



STATE OF VERMONT
LEGISLATIVE JOINT FISCAL OFFICE

REQUEST FOR PROPOSAL

CHILD CARE AND EARLY CHILDHOOD EDUCATION FINANCING STUDY

ISSUE DATE: January 24, 2022

QUESTIONS DUE BY: February 14, 2022

DUE DATE: February 25, 2022

CONTACT: Nolan Langweil
Legislative Joint Fiscal Office
1 Baldwin Street
Montpelier, Vermont 05633
JFORFP@leg.state.vt.us

The State will make no attempt to contact vendors with updated information. It is the responsibility of each vendor to periodically check <https://ljfo.vermont.gov/committees-and-studies/child-care-and-early-education-financing-study> for any and all notifications, releases, and amendments associated with the RFP.

1. OVERVIEW:

1.1. INTRODUCTION: The Vermont Legislative Joint Fiscal Office (JFO) issues this Request for Proposals (RFP) to solicit proposals for a consultant or consulting team to conduct a comprehensive fiscal analysis of the child care and early childhood education system in Vermont. Pursuant to 2021 Acts and Resolves No.45, an act relating to the governance and financing of Vermont’s child care system, this analysis shall include an estimate of the total cost of high-quality care for infants, toddlers, preschool, and school-age children in Vermont and how any financing gap should be financed. As described in the legislative intent in Act 45, the data produced by this analysis will be used to further inform policymakers as they consider ways to improve Vermont’s child care and early childhood education system, including:

- 1) that immediate investments are necessary to support Vermont’s economy, ensure that all families with young children have affordable access to high-quality child care and early education, and that Vermont’s early childhood educators are fairly compensated and well supported; and
- 2) to continue and build upon the five-year [redesign](#) of the Child Care Financial Assistance Program (CCFAP) that began in fiscal year 2020.

The work of this analysis will build upon the work of the Vermont Child Care and Early Childhood Education Systems Analysis currently being undertaken by Foresight Law & Policy and Watershed Advisors and overseen by Building Bright Futures as required by Sec. 13 of Act 45 of 2021. A link to the full text of Act 45 can be found in Attachment B (#1).

1.2. CONTRACT PERIOD: The proposed start date is April 1, 2022. The contractor shall submit preliminary results and a final report as stated in Sec. 2.3 (Deliverables) of this RFP. Following submission of the final report, the contractor(s) will be available for presentations of the report and its recommendations to legislative committees.

1.3. QUESTIONS: Any contractor requiring clarification of any section of this proposal or wishing to comment on any requirements or other portion of the RFP should direct their inquiry to JFORFP@leg.state.vt.us no later than 3:00 p.m. ET on February 14, 2022. Responses to questions will be posted on the JFO website at: <https://ljfo.vermont.gov/committees-and-studies/child-care-and-early-education-financing-study>

2. DETAILED REQUIREMENTS:

2.1. **BACKGROUND:** Sec. 14 of Act 45 of 2021 (See Attachment A) requires the Joint Fiscal Office (JFO) to contract with an economist or independent consulting entity with expertise in the field of child care and early childhood education to:

- Estimate the total cost of a high-quality system for infants, toddlers, preschool and school-age children in both licensed/legally exempt childcare centers and licensed family childcare homes. These estimates will also include system-level costs such as professional development and State administrative costs.
- Estimate the gap between the current system operating costs and the total cost of care estimated for the high-quality system outlined above.
- Evaluate the economic impacts of and potential funding mechanisms to adjusting Vermont's existing child care system pursuant to 33 V.S.A. chapter 35 (Child Care). See Attachment B, #2.

The child care and early childhood education system includes birth through pre-kindergarten education including child care (home and center-based), the Child Care Financial Assistance Program, child care licensing and regulation, Universal Prekindergarten Education, after school and out of school time care for children in kindergarten through age 12, early intervention/Children's Integrated Services, and special education.

The emphasis is on the system of early care and education for children from birth to five years of age with consideration given to the intersection of and impacts on child care (including afterschool and out of school time care) for children from six years of age through 12 years of age in alignment with the recommendations of the Universal Afterschool Task Force established pursuant to Sec. B.1120.1 of Act 154 of 2020 (See Attachment B, #3 and #4). The work of the economist or independent consulting entity shall be governed by the following goals:

- that a family does not spend more than 10 percent of its gross annual income on child care;
- that child care providers receive compensation that is commensurate with peers in other fields; and
- the utilization of a cost of care model versus a market rate model in the CCFAP. See Attachment B, #5 and #6.

2.2 **SCOPE OF WORK:** This RFP calls for two analyses related to Vermont's child care and early childhood education system. Contractors may submit proposals for one or both

parts, though preference will be given to consultants or consulting teams whose proposals consist of both parts.

