements of this RFP. Further, the successful vendor is to be aware that all material submitted in response to this RFP, as well as the RFP itself, will be incorporated as part of the final contract. The selected vendor(s) will sign a contract with DCF to provide the items named in their responses, at the prices listed. This contract will be subject to review throughout its term. DCF will consider cancellation upon discovery that the selected vendor is in violation of any portion of the agreement, including an inability by the vendor to provide the products,

support and/or service offered in their response. If two or more organizations' joint proposal is apparently successful, one organization must be designated as the Prime Bidder. The Prime Bidder will be DCF's sole point of contact and will bear sole responsibility for performance under any resulting agreement.

## **2.22 Contract Term**

Tentatively, the period of performance of the work to be performed as a result of this RFP for **EBT services is October 1, 2023 to September 30, 2030**. DCF has the option to continue to contract with the successful bidder pursuant to this RFP for up to two additional years. Tentatively, the period of performance of the work to be performed as a result of this RFP for **WIC services is June 1, 2023 to May 31, 2030**. VDH has the option to continue to contract with the successful bidder pursuant to this RFP for up to two additional years.

## Section 4: Detailed Technical Requirements

*As described in the NCS EBT RFP, plus the following Vermont specific requirements:*

### 4.1 Overview of Vermont's Current EBT System

Vermont's EBT Unit is housed in the Business Office of the Department for Children and Families (DCF), a department in the Agency of Human Services (AHS). SNAP and TANF benefits to clients in Vermont are delivered primarily through DCF's Economic Services Division (ESD). WIC is a program of the Vermont Department of Health (VDH), also a department of AHS.

Client eligibility determination for EBT benefits is done using the ACCESS mainframe system, ESD's data and eligibility system (or using the WIC mainframe eligibility system for WIC clients). For EBT clients, case and benefit data transmits electronically from ACCESS to Vermont's EBT provider, in a once per day, secure, overnight batch file. For ongoing cases, monthly benefit authorizations are also transmitted in an electronic batch file to the vendor to be applied to existing case records, once or twice per month. WIC case and benefit data transmits electronically from Ceres to WIC's processor (Conduent) real time and via overnight batch files. WIC benefit authorization records may be conducted through batch or on-line, real time, host-to-host interfaces depending on the State's preference.

Cases are created or updated in the vendor's system based on the batch files. The vendor maintains "WebAdmin" (aka EBT Edge), an online portal of case, client, financial data and reports that may be accessed by authorized State staff with a User ID and password. The vendor also maintains an online "User Admin" portal for adding, deleting and updating WebAdmin users, access levels and passwords, and a portal allowing cardholders to access their account information online.

Information on new or replacement EBT cards to be produced is sent by the vendor to the State in a daily secure batch file. This file is drawn from daily updates to card status for existing clients and new card issuances for new cases. Vermont EBT cards are magnetic stripe cards produced every workday in the DCF Business Office, under the supervision of the EBT Director. Cards are mailed directly to clients using the USPS. PINs are set using an automated voice response system or through the client web portal after completion of an identity verification protocol.

The type of benefit defines how the EBT card may be used. In Vermont there are five main EBT benefit types:

- 1) 3SquaresVT (Vermont's name for federal SNAP benefits);
- 2) 3SquaresVT Cash-out, a SNAP benefit for clients who are elderly or have a disability, paid in the form of cash. Cash-out essentially behaves like other cash benefits from the EBT vendor's perspective;
- 3) Cash (usually associated with the TANF program, called "Reach Up" in Vermont);
- 4) State funded Food benefits ("Reach Ahead");

The State settles with the vendor every business day for state-funded benefits based on a financial report posted for the State on its online portal and transmitted to the state in the "Daily File" referenced below. Settlement is transmitted electronically from the Vermont State Treasurer's office to the vendor. For 3SquaresVT benefits, reimbursement to the current vendor goes directly from the US Treasury using the Automated Standard Application for Payments (ASAP).

**Detailed recent caseload information for Vermont is provided in Appendix M of the full NCS RFP.**

There is a possibility that the development and implementation of a replacement eligibility system may occur during the contract period. The state anticipates the EBT vendor may be required to engage in system interface testing as the eligibility system project's major releases are piloted.

#### **4.1.2 Vermont IT Resources Overview**

ACCESS is maintained by ADS AHS IT staff. ACCESS runs on a mainframe computer housed in Montpelier, VT and managed and operated by Agency of Digital Services (ADS), an Agency independent of DCF, and under the umbrella of the Agency of Administration.

The current ACCESS system is a text-based application that resides on an International Business Machines (IBM) model 2828-H13, Zos 01.13.00. Enterprise Server and CICS Transaction Server 4.2. ACCESS data resides in an ADABAS database and the NATURAL programming language was used to develop the existing ACCESS system. Both ADABAS and NATURAL are products developed and supported by Software AG. NATURAL version 8.2.6. and ADABAS version 8.4.1. are the versions in use at the State of Vermont's (SOV) Department for Children and Families (DCF) at the time of the release of this RFP.

There are approximately 900 authorized users who have on-line access to the ACCESS system via personal computers. The State of Vermont currently uses TCP/IP and "CONNECT:Direct Secure+" as its two primary communications protocols for data transmission to external agencies and corporate entities. **Vermont would prefer to use SFTP/FTPS in the future in place of CONNECT:DIRECT.**

The State of Vermont currently sends eligibility and demographic files to the EBT contractor through a batch process. These files are sent via "CONNECT:Direct Secure+". The State also receives batch files and reports from the contractor via "CONNECT:Direct Secure+". These are described in detail below.

#### **4.2.3.4 ATM Usage Transaction Fees**

Vermont currently provides 4 fee free transactions. Vendor's cost proposals must include costs for fee free transactions per case/month.

#### **4.3.1.1 EBT Account Number Assignment**

The State of Vermont uses Social Security Numbers (SSN's) as the unique account number for EBT clients. The SSN is the primary identifier used in batch file transmissions, and by Vermont clients in identifying their own cases to SOV staff. The current EBT contractor assigns an additional unique account number to each client/case (in addition to the EBT card number).

#### **4.3.1.2 Use of Existing File Formats**

The SOV expects that the data exchanges outlined in this RFP will occur with the same frequency and in the same format when the current EBT contract expires. (No changes are anticipated from the time of this writing until the end of the present contract, however SOV maintains the right to make changes between now and that time in order to best serve the State's clients under the present contract.)

SOV requires that the existing outbound and inbound file formats and record layouts be preserved and therefore unmodified for all data file exchanges. For clarity, SOV record layouts are provided in Section: 4.A.3.2.

For general illustration purposes, below are outlines of some of the present batch data exchanges. Other processes may exist, and the examples below are not to be taken as a complete summary of all processes.

'Workdays' below corresponds to days State of Vermont/DCF offices are officially open for business. These mostly correspond to the Federal holiday schedule but on occasion may differ. A complete list of holiday closings can be found at: <https://humanresources.vermont.gov/benefits-wellness/holiday-schedule>.

#### 4.3.1.3 File and Record Transmissions

Benefit Information for data exchange to and from the present contractor is sent via a series of mainframe batch jobs using CONNECT:Direct Secure + as the transmission package. The State's CONNECT:Direct package is located on the SOV IBM-9672/RB4 OS/390 mainframe. Each EBT data exchange batch job is run on a pre-determined schedule with some jobs running daily while others maybe run only once or twice a month as described below.

Data that originates at SOV and is sent to the contractor does so in the form of Generation Data Groups (GDG's) that use CONNECT:Direct Secure+ as the data transfer package. Data that originates at the contractor's site and is subsequently sent to SOV also use GDG's on the mainframe, with CONNECT:Direct Secure+ as the data transfer package.

#### 4.3.1.4 Batch Processing

**'Case/Client file:** On workdays, the State of Vermont (SOV) runs PASS1890 (SOV batch job) which starts a process that sends Case/Client data in a Generation Data Group (GDG) through CONNECT:Direct to the contractor. Once processed, the contractor returns a 'Case/Client Refresh' file through CONNECT:Direct to SOV/DCF as a GDG. A SOV mainframe batch job, PASS120C processes the contractor-sent incoming "Refresh" GDG and sends a copy of it to a SOV server for SOV staff. **TABLES 1-5**

**'Cash' and 'Food' (Dailies):** On workdays, SOV runs PASS190B (SOV batch job) which starts a process that sends 2 GDG's (Cash and Food) data through CONNECT:Direct to the contractor. Once processed, the contractor returns two files, 'Refresh Cash' and 'Refresh Food', through CONNECT:Direct to SOV/DCF as a GDG. SOV mainframe batch job, PASS120C processes the contractor-sent incoming "Refresh" GDG and sends a copy of it to a SOV server for SOV staff. **TABLE 6**

**'Food Monthly - Food':** Once per benefit month, SOV runs PASS549A (SOV batch job) which starts a process that sends a GDG (Food Monthly) data through CONNECT:Direct to the contractor. Once processed, the contractor returns a 'Refresh Food Monthly' file through CONNECT:Direct to SOV/DCF as a Refresh GDG. SOV mainframe batch job, PASS120C processes the contractor-sent incoming "Refresh" GDG and sends a copy of it to a SOV server for SOV staff. \* See special note. **TABLE 8**

**'Food Monthly - Cash':** Once per benefit month, SOV runs PASS549A (SOV batch job) which starts a process that sends a GDG (Food Monthly) data through CONNECT:Direct to the contractor. Once processed, the contractor returns a 'Refresh Food Monthly' file through CONNECT:Direct to SOV/DCF as a Refresh GDG. SOV mainframe batch job, PASS120C processes the contractor-sent incoming "Refresh" GDG and sends a copy of it to a SOV server for SOV staff. **TABLE 7**

**\* THIS JOB IS FOR VERMONT'S 'CASH OUT' PROGRAM (Food benefits delivered via EBT Cash to elders and those with a disability).**

**'Cash Monthly' (60%):** Once per benefit month, SOV runs PASS544A (SOV batch job) which starts a process that sends a GDG (60% RUFA Cash Monthly) data through CONNECT:Direct to the contractor. Once processed, the contractor returns a 'Refresh Cash Monthly' file through CONNECT:Direct to SOV/DCF as a GDG. SOV mainframe batch job, PASS120C processes the contractor-sent incoming "Refresh" GDG and sends a copy of it to a SOV server for SOV staff. \* See special note. **TABLE 9**

**'Cash Monthly' (40%):** Once per benefit month, SOV runs PASS543A (SOV batch job) which starts a process that

sends a GDG (40% RUFA Cash Monthly) data through CONNECT:Direct to the contractor. Once processed, the contractor returns a 'Refresh Cash Monthly' file through CONNECT:Direct to SOV/DCF as a GDG. SOV mainframe batch job, PASS120C processes the contractor-sent incoming "Refresh" GDG and sends a copy of it to a SOV server for SOV staff. \* See special note. **TABLE 10**

**Special note:** Vermont requires that the GDG used on the contractor's side to receive the Food Monthly benefit info from SOV (as described in PASS549A above) be a separate and different GDG than what is used by the contractor to receive the Monthly Cash (as described as the 60% RUFA Cash and the 40% RUFA Cash benefit.) This allows for both Monthly Food and Monthly Cash benefit data to be transferred to the contractor and processed by the contractor on the same processing day should the need arise. This is required due to the Cash Out program.

**Structure of Files from State of Vermont to the Contractor:**

General Notes:

1. It is critical that cases and data for VTEBT (DCF) cases and VTWIC (VDH) cases remain separate and distinguishable by the agency code.
2. Files which use the #AGENCY-CODE presently have "VTDCF" as the field's data for DCF.

**EBT Account Number Assignment**

The State of Vermont uses Social Security Numbers (SSN's) as the unique account number for EBT clients. The SSN is the primary identifier used in batch file transmissions, and by Vermont clients in identifying their own cases to SOV staff. The current EBT contractor assigns an additional unique account number to each client/case (in addition to the EBT card number).

**Record Format Tables and Usage Notes for Case/Client files**

Case/Client files are used by the State to add case and client information to the EBT System database through the batch maintenance process.

**TABLE 1**

<b>REFRESH: "CASE/CLIENT" HEADER RECORD: (Record Length: 165 bytes)</b>		
SOV Info: PASS189Z / ASPSEBT / PAS.AGSN.EBT.CASE(+1)		
Field Name	Format	Comments
#RECORD-TYPE	(A2)	Constant = HC.
#AGENCY-UNIQUE	(A15)	Agency Discretionary Data.
#AGENCY-CODE	(A6)	Constant = VTDCF
#MAINTENANCE-TYPE	(A16)	Constant = CASE/CLIENT.
#CREATE-DATE	(N8)	Required: CCYYMMDD.
#CREATE-TIME	(N4)	Required: HHMM.
#FILLER-1	(A114)	Field will be set to blanks.

<b>REFRESH: "CASE/CLIENT" DETAIL RECORD: (Record Length: 165 bytes)</b>		
Field Name	Format	Comments
#REFRESH-ACTION	(A1)	Required: A=Add, C=Change.
#HH-SS-NUM	(A9)	Required (CASE-NUMBER/SSN).
#CLIENT-TYPE	(A2)	Required: Valid Values: P, PC, PF, 1C, 1F, 1B, 2C, 2F, 2B.
#IMS-NBR	(A3)	Required: PATH Worker Number.
#LOCAL-OFFICE	(A3)	Required: PATH Office Code. Present Valid Values: ADO, BDO, HDO, JDO, LDO, MDO, NDO, RDO, SDO, TDO, VDO, YDO, ZDO.
#FIRST-NAME	(A15)	Required: Client First Name.
#MID-INIT	(A1)	Required: Client Middle Initial.

#LAST-NAME	(A20)	Required: Client Last Name.
#OUT-ADDRESS1	(A30)	Required: Client Street Address 1.
#OUT-ADDRESS2	(A30)	Optional: Client Street Address 2.
#CITY	(A20)	Required: Client City.
#STATE	(A2)	Required: Client State.
#ZIP	(A9)	Required: 5 or 9 digit zip code w/o the dash.
#BIRTHDATE	(N8)	Required: Client Birthdate CCYYMMDD.
#SS-NUM	(A9)	Optional: SSN.
#ISSUE-CARD	(A1)	Required: Y (Yes) N (No).
#GEN-PIN	(A1)	Required: Y (Yes) N (No).
#LANGUAGE	(A1)	Required: E (English).

