



Department of Buildings and General Services  
Office of Purchasing & Contracting  
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<http://bgs.vermont.gov/purchasing>

Agency of Administration

**SEALED BID  
REQUEST FOR PROPOSALS:  
EXPEDITED AND SCALABLE  
MEALS PREPARATION AND DELIVERY  
SERVICES ON STATEWIDE OR REGIONAL BASIS  
Requisition Number: 03440-COVID\_MEALS-21**

ISSUE DATE: November 2, 2020

BIDDERS' QUESTIONS DUE BY: November 13, 2020 4:00 PM  
STATE'S RESPONSES DUE BY: November 20, 2020 4:00 PM

RFP RESPONSES DUE BY: November 30, 2020 12:00 PM  
*(bids must be submitted electronically, in accordance with Section 5, below)*

PLEASE BE ADVISED THAT ALL NOTIFICATIONS, RELEASES, AND ADDENDUMS ASSOCIATED WITH THIS RFP WILL BE POSTED AT:

<http://bgs.vermont.gov/purchasing/bids>

THE STATE WILL MAKE NO ATTEMPT TO CONTACT INTERESTED PARTIES WITH UPDATED INFORMATION. IT IS THE RESPONSIBILITY OF EACH BIDDER TO PERIODICALLY CHECK THE ABOVE WEBPAGE FOR ANY AND ALL NOTIFICATIONS, RELEASES AND ADDENDUMS ASSOCIATED WITH THIS RFP.

STATE CONTACT: Patricia Hendee, ESD Grants and Contracts Supervisor  
E-MAIL: [AHS.DCFESDGrantsAndContracts@vermont.gov](mailto:AHS.DCFESDGrantsAndContracts@vermont.gov)

1. **OVERVIEW:**

- 1.1. **SCOPE AND BACKGROUND:** Through this Request for Proposal (RFP) the State's Emergency Operations Center through the Department for Children and Families' Economic Services Division (hereinafter the "State") is seeking to establish contracts with one or more companies, entities, or organizations that can provide Expedited and Scalable Meals Preparation and Delivery Services.
- 1.2. **CONTRACT PERIOD:** Contracts arising from this RFP will be for an initial period of six months, with an option to renew for up to twelve additional months. The State anticipates the start date will be on or around January 1, 2021 but may be as late as mid-February.
- 1.3. **SINGLE POINT OF CONTACT:** All communications concerning this RFP are to be addressed in writing to the State Contact listed on the front page of this RFP. Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.
- 1.4. **BIDDERS' CONFERENCE:** A bidders' conference will not be held as part of this RFP.
- 1.5. **QUESTION AND ANSWER PERIOD:** Any vendor requiring clarification of any section of this RFP or wishing to comment on any requirement of the RFP must submit specific questions in writing no later than the deadline for question indicated on the first page of this RFP. Email all questions to the point of contact listed on the front page of this RFP. Questions or comments not raised in writing on or before the last day of the question period are thereafter waived. At the close of the question and answer period, a copy of all questions or comments and the State's responses will be posted on the bid site listed on the first page of the RFP by the deadline indicated.
- 1.6. **CHANGES TO THIS RFP:** Any modifications to this RFP will be made in writing by the State through the issuance of an Addendum to this RFP posted to the bid site listed on the first page of the RFP. Verbal instructions or written instructions from any other source are not to be considered.

2. **STATEMENT OF NEED:** The State of Vermont is mobilizing and coordinating a number of preparations in its' continued response to the COVID-19 Pandemic. These ongoing preparations include, but are not limited to, the establishment of sites for care, testing, housing, and/or quarantine and isolation for individuals and families in connection with the COVID-19 virus across the State. The State is open to receiving Proposals under this RFP for meal preparation and delivery services on either a Statewide Basis or a Regional Basis based on the Counties detailed in Section 2.1 below.