- PART 1: Financial Analysis
- PART 2: Financing Plan and Economic Impacts

PART 1: FINANCIAL ANALYSIS

- The contractor will provide a financial analysis of Vermont’s current child care and early childhood education that projects the costs of expanding the State’s child care benefit to more families, requiring commensurate pay for providers and utilizing a cost of care model to set rates in the Child Care Financial Assistance Program (CCFAP) and the feasibility of implementing each policy in Vermont, both separately and jointly. Specifically, the financial analysis will include the following considerations:
 - RECENT STUDIES: The contractor will take into consideration both the process, work, and findings of the Child Care and Early Childhood Education Systems analysis currently underway and overseen by Building Bright Futures. The contractor may work with Building Bright Futures and their contractors to leverage findings from the analysis and stakeholder engagement mechanisms to inform this analysis. See Attachment B, #7 and #8.
 - FEDERAL LEGISLATION: At the time of issuance of this RFP, the future of the federal “Build Back Better” bill remained uncertain. The contractor will identify where differences exist between eligibility and quality requirements and other regulations in Act 45 and the current or final iteration of the Build Back Better bill and analyze the outcomes under both (unless the bills prospects for passage by Congress are no longer expected). The contractor will also take into consideration any other known State or federal actions that may or will have significant requirements for and/or impacts on Vermont’s Child Care System.
 - TARGET POPULATION & AGE RANGE: The analysis will include the costs of quality child care for children from birth through five years of age, broken out by infants, toddlers, and preschool children, with consideration given to the intersection of and impacts on child care for children from six years of age through 12 years of age in alignment with the recommendations of the Universal Afterschool Task Force (See Attachment B, #3).
 - LEVEL OF ANALYSIS: The total cost of high-quality care will include both provider-level and system-level costs of care offered by both the private sector and the public sector. The contractor will consult with Building Bright Futures in understanding what is required of a high-quality system based on results from Vermont’s Child Care and Early Childhood Education System analysis.

As part of this analysis, the contractor will review the pupil weight assigned to pre-K students enrolled in Vermont school districts.

- ELIGIBILITY: The contractor will analyze two tracks for eligibility:
 - 1) Act 45: Eligibility for State subsidies are based on the current federal poverty level (FPL) and adjusted for the size of the family. Co-payments are assigned to the whole family and do not increase if more than one eligible child is enrolled in child care. Families with an annual gross income less than or equal to 150 percent of the current FPL guidelines have no co-payment, and those with annual gross income (AGI) up to and including 350 percent of the current FPL guidelines, adjusted for family size, are eligible for a subsidy.
 - 2) Federal legislation: A second track for eligibility could be based on provisions in the federal Build Back Better bill (under its current or final iteration assuming its likely passage).
- REGIONAL VARIATION: The contractor will determine if considerations of any potential regional variations are necessary for inclusion in the analysis.
- CARE SETTINGS: The contractor will specify costs in different care settings (i.e., center-based and family care) and in both private-sector and public-sector programs.
- WORKFORCE: The analysis will be based on the premise that child care providers receive compensation that is commensurate with peers in similar fields. This includes compensation equity (including salary and benefits) with peers with similar educational qualifications as well as experience and credentialing expectations and requirements.
- WORKFORCE DEVELOPMENT: The analysis should include statewide professional development opportunities and any needed expansion of educator preparation programs.
- PROVIDER PAYMENT MODEL: The contractor will compare cost estimates using a cost of care model versus a market rate model for setting reimbursement rates in CCFAP.

PART 2: FINANCING PLAN AND ECONOMIC IMPACTS

- The contractor will develop a financing plan that identifies and determines the feasibility of implementing stable, long-term funding sources to finance a high-quality child care and early childhood education system for children from birth through five years of age and child care (afterschool and out-of-school care) for children ages six through 12 years of age that is affordable for Vermont families. The financing plan will include the following considerations:

- **SUBSIDIES AND FAMILY CONTRIBUTIONS:** In estimating family subsidies, the contractor will consider two scenarios:
 - that a family does not pay more than 10% of its gross annual income on child care (as per Act 45); and
 - that a family does not pay more than 7% of its income on child care for families earning up to 250% of the state median income (as per the pending Build Back Better bill).The contractor will also offer recommendations for mitigating any “benefit cliff effects” for those accessing child care subsidies.
- **REVENUE SOURCES:** For both public and private funding sources, the contractor will offer not less than three financing options or packages to cover the total cost of high-quality care. These funding sources will include diverse financing mechanisms that take into consideration the status of federal legislation and the need for long-term sustainability. Financing options should include five-year revenue estimates as well as a summary of feasibility, an implementation timeline, and other considerations for each identified revenue source.
- **ECONOMIC AND FISCAL IMPACTS:** The contractor will identify effects stemming from each financing option package on the State’s economy (workforce participation, productivity, earnings, gross domestic product) and fiscal situation (State revenues and expenditures). The contractor will also analyze the distributional impacts on households and businesses. Estimating the net fiscal impact is optional.