**Usage Notes on Table 1: CASE/CLIENT**

This record format is used to add and change case and client information. On an **Add** request, if the case does not exist in the EDGE database, a case record will be created. If a case record already exists, the client will be added to the indicated case. If an Add record is received for a client already on the EDGE database, the add will be rejected, the EDGE database will not be modified and the state will be notified via the Error report returned by the contractor. On a **Change** request, the first three fields are required; REFRESH-ACTION, HH-SS-NUM, and CLIENT-TYPE. Beyond those three fields, only fields that have changed should be present. Fields that are optional may be blanked out by using asterisks (\*) when sending in a Change request.

**TABLE 2**

REFRESH: "CASE/CLIENT - CLIENT TYPE" MAINTENANCE RECORD: (Record Length: 165 bytes)		
Field Name	Format	Comments
#REFRESH-ACTION-P	(A1)	P = Client type (benefit payee) change.
#HH-SS-NUM-P	(A9)	Required.
#OLD-CLIENT-TYPE	(A2)	Required.
#NEW-CLIENT-TYPE	(A2)	Required.
#FILLER-5	(A151)	Field will be set to blanks.

**Usage Notes on Table 2: CASE/CLIENT - CLIENT TYPE**

This record format is used to change the client type for a payee on the EDGE database which allows the State to have different payees for cash (C) and food (F) benefits. Future benefits issued to the payees need to have the correct client type associated with the benefits being issued. If the State attempts to change the client type to a type that has already been assigned to another client on the case, the request will be rejected. All alphanumeric fields will be left justified and right space filled.

The client types are mutually exclusive within each of their respective client types, which means that there can only be one primary on the case as well as only one first alternate. For example, if a client with a type of **PF** is on the account, another client with a code of **PC** cannot be added to the case. However, an alternate client with a client code of **1C**, **1F**, or **1B** could be added.

**NOTE:** *If the State determines that multiple alternates on a case will be allowed, there can only be one alternate labeled 1. Second alternates on a case must be identified as 2. Such as, a protective payee and an authorized representative on a case would be labeled as 1C and 2F.*

**TABLE 3**

REFRESH: "CASE/CLIENT CASE NUMBER CHANGE" RECORD: (Record Length: 165 bytes)		
Field Name	Format	Comments
#REFRESH-ACTION-B	(A1)	B = Case number change.
#OLD-CASE-NUMBER	(A9)	Required.

#NEW-CASE-NUMBER	(A9)	Required.
#LOC-OFFICE-CD	(A3)	Required.
#FILLER-3	(A143)	Field will be set to blanks.

**Usage Notes on Table 3: CASE/CLIENT CASE NUMBER CHANGE**

This record format is used to change an old case number (temporary case number assigned by the State) to a new number on the Deluxe EDGE database. This maintenance file will allow for old/new case numbers to be verified and updated as needed.

At the time of the initial case setup, a 9-digit *temporary* case number may be assigned to a case/client in the event that they do not have a social security number (SSN). The client is asked to apply for a SSN and once it is issued, this number is used as the case number and sent to the EDGE database. The Case Number Change transaction will replace the old case number with the new number on the EBT database. The client records and remaining benefits will be linked to the new case number. Transactions that took place prior to the case number change will not be modified on the transaction History screen. Therefore, the State will be required to use the old case number to view these transactions.

**TABLE 4**

REFRESH: "CASE/CLIENT DEACTIVATE CLIENT" RECORD: (Record Length: 165 bytes)		
Field Name	Format	Comments
#REFRESH-ACTION-D	(A1)	Required. D = Deactivate.
#HH-SS-NUM-D	(A9)	Required. Case Number.
#CLIENT-TYPE-D	(A2)	Required. Valid Values: P, PC, PF, 1C, 1F, 1B, 2C, 2F, 2B.
#STATUS-CARD	(A1)	Y (Yes), N (No).
#FILLER-3	(A143)	Field will be set to blanks.

**Usage Notes Table 4: CASE/CLIENT DEACTIVATE CLIENT**

This record format is used to deactivate alternate client information. The *Status Card* indicator gives the State the ability to also deactivate the card in addition to the alternate client. Once the alternate is deactivated, any future benefits added to the account will not be accessible to the deactivated alternate. However, the alternate will still be able to access the existing benefits to which their card is linked. If the State wishes to terminate access to all benefits immediately for the alternate, they would set the *Status Card* flag to **Y**. This will status the card as *Deactivated/Canceled*. A primary client cannot be deleted from a case.

**TABLE 5**

REFRESH: "CASE/CLIENT" TRAILER RECORD: (Record Length: 165 bytes)		
Field Name	Format	Comments
#RECORD-TYPE	(A2)	Constant = TC.
#NO-DETAIL-RECORDS	(N9)	Required. Total number of detail records.
#NO-ADDS	(N9)	Required. Total number of add records.
#NO-CHANGES	(N9)	Required. Total number of change records.
#NO-CLIENT-TYPE-CHANGES	(N9)	Required. Total number of client type records.
#NO-CASE-NUMBER-CHANGES	(N9)	Required. Total number of case number records.
#DEACTIVATE-COUNT	(N9)	Required. Total number of deactivate records.
#FILLER-2	(A109)	Field will be set to blanks.

**Record Format Tables and Usage Notes for Benefit Maintenance Files**

The Benefit Maintenance Files are used by the State to add benefit authorizations information on the EBT System database through the Batch Maintenance process. This includes both daily authorizations and monthly authorizations for food and cash benefits. The format includes the ability to cancel benefit authorizations. The State will only cancel benefits prior to the availability date of the benefit. The authorization number assigned to

the benefit must be unique. Once a benefit has been canceled, the authorization number cannot be used again.  
Record length: 80 bytes. All alphanumeric fields will be left justified and right space filled.

(SOV Info: PASS190A / ASPSSAN1 / PAS.AGUG.EBT.CASH.DAILY (+1)  
PASS190A / ASPSSAN1 / PAS.AGUF.EBT.FOOD.DAILY (+1) (a/o: 04/15/2003))

**TABLE 6**

<b>REFRESH "CASH DAILY" &amp; "FOOD DAILY" BENEFIT HEADER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-H-REC-TYPE	(A2)	Constant = HB.
#EBT-H-AGENCY-UNIQUE	(A15)	Agency discretionary data. Appears on reports.
#EBT-H-AGENCY-CD	(A6)	Constant = VTDCF
#EBT-H-MAINT-TYPE	(A16)	Valid Values: "CASH DAILY" or "FS DAILY".
#EBT-H-CREATE-DT	(N8)	Required: CCYYMMDD.
#EBT-H-CREATE-TIME	(N4)	Required: HHMM.
#EBT-H-FILLER	(A29)	Field will be set to blanks.

<b>REFRESH "CASH DAILY" &amp; "FOOD DAILY" BENEFIT DETAIL RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-D-REFRESH-ACT	(A1)	Required. A = Add benefit, D = Cancel benefit
#EBT-D-CASE-NUMBER	(A9)	Required.
#EBT-D-BENEFIT-TYPE	(A6)	Required.
#EBT-D-AUTH-NBR	(N10)	Required.
#EBT-D-AUTH-AMT	(N5.2)	Required. (N5.2 example is: 1234567 whereby the decimal is not used but equates to 12345.67) That is, the decimal is implied and is omitted.
#EBT-D-AVAILABLE-DT	(N8)	Required. CCYYMMDD. The date the benefits are available to the client.
#EBT-D-AVAILABLE-TIME	(N4)	Required. HHMM. The time the benefits are available to the client.
#EBT-D-LOCAL-OFFICE	(A3)	Required: PATH Office Code. Present Valid Values: ADO, BDO, HDO, JDO, LDO, MDO, NDO, RDO, SDO, TDO, VDO, YDO, ZDO.
#EBT-D-BENEFIT-STATUS	(A1)	A = Active.
#EBT-D-FILLER	(A31)	Field will be set to blanks.

<b>REFRESH "CASH DAILY" &amp; "FOOD DAILY" BENEFIT TRAILER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-T-REC-TYPE	(A2)	Constant = TB.
#EBT-T-TOTAL-DETAILS	(N9)	Required. Total number of detail records.
#EBT-T-NBR-ADDS	(N9)	Required. Total number of add records.
#EBT-T-NBR-DELETES	(N9)	Required. Total number of delete records.
#EBT-T-AMT-ADDS	(N9.2)	Required. Total value of add records. (N9.2 example is: 12345678901 whereby the decimal is not used but equates to 123456789.01) That is, the decimal is implied and is omitted.
#EBT-T-CREATE-DT	(N8)	Required. CCYYMMDD.
#EBT-T-CREATE-TIME	(N4)	Required. HHMM.
#EBT-T-FILLER	(A28)	Field will be set to blanks.

**TABLE 7**

<b>REFRESH "FOOD MONTHLY - CASH" BENEFIT HEADER RECORD: (Record Length: 80 bytes)</b>		
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Field Name	Format	Comments
#EBT-HEADER-RECORD-TYPE	(A2)	Constant = HB.
#EBT-AGENCY-UNIQUE	(A15)	Agency discretionary data. Appears on reports.
#EBT-AGENCY-CODE	(A6)	Constant = VTDCF;
#EBT-MAINTENANCE-TYPE	(A16)	Valid Values: "CASH MONTHLY"
#EBT-HEADER-FILE-CREATE-DATE	(N8)	Required: CCYMMDD.
#EBT-HEADER-FILE-CREATE-TIME	(N4)	Required: HHMM.
#EBT-BBMH-FILLER	(A29)	Field will be set to blanks.

REFRESH "FOOD MONTHLY - CASH" BENEFIT <u>DETAIL</u> RECORD: (Record Length: 80 bytes)		
Field Name	Format	Comments
#EBT-REFRESH-ACTION	(A1)	Required. A = Add benefit, D = Cancel benefit
#EBT-CASE-NUMBER	(A9)	Required.
#EBT-BENEFIT-TYPE	(A6)	Required.
#EBT-AUTH-NUM	(N10)	Required.
#EBT-AUTH-AMOUNT	(N5.2)	Required. (N5.2 example is: 1234567 whereby the decimal is not used but equates to 12345.67) That is, the decimal is implied and is omitted.
#EBT-BENEFIT-AVAILABLE-DATE	(N8)	Required. CCYMMDD. The date the benefits are available to the client.
#EBT-BENEFIT-AVAILABLE-TIME	(N4)	Required. HHMM. The time the benefits are available to the client.
#EBT-LOCAL-OFFICE-CODE	(A3)	Required: PATH Office Code. Present Valid Values: ADO, BDO, HDO, JDO, LDO, MDO, NDO, RDO, SDO, TDO, VDO, YDO, ZDO.
#EBT-BENEFIT-STATUS	(A1)	A = Active.
#EBT-BBMDR-FILLER	(A31)	Field will be set to blanks.

REFRESH "FOOD MONTHLY - CASH" BENEFIT <u>TRAILER</u> RECORD: (Record Length: 80 bytes)		
Field Name	Format	Comments
#EBT-TRAILER-RECORD-TYPE	(A2)	Constant = TB.
#EBT-TOTAL-DETAIL-RECORDS	(N9)	Required. Total number of detail records.
#EBT-NUMBER-ADDS	(N9)	Required. Total number of add records.
#EBT-NUMBER-DELETES	(N9)	Required. Total number of delete records.
#EBT-AMOUNT-OF-ADDS	(N9.2)	Required. Total value of add records. (N9.2 example is: 12345678901 whereby the decimal is not used but equates to 123456789.01) That is, the decimal is implied and is omitted.
#EBT-TRAILER-CREATE-DATE	(N8)	Required. CCYMMDD.
#EBT-TRAILER-CREATE-TIME	(N4)	Required. HHMM.
#EBT-BBMT-FILLER	(A28)	Field will be set to blanks.

### Notes on Table 7: Food Monthly – Cash

This is the monthly batch job for the 3SquaresVT Cash Out benefit. File make-up is similar to "Cash Daily", "Food Daily", and "Food Monthly Food" but on the State side, this is done by another job and set of modules. Benefit maintenance updates are transmitted in batches and a single transmission can contain multiple batches. Each batch consists of a header record, multiple detail records, and a trailer record. If the State creates multiple batches on the same day and if each batch has the same time (HHMM), the State increases the "duplicate" time by one (1) minute to form a unique time. (SOV Info: PASS549A / ASPSSF4 / PAS.AGUE.FS.CASH.MONTHLY (+1) )

**TABLE 8**

<b>REFRESH “FOOD MONTHLY - FOOD” BENEFIT HEADER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-HEADER-RECORD-TYPE	(A2)	Constant = HB.
#EBT-AGENCY-UNIQUE	(A15)	Agency discretionary data. Appears on reports.
#EBT-AGENCY-CODE	(A6)	Constant = VTDCF; * see General Notes: 2.
#EBT-MAINTENANCE-TYPE	(A16)	Valid Values: “FS MONTHLY”.
#EBT-HEADER-FILE-CREATE-DATE	(N8)	Required: CCYYMMDD.
#EBT-HEADER-FILE-CREATE-TIME	(N4)	Required: HHMM.
#EBT-BBMH-FILLER	(A29)	Field will be set to blanks.

<b>REFRESH “FOOD MONTHLY - FOOD” BENEFIT DETAIL RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-REFRESH-ACTION	(A1)	Required. A = Add benefit, D = Cancel benefit
#EBT-CASE-NUMBER	(A9)	Required.
#EBT-BENEFIT-TYPE	(A6)	Required.
#EBT-MONY-ISN	(N10)	Required.
#EBT-BENEFIT-AMT	(N5.2)	Required. (N5.2 example is: 1234567 whereby the decimal is not used but equates to 12345.67) That is, the decimal is implied and is omitted.
#EBT-BENEFIT-AVAILABLE-DT	(N8)	Required. CCYYMMDD. The date the benefits are available to the client.
#EBT-BENEFIT-AVAIL-TIME	(N4)	Required. HHMM. The time the benefits are available to the client.
#EBT-LOCAL-OFFICE-CODE	(A3)	Required: PATH Office Code. Present Valid Values: ADO, BDO, HDO, JDO, LDO, MDO, NDO, RDO, SDO, TDO, VDO, YDO, ZDO.
#EBT-BENEFIT-STATUS	(A1)	A = Active.
#EBT-FILLER	(A31)	Field will be set to blanks.