2.1. Occupancy levels and corresponding resultant need for meals may increase and decrease as frequently as daily over the course of the contract, though rate of increase is difficult to predict and occupancies or needs per site may vary up and down over time. Currently known delivery sites in each region along with corresponding meal needs by region are noted below (it must be recognized that these numbers below are estimates, not absolute figures):

***Addison County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (69 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Marriot	309 Court St	Middlebury
Middlebury Inn	14 Court Square	Middlebury
Middlebury Sweets Motel	1395 US Route 7	Middlebury
Sugarhouse Motor Inn	202 Ethan Allen Hwy	Middlebury

***Bennington County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (143 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Autumn Inn	924 East Main St	Bennington
Best Western	220 Northside Dr	Bennington

Catamount Motel	500 South St	Bennington
Econo Lodge – Manchester	2187 Depot St	Manchester Center
Fife N Drum	767 US 7 South	Bennington
Ladd Brook	5939 RT 7	Pownal
Midtown Motel	107 Main St	Bennington
Southgate	767 US 7 South	Bennington
Starlight Inn	357 US RT 7 South	Bennington
West Rd Motel	2968 West Rd	Bennington
Apple Valley Inn	979 US 7	Bennington
Four Winds Motel	7379 Main St	Manchester
Candlelight Motel	4893 VT 7A	Arlington
Weatherwane-Manchester	2212 Main St	Manchester
Chalet Motel	1875 Depot St	Manchester Center

***Caledonia County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (65 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Colonnade Inn	28 Back Center Rd	Lyndonville
Fairbanks Inn	401 Western Ave.	St. Johnsbury

***Chittenden County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (491 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Countryside Motel	6475 Shelburne Rd	Shelburne
Days Inn - Colchester	124 College Parkway	Colchester
Days Inn - Shelburne	3229 Shelburne Rd	Shelburne
Ethan Allen Motel	1611 Williston Rd	South Burlington
North Star Motel	2427 Shelburne Rd	Shelburne
Quality Inn	84 S. Park Drive	Colchester
Travel Lodge	1016 Shelburne Rd	South Burlington
Sonesta Suites	35 Hurricane Ln	Williston
Harbor Place	3198 Shelburne Rd	Shelburne
Holiday Inn	1068 Williston Rd	South Burlington
Ho Hum Motel	1660 Williston Rd	South Burlington

***Essex County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (3 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Maurice's Motel	125 Gale St	Canaan

***Franklin County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (101 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Cadillac Motel	213 S. Main St	St. Albans
Econo Lodge	287 S Main St.	St. Albans
The Europa Motel	49 Spring St	Swanton
Swanton Motel	112 Grand Ave	Swanton

***Lamoille County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (65 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Deer Run Motor Inn	80 Deer Run Loop	Jeffersonville
Sunset Motor Inn	160 VT 15 W	Morrisville
Golden Eagle	511 Mountain Road	Stowe

***Orange County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (22 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Bradford Motel	379 Lower Plain Rd	Bradford
Fairlee Motel	1809 US RT 5 N	Fairlee

***Orleans County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (18 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Pinecrest	1288 Barton-Orleans Rd	Barton

***Rutland County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (125 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Brandon Motor Lodge	2095 Franklin St	Brandon
Econo - Lodge	238 S. Main St	Rutland
Highlander Inn	203 North Main St	Rutland
Killington/Pico Motor Lodge	4840 US 4	Killington
Pine Tree Lodge Motel	154 Woodstock Ave	Rutland
Quality Inn	253 S. Main St	Rutland
Rodeway Inn North	138 N. Main St	Rutland
Rodeway Inn East	115 Woodstock Ave	Rutland
Travel Inn	125 Woodstock Ave	Rutland

***Washington County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (264 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Econo Lodge	101 North St.	Montpelier
Budget Inn	573 N. Main St	Barre

Hilltop Inn	3472 Airport Rd	Berlin
Hollow Inn	278 S. Main St	Barre
Knoll Motel	1015 N. Main St	Barre
Pierre Motel	362 N Main St	Barre
Quality Inn	175 S Main St	Barre

***Windsor County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (70 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Shady Lawn Motel	687 Maple St (Rt 14)	White River Junction
South on 5 (formally Pinecrest)	RT 5	White River Junction
Super 8 Motel	442 N. Hartland Rd	White River Junction
Comfort Inn	59 Ralph Lehman Drive	White River Junction
Windsor Motel	6063 US 5	Windsor

***Windham County and surrounding areas Homeless/Housing Insecure and/or Isolation and Recovery Household meals (202 adults and children)***

<b>Hotels</b>	<b>Address</b>	
Rodeway Inn	593 Rockingham Rd	Bellows Falls
Black Mountain Inn	959 Putney Rd	Brattleboro
Colonial Motel	889 Putney Rd	Brattleboro
Econo Lodge	515 Canal St	Brattleboro
Quality Inn	1380 Putney Rd	Brattleboro
Magic View Motel	3806 VT 11	Londonderry
Snowdon Chalet	4071 VT 11	Londonderry

The RFP is for meal preparation and delivery service to the households at the above location(s), with the above being representative information as of the issuance of this RFP; numbers and locations are explicitly subject to change.