2.3 DELIVERABLES

The timeline for the following deliverables will depend on whether the contractor is bidding on just Part 1 (the financial analysis), just Part 2 (the financing plan and economic impacts), or both parts together.

- **Preliminary Results:** The contractor shall submit preliminary results to the Joint Fiscal Office and to the Chairs of the House Committees on Appropriations, on Human Services, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Health and Welfare on the following dates:
 - On or before August 15, 2022, if contractor is bidding on only Part 1.
 - On or before December 1, 2022, if contractor is bidding on both Parts 1 and 2 or just Part 2.
- **Final Report:** The contractor shall submit to the House Committees on Appropriations, on Human Services, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Health and Welfare a final report that estimates the total cost of care, at least three financing options for both public and private funding sources, and economic impacts on the following dates:

- On or before September 15, 2022 if contractor is bidding on only Part 1.
- On or before January 15, 2023 if contractor is bidding on both Parts 1 and 2, or only on Part 2.

The Final report will:

- project the costs of expanding the State’s child-care benefit to more Vermont families, requiring commensurate compensation for providers, and utilizing a cost of care model to set reimbursement rates in the Child Care Financial Assistance Program and the feasibility of implementing each policy in Vermont, both separately and jointly, and
 - identify and determine the feasibility of implementing stable, long-term funding sources to finance an affordable, high-quality child-care system for children from birth through five years of age as well as ages six through 12 years of age.
- Progress Reports: The contractor will provide JFO staff with regular updates and progress reports, the frequency of which will be established in the contract.
 - Access to and copies of the contractor’s non-proprietary models, spreadsheets, and data for use by JFO staff will be established as part of the contract.
 - NOTE: The contractor will not be expected to facilitate focus groups or listening sessions. That work is part of the on going Building Bright Futures contract.

3. GENERAL REQUIREMENTS:

3.1. **EVALUATION CRITERIA AND CONSULTANT INDEPENDENCE:** Proposals will be evaluated for their responsiveness to the scope of work and other specifications in this RFP. In particular, the State intends to select a consultant or entity that is professionally qualified and has demonstrated independence from interest or advocacy groups involved in the discussion of policy issues in the area of childcare and early childhood education.

3.2. **CONFIDENTIALITY:** The successful response will become part of the contract file and will become a matter of public record, as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under 1 V.S.A., chapter 5, the bidder shall clearly designate the material as such, explaining why such material should be considered confidential. The bidder must identify each page or section of the response that it believes is proprietary and confidential with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the bidder if the identified material were to be released. Under no circumstances may the entire response or price information be marked confidential. Responses so marked may not be considered.

- 3.3. **CONTRACT TERMS:** The selected consultant will sign a contract with the Joint Fiscal Office to provide the evaluation named in their response at the price listed or agreed upon. The contract will include the standard State provisions described in Attachment C. The terms and conditions from this RFP and the consultant's response will become part of the contract. This contract will be subject to review throughout its term. The State will consider cancellation upon discovery that the consultant is in violation of any portion of the agreement, including an inability by the consultant to provide the services offered in its response.
 - 3.4. **STATEMENT OF RIGHTS:** The State reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Failure of a bidder to respond to a request for additional information or clarification could result in rejection of that bidder's proposal. To secure a project that is deemed to be in the best interests of the State, the State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions.
 - 3.5. **TAXES:** Most State purchases are not subject to federal or state sales or excise taxes and must be invoiced tax free. An exemption certificate will be furnished upon request covering taxable items. If taxes are to be applied to a purchase, it must be so noted in the response.
 - 3.6. **ORDER OF PRECEDENCE:** The order of preference for documentation will be the contract and attachments, the RFP, and the contractor's response and any amendments.
 - 3.7. **AMENDMENTS:** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and the consultant.
 - 3.8. **NO COLLUSION:** The State is conscious of and concerned about collusion. It should therefore be understood by all that in signing bid and contract documents they agree that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive consultant. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, all bidders should understand that this paragraph might be used as a basis for litigation.
4. **BIDDER RESPONSE CONTENT AND FORMAT:** The content and format requirements listed below are the minimum required for our evaluation. They are not intended to limit the content of the proposals; bidders may include additional information or offer alternatives that may be considered.
 - 4.1. **SUBMISSION:** Submit electronically as a PDF to JFORFP@leg.state.vt.us

4.2. **BACKGROUND AND EXPERIENCE:** Provide a description of the technical experience and qualifications for key personnel and the role each of them is expected to play. Additionally, please provide a list of any work done for other entities in Vermont and a brief description of work done independently of any interest or advocacy group involved in child care and early childhood education issues.