<b>REFRESH “FOOD MONTHLY - FOOD” BENEFIT TRAILER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-TRAILER-RECORD-TYPE	(A2)	Constant = TB.
#EBT-TOTAL-DETAIL-RECORDS	(N9)	Required. Total number of detail records.
#EBT-NUMBER-ADDS	(N9)	Required. Total number of add records.
#EBT-NUMBER-DELETES	(N9)	Required. Total number of delete records.
#EBT-AMOUNT-OF-ADDS	(N9.2)	Required. Total value of add records. (N9.2 example is: 12345678901 whereby the decimal is not used but equates to 123456789.01) That is, the decimal is implied and is omitted.
#EBT-TRAILER-CREATE-DATE	(N8)	Required. CCYYMMDD.
#EBT-TRAILER-CREATE-TIME	(N4)	Required. HHMM.
#EBT-BBMT-FILLER	(A28)	Field will be set to blanks.

**Notes on Table 8: Food Monthly – Food**

This is the monthly batch job for regular 3SquaresVT (food) benefits. File make up is similar to “Cash Daily”, “Food Daily”, and “Food Monthly - Cash” but at the SOV side, this is done by another job and set of modules. Benefit maintenance updates are transmitted in batches and a single transmission can contain multiple batches. Each batch consists of a header record, multiple detail records, and a trailer record. If the State creates multiple batches on the same day and if each batch has the same time (HHMM), the State increases the “duplicate” time by one (1) minute to form a unique time. (SOV Info: PASS549A / ASPSSAA / PAS.AGSX.FS.EBT.MONTHLY (+1))

**TABLE 9**

<b>REFRESH "60% CASH MONTHLY" BENEFIT HEADER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-HEADER-RECORD-TYPE	(A2)	Constant = HB.
#EBT-AGENCY-UNIQUE	(A15)	Agency discretionary data. Appears on reports.
#EBT-AGENCY-CODE	(A6)	Constant = VTDSW; * see General Notes: 2.
#EBT-MAINTENANCE-TYPE	(A16)	Valid Values: "CASH MONTHLY.
#EBT-HEADER-FILE-CREATE-DATE	(N8)	Required: CCYYMMDD.
#EBT-HEADER-FILE-CREATE-TIME	(N4)	Required: HHMM.
#EBT-BBMH-FILLER	(A29)	Field will be set to blanks.

<b>REFRESH "60% CASH MONTHLY" BENEFIT DETAIL RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-REFRESH-ACTION	(A1)	Required. A = Add benefit, D = Cancel benefit
#EBT-CASE-NUMBER	(A9)	Required.
#EBT-BENEFIT-TYPE	(A6)	Required.
#EBT-AUTH-NUM	(N10)	Required.
#EBT-AUTH-AMOUNT	(N5.2)	Required. (N5.2 example is: 1234567 whereby the decimal is not used but equates to 12345.67) That is, the decimal is implied and is omitted.
#EBT-BENEFIT-AVAILABLE-DATE	(N8)	Required. CCYYMMDD. The date the benefits are available to the client.
#EBT-BENEFIT-AVAILABLE-TIME	(N4)	Required. HHMM. The time the benefits are available to the client.
#EBT-LOCAL-OFFICE-CODE	(A3)	Required: PATH Office Code. Present Valid Values: ADO, BDO, HDO, JDO, LDO, MDO, NDO, RDO, SDO, TDO, VDO, YDO, ZDO.
#EBT-BENEFIT-STATUS	(A1)	A = Active.
#EBT-FILLER	(A31)	Field will be set to blanks.

<b>REFRESH "60% CASH MONTHLY" BENEFIT TRAILER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-TRAILER-RECORD-TYPE	(A2)	Constant = TB.
#EBT-TOTAL-DETAIL-RECORDS	(N9)	Required. Total number of detail records.
#EBT-NUMBER-ADDS	(N9)	Required. Total number of add records.
#EBT-NUMBER-DELETES	(N9)	Required. Total number of delete records.
#EBT-AMOUNT-OF-ADDS	(N9.2)	Required. Total value of add records. (N9.2 example is: 12345678901 whereby the decimal is not used but equates to 123456789.01) That is, the decimal is implied and is omitted.
#EBT-TRAILER-CREATE-DATE	(N8)	Required. CCYYMMDD.
#EBT-TRAILER-CREATE-TIME	(N4)	Required. HHMM.
#EBT-BBMT-FILLER	(A28)	Field will be set to blanks.

**Notes on Table 9:** SOV Info: PASS544A / ASPSSF4 / PAS.AGSP.EBT.BENEFIT (+1) (a/o: 04/15/2003)

**TABLE 10**

<b>REFRESH "40% CASH MONTHLY" BENEFIT HEADER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>

#EBT-HEADER-RECORD-TYPE	(A2)	Constant = HB.
#EBT-AGENCY-UNIQUE	(A15)	Agency discretionary data. Appears on reports.
#EBT-AGENCY-CODE	(A6)	Constant = VTDSW; * see General Notes: 2.
#EBT-MAINTENANCE-TYPE	(A16)	Valid Values: "CASH MONTHLY.
#EBT-HEADER-FILE-CREATE-DATE	(N8)	Required: CCYYMMDD.
#EBT-HEADER-FILE-CREATE-TIME	(N4)	Required: HHMM.
#EBT-BBMH-FILLER	(A29)	Field will be set to blanks.

<b>REFRESH "40% CASH MONTHLY" BENEFIT DETAIL RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-REFRESH-ACTION	(A1)	Required. A = Add benefit, D = Cancel benefit
#EBT-CASE-NUMBER	(A9)	Required.
#EBT-BENEFIT-TYPE	(A6)	Required.
#EBT-AUTH-NUM	(N10)	Required.
#EBT-AUTH-AMOUNT	(N5.2)	Required. (N5.2 example is: 1234567 whereby the decimal is not used but equates to 12345.67) That is, the decimal is implied and is omitted.
#EBT-BENEFIT-AVAILABLE-DATE	(N8)	Required. CCYYMMDD. The date the benefits are available to the client.
#EBT-BENEFIT-AVAILABLE-TIME	(N4)	Required. HHMM. The time the benefits are available to the client.
#EBT-LOCAL-OFFICE-CODE	(A3)	Required: PATH Office Code. Present Valid Values: ADO, BDO, HDO, JDO, LDO, MDO, NDO, RDO, SDO, TDO, VDO, YDO, ZDO.
#EBT-BENEFIT-STATUS	(A1)	A = Active.
#EBT-FILLER	(A31)	Field will be set to blanks.

<b>REFRESH "40% CASH MONTHLY" BENEFIT TRAILER RECORD: (Record Length: 80 bytes)</b>		
<b>Field Name</b>	<b>Format</b>	<b>Comments</b>
#EBT-TRAILER-RECORD-TYPE	(A2)	Constant = TB.
#EBT-TOTAL-DETAIL-RECORDS	(N9)	Required. Total number of detail records.
#EBT-NUMBER-ADDS	(N9)	Required. Total number of add records.
#EBT-NUMBER-DELETES	(N9)	Required. Total number of delete records.
#EBT-AMOUNT-OF-ADDS	(N9.2)	Required. Total value of add records. (N9.2 example is: 12345678901 whereby the decimal is not used but equates to 123456789.01) That is, the decimal is implied and is omitted.
#EBT-TRAILER-CREATE-DATE	(N8)	Required. CCYYMMDD.
#EBT-TRAILER-CREATE-TIME	(N4)	Required. HHMM.
#EBT-BBMT-FILLER	(A28)	Field will be set to blanks.

**Notes on Table 10:** SOV Info: PASS543A / ASPSSF4 / PAS.AGSP.EBT.BENEFIT (+1) (a/o: 04/15/2003)

**Benefit Types and Dispense Priority (Primary Program Designation hierarchy)**

The following table describes the benefit types currently in use by the SOV and their dispense priorities. Vermont requires all of these benefit types in EBT generation three, and reserves the right to alter the dispense priority during detail design.

**TABLE 11**

EBT Benefit Group	EBT Benefit Type	Description	Dispense Priority	Food or Cash
RUFA110	CO	REG-NO WRP GROUP ASSIGNMENT	01	Cash
RUFA110	FCOF	REG-NO WRP GROUP ASSIGNMENT	01	Cash
RUFA479	SW	SINGLE PARENT WORKING	02	Cash
RUFA472	PS	POST SECONDARY EDUCATION	02	Cash
RUFA480	NS	SINGLE PARENT NOT MEETING WR	03	Cash
RUFA481	MP	MINOR PARENT	03	Cash
RUFA468	TS	SINGLE PARENT OVER TANF LIMIT	04	Cash
RUFA478	CDF	CHILDCARE/CARETAKER DEFERMENT	04	Cash
RUFA120	CU0	REGULAR-NO WRP GRP ASSIGNM	05	Cash
RUFA120	FU0F	REG-NO WRP GROUP ASSIGNM	05	Cash
RUFA485	TW	TWO PARENT WORKING	06	Cash
RUFA471	AI	ABSENCE AND INCAPACITY	06	Cash
RUFA476	NT	TWO PARENT NOT MEETING WR	07	Cash
RUFA473	I	INCAPACITY	07	Cash
RUFA467	TT	TWO PARENT OVER TANF LIMIT	08	Cash
RUFA484	A	ABSENCE	08	Cash
RUFA170	CR	REFUGEE CASH ASSISTANCE	09	Cash
RUFA170	FRF	REFUGEE CASH ASSISTANCE	09	Cash
	RUSS	REACH UP SUPPORT SERVICES	10	Cash
RUFA130	CTCC	TRANSITIONAL CHILD CARE	11	Cash
	AOS	ANFC FS ONL MOVED OUT OF STATE	12	Cash
GA712	C01GA	GROCERIES & PNI-GRP NO CHILD	13	Cash
GA714	C01GC	GROCERIES & PNI-GRP WITH CHILD	14	Cash
GA716	C01SA	GROCERIES & PNI-SSI APPLICANT	15	Cash
GA721	C01EA	GROCERIES & PNI-EMERGENCY ASSI	16	Cash
	C01GR	GROCERIES & PNI-REFUGEE	17	Cash
GA730	C01GV	GROCERIES & PNI- DISASTER	18	Cash
	C01PC	GROCERIES & PNI-COURT CASE	19	Cash
FSC0542	CX	AGED NOT RECEIVING SSI/AABD	20	Cash
FSC0544	CY	RECEIVING SSI/AABD AS AGED	21	Cash
FSC0546	CZ	RECEIVING SSI/AABD AS DISABLED	22	Cash
FSC0140	MOS	MOVED OUT OF STATE	23	Cash
AABD505	CA	AGED	24	Cash
AABD506	CB	BLIND	25	Cash
AABD507	CD	DISABLED	26	Cash
AABD501	CSS	STATE SUPPLEMENT	27	Cash
HHAP 110	CSF	SEASONAL FUEL	28	Cash
HHAP 120	CEA	CRISIS FUEL	29	Cash
CS 110	CD1	REFUND	30	Cash
CS 120	CD2	EXCESS OF GRANT	31	Cash
CS 130	CD3	NPA	32	Cash
	CD5	TANF GRP2 & GRP3 PASS ALONG	33	Cash
	CA	DEFRA	34	Cash

FS E&T	CET	E&T CLIENT PAYMENTS	35	Cash
FS E&T	CET1	E&T Transportation	36	Cash
FS E&T	CET2	E&T Dependent Care	37	Cash
FS E&T	CET3	E&T Other	38	Cash
FS	FSB	SUMMER FOOD BENEFIT	01	Food
FS	FII	INITIAL ISSUANCE	10	Food
FS	FIE	EXPEDITED SERVICE	11	Food
FS	FSM	STOLEN IN MAIL	13	Food
FS	VTDFSP	FOODSTAMP DISASTER	13	Food
FS	FA1	UNDER-PAYMENT ADJUSTMENT	14	Food
FS	FA2	UNDER-PAYMENT ADJUSTMENT	15	Food
FS	FA3	UNDER-PAYMENT ADJUSTMENT	16	Food
FS	FCH	REPLACEMENT AFTER DEADLINE	17	Food
FS	FOP	OPEN CASE	18	Food
RAFS	FIT	REACH AHEAD	19	Food

**Benefit Availability**

**TABLE 12**

<b>Program</b>	<b>Date*</b>
3SquaresVT (SNAP)	The 1st of every month, 6am
3SquaresVT Cash out	The 1st of every month, 6am
Cash – Reach Up (TANF)	The 1st and 16 <sup>th</sup> of every month, 6am
Reach Ahead (state funded food)	The 1 <sup>st</sup> of every month, 6am

*\*Date is regardless of weekends and holidays*

**Note: It is possible that Vermont will move to a staggered issuance schedule at some point.**

**4.3.1.5 Real-time**

The State of Vermont (SOV) does not currently make use of real time transmission of records between the State system and the contractor’s system. Vermont makes use of an online portal provided by the EBT contractor to perform administrative functions (“ebtEDGE”) including real time account and case inquiries and real time changes to demographic information, benefit access, repayment functions, etc. (The primary mechanism for benefit changes, benefit postings, additions, deletions, etc., will remain the batch processing previously described which takes place during evening hours, EST and weekends). It is envisioned that the new online administrative system offered through the contract secured by this RFP will have no less functionality that what is presently in use, and preferably more, as detailed to a greater extent in the full NCS EBT RFP. Please see Section Five: Administrative Functionality for more detail.

**4.3.1.8 Benefit Availability**

The State of Vermont benefit availability schedule is as follows:

<b>Program</b>	<b>Date* (date is regardless of weekends and holidays*)</b>
3SquaresVT (SNAP)	The 1st of every month, 6am
3SquaresVT Cash out	The 1st of every month, 6am
Cash – Reach Up (TANF)	The 1st and 16 <sup>th</sup> of every month, 6am
Reach Ahead	The 1 <sup>st</sup> of every month, 6am

(state funded food)	
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Note: It is possible that Vermont will move to a staggered issuance schedule at some point.