- 2.2. Potential other sites may be added. Number of sites, and times at which sites may be added, are difficult to predict due to unknown scope and speed of changing conditions. This bid solicitation seeks pricing only for the above specific regions with the possibility of additional delivery sites as agreed upon with 48 hours advance notice in each regional area identified above; other future needs might be addressed by contract amendments or might be the subject of additional separate bid solicitations.
- 2.3. Populations at sites are expected to fluctuate over time, though rates of increases and decreases are difficult to predict throughout the period of operation of the sites.
- 2.4. Each individual within the population at each site will need three nutritious meals a day, every day of the week:
  - Standard Meals: Breakfast, lunch, dinner, w/ gluten free options, vegetarian options, and medical dietary need options as requested.
  - Meals, in general, should be along the lines of healthy, simple meals, analogous to meals in a School Lunch program, with pricing also coming in line with school lunch meals.
  - Whole grains, meat/meat alternative, and a variety of fruits and vegetables shall be used over the course of each week. Low sodium food items are encouraged. Meals shall be served unitized, ready-to-eat, and without any additional preparation being required by the recipient.

- Due to limited or no access to refrigeration space, milk should generally be not more than one serving per person per day, aside from/in addition to milk with any breakfast cereals. Alternative healthy dairy options (i.e. cheese sticks or yogurt) are allowed and encouraged as part of menus.
  - An example of a breakfast menu may consist of a 2-2.5 cup ready-to-eat cereal cup with 1 cup of milk and ½ cup of fresh fruit or fruit cup. Additional variety may be required for dairy free diets, soft diets, etc. which may require (but not necessarily be limited to) hot cereals and/or Soy or Almond Milk.
  - An example of a lunch menu may consist of a sandwich with any of the following turkey/ham/chicken/tuna/cheese/egg and whole grain bread/bun/roll (with condiments), tossed salad (with dressing), and 1 piece of fruit (i.e. apple, banana, or pear).
  - An example of a dinner menu may consist of a burger with beef and a whole grain bun/roll (with condiments), cooked sweet potato, and a spinach salad (with dressing).
- 2.5. There will not be food storage available at these locations. This request is for delivered meals. No kitchens can be utilized. Food must be cooked off site. Contractors are solely responsible for providing or making arrangements for their own food preparation and cooking space.
- 2.6. Contractors must adhere to any applicable food safety laws, regulations, and best practices in relation to preparation, handling and storage pending delivery, transportation, and delivery of meals
- 2.7. There will be one or more handoff points at which the food provider can make a delivery drop (some sites may have more than one building.) The State will provide information on any health protocols that sites have in place. The drop off point will be outdoors or in a closed space where guests with COVID-19 are not located.
- 2.8. The State will have a Designee that will provide the vendor with advance notice of the daily meal counts, with up to a maximum of 24 hours' notice. Please indicate the desired amount of advance notice in the proposal; the final amount of advance notice will be negotiated between the State and the apparently successful bidder(s). Discretion of whether or how much to order extra meals in order to account for potential rate of population increase belongs solely to the State, and contractor will simply be notified of the number of meals being ordered.
- 2.9. Contractor must be able to deliver to the designated drop-off point or points for each location.
- 2.10. The State shall have the option but not the obligation to include State or other site-operational personnel in the category and number of people to be served per site.
- 2.11. If necessary, to allow contractor response to potential rapid changes in number of meals needed, the State may be open to an arrangement where there are standard menu options for meal numbers forecast a certain time period in advance, and other menu options available for quickly changing needs, as long as all options are of good quality, good nutrition, and effective satiety.
- 2.12. This RFP may result in one or more contracts with one or more contractors. The one or more contracts may include separate contracts with separate organizations/State agencies or may take the form of one contract with separate specific scopes and payment provisions for different organizations/agencies.
- 2.13. **Performance Requirements & Service Expectations:**
- 2.13.1. Meals provided must cover seven days per week.
  - 2.13.2. Meals must be appetizing, nutritious, and reasonably varied, both in terms of options at any one meal and in variety over time.
  - 2.13.3. Contractor must provide full delivery of ordered quantities of meals, in a timely manner, during reasonable time windows to be established by State site coordinators.
  - 2.13.4. Refrigeration will not be available on site.
  - 2.13.5. Meals will need to be delivered at least once per day, regardless of holiday or weather, following one of the two alternates, if a bidder would charge differently depending on which alternate is used, the State requires that the bidder clearly indicate what their pricing would be for each distinct alternate:

Meal Delivery shall occur at least once per day at designated times agreed upon time between ESD and the Contractor to the locations provided by ESD; if once per day, the delivery shall include the current day's breakfast, lunch, and dinner.

OR

Meal Delivery shall occur at least once per day at designated times agreed upon time between ESD and the Contractor to the locations provided by ESD; if once per day, the delivery shall include the current day's lunch meal, the current day's dinner meal, and the next day's breakfast meal.

The State is also open to receiving proposals that have meal deliveries occurring twice or three times daily; bidder must note if the pricing would be different for these alternate options. Please indicate the number of deliveries per day in the proposal and which meals are provided in each delivery.

If accommodations for service delivery are needed for holidays or other specific situations, please clearly indicate this in the proposal, explaining what the accommodations needed are and how the ordered meals would still be provided in the identified situations.

- 2.13.6. Contractor shall sanitize delivery vehicles a minimum of once per day using cleaners appropriate for the vehicle. More frequent cleaning of frequently touched vehicle surfaces (door handles, steering wheel, etc.) during delivery runs is encouraged.
- 2.13.7. Contractor shall deliver all food unitized and in disposable containers. If the contractor intends to utilize any re-usable containers, such as plastic totes to hold food items, contractor shall clean such containers at the point of return. Additionally, the State is not liable for any lost or missing Contractor supplies that are left at sites.
- 2.13.8. Delivery workers shall at a minimum wear disposable food-safe gloves (such as nitrile or latex) and change them between each delivery location.
- 2.13.9. It is recommended that delivery workers practice appropriate hand hygiene between glove changes and delivery locations.
- 2.13.10. Contractor will abide by any State and/or federal laws or regulations applicable to storage, preparation, and delivery of food and prepared food.
- 2.13.11. Contractor will also provide numbers appropriate to persons served of utensils, plates, napkins, cups, and other necessities for the provision and consumption of the meals delivered.
- 2.13.12. The State seeks "as delivered, per meal, per site" pricing, so that delivery charges are not separate.

**2.14. Statements sought of Contractor Capabilities and Cost Structures:**

- 2.14.1. The State may prefer a single contractor for administrative simplicity to provide services on a Statewide basis, but may, in the State's sole discretion, and only if it is deemed advantageous to and by the State, be open to having different contractors under contract for different regions of the State.
- 2.14.2. The State would prefer, if possible, to have one contractor per region and per site, but is open to considering other arrangements, if necessary, to meet the required needs, and/or to accomplish scalability or cost effectiveness.
- 2.14.3. The State recognizes that it may be possible that no single contractor, or even constant set of contractors, may be able to serve all sites, or to serve any particular site at all potential scales; some contractors may be willing and able to serve smaller volumes, but not larger volumes, and other contractors may be able to accommodate larger volumes without being able to scale to smaller volumes. Contractors may also vary in their speed of their ability to mobilize to commence and/or and scale up.
- 2.14.4. The State is potentially open, if it proves necessary and/or advantageous to the State, to "tiered" arrangements in which different contractors would be on contract and ready to provide service at different scales of population at specific site, or at different times or stages of meals mobilization and operation.