4.3. **PROJECT PLAN:** Describe the project management structure, major project milestones, and timing of periodic updates. Describe the process for involving and soliciting input from key stakeholders in the State.

4.4. **DATA SETS AND MODELS:** Summarize the analytic approaches and data sets you expect to use for this evaluation.

4.5. **REFERENCES:** Provide names, addresses, and telephone numbers of at least two clients with whom you have transacted similar business in the last three years. You must include contact names who can speak knowledgeably about your performance.

4.6. **PRICING:** Any and all costs that you wish the State to consider must be submitted. The cost structure for the project should be described including billing rates and estimated hours for key staff, payments to any subcontractors, overhead rates, and estimated non salary expenses, including travel.

5. **SUBMISSION INSTRUCTIONS:**

5.1. **CLOSING DATE:** The closing date for the receipt of proposals is 3:00 p.m. ET on February 25, 2022. Questions will be accepted until 3:00 p.m. ET on February 14, 2022.

6. **ATTACHMENTS:**

6.1. Attachment A: Legislation

6.2. Attachment B: Additional Resources

6.3. Attachment C: State Contract Provisions

ATTACHMENT A: LEGISLATION

Note: A link to the full text of the legislation can be found at:

<https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT045/ACT045%20As%20Enacted.pdf>

Sec. 14 of Act 45 (H.171) of 2021
CHILD CARE AND EARLY CHILDHOOD EDUCATION FINANCING STUDY

Sec. 14. CHILD CARE AND EARLY CHILDHOOD EDUCATION
FINANCING STUDY

(a) On or before July 1, 2022, the Joint Fiscal Office shall contract with an economist or independent consulting entity with expertise in the field of child care and early childhood education to evaluate the economic impacts of and potential funding mechanisms to adjusting Vermont's existing child care system regulated pursuant to 33 V.S.A. chapter 35 for children from birth through five years of age with consideration given to the intersection of and impacts on child care for children from six years of age through 12 years of age in alignment with the recommendations of the Universal Afterschool Task Force established pursuant to 2020 Acts and Resolves No. 154, Sec. B.1120.1. The work of the economist or independent consulting entity shall be governed by the following goals:

(1) that a family does not spend more than 10 percent of its gross annual income on child care;

(2) that child care providers receive compensation that is commensurate with peers in other fields; and

(3) the utilization of a cost of care model versus a market rate model in the Child Care Financial Assistance Program.

(b)(1) On or before December 1, 2022, the consultant shall submit preliminary results to the Joint Fiscal Office and to the Chairs of the House Committees on Appropriations, on Human Services, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Health and Welfare.

(2) On or before January 15, 2023, the consultant shall submit to the House Committees on Appropriations, on Human Services, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Health and Welfare multiple financing options for public and private funding sources, including a final report that:

(A) projects the costs of expanding the State's child care benefit to more families in accordance with this section, requiring commensurate pay for providers, and utilizing cost of care in the Child Care Financial Assistance Program and the feasibility of implementing each policy in Vermont, both separately and jointly; and

(B) identifies and determines the feasibility of implementing stable, long-term funding sources to finance an affordable, high-quality early child care system for children from birth through five years of age.

ATTACHMENT B: ADDITIONAL RESOURCES

1. Full text of Act 45 of 2021.
<https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT045/ACT045%20As%20Enacted.pdf>
2. Child Care Statutes, 33 V.S.A. chapter 35.
<https://legislature.vermont.gov/statutes/chapter/33/035>
3. Taskforce for Universal Afterschool Access website: <https://education.vermont.gov/state-board-councils/taskforce-for-universal-afterschool-access>
4. Language creating the Task Force for Universal Afterschool Access, Sec. B.1120.1 of Act 154 of 2020 (an act relating to making appropriations for the support of government). Sec. B.1120.1 starts on page 118.
<https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT154/ACT154%20As%20Enacted.pdf>
5. Department for Children and Families Child Care Financial Assistance Program (CCFAP) website. <https://dcf.vermont.gov/childcarefinancialhelp>
6. Department for Children and Families (DCF) summary of the five-year redesign of the Child Care Financial Assistance Program.
<https://dcf.vermont.gov/sites/dcf/files/CDD/Docs/ccfap/CCFAP-Redesign-Fact-Sheet.pdf>
7. Description of the Child Care and Early Childhood Education System Analysis Study (Building Bright Futures). <https://47717snyayj49hh0r38uhcgo-wpengine.netdna-ssl.com/wp-content/uploads/2021/08/EC-Systems-Analysis-Overview.pdf>
8. Building Bright Futures web page regarding Vermont’s Child Care and Early Childhood Education Systems Analysis. <https://buildingbrightfutures.org/what-we-do/projects-pilots/vermonts-child-care-and-early-childhood-education-systems-analysis-2/>

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

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)