**4.3.1.9 Benefit Cancellations**

The State of Vermont requires the ability to cancel benefits once the benefits have been sent to the contractor but have not yet become active. This includes both through a batch file and through the on-line Administrative Terminal.

**4.3.1.10 Benefit Aging and Expungement**

The current rules for benefit expungements in Vermont are as follows:

- Cash - 90 days from last use
- Food - 365 days from last use
- 3SquaresVT Cash Out – 365 days from last use
- Reach Ahead – 365 days from last use

The Aging process is applied to each benefit authorization separately. Based on the “date last updated”, the Contractor will report each authorization back to the state in the appropriate aging period. Currently, the available date (date benefit is available to the cardholder) is utilized for aging purposes. Inquiring against outstanding benefits will not modify the last update date.

Benefit aging is performed at the account/class level by benefit type. All benefits on a case are accessed on a first-in/first-out basis. The aging/expungement process is based on the “Date Last Used” of a benefit authorization within the benefit class to determine if there has been any activity. If there has never been any activity against a benefit, the available date (date available to the cardholder) for the benefit is used for aging and reporting purposes. Inquiring against an outstanding benefit will not modify the “Date Last Used” or case activity date.

When the oldest benefit on the case in that “account” or “class” reaches the 4<sup>th</sup> aging period without being used, it will be expunged off the system, along with any other benefits older than 365 days based on the available date/date last used date of the individual benefit authorization. Any remaining benefit authorizations less than 365 days will be reported in the period closest to the available date of the oldest benefit. This process allows all benefits to remain active on the system as long as one of the benefits is being accessed and will prevent a newer benefit from being aged off the system prior to an older benefit. If there are no benefits to be expunged off the system, but the oldest benefit on the case in the “account” or “class” reaches one of the other aging periods, it, along with all the other benefits on the case will be reported in the aging period the oldest benefit has reached.

**Timeframes for Aging Periods - FOOD**

Period 1	30 days
Period 2	60 days
Period 3	240 days
Period 4	365 days (expungement)

The Aging process defined by the State for cash benefits is the same as SNAP (food stamps) benefits with one exception. There are only 3 aging periods with differing time periods. When a cash benefit reaches the 3rd Aging period without being used, it will be expunged off the system. Once a benefit has been expunged, it cannot be reinstated by the current vendor. Vermont’s cash benefit aging periods are shown in the table below.

### Timeframes for Aging Periods - CASH

Period 1	30 days
Period 2	60 days
Period 3	90 days (expungement)

#### 4.4.1.3 Multiple Cards per Individual Account

Vermont issues only one card per case (one card per household). Multiple cards may be issued only for cases with an alternate payee. It is required that the contractor provide functionality for alternate payees on EBT cases.

#### 4.4.1.6 Bank Identification or Issuer Identification Number

The Vermont State BIN is 507705. For VTDCF agency cases, the seventh digit is "0".

#### 4.4.1.7 Personal Identification Number

Vermont will not require PIN select POS terminals

#### 4.4.1.8 Cardholder Selection and Assignment of PINs

Vermont does not currently require mailed PINs. Currently, PINs are selected via one-call ARU. Vermont would like to keep this process the same. The first card on a case is un-PIN'd until the cardholder selects a PIN. The PIN is then transferred to subsequent cards.

#### 4.4.1.9 Invalid PIN Attempts

Currently, an EBT card is locked after four invalid PIN attempts. At the end of the day (midnight) the card's PIN function is then reset. Vermont would like to keep this process the same.

#### 4.5.1 Card Issuance Services

Vermont will maintain its current centralized card production process and embossing/printing equipment outside of this EBT contract.

#### 4.5.17 Card Order File & Card Order Layout File

The Contractor is responsible for making the card order file available to the State each calendar day by 6:45AM. The contractor will send to the State daily, a file containing those cards that have been issued/reissued from the vendor's EBT System as a result of the daily and nightly processing. The EBT contractor creates the file using data from the following sources:

1. Evaluation of each day's demographic file identifying new recipients.
2. Batching of each day's EBT administrative terminal requests for cards. These administrative terminal transactions may have been created either by EBT Customer Service Reps after receiving phone request for cards from recipients, or by State staff also responding to requests from recipients.

This inbound file from the Contractor to the State is used by the State each day in order to customize plastic EBT cards for benefit recipients.

The record formats included in this file are detailed below. Record length = 500 bytes.

**Card Order File - Header Record**

<u>Field Name</u>	<u>Format</u>	<u>Comments</u>
Record Type	9(2)	Constant = 01
Record Sequence Number	9(6)	Constant = 000001
Filler	X(18)	Field will be set to blanks
Vendor Name	X(30)	Required
Date-MM	X(2)	Required
Date-DD	X(2)	Required
Date-YYYY	X(4)	Required
Photo Indicator	X(1)	Required Y= indicates a photo card N, Blank = indicates no photo
File Type	X(3)	Required CRD = card file EXC = expedited card file EXP = expedited PIN file PIN = PIN file
Postal State Code	X(2)	Required
Filler	X(430)	Field will be set to blanks

**Card Order File – Detail Record**

<u>Field Name</u>	<u>Forma</u>	<u>Comments</u>
Record Type	9(2)	Constant = 05
Record Sequence Number	9(6)	Required
Institution Id	X(8)	Field is not used and will be set to blanks
Branch 1	X(5)	Field is not used and will be set to blanks
Branch 2	X(5)	Field is not used and will be set to blanks
Card Number	X(19)	Required
DDA Number	X(19)	Field is not used and will be set to blanks
SAN Number	X(1)	Field is not used and will be sent to blanks
Cardholder Name	X(30)	Required
2 <sup>nd</sup> Cardholder Name	X(30)	Optional – set to blanks if not used
Mailing Street Address 1	X(30)	Required
Mailing Street Address 2	X(30)	Required If no 2 <sup>nd</sup> address line then City, State, Zip goes on this line. City X(19) State X(2) Zip X(9)
Mailing Street Address 3	X(30)	Optional If there is a 2 <sup>nd</sup> address line then City, State, Zip goes on this line. If there is no 2 <sup>nd</sup> address line then this field is blank. City X(19) State X(2) Zip X(9)
Mailing Name	X(26)	Required
Mailing Name 2	X(26)	Optional – field is blank if not used.
Track 1 Name	X(26)	Field is not used and will be set to blanks
Track 1 Name 2	X(26)	Field is not used and will be set to blanks
Order Status	9(1)	Required

		0 = New Issue 1 = Reissue
Produce Card	9(1)	Required 0 = Training Material Only 1 = Produce Card and Training Material
Card Carrier	9(1)	Field is not used and will be set to zero
PIN Generation	9(1)	Required 0 = No PIN 1 = Generate PIN
Number of Cards to Produce	9(1)	Required
Card Plastic Number	9(1)	Constant = 1
Card Plastic Number 2	9(1)	Field is not used and will be set to zero
Card Expiration Date	9(4)	Constant = 4912
Withdraw Limit	X(4)	Field is not used and will be set to blanks
Encrypted PIN	X(16)	Required Contains 16 byte encrypted PIN block
County Code	X(5)	Required
Case Number	X(14)	Required
Language	X(1)	Required E = English
Original Date	X(4)	Field is not used and will be set to blanks
Cardholder's SSN	X(9)	Required
Generation Number	X(5)	Required
Zip Bar Code	X(9)	Required – set to address zip code
Zip Service Code	X(3)	Constant = 120
PIN Validation Key Index	X(1)	Field is not used and will be set to blanks
PIN Verification Value	X(4)	Field is not used and will be set to blanks
Card Authentication Value (CAV)	X(3)	Required
Expedite Order	X(1)	Required Y = Expedite Order N = Do Not Expedite Order
Expedite Fee	9(4)V9	Optional If no fee field will contain zero
Primary Card Count	(9)1	Constant = 1
Secondary Card Count	9(1)	Constant = 1
Training Indicator	X(1)	Optional Blank if not used S = State Training Material F = Federal Training Material
Drop Ship County Code	X(2)	Optional Field contains blanks if not used If drop ship, then field contains county code
Card Issue Date	X(8)	Required – CCYYMMDD

Mailing Address 4	X(49)	Optional Field is used as mailing address 4 if needed or is set to blanks if not used If used as mailing address 4 field: City X(19) State X(2) Zip X(9) Filler X(19)
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**Card Order File - Trailer Record**

<u>Field Name</u>	<u>Format</u>	<u>Comments</u>
Record type	9(2)	Constant = 09
Total Number of Detail Records	9(6)	Required
Production End of File	9(18)	Field is not used and is set to zeros
Total Institutional Headers	9(5)	Field is not used and is set to zeros
Filler	X(469)	Field will be set to blanks

## Section 5: EBT ADMINISTRATIVE FUNCTIONALITY

*As described in the NCS EBT RFP, plus the following Vermont specific requirements:*

### **5.1.5 Update Functionality**

The State of Vermont (SOV) currently makes use of a secure, online, real time portal provided by the EBT contractor (“ebtEDGE”) to perform administrative functions including:

- Updating a case/client (demographic information)
- Inquiries on case, client, card, and benefit status
- Issuing, deactivating, and statusing EBT cards (lost, stolen, damaged, deactivated).
- Repayment of benefits
- Resetting PIN try counter, allowing the cardholder to select a new PIN
- Reviewing transaction history
- Adding a case/client

Vermont prefers to retain the secure, online, real time model into the next EBT generation.

### **5.2 Direct Deposit Services**

Vermont has a self-managed direct deposit program and does not require those services through this contract. It is possible that the state would make use of the Branded Debit card function at some point.

## Section 7: DISASTER PREPARATION AND CONTINGENCY PLANNING

*As described in the NCS EBT RFP, plus the following Vermont specific requirements:*

### **7.1 Disaster Preparation & Contingency Planning Core Requirements**

Background: The State of Vermont experienced significant damage from Hurricane Irene in late August of 2011. Central offices for the Agency of Human Services in Waterbury, Vermont, which housed more than 900 AHS employees, including the EBT Unit, were flooded. In April of 2016, the State moved back to Waterbury, Vermont into a renovated/newly constructed (partial) office complex.

Flooding from Hurricane Irene caused significant damage to the ADS infrastructure, resulting in the unavailability of some ADS servers, which brought down state email accounts and other communication functionality, including that required to receive the daily EBT card order file from the EBT vendor. Because of this, in the immediate aftermath of Hurricane Irene, Vermont's EBT Director traveled to Concord, NH, to make use of the NH card production system. These two systems were built identically and used the same custom application. This enables Vermont and New Hampshire to serve as each other's "Buddy States" for disaster contingency. In support of the Buddy State arrangement, the EBT vendor re-routed Vermont's card production files to NH for several days, enabling Vermont to produce and mail EBT cards to clients with only a slight time delay despite the significant disruption cause by Hurricane Irene. Essential financial and other functions were handled via satellite offices for a limited number of staff, which were set up immediately in Montpelier, VT. This allowed access to the mainframe computing environment, and permitted financial functions including daily settlement payments to the EBT vendor to continue with only one day missed.

Given our experience with Hurricane Irene, it is clear that comprehensive disaster planning must be a priority in Vermont. The Vermont Agency of Human Services has in place a comprehensive Continuity of Operations Plan (COOP) which designates EBT card production as a high-priority essential function. There is an expectation that the EBT vendor will support Vermont's efforts to continue its self-managed EBT card production system in the event of a disaster. Vermont will continually update and improve its annual FNS required DSNAP plan.

#### **7.1.3.4 On-line Cardholder Account Set Up and Benefit Issuance**

Vermont is interested in a stand-alone D-SNAP eligibility and issuance system provided by the vendor should the contractor have such a system available.

#### **7.1.5.2 Eligibility System and Interface Support**

There is an expectation that the vendor selected through this RFP will work with Vermont during the detail design phase to put in place alternate plans for EBT card production in the event of a disaster. Options could include transmitting the daily card order file via email, USB or another media to Vermont, or to NH or another state to make use of Buddy State agreements in place to allow satellite card production.

## Section 8: WIC EBT REQUIREMENTS

*As described in the NCS EBT RFP, plus the following Vermont specific requirements:*

### **8.2 WIC Program Overview**

#### Program Background and Philosophy

In Vermont, the WIC program operates within the Vermont Department of Health (VDH), which is located within the Vermont Agency of Human Services (AHS).

WIC's goal is to improve health by informing families about good health practices and by providing nutritious foods to eligible Vermonters. WIC is designed to serve income-eligible applicants who are nutritionally or medically at risk. The WIC Program is funded by the United States Department of Agriculture (USDA), governed by Federal Regulations contained in the Federal Register 7 CFR Part 246.

Vermont WIC is a member of the Mountain Plains States Consortium (MPSC) State Agency Model (SAM) MIS and uses online, out-source hosted EBT. The Vermont Health Department's Division of Maternal and Child Health administers the Vermont WIC Program. The Vermont Health Department (VDH) is the state's lead department for public health policy and advocacy.

#### Federal and State Guidelines, Standards and Conditions

The Vermont Agency of Human Services, the Vermont Department of Health and the Vermont WIC 8.4.2 Program need to adhere to multiple sources of standards including those issued by the federal government. The selected EBT Contractor needs to follow specific state and federal requirements that may apply, as well, including the USDA.

The State of Vermont and the Vermont Department of Health require that all contracts include clearly defined outcomes and performance standards. The State will work with the selected bidder to define the final performance standards that will be incorporated into the contract. In the RFP proposal, the State asks that the bidder to propose detailed, proven performance requirements and standards that have the following attributes:

- Are quantifiable
- Focus on critical outcomes
- Stress the performance of the system
- Minimize subjective evaluation by stating clear criteria
- Are realistic
- Are unambiguous
- Include a measurement period

#### Business Environment

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides specific nutritious foods, referrals and nutrition and breastfeeding education, and referrals to pregnant, breastfeeding and postpartum women, infants and children up to five years of age who are determined to be at nutritional risk and meet income guidelines. Vermont serves approximately 10,000 participants monthly, in about 8,000 households. Annual unduplicated participation totals approximately 15,000 participants in about 10,000 households.