- 2.14.5. The State is also potentially open, if it proves necessary to meet capacity, of having different contractors provide different meals within a day (breakfast/lunch/dinner); although, absent capacity constraints, the State would prefer to have arrangements where a single contractor can provide all of the meals within a day.
- 2.14.6. In the event that the Proposal is based on regional service provision, please clearly indicate which regional locations you have geographic capability to serve.
- 2.14.7. Please indicate the soonest that you would be able to commence providing meals; if your capacity to serve the full scale of any site or sites would not start at 100%, please describe in as much detail as possible what level of scale you would be able to start at, and what rate of increase you would be able to achieve.
- 2.14.8. Please indicate the total capacity of the maximum person-population you would have capacity to serve if you were awarded multiple sites, and/or if you could serve certain sites at partial population but not full projected population.
- 2.14.9. Please indicate any and all distinctions in your capacity with regard to number of meals you could make available for different meals (breakfast/ lunch/dinner).
- 2.14.10. Please indicate, and, if applicable, describe in detail, whether your ability to supply or scale up for one particular meal of the day, or two particular meals of the day (and which ones) would be greater if you concentrated only on that meal or meals.
- 2.14.11. Please indicate what upper limits of site population you would be able to serve at any single particular site.
- 2.14.12. Please indicate the lowest volume that you would be willing to serve at any single particular site. The State does not desire contracts with "minimum quantities" and in fact the State will very strongly favor contractors who do not have minimum quantity requirements, but, if your ability to provide service is contingent on any minimum quantity, make clear what that minimum is.
- 2.14.13. Please indicate your proposed pricing structure for each meal of breakfast, lunch, and dinner, with site-specific pricing for each particular region that you may be able to serve, on a "as delivered, per meal, per site" and clearly describing any "break points".
- 2.14.14. If your cost structure includes separate transportation and delivery charges apart from flat rates per meal, clearly state and explain the basis of your delivery pricing that would apply to each site that you might be selected to serve.
- 2.14.15. If your pricing is based on certain food ingredients and selection, state the ingredients and selection that are part of your pricing.
- 2.14.16. Provide representative approximate menus of what would be provided at your quoted prices. Please provide any and all other information that you may be able to think of but that the State may not have thought to ask, to help the State understand the manner and extent to which you may be able to be a part of providing these meal needs.
- 2.14.17. If a bidder proposes to meet required scope by an arrangement involving a prime contractor and one or more subcontractors, the prime contractor must be the bidder, but the prime contractor's bid must very clearly identify any and all subcontractors, must clearly describe how scope, roles, and responsibilities will be allocated among all entities, and must provide a substantiation of the specific relevant experience and qualifications of both the prime contractor and any/all subcontractors.
- 2.14.18. Similarly, if a bidder proposes to meet required scope by some form of joint venture, the bidder must very clearly explain the proposed entity type and structure of joint venture in detail, must very clearly identify any/ all participants in the joint venture, must clearly describe how scope, roles, and responsibilities will be allocated among and across entities, and must provide a substantiation of the specific relevant experience and qualifications of any/ all participants in the proposed joint venture.
- 2.14.19. Describe any and all relevant experience in food preparation and/or delivery, generally, and also with emphasis on any particular experience, skillsets, or resources that you may believe the State should consider in evaluating your proposal.