The Vermont WIC program provides direct services to participants through Vermont Department of Health (VDH) WIC program management staff at the central office and a variety of staff disciplines at the local agency level within VDH District Offices. Currently, participant certification occurs at 50 clinic sites operated by Vermont's 12 Health Department District Offices. In addition to the 12 District Office sites, clinics include temporary satellite sites such as churches and other community locations, which may be held one or more days per month, but with no permanent WIC-related infrastructure.

The data acquired during participant enrollment and certification is used by VDH staff at the local agency level to provide services, WIC staff at the state agency level to manage the program, VDH health surveillance staff to monitor the health status of participants, and USDA WIC staff at the regional and national level.

Vermont WIC has a network of 108 authorized retail grocers for full WIC EBT, including a small number of full-service grocers in bordering states. The current network of stores has, in aggregate, about 668 lanes. About 5 of these are currently using stand beside WIC EBT-only terminals provided by the EBT contractor.

Vermont WIC	
Current MIS used	Vermont WIC currently uses the Mountain Plains State Consortium (MPSC) system. The system is hosted by Vermont Department of Health/IT under the Agency of Digital Services, with a primary data center in Montpelier and backup data center in Tech Vault in South Burlington. Web service connectivity to the current EBT contractor is routed over VPN tunnel. Batch processes send and receive nightly files to and from the current EBT contractor over the internet via SFTP.
Current caseload	Average monthly caseload FFY 2019, 11,320 active participants
Count of clinic environments	12 permanent clinic sites, 40 temp sites
Vendor population	110 authorized vendors (13 Cross border stores NH, NY and MA)
Breakdown of equipment type	105 integrated vendors, 5 stand-beside
Average number of transactions monthly	Approximately 22,832 transactions monthly
Count of cards issued over past year	In FFY 2019, a total of 4,028 were issued, 2,006 were replacement cards.
Calls to IVR/live Customer Service	In October 2019, there were 5,487 calls to the IVR (note: contract infant formula change occurred)
Multiple APLs Required	No

### Mountain Plains States Consortium (MPSC)

Vermont WIC uses the Mountain Plains State Consortium System MPSC - a web-based WIC information system currently operating in eight other states. The MPSC WIC web-based application is based on the three-tier Smart Client architecture, which is constructed on Microsoft's .NET Framework.

The first tier is user interface modules that exist on each client's workstations. These modules serve the user with Windows forms to view and/or modify the data.

The second tier encompasses server components. The server components, also known as, Windows Communication Foundation (WCF) services, serve the user interface modules and transfer data back and forth between the user interface and the database. The server components are deployed on the IIS server during deployment.

The third tier covers all databases over two database servers. The first server houses OLTP, Audit, and

Synchronization. The second server houses Warehouse and OLTP replication. The replication is accomplished using transactional replication.

WIC EBT transactions are performed on-line using magnetic strip cards. Large stores typically integrate the WIC EBT transactions into their computer systems whereas small stores use dedicated stand-beside terminals for that function.

Connectivity from Vermont WIC to the EBT processor host is accomplished via a VPN tunnel between the State data center and EBT processor data center. Each night, Vermont WIC exchanges several data files with the EBT host processor via Secure FTP (SFTP). These files include daily transactions, authorized/deactivated UPCs, authorized vendors, not-to-exceed (NTE) prices, category/subcategory updates and others. Aside from the nightly batch processes, Vermont WIC also retrieves from the EBT processor the up-to-the-minute benefit balances for a WIC family when a user performs a benefit inquiry.

### **8.12.2 WIC Benefit Authorization**

Vermont WIC benefit authorization records are conducted through on-line, real time, host-to-host interfaces. Vermont WIC benefits are issued by calendar month. Benefits may be redeemed only during the benefit prescription availability dates. Benefit prescriptions may be issued for multiple months.

### **8.15 Cardholder Customer Service**

Vermont WIC requires that its existing customer service numbers for cardholders and retailers be maintained in the next contract period (Cardholder: 855-769-8890)

### **8.25 WIC Standards**

#### Compatibility with Existing Technology

The proposed solution including products and services must be compliant with the State's technology standards specifically regarding security and regulatory compliance Requirements.

The solution must be configured with:

- Integration with external security services (Active Directory)
- Role-based security
- Level of granularity for data entitlements and data policies (e.g. system, data object, row level, column level, data value based, read-only, and any combination of these)
- Security logging and tracking capabilities (e.g. access requests, denials, new user setup, and password changes)

#### Additional Standards

In addition to the WIC Standards specified in this RFP, the EBT Contractor must ensure that the WIC EBT system is configured to meet the following compliance mandates and standards as applicable:

- HIPAA/HITECH  
<https://www.hhs.gov/hipaa/for-professionals/special-topics/hitech-act-enforcement-interim-final-rule/index.html>
- NIST 800-53 Rev 3  
<https://www.nist.gov/publications/release-nist-special-publication-800-53a-revision-4-assessing-security-and-privacy>
- VT SSN Protection Statutes  
[legislature.vermont.gov/statutes/section/09/062/02440](http://legislature.vermont.gov/statutes/section/09/062/02440)

[legislature.vermont.gov/statutes/chapter/09/062](https://legislature.vermont.gov/statutes/chapter/09/062)

- Vermont Statewide and AHS Security policies  
<https://ratesetting.vermont.gov/policy-legislation/policies/05-information-technology-and-electronic-communications-policies>
- Vermont Functional Requirements for WIC MIS & EBT  
<https://www.yumpu.com/en/document/view/6869354/wic-mis-ebt-functional-requirements-vermont-department-of->

## **Section 9: RETAILER MANAGEMENT, CARDHOLDER AND RETAILER CUSTOMER SERVICE & TRAINING**

*As described in Section 9 of the NCS EBT RFP, plus the following Vermont Specific Items:*

### **9.1.1.4 POS Terminal Technical Standards**

POS terminals are placed at authorized Food and Nutrition Services (FNS) merchant stores participating in the EBT program. The contractor follows the FNS guidelines for adding newly authorized merchants to the system. (For example, additions are made within 2 weeks after FNS notification to the State for merchants using the contractor deployed terminals and 30 days for retailers deploying their own terminals or using third-party processors.) If FNS disqualifies a merchant or if a merchant voluntarily withdraws from the food benefits program, they will notify the contractor through the daily update of the FNS Merchant File and the contractor will deactivate the merchant within 2 days of FNS notification.

### **9.1.1.5 EBT-Only Retailer Deployment Requirements**

The SOV does not participate in the less than \$100.00 per month EBT only equipage waiver. The State requires that the standard, wired EBT equipment provided under this contract be available to all retailers, regardless of redemption patterns. Manual vouchers must also be an option for low redemption and other retailers. As with all manual vouchers, the retailer must obtain authorization prior to accepting the purchase to ensure payment.

POS terminals may also be placed at Non-FNS merchants participating in the EBT program for dispensing cash benefits only.

#### **9.1.1.5.1.H Farmers Markets – Wireless Terminals**

If the primary vendor plans to subcontract this service, please provide the name of that organization. Provide description of equipment. Dependent on the availability of federal and/or state funding for wireless EBT terminals at Farmers Markets, Vermont may require a centralized billing system to the state or another entity for Farmers Market EBT service. As of the release of this RFP, Vermont has about 45 Farmers' Markets participating in EBT.

### **9.2 Cardholder and Retailer Customer Service Core Requirements**

Vermont requires that its existing EBT customer service numbers for cardholders and retailers be maintained in the next contract period (Cardholder: 800-914-8605; Retailer: 800-831-5235)

#### **9.2.2 Interactive Voice Response Unit (IVR)/Automated Response Unit (ARU)**

Vermont will continue to require one call, automated PIN selection functionality, provided positive verification of the cardholder's identity. The unique data elements for verification will be determined by the State during Detail Design.

## **Section 10: CASH ACCESS SERVICES**

*As described in Section 10 of the NCS EBT RFP, plus the following Vermont Specific Items:*

In the current EBT contract, Vermont is a Quest state, and in order to provide additional cash access locations to cardholders, pays an additional CPCM on EBT cash cases for access to the NYCE ATM network.

### **10. E Cash Access at USPS Service Locations**

Vermont encourages the contractor to provide surcharge and transaction fee-free POS cash withdrawals through USPS locations (Full NCS RFP: Section 10, Item 5).

## **Section 11: PROJECT PLANNING AND PHASES**

*As described in the NCS EBT RFP, plus the following Vermont Specific Items:*

### **11.5.1.4 Transaction History Conversion**

Vermont currently has 90 days of online transaction history available, which will require conversion to the new vendor's system. At cutover, these 90 days will become part of the full 365-day online transaction history required by the contract secured through this RFP after conversion.

## Section 13: PRICING

*As described in the NCS EBT RFP, plus the following Vermont Specific Items:*

### 13.1.3 Cash and SNAP Cost per Case-Month (CPMC) Pricing

- A. Vermont requests CPCM for cash includes:
  - 3SquaresVT Cash-out [CASH], a SNAP benefit for clients who are elderly or have a disability, paid in the form of cash. **Cash-out essentially behaves like other cash benefits from the EBT vendor's perspective**
  - Cash (usually associated with the TANF program, called "Reach Up" in Vermont)
- B. Vermont requests CPCM for SNAP includes:
  - 3SquaresVT (Vermont's name for federal SNAP benefits - FOOD)
  - State funded Food benefits ("Reach Ahead")

### 13.2 Billing

The estimated annual value of this contract is dependent on the pricing secured by this RFP process. The annual value in calendar year 2018 was approximately \$300,000.00 (three hundred thousand dollars). The annual value and quantities are estimated only based on prior usage and may be increased or decreased to meet actual requirements. Contract issuance is contingent upon funding availability. The maximum dollar amount payable under this contract is not intended to guarantee any amount of payment. The Contractor will be paid at the billable rates for services actually performed, up to the maximum allowable amount.

Contractor will bill the State monthly for services authorized under the contract. Upon timely and accurate submission of invoices, the State will remit payment to the Contractor for the services provided.

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

## Vermont Appendices

Including:

**Attachment C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS**

The Standard Provisions contained in Attachment C are designed to: meet all statutory requirements; enable legal enforcement of the agreement; and provide protection to the State, its contractors, grantees and subrecipients. This attachment is required for every contract

**Attachment D: INFORMATION TECHNOLOGY SYSTEM IMPLEMENTATION TERMS AND CONDITIONS**

**Attachment E: BUSINESS ASSOCIATE AGREEMENT**

This standardized Attachment contains language to be used when the reviewing Assistant Attorney General has determined that it is required under the federal Health Insurance Portability and Accountability Act known as HIPAA.

**Attachment F: AGENCY OF HUMAN SERVICES CUSTOMARY CONTRACT PROVISIONS**

This attachment is required for every Agency of Human Service contract.

## Attachment C: Standard State Provisions for Contracts and Grants (R 12/15/17)

**1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

**2. Entire Agreement:** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

**3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

**4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

**5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

**6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.

**7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to

(1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

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

\$1,000,000 Personal & Advertising Injury

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

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

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

**9. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

**10. False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

**11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

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

**13. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine-readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

**15. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

**16. Taxes Due to the State:**

**A.** Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

**B.** Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

**C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

**D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

**17. Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

**18. Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

**A.** is not under any obligation to pay child support; or

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

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

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

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

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

**20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

**21. Copies:** Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

**22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

**23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

**24. Confidentiality:** Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

**25. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused

obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

**26. Marketing:** Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

**27. Termination:**

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

**B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.

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

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

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

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

**31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements:** If this Agreement is a grant that is funded in whole or in part by Federal funds:

**A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

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

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

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

**32. Requirements Pertaining Only to State-Funded Grants:**

**A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.

**B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

# Attachment D: Information Technology System Implementation Terms and Conditions (R 03/08/19)

## 1. MODIFICATIONS TO CONTRACTOR DOCUMENTS

The parties specifically agree that the Contractor Documents are hereby modified and superseded by Attachment C and this Attachment D.

“Contractor Documents” shall mean one or more document, agreement or other instrument required by Contractor in connection with the performance of the products and services being purchased by the State, regardless of format, including the license agreement, end user license agreement or similar document, any hyperlinks to documents contained in the Contractor Documents, agreement or other instrument and any other paper or “shrinkwrap,” “clickwrap,” “browsewrap” or other electronic version thereof.

## 2. NO SUBSEQUENT, UNILATERAL MODIFICATION OF TERMS BY CONTRACTOR

Notwithstanding any other provision or other unilateral license terms which may be issued by Contractor during the Term of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for the products and services being purchased by the State, as applicable, the components of which are licensed under the Contractor Documents, or the fact that such other agreement may be affixed to or accompany the products and services being purchased by the State, as applicable, upon delivery, the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

## 3. TERM OF CONTRACTOR’S DOCUMENTS; PAYMENT TERMS

Contractor acknowledges and agrees that, to the extent a Contractor Document provides for alternate term or termination provisions, including automatic renewals, such sections shall be waived and shall have no force and effect. All Contractor Documents shall run concurrently with the term of this Contract; provided, however, to the extent the State has purchased a perpetual license to use the Contractor’s software, hardware or other services, such license shall remain in place unless expressly terminated in accordance with the terms of this Contract. Contractor acknowledges and agrees that, to the extent a Contractor Document provides for payment terms which differ from the payment terms set forth in Attachment B, such sections shall be waived and shall have no force and effect and the terms in Attachment B shall govern.

## 4. OWNERSHIP AND LICENSE IN DELIVERABLES

### 4.1 Contractor Intellectual Property.

As between the parties, and subject to the terms and conditions of this Contract, Contractor and its third-party suppliers will retain ownership of all intellectual property rights in the [System], and any and all derivative works made to the [System] or any part thereof, as well as all Work Product provided to the State (“**Contractor Proprietary Technology**”). The State acquires no rights to Contractor Proprietary Technology except for the licensed interests granted under this Contract. The term “**Work Product**” means all other materials, reports, manuals, visual aids, documentation, ideas, concepts, techniques, inventions, processes, or works of authorship developed, provided or created by Contractor or its employees or contractors during the course of performing work for the State (excluding any State Data or derivative works thereof and excluding any output from the [System] generated by the State’s use of the [System], including without limitation, reports, graphs, charts and modified State Data, but expressly including any form templates of such reports, graphs or charts by themselves that do not include the State Data).

Title, ownership rights, and all Intellectual Property Rights in and to the [System] will remain the sole property of Contractor or its suppliers. The State acknowledges that the source code is not covered by

any license hereunder and will not be provided by Contractor. Except as set forth in this Contract, no right or implied license or right of any kind is granted to the State regarding the [System] or any part thereof. Nothing in this Contract confers upon either party any right to use the other party's trade names and trademarks, except for permitted license use in accordance with this Contract. All use of such marks by either party will inure to the benefit of the owner of such marks, use of which will be subject to specifications controlled by the owner.

In addition to the Intellectual Property Ownership outlined in this section, any software or documentation developed with Federal Funding shall adhere to 2 CFR 200.315 Intangible property requirements. Specifically, FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for government purposes such software, modifications, and documentation. All products developed including but not limited to data and development shall be deemed work product of the State for all purposes of copyright law and should belong to the State only.

#### **4.2 State Intellectual Property; User Name**

The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, "**State Intellectual Property**").

Contractor may not collect, access or use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

**4.3 Work Product.** All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of law or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

"Work Product" means any tangible or intangible ideas, inventions, improvements, modifications, discoveries, development, customization, configuration, methodologies or processes, designs, models, drawings, photographs, reports, formulas, algorithms, patterns, devices, compilations, databases, computer programs, work of authorship, specifications, operating instructions, procedures manuals or other documentation, technique, know-how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection), that is specifically made, conceived, discovered or reduced to practice by Contractor, either solely or jointly with others, pursuant to this Contract. Work Product does not include Contractor Intellectual Property or third party intellectual property.

To the extent delivered under this Contract, upon full payment to Contractor in accordance with

Attachment B, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to all Deliverables, except to the extent they include any Contractor Intellectual Property; and (ii) grants to State a perpetual, non-exclusive, irrevocable, royalty-free license to use for State's internal business purposes, any Contractor Intellectual Property included in the Deliverables in connection with its use of the Deliverables and, subject to the State's obligations with respect to Confidential Information, authorize others to do the same on the State's behalf. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor Intellectual Property.

The Contractor shall not sell or copyright a Deliverable 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 Intellectual Property or Contractor Intellectual Property developed outside of this Contract with no assistance from State.

## **5. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING**

**5.1** For purposes of this Contract, confidential information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party's possession prior to its receipt from the disclosing party; (c) is independently developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is not exempt from disclosure under applicable State law.

**5.2 Confidentiality of Contractor Information.** The Contractor acknowledges and agrees that this Contract and any and all Contractor information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including, but not limited to, attorneys' fees awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor's attempts to prevent or unreasonably delay public disclosure of Contractor's information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor's attempts to prevent public disclosure of Contractor's information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as

restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor's determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.

**5.3 Confidentiality of State Information.** In performance of this Contract, and any exhibit or schedule hereunder, the Contractor acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("State Data"). [In addition to the provisions of this Section, the Contractor shall comply with the requirements set forth in the State's HIPAA Business Associate Agreement attached to this Contract as Attachment E].

State Data shall not be stored, accessed from, or transferred to any location outside the United States.

Unless otherwise instructed by the State, Contractor agrees to keep confidential all State Data. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to only those employees on its staff who must have the information on a "need to know" basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.

Contractor shall not access State user accounts or State Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Contract, or at State's written request.

Contractor may not share State Data with its parent company or other affiliate without State's express written consent.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

## **6. SECURITY OF STATE INFORMATION**

**6.1 Security Standards.** To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor represents and warrants that it has implemented and it shall maintain during the term of this Contract the highest industry standard administrative, technical, and physical safeguards and controls consistent with NIST *Special Publication 800-53* (version 4 or higher) and *Federal Information Processing Standards Publication 200* and designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures shall include at a minimum: (1) access controls on information systems, including controls to authenticate and permit access to State Data only

to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include, but not be limited to, encryption at rest and multiple levels of authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

**6.2 Security Breach Notice and Reporting.** The Contractor shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request.

In addition to the requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract, in the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise State Data (a “Security Breach”), the Contractor shall notify the State within 24 hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State. Contractor shall analyze and document the incident and provide all notices required by applicable law.

In accordance with Section 9 V.S.A. §2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation (“DFR”), within fourteen (14) business days of the Contractor’s discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor’s subcontractors, affiliates or agents which may be “data collectors” hereunder.

The Contractor agrees to fully cooperate with the State and assume responsibility at its own expense for the following, to be determined in the sole discretion of the State: (i) notice to affected consumers if the State determines it to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach, including but not limited to, outside investigation, forensics, counsel, crisis management and credit monitoring, in the sole determination of the State.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

**6.3 Security Policies.** To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor will have an

information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

**6.4 Operations Security.** To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor shall cause an SSAE 18 SOC 2 Type 2 audit report to be conducted annually. The audit results and the Contractor's plan for addressing or resolution of the audit results shall be shared with the State within sixty (60) days of the Contractor's receipt of the audit results. Further, on an annual basis, within 90 days of the end of the Contractor's fiscal year, the Contractor shall transmit its annual audited financial statements to the State.

**6.5 Redundant Back-Up.** The Contractor shall maintain a fully redundant backup data center geographically separated from its main data center that maintains near realtime replication of data from the main data center. The Contractor's back-up policies shall be made available to the State upon request. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

**6.6 Vulnerability Testing.** The Contractor shall run quarterly vulnerability assessments and promptly report results to the State. Contractor shall remediate all critical issues within 90 days, all medium issues within 120 days and low issues within 180 days. Contractor shall obtain written State approval for any exceptions. Once remediation is complete, Contractor shall re-perform the test.

## **7. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

**7.1 General Representations and Warranties.** The Contractor represents, warrants and covenants that:

(i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.

(ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.

(iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.

(iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the Deliverables as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the Deliverables or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.

(v) The Contractor has adequate resources to fulfill its obligations under this Contract.

(vi) Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.

**7.2 Contractor's Performance Warranties.** Contractor represents and warrants to the State that:

(i) All Deliverables will be free from material errors and shall perform in accordance with the specifications therefor for a period of at least one year.

(ii) Contractor will provide to the State commercially reasonable continuous and uninterrupted access to the Service, and will not interfere with the State's access to and use of the Service during the term of this Contract;

(iii) The Service is compatible with and will operate successfully with any environment (including web browser and operating system) specified by the Contractor in its documentation;

(iv) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.

(v) All Deliverables supplied by the Contractor to the State shall be transferred free and clear of any and all restrictions on the conditions of transfer, modification, licensing, sublicensing and free and clear of any and all liens, claims, mortgages, security interests, liabilities and encumbrances or any kind.

(vi) Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.

(vii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

**7.3 Limitation on Disclaimer.** The express warranties set forth in this Contract shall be in lieu of all other warranties, express or implied.

**7.4 Effect of Breach of Warranty.** If, at any time during the term of this Contract, software or the results of Contractor's work fail to perform according to any warranty of Contractor under this Contract, the State shall promptly notify Contractor in writing of such alleged nonconformance, and Contractor shall, at its own expense and without limiting any other rights or remedies of the State hereunder, re-perform or replace any services that the State has determined to be unsatisfactory in its reasonable discretion. Alternatively, with State consent, the Contractor may refund of all amounts paid by State for the nonconforming deliverable or service

## **8. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE**

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of \$1,000,000 per claim, \$3,000,000 aggregate; and (b) first party Breach Notification Coverage of not less than \$1,000,000.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.

With respect to the first party Breach Notification Coverage, Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

## **9. LIMITATION OF LIABILITY.**

CONTRACTOR'S LIABILITY FOR DAMAGES TO THE STATE ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT SHALL NOT EXCEED THREE TIMES THE MAXIMUM AMOUNT PAYABLE UNDER THIS CONTRACT, OR \$\_\_\_\_\_, WHICHEVER IS GREATER [TO BE NEGOTIATED WITH VENDOR]. LIMITS OF LIABILITY FOR STATE CLAIMS SHALL NOT APPLY TO STATE CLAIMS ARISING OUT OF: (A) CONTRACTOR'S OBLIGATION TO INDEMNIFY THE STATE; (B) CONTRACTOR'S CONFIDENTIALITY OBLIGATIONS TO THE STATE; (C) PERSONAL INJURY OR DAMAGE TO REAL OR PERSONAL PROPERTY; (D) CONTRACTOR'S GROSS NEGLIGENCE, FRAUD OR INTENTIONAL MISCONDUCT; OR (E) VIOLATIONS OF THE STATE OF VERMONT FRAUDULENT CLAIMS ACT. IN NO EVENT SHALL THIS LIMIT OF LIABILITY BE CONSTRUED TO LIMIT CONTRACTOR'S LIABILITY FOR THIRD PARTY CLAIMS AGAINST THE CONTRACTOR WHICH MAY ARISE OUT OF CONTRACTOR'S ACTS OR OMISSIONS IN THE PERFORMANCE OF THIS CONTRACT.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY, SUCH AS LOSS OF ANTICIPATED BUSINESS, OR LOST PROFITS, INCOME, GOODWILL, OR REVENUE IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT.

The provisions of this Section shall apply notwithstanding any other provisions of this Contract or any other agreement.

**10. TRADE SECRET, PATENT AND COPYRIGHT INFRINGEMENT**

The State shall not be deemed to waive any of its rights or remedies at law or in equity in the event of Contractor's trade secret, patent and/or copyright infringement.

**11. REMEDIES FOR DEFAULT; NO WAIVER OF REMEDIES**

In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such right, power or remedy, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

**12. NO ASSUMPTION OF COSTS**

Any requirement that the State defend or indemnify Contractor or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or license verification costs of Contractor, is hereby deleted from the Contractor Documents.

**13. TERMINATION**

Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to the State all State information, State Intellectual Property or State Data (including without limitation any Deliverables for which State has made payment in whole or in part) ("State Materials"), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.

In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Materials to State control; including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Materials.

Contractor shall reasonably cooperate with other parties in connection with all services to be delivered under this Contract, including without limitation any successor provider to whom State Materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting the State Materials, in a format usable without the use of the Services and as agreed to by State, at no additional cost.

Any transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a Transition Plan identifying transition services to be provided.

#### **14. ACCESS TO STATE DATA:**

The State may import or export State Materials in part or in whole at its sole discretion at any time (24 hours a day, seven (7) days a week, 365 days a year), during the term of this Contract or for up to [three (3) months] after the Term (so long as the State Materials remain in the Contractor's possession) without interference from the Contractor in a format usable without the Service and in an agreed-upon file format and medium at no additional cost to the State.

The Contractor must allow the State access to information such as system logs and latency statistics that affect its State Materials and or processes.

The Contractor's policies regarding the retrieval of data upon the termination of services have been made available to the State upon execution of this Contract under separate cover. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

#### **15. AUDIT RIGHTS**

Contractor will maintain and cause its permitted contractors to maintain a complete audit trail of all transactions and activities, financial and non-financial, in connection with this Contract. Contractor will provide to the State, its internal or external auditors, clients, inspectors, regulators and other designated representatives, at reasonable times (and in the case of State or federal regulators, at any time required by such regulators) access to Contractor personnel and to any and all Contractor facilities or where the required information, data and records are maintained, for the purpose of performing audits and inspections (including unannounced and random audits) of Contractor and/or Contractor personnel and/or any or all of the records, data and information applicable to this Contract.

At a minimum, such audits, inspections and access shall be conducted to the extent permitted or required by any laws applicable to the State or Contractor (or such higher or more rigorous standards, if any, as State or Contractor applies to its own similar businesses, operations or activities), to (i) verify the accuracy of charges and invoices; (ii) verify the integrity of State Data and examine the systems that process, store, maintain, support and transmit that data; (iii) examine and verify Contractor's and/or its permitted contractors' operations and security procedures and controls; (iv) examine and verify Contractor's and/or its permitted contractors' disaster recovery planning and testing, business resumption and continuity planning and testing, contingency arrangements and insurance coverage; and (v) examine Contractor's and/or its permitted contractors' performance of the Services including audits of: (1) practices and procedures; (2) systems, communications and information technology; (3) general controls and physical and data/information security practices and procedures; (4) quality initiatives and quality assurance, (5) contingency and continuity planning, disaster recovery and back-up procedures for processes, resources and data; (6) Contractor's and/or its permitted contractors' efficiency and costs in performing Services; (7) compliance with the terms of this Contract and applicable laws, and (9) any other matters reasonably requested by the State. Contractor shall provide and cause its permitted contractors to provide full cooperation to such auditors, inspectors, regulators and representatives in connection with audit

functions and with regard to examinations by regulatory authorities, including the installation and operation of audit software.

**16. DESTRUCTION OF STATE DATA**

At any time during the term of this Contract within (i) thirty days of the State's written request or (ii) [three (3) months] of termination or expiration of this Contract for any reason, and in any event after the State has had an opportunity to export and recover the State Materials, Contractor shall at its own expense securely destroy and erase from all systems it directly or indirectly uses or controls all tangible or intangible forms of the State Materials, in whole or in part, and all copies thereof except such records as are required by law. The destruction of State Data and State Intellectual Property shall be performed according to National Institute of Standards and Technology (NIST) approved methods. Contractor shall certify in writing to the State that such State Data has been disposed of securely. To the extent that any applicable law prevents Contractor from destroying or erasing State Materials as set forth herein, Contractor shall retain, in its then current state, all such State Materials then within its right of control or possession in accordance with the confidentiality, security and other requirements of this Contract, and perform its obligations under this section as soon as such law no longer prevents it from doing so.

Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location and certify in writing to the State that such State Data has been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Data.

**17 CONTRACTOR BANKRUPTCY.**

Contractor acknowledges that if Contractor, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects this Contract, the State may elect to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State as provided in this Contract, including the right to obtain the State Intellectual Property.