### 3. GENERAL REQUIREMENTS:

- 3.1. **PRICING:** Bidders must price the terms of this solicitation at their best pricing. Any and all costs that Bidder wishes the State to consider must be submitted for consideration. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State.
- 3.1.1. Prices and/or rates shall remain firm for the term of the contract. The pricing policy submitted by Bidder must (i) be clearly structured, accountable, and auditable and (ii) cover the full spectrum of materials and/or services required.
- 3.1.2. **Cooperative Agreements.** Bidders that have been awarded similar contracts through a competitive bidding process with another state and/or cooperative are welcome to submit the pricing in response to this solicitation.
- 3.2. **STATEMENT OF RIGHTS:** The State shall have the authority to evaluate Responses and select the Bidder(s) as may be determined to be in the best interest of the State and consistent with the goals and performance requirements outlined in this RFP. The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Failure of vendor to respond to a request for additional information or clarification could result in rejection of that vendor's proposal. To secure a project that is deemed to be in the best interest 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. The State also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the State.
- 3.2.1. **Best and Final Offer (BAFO).** At any time after submission of Responses and prior to the final selection of Bidder(s) for Contract negotiation or execution, the State may invite Bidder(s) to provide a BAFO. The state reserves the right to request BAFOs from only those Bidders that meet the minimum qualification requirements and/or have not been eliminated from consideration during the evaluation process.
- 3.3. **REQUIREMENTS:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), Bidders must comply with the following provisions and requirements.
- 3.3.1. **Self Reporting:** For bid amounts exceeding \$250,000.00, Bidder shall complete the appropriate section in the attached Certificate of Compliance for purposes of self-reporting information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers. The State is requiring information on any violations that occurred in the previous 12 months.
- 3.3.2. **Subcontractor Reporting:** For bid amounts exceeding \$250,000.00, Bidders are hereby notified that upon award of contract, and prior to contract execution, the State shall be provided with 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). This requirement does not apply to subcontractors providing supplies only and no labor to the overall contract or project. This list **MUST** be updated and provided to the State as additional subcontractors are hired. A sample form is available online at <http://bgs.vermont.gov/purchasing-contracting/forms>. **The subcontractor reporting form is welcomed but not required to be submitted with the bid response.**
- 3.4. **EXECUTIVE ORDER 05-16: CLIMATE CHANGE CONSIDERATIONS IN STATE PROCUREMENTS:**
- For bid amounts exceeding \$25,000.00 Bidders are requested to complete the Climate Change Considerations in State Procurements Certification, which is included in the Certificate of Compliance for this RFP.
- After consideration of all relevant factors, a bidder that demonstrates business practices that promote clean energy and address climate change as identified in the Certification, shall be given favorable consideration in the competitive bidding process. Such favorable consideration shall be consistent with and not supersede any preference given to resident bidders of the State and/or products raised or manufactured in the State, as explained in the Method of Award section. But, such favorable consideration shall not be employed if prohibited by law or other relevant authority or agreement.

- 3.5. **METHOD OF AWARD:** Awards will be made in the best interest of the State. The State may award one or more contracts and reserves the right to make additional awards to other compliant bidders at any time if such award is deemed to be in the best interest of the State. All other considerations being equal, preference will be given first to resident bidders of the state and/or to products raised or manufactured in the state, and then to bidders who have practices that promote clean energy and address climate change, as identified in the applicable Certificate of Compliance.
- 3.5.1. **Evaluation Criteria:** Consideration shall be given to the Bidder's project approach and methodology, qualifications and experience, ability to provide the services within the defined timeline, cost, and/or success in completing similar projects, as applicable, and to the extent specified below.
- 3.5.2. **Best value** will be used to assess and select bidders, with substantial consideration given to price, and also to non-price factors such as quality of proposed products and services, experience, quality of proposed personnel, and/or management plan or experience. The State may also consider how well distinct proposals might "fit" in relation to one another in order to accomplish the overall scope at best value for the entirety of the scope to be covered by contract(s) resulting from this RFP.
- 3.6. **CONTRACT NEGOTIATION:** Upon completion of the evaluation process, the State may select one or more Vendors with which to negotiate a contract, based on the evaluation findings and other criteria deemed relevant for ensuring that the decision made is in the best interest of the State. In the event the State is successful in negotiating with a Vendor, the State will issue a notice of award. In the event State is not successful in negotiating a contract with a selected Vendor, the State reserves the option of negotiating with another Vendor, or to end the proposal process entirely.
- 3.7. **COST OF PREPARATION:** Bidder shall be solely responsible for all expenses incurred in the preparation of a response to this RFP and shall be responsible for all expenses associated with any presentations or demonstrations associated with this request and/or any proposals made.
- 3.8. **CONTRACT TERMS:** The selected bidder(s) will be expected to sign a contract with the State, including the Standard Contract Form and Attachment C as attached to this RFP for reference. If IT Attachment D is included in this RFP, terms may be modified based upon the solution proposed by the Bidder, subject to approval by the Agency of Digital Services.
- 3.8.1. **Business Registration.** To be awarded a contract by the State of Vermont a vendor (except an individual doing business in his/her own name) must be registered with the Vermont Secretary of State's office <http://www.sec.state.vt.us/tutor/dobiz/forms/fcregist.htm> and must obtain a Contractor's Business Account Number issued by the Vermont Department of Taxes <http://tax.vermont.gov/> .
- 3.8.2. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.
- 3.8.3. **Payment Terms.** All invoices are to be rendered by the Contractor on the State's provided payment request form and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. Payment terms are Net 30 calendar days from receipt of an error-free invoice with all applicable supporting documentation.
- 3.8.4. **Quality.** If applicable, all products provided under a contract with the State will be new and unused, unless otherwise stated. Factory seconds or remanufactured products will not be accepted unless specifically requested by the purchasing agency. All products provided by the contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting these standards will be deemed unacceptable and returned to the contractor for credit at no charge to the State.
4. **CONTENT AND FORMAT OF RESPONSES:** The content and format requirements listed below are the minimum requirements for State evaluation. These requirements are not intended to limit the content of a Bidder's proposal. Bidders may include additional information or offer alternative solutions for the State's consideration. However, the State discourages overly lengthy and costly proposals, and Bidders are advised to include only such information in their response as may be relevant to the requirements of this RFP.
- 4.1. The bid should include a Cover Letter and Technical Response and a separate Pricing Response.
- 4.2. **COVER LETTER:**