**18 SOFTWARE LICENSEE COMPLIANCE REPORT.**

In lieu of any requirement that may be in a Contractor Document that the State provide the Contractor with access to its System for the purpose of determining State compliance with the terms of the Contractor Document, upon request and not more frequently than annually, the State will provide Contractor with a certified report concerning the State's use of any software licensed for State use pursuant this Contract. The parties agree that any non-compliance indicated by the report shall not constitute infringement of the licensor's intellectual property rights, and that settlement payment mutually agreeable to the parties shall be the exclusive remedy for any such non-compliance.

**19 IRS TERMS IF FEDERAL TAX INFO WILL BE PROCESSED OR STORED (Per IRS Publication 1075)**

To the extent Contractor's performance under this Contract involves the processing or storage of Federal tax information, then, pursuant to IRS Publication 1075, the following provisions shall apply in addition to any other security standard or requirements set forth in this Contract:

**A. PERFORMANCE**

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

1. All work will be done under the supervision of the Contractor or the Contractor's employees.

2. The Contractor and the Contractor's employees with access to or who use Federal tax information must meet the background check requirements defined in IRS Publication 1075.
3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
5. The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or his or her designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
7. All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
8. No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS.
9. The Contractor will maintain a list of employees authorized access. Such list will be provided to the State and, upon request, to the IRS reviewing office.
10. The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

**B. CRIMINAL/CIVIL SANCTIONS:**

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
2. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information

made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431, and set forth at 26 CFR 301.6103(n)-1.

3. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to State records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
4. Prior to Contractor having access to Federal tax information, Contractor shall certify that each Contractor employee or other individual with access to or who use Federal tax information on Contractor's behalf pursuant to this Contract understands the State's security policy and procedures for safeguarding Federal tax information. Contractor's authorization to access Federal tax information hereunder shall be contingent upon annual recertification. The initial certification and recertification must be documented and placed in the State's files for review. As part of the certification, and at least annually afterwards, Contractor will be advised of the provisions of IRCs 7431, 7213, and 7213A (see IRS Publication 1075 *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Publication 1075, Section 10). For both the initial certification and the annual certification, the Contractor must sign a confidentiality statement certifying its understanding of the security requirements.

#### **C. INSPECTION:**

The IRS and the State, with 24 hours' notice, shall have the right to send its officers, employees, and inspectors into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract for compliance with the requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology assets that access, store, process or transmit Federal tax information. On the basis of such inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

#### **20. SOV Cybersecurity Standard 19-01**

All products and service provided to or for the use of the State under this Contract shall be in compliance with

State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL:

<https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

## Attachment E: Business Associate Agreement

SOV CONTRACTOR: \_\_\_\_\_

SOV CONTRACT No. \_\_\_\_\_ CONTRACT Effective DATE: \_\_\_\_\_

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 FOR CHILDREN AND FAMILIES** ("COVERED ENTITY") AND PARTY IDENTIFIED IN THIS AGREEMENT AS CONTRACTOR OR GRANTEE ABOVE ("BUSINESS ASSOCIATE"). THIS AGREEMENT SUPPLEMENTS AND IS MADE A PART OF THE CONTRACT OR GRANT ("CONTRACT OR GRANT") TO WHICH IT IS ATTACHED.

Covered Entity and Business Associate enter into this Agreement to comply with the 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 (HITECH), and any associated federal rules and regulations.

### The parties agree as follows:

**1. Definitions.** All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations. Terms defined in this Agreement are italicized. Unless otherwise specified, when used in this Agreement, defined terms used in the singular shall be understood if appropriate in their context to include the plural when applicable.

"*Agent*" means an Individual acting within the scope of the agency of the *Business Associate*, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c) and includes Workforce members and *Subcontractors*.

"*Breach*" means the acquisition, Access, Use or Disclosure of *Protected Health Information (PHI)* which compromises the Security or privacy of the *PHI*, except as excluded in the definition of *Breach* in 45 CFR § 164.402.

"*Business Associate*" shall have the meaning given for "Business Associate" in 45 CFR § 160.103 and means Contractor or Grantee and includes its Workforce, *Agents* and *Subcontractors*.

"*Electronic PHI*" shall mean *PHI* created, received, maintained or transmitted electronically in accordance with 45 CFR § 160.103.

"*Individual*" includes a Person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

"*Protected Health Information*" ("*PHI*") shall have the meaning given in 45 CFR § 160.103, limited to the *PHI* created or received by *Business Associate* from or on behalf of Covered Entity.

"*Required by Law*" means a mandate contained in law that compels an entity to make a use or disclosure of *PHI* and that is enforceable in a court of law and shall have the meaning given in 45 CFR § 164.103.

"*Report*" means submissions required by this Agreement as provided in section 2.3.

“*Security Incident*” means the attempted or successful unauthorized Access, Use, Disclosure, modification, or destruction of Information or interference with system operations in an Information System relating to *PHI* in accordance with 45 CFR § 164.304.

“*Services*” includes all work performed by the *Business Associate* for or on behalf of Covered Entity that requires the Use and/or Disclosure of *PHI* to perform a *Business Associate* function described in 45 CFR § 160.103.

“*Subcontractor*” means a Person to whom *Business Associate* delegates a function, activity, or service, other than in the capacity of a member of the workforce of such *Business Associate*.

“*Successful Security Incident*” shall mean a *Security Incident* that results in the unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System.

“*Unsuccessful Security Incident*” shall mean a *Security Incident* such as routine occurrences that do not result in unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System, such as: (i) unsuccessful attempts to penetrate computer networks or services maintained by *Business Associate*; and (ii) immaterial incidents such as pings and other broadcast attacks on *Business Associate’s* firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above with respect to *Business Associate’s* Information System.

“*Targeted Unsuccessful Security Incident*” means an *Unsuccessful Security Incident* that appears to be an attempt to obtain unauthorized Access, Use, Disclosure, modification or destruction of the Covered Entity’s *Electronic PHI*.

## **2. Contact Information for Privacy and Security Officers and Reports.**

2.1 *Business Associate* shall provide, within ten (10) days of the execution of this Agreement, written notice to the Contract or Grant manager the names and contact information of both the HIPAA Privacy Officer and HIPAA Security Officer of the *Business Associate*. This information must be updated by *Business Associate* any time these contacts change.

2.2 Covered Entity’s HIPAA Privacy Officer and HIPAA Security Officer contact information is posted at: <https://humanservices.vermont.gov/rules-policies/health-insurance-portability-and-accountability-act-hipaa>

2.3 *Business Associate* shall submit all *Reports* required by this Agreement to the following email address: [AHS.PrivacyAndSecurity@vermont.gov](mailto:AHS.PrivacyAndSecurity@vermont.gov)

## **3. Permitted and Required Uses/Disclosures of PHI.**

3.1 Subject to the terms in this Agreement, *Business Associate* may Use or Disclose *PHI* to perform *Services*, as specified in the Contract or Grant. Such Uses and Disclosures are limited to the minimum necessary to provide the *Services*. *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* and only in compliance with applicable laws and regulations.

3.2 *Business Associate* may make *PHI* available to its Workforce, *Agent* and *Subcontractor* who need Access to perform *Services* as permitted by this Agreement, provided that *Business Associate* makes them aware of the Use and Disclosure restrictions in this Agreement and binds them to comply with such restrictions.

3.3 *Business Associate* shall be directly liable under HIPAA for impermissible Uses and Disclosures of *PHI*.

4. **Business Activities.** *Business Associate* may Use *PHI* if necessary, for *Business Associate's* proper management and administration or to carry out its legal responsibilities. *Business Associate* may Disclose *PHI* for *Business Associate's* proper management and administration or to carry out its legal responsibilities if a Disclosure is *Required by Law* or if *Business Associate* obtains reasonable written assurances via a written agreement from the Person to whom the information is to be Disclosed that such *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 the Agreement requires the Person to notify *Business Associate*, within five (5) business days, in writing of any *Breach* of Unsecured *PHI* of which it is aware. Such Uses and Disclosures of *PHI* must be of the minimum amount necessary to accomplish such purposes.

5. **Electronic PHI Security Rule Obligations.**

5.1 With respect to *Electronic PHI*, *Business Associate* shall:

a) Implement and use Administrative, Physical, and Technical Safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312;

b) Identify in writing upon request from Covered Entity all the safeguards that it uses to protect such Electronic *PHI*;

c) Prior to any Use or Disclosure of *Electronic PHI* by an *Agent* or *Subcontractor*, ensure that any *Agent* or *Subcontractor* to whom it provides *Electronic PHI* agrees in writing to implement and use Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of Electronic *PHI*. 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*, and be provided to Covered Entity upon request;

d) Report in writing to Covered Entity any *Successful Security Incident* or *Targeted Security Incident* as soon as it becomes aware of such incident and in no event later than five (5) business days after such awareness. Such report shall be timely made notwithstanding the fact that little information may be known at the time of the report and need only include such information then available;

e) Following such report, provide Covered Entity with the information necessary for Covered Entity to investigate any such incident; and

f) Continue to provide to Covered Entity information concerning the incident as it becomes available to it.

5.2 **Reporting *Unsuccessful Security Incidents.*** *Business Associate* shall provide Covered Entity upon written request a *Report* that: (a) identifies the categories of *Unsuccessful Security Incidents*; (b) indicates whether *Business Associate* believes its current defensive security measures are adequate to address all *Unsuccessful Security Incidents*, given the scope and nature of such attempts; and (c) if the security measures are not adequate, the measures *Business Associate* will implement to address the security inadequacies.

5.3 *Business Associate* shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

**6. Reporting and Documenting Breaches.**

6.1 *Business Associate* shall *Report* to Covered Entity any *Breach* of Unsecured *PHI* as soon as it, or any Person to whom *PHI* is disclosed under this Agreement, becomes aware of any such *Breach*, and in no event later than five (5) business days after such awareness, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available.

6.2 Following the *Report* described in 6.1, *Business Associate* shall conduct a risk assessment and provide it to Covered Entity with a summary of the event. *Business Associate* shall provide Covered Entity with the names of any *Individual* 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 *Individual*, as set forth in 45 CFR § 164.404(c). Upon request by Covered Entity, *Business Associate* shall provide 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.

6.3 When *Business Associate* determines that an impermissible acquisition, Access, Use or Disclosure of *PHI* for which it is responsible is not a *Breach*, and therefore does not necessitate notice to the impacted *Individual*, it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). *Business Associate* shall make its risk assessment available to Covered Entity upon request. It shall include 1) the name of the person making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the *PHI* had been compromised.

**7. Mitigation and Corrective Action.** *Business Associate* shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible Use or Disclosure of *PHI*, even if the impermissible Use or Disclosure does not constitute a *Breach*. *Business Associate* shall draft and carry out a plan of corrective action to address any incident of impermissible Use or Disclosure of *PHI*. *Business Associate* shall make its mitigation and corrective action plans available to Covered Entity upon request.

**8. Providing Notice of Breaches.**

8.1 If Covered Entity determines that a *Breach* of *PHI* for which *Business Associate* was responsible, and if requested by Covered Entity, *Business Associate* shall provide notice to the *Individual* whose *PHI* has been the subject of the *Breach*. When so requested, *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. *Business Associate* shall be responsible for the cost of notice and related remedies.

8.2 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.

8.3 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).

8.4 *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.

9. **Agreements with Subcontractors.** *Business Associate* shall enter into a Business Associate Agreement with any *Subcontractor* to whom it provides *PHI* to require compliance with HIPAA and to ensure *Business Associate* and *Subcontractor* comply with the terms and conditions of this Agreement. *Business Associate* must enter into such written agreement before any Use by or Disclosure of *PHI* to such *Subcontractor*. 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 it enters into with a *Subcontractor* to Covered Entity upon request. *Business Associate* may not make any Disclosure of *PHI* to any *Subcontractor* without prior written consent of Covered Entity.

10. **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 five (5) 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*.

11. **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 five (5) 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*.

12. **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 five (5) business days, *Business Associate* shall forward to Covered Entity for handling any accounting request that *Business Associate* directly receives from an *Individual*.

13. **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* available to the Secretary of Health and Human Services (HHS) in the time and manner designated by the Secretary. *Business Associate* shall make the same information available to Covered Entity, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether *Business Associate* is in compliance with this Agreement.

14. **Termination.**

14.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all the *PHI* is destroyed or returned to Covered Entity subject to Section 18.8.

14.2 If *Business Associate* fails to comply with any material term of this Agreement, Covered Entity may provide an opportunity for *Business Associate* to cure. If *Business Associate* does not cure within the time specified by Covered Entity or if Covered Entity believes that cure is not reasonably possible, Covered Entity may immediately terminate the Contract or Grant without incurring liability or penalty

for such termination. If neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary of HHS. Covered Entity has the right to seek to cure such failure by *Business Associate*. Regardless of whether Covered Entity cures, it retains any right or remedy available at law, in equity, or under the Contract or Grant and *Business Associate* retains its responsibility for such failure.

**15. Return/Destruction of PHI.**

15.1 *Business Associate* in connection with the expiration or termination of the Contract or Grant shall return or destroy, at the discretion of the Covered Entity, *PHI* 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 *PHI*. *Business Associate* shall certify in writing and report to 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.

15.2 *Business Associate* shall report to Covered Entity any conditions that *Business Associate* believes make the return or destruction of *PHI* infeasible. *Business Associate* shall extend the protections of this Agreement to such *PHI* and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible for so long as *Business Associate* maintains such *PHI*.

**16. Penalties.** *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.

**17. Training.** *Business Associate* understands its obligation to comply with the law and shall provide appropriate training and education to ensure compliance with this Agreement. If requested by Covered Entity, *Business Associate* shall participate in Covered Entity's training regarding the Use, Confidentiality, and Security of *PHI*; however, participation in such training shall not supplant nor relieve *Business Associate* of its obligations under this Agreement to independently assure compliance with the law and this Agreement.

**18. Miscellaneous.**

18.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Contract or Grant, the terms of this Agreement shall govern with respect to its subject matter. Otherwise, the terms of the Contract or Grant continue in effect.

18.2 Each party shall cooperate with the other party to amend this Agreement from time to time as is necessary for such party to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA. This Agreement may not be amended, except by a writing signed by all parties hereto.

18.3 Any ambiguity in this Agreement shall be resolved to permit the parties to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.

18.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule, Security Rule, and HITECH) in construing the meaning and effect of this Agreement.

18.5 *Business Associate* shall not have or claim any ownership of *PHI*.

18.6 *Business Associate* shall abide by the terms and conditions of this Agreement with respect to all *PHI* 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.

18.7 *Business Associate* is prohibited from directly or indirectly receiving any remuneration in exchange for an *Individual's PHI*. *Business Associate* will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Reports or data containing *PHI* may not be sold without Covered Entity's or the affected Individual's written consent.

18.8 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 12 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

Rev. 05/21/2019

## Attachment F: Agency of Human Services Customary Contract Provisions

1. **Definitions:** For purposes of this Attachment F, the term “Agreement” shall mean the form of the contract or grant, with all of its parts, into which this Attachment F is incorporated. The meaning of the term “Party” when used in this Attachment F shall mean any named party to this Agreement *other than* the State of Vermont, the Agency of Human Services (AHS) and any of the departments, boards, offices and business units named in this Agreement. As such, the term “Party” shall mean, when used in this Attachment F, the Contractor or Grantee with whom the State of Vermont is executing this Agreement. If Party, when permitted to do so under this Agreement, seeks by way of any subcontract, sub-grant or other form of provider agreement to employ any other person or entity to perform any of the obligations of Party under this Agreement, Party shall be obligated to ensure that all terms of this Attachment F are followed. As such, the term “Party” as used herein shall also be construed as applicable to, and describing the obligations of, any subcontractor, sub-recipient or sub-grantee of this Agreement. Any such use or construction of the term “Party” shall not, however, give any subcontractor, sub-recipient or sub-grantee any substantive right in this Agreement without an express written agreement to that effect by the State of Vermont.

2. **Agency of Human Services:** The Agency of Human Services is responsible for overseeing all contracts and grants entered by any of its departments, boards, offices and business units, however denominated. The Agency of Human Services, through the business office of the Office of the Secretary, and through its Field Services Directors, will share with any named AHS-associated party to this Agreement oversight, monitoring and enforcement responsibilities. Party agrees to cooperate with both the named AHS-associated party to this contract and with the Agency of Human Services itself with respect to the resolution of any issues relating to the performance and interpretation of this Agreement, payment matters and legal compliance.

3. **Medicaid Program Parties** (*applicable to any Party providing services and supports paid for under Vermont’s Medicaid program and Vermont’s Global Commitment to Health Waiver*):

**Inspection and Retention of Records:** In addition to any other requirement under this Agreement or at law, Party must fulfill all state and federal legal requirements, and will comply with all requests appropriate to enable the Agency of Human Services, the U.S. Department of Health and Human Services (along with its Inspector General and the Centers for Medicare and Medicaid Services), the Comptroller General, the Government Accounting Office, or any of their designees: (i) to evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed under this Agreement; and (ii) to inspect and audit any records, financial data, contracts, computer or other electronic systems of Party relating to the performance of services under Vermont’s Medicaid program and Vermont’s Global Commitment to Health Waiver. Party will retain for ten years all documents required to be retained pursuant to 42 CFR 438.3(u).

**Subcontracting for Medicaid Services:** Notwithstanding any permitted subcontracting of services to be performed under this Agreement, Party shall remain responsible for ensuring that this Agreement is fully performed according to its terms, that subcontractor remains in compliance with the terms hereof, and that subcontractor complies with all state and federal laws and regulations relating to the Medicaid program in Vermont. Subcontracts, and any service provider agreements entered into by Party in connection with the performance of this Agreement, must clearly specify in writing the responsibilities of the subcontractor or other service provider and Party must retain the authority to revoke its subcontract or service provider agreement or to impose other sanctions if the performance of the subcontractor or service provider is inadequate or if its performance deviates from any requirement of this Agreement. Party shall make available on request all contracts, subcontracts and service provider agreements between the Party,

subcontractors and other service providers to the Agency of Human Services and any of its departments as well as to the Center for Medicare and Medicaid Services.

**Medicaid Notification of Termination Requirements:** Party shall follow the Department of Vermont Health Access Managed-Care-Organization enrollee-notification requirements, to include the requirement that Party provide timely notice of any termination of its practice.

**Encounter Data:** Party shall provide encounter data to the Agency of Human Services and/or its departments and ensure further that the data and services provided can be linked to and supported by enrollee eligibility files maintained by the State.

**Federal Medicaid System Security Requirements Compliance:** Party shall provide a security plan, risk assessment, and security controls review document within three months of the start date of this Agreement (and update it annually thereafter) in order to support audit compliance with 45 CFR 95.621 subpart F, *ADP System Security Requirements and Review Process*.

4. **Workplace Violence Prevention and Crisis Response** (*applicable to any Party and any subcontractors and sub-grantees whose employees or other service providers deliver social or mental health services directly to individual recipients of such services*):

Party shall establish a written workplace violence prevention and crisis response policy meeting the requirements of Act 109 (2016), 33 VSA §8201(b), for the benefit of employees delivering direct social or mental health services. Party shall, in preparing its policy, consult with the guidelines promulgated by the U.S. Occupational Safety and Health Administration for *Preventing Workplace Violence for Healthcare and Social Services Workers*, as those guidelines may from time to time be amended.

Party, through its violence protection and crisis response committee, shall evaluate the efficacy of its policy, and update the policy as appropriate, at least annually. The policy and any written evaluations thereof shall be provided to employees delivering direct social or mental health services.

Party will ensure that any subcontractor and sub-grantee who hires employees (or contracts with service providers) who deliver social or mental health services directly to individual recipients of such services, complies with all requirements of this Section.

5. **Non-Discrimination:**

Party shall not discriminate, and will prohibit its employees, agents, subcontractors, sub-grantees and other service providers from 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, and on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. Party shall not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity as provided by Title 9 V.S.A. Chapter 139.

No person shall on the grounds of religion or on the grounds of sex (including, on the grounds that a woman is pregnant), 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 of Vermont and/or federal funds.

Party further shall 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, requiring that contractors and subcontractors receiving federal funds assure that

persons with limited English proficiency can meaningfully access services. To the extent Party provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services, such individuals cannot be required to pay for such services.

**6. Employees and Independent Contractors:**

Party agrees that it shall comply with the laws of the State of Vermont with respect to the appropriate classification of its workers and service providers as “employees” and “independent contractors” for all purposes, to include for purposes related to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages. Party agrees to ensure that all of its subcontractors or sub-grantees also remain in legal compliance as to the appropriate classification of “workers” and “independent contractors” relating to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages. Party will on request provide to the Agency of Human Services information pertaining to the classification of its employees to include the basis for the classification. Failure to comply with these obligations may result in termination of this Agreement.

**7. Data Protection and Privacy:**

**Protected Health Information:** Party 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 Agreement. Party 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:** Substance abuse treatment information shall be maintained in compliance with 42 C.F.R. Part 2 if the Party or subcontractor(s) are Part 2 covered programs, or if substance abuse treatment information is received from a Part 2 covered program by the Party or subcontractor(s).

**Protection of Personal Information:** Party agrees to comply with all applicable state and federal statutes to assure protection and security of personal information, or of any personally identifiable information (PII), including the Security Breach Notice Act, 9 V.S.A. § 2435, the Social Security Number Protection Act, 9 V.S.A. § 2440, the Document Safe Destruction Act, 9 V.S.A. § 2445 and 45 CFR 155.260. As used here, PII shall include any information, in any medium, including electronic, which can be used to distinguish or trace an individual’s identity, such as his/her name, social security number, biometric records, etc., either alone or when combined with any other personal or identifiable information that is linked or linkable to a specific person, such as date and place or birth, mother’s maiden name, etc.

**Other Confidential Consumer Information:** Party agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to and uses of personal information relating to any beneficiary or recipient of goods, services or other forms of support. Party further agrees to comply with any applicable Vermont State Statute and other regulations respecting the right to individual privacy. Party shall ensure that all of its employees, subcontractors and other service providers performing services under this agreement understand and preserve the sensitive, confidential and non-public nature of information to which they may have access.

**Data Breaches:** Party shall report to AHS, through its Chief Information Officer (CIO), any impermissible use or disclosure that compromises the security, confidentiality or privacy of any form of protected personal information identified above within 24 hours of the discovery of the breach. Party shall in addition comply with any other data breach notification requirements required under federal or state law.

**8. Abuse and Neglect of Children and Vulnerable Adults:**

**Abuse Registry.** Party agrees not to employ any individual, to use any volunteer or other service provider, or to otherwise provide reimbursement to any individual who in the performance of services connected

with this agreement provides care, custody, treatment, transportation, or supervision to children or to vulnerable adults if there has been a substantiation of abuse or neglect or exploitation involving that individual. Party is responsible for confirming as to each individual having such contact with children or vulnerable adults the non-existence of a substantiated allegation of abuse, neglect or exploitation by verifying that fact though (a) as to vulnerable adults, the Adult Abuse Registry maintained by the Department of Disabilities, Aging and Independent Living and (b) as to children, the Central Child Protection Registry (unless the Party holds a valid child care license or registration from the Division of Child Development, Department for Children and Families). See 33 V.S.A. §4919(a)(3) and 33 V.S.A. §6911(c)(3).

**Reporting of Abuse, Neglect, or Exploitation.** Consistent with provisions of 33 V.S.A. §4913(a) and §6903, Party and any of its agents or employees who, in the performance of services connected with this agreement, (a) is a caregiver or has any other contact with clients and (b) 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: as to children, make a report containing the information required by 33 V.S.A. §4914 to the Commissioner of the Department for Children and Families within 24 hours; or, as to a vulnerable adult, make a report containing the information required by 33 V.S.A. §6904 to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. Party 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.

#### 9. **Information Technology Systems:**

**Computing and Communication:** Party 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 Party as part of this agreement. Options include, but are not limited to:

1. Party's provision of certified computing equipment, peripherals and mobile devices, on a separate Party'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.

**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-day 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 Party (or subcontractor or sub-grantee), shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

Party shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State of Vermont.

If Party is operating a system or application on behalf of the State of Vermont, Party 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 Party's materials.

Party acknowledges and agrees that should this agreement be in support of the State's implementation of the Patient Protection and Affordable Care Act of 2010, Party is subject to the certain property rights provisions of the Code of Federal Regulations and a Grant from the Department of Health and Human Services, Centers for Medicare & Medicaid Services. Such agreement will be subject to, and incorporates here by reference, 45 CFR 74.36, 45 CFR 92.34 and 45 CFR 95.617 governing rights to intangible property.

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

Party will ensure the physical and data security associated with computer equipment, including desktops, notebooks, and other portable devices, used in connection with this Agreement. Party 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. Party 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, Party shall securely delete data (including archival backups) from Party's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

Party, in the event of a data breach, shall comply with the terms of Section 7 above.

#### **10. Other Provisions:**

**Environmental Tobacco Smoke.** Public Law 103-227 (also known as the Pro-Children Act of 1994) and Vermont's Act 135 (2014) (An act relating to smoking in lodging establishments, hospitals, and child care facilities, and on State lands) restrict the use of tobacco products in certain settings. Party shall ensure that no person is permitted: (i) to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time; (ii) to use tobacco products or tobacco substitutes on the premises, both indoor and in any outdoor area designated for child care, health or day care services, kindergarten, pre-kindergarten, elementary, or secondary education or library services; and (iii) to use tobacco products or tobacco substitutes on the premises of a licensed or registered family child care home while children are present and in care. Party will refrain from promoting the use of tobacco products for all clients and from making tobacco products available to minors.

Failure to comply with the provisions of the federal 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. The federal Pro-Children Act of 1994, however, does not apply to 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.

**2-1-1 Database:** If Party provides health or human services within Vermont, or if Party provides such services near the Vermont border readily accessible to residents of Vermont, Party shall adhere to the

"Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211 (Vermont 211), and will provide to Vermont 211 relevant descriptive information regarding its agency, programs and/or contact information as well as accurate and up to date information to its database as requested. The "Inclusion/Exclusion" policy can be found at [www.vermont211.org](http://www.vermont211.org).

**Voter Registration:** When designated by the Secretary of State, Party 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.

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

**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.

*AHS ATT. F 5/16/2018*

## Appendix Q: REPORTING REQUIREMENTS

As described in the full NCS EBT RFP, plus the following Vermont specific requirements:

It is required that each of the reports listed below be created by the vendor, or that reports serving equivalent functions be provided. If specific reports listed below are not recreated in the same format, during detail design vendor must describe to the State which of its reports provide the same data and functionality of the reports described below. This is not a complete list of the reporting expected; it is a list of reports required in the same or similar format to what the state receives in its current contract.

A sample of the following reports can be requested from [AHS.DCFESDEBTUnit@vermont.gov](mailto:AHS.DCFESDEBTUnit@vermont.gov):

**Clearing Statement** (VTDCF EBTDS 101-4) – Daily report used by the State to make business day payments to the vendor, broken down by program code, required for State’s cost allocation purposes

**Daily Statistical Report** (VTDCF EBTDS 404-1) Used for federal reporting (FNS 46 & 388) for month to date totals

**Daily Database Value** (VTDCF EBTDS 404-2) Used for Daily Reconciliation to ASAP

**Authorization Activity Summary** (VTDCF EBTDS 101-4) – Showing by category benefits authorized through batch processes and availability date(s)

**Previous Suspense** (VTDCF EBTDS 106-1) Used in daily ASAP reconciliation

**Daily Refresh Files** – for “Add”, “Food”, “Cash” Daily, and Monthly as needed

**Daily File:** Every day, (weekdays, weekends and holidays included) the contractor sends a ‘Daily’ file to SOV.

This Daily file transmission from the vendor to the state file includes all the reports listed above, plus additional financial files including authorization and transaction detail level reports. Currently, no action is required on the part of SOV to initiate receipt of this file. SOV mainframe job PASS120B processes the contractor-sent incoming “Daily” GDG and sends a copy of it to a SOV server for SOV staff. Transmission of this file does not eliminate the need for any information contained in it to also be posted to the vendor’s Web Admin portal, dependent on the report suite agreed upon during the detail design phase. The content of this file, and whether it is required in addition to posting of reports to the vendor’s online administrative terminal will be determined during detail design, but the vendor should have the capacity to provide a similar function if required.