- 4.2.1. Confidentiality. To the extent your bid contains information you consider to be proprietary and confidential, you must comply with the following requirements concerning the contents of your cover letter and the submission of a redacted copy of your bid (or affected portions thereof).
- 4.2.2. The successful response will become part of the contract file and will become a matter of public record, as will all other responses received by the State. If the response includes material that is considered by the bidder to be proprietary and confidential under the State's Public Records Act, 1 V.S.A. § 315 et seq., the bidder shall submit a cover letter that clearly identifies each page or section of the response that it believes is proprietary and confidential. The bidder shall also provide in their cover letter a written explanation **for each marked section** explaining why such material should be considered exempt from public disclosure in the event of a public records request, pursuant to 1 V.S.A. § 317(c), including the prospective harm to the competitive position of the bidder if the identified material were to be released. Additionally, the bidder must include a redacted copy of its response for portions that are considered proprietary and confidential. Redactions must be limited so that the reviewer may understand the nature of the information being withheld. It is typically inappropriate to redact entire pages, or to redact the titles/captions of tables and figures. Under no circumstances can the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.
- 4.2.3. Exceptions to Contract Terms and Conditions. If the bidder wishes to propose an exception to any terms and conditions set forth in the Standard Contract Form and its attachments, such exceptions must be included in the cover letter to the RFP response. Failure to note exceptions when responding to the RFP will be deemed to be acceptance of the State contract terms and conditions. If exceptions are not noted in the response to this RFP but raised during contract negotiations, the State reserves the right to cancel the negotiation if deemed to be in the best interests of the State. Note that exceptions to contract terms may cause rejection of the proposal.

4.3. **TECHNICAL RESPONSE**. In response to this RFP, a Bidder shall:

- 4.3.1. Provide details concerning your form of business organization, company size, and resources.
- 4.3.2. Describe your capabilities and particular experience relevant to the RFP requirements.
- 4.3.2.1. Identify all current or past State projects.
- 4.3.3. Identify the names of all subcontractors you intend to use, the portions of the work the subcontractors will perform, and address the background and experience of the subcontractor(s), as per RFP section 4.3.2 above.
- 4.3.4. You are requested but not required to accompany your bid with a current IRS W-9 (signed not more than six months ago) and DUNS number along with your bid. Including these will help expedite State processes towards putting a contract in place should you be awarded a contract.
- 4.4. **REPORTING REQUIREMENTS**: Provide a sample of any reporting documentation that may be applicable to the Detailed Requirements of this RFP.
- 4.5. **CERTIFICATE OF COMPLIANCE and PRICE SCHEDULE**: This form must be completed and submitted as part of the response for the proposal to be considered valid.

5. **SUBMISSION INSTRUCTIONS**:

- 5.1. **CLOSING DATE**: Bids must be received by the State by the due date specified on the front page of this RFP. Late bids will not be considered.
- 5.1.1. The State may, for cause, issue an addendum to change the date and/or time when bids are due. If a change is made, the State will inform all bidders by posting at the site indicated on the front page of this RFP.
- 5.1.2. Due to COVID-19, there will be no in-person public bid opening. The public bid opening shall be held by Microsoft Teams at 1:00pm on November 30, 2020. To join by phone, call:

Toll number: 1-802-828-7667, Conference ID: 908417514#

During the bid opening, the State will share the name of each bidder and the city and state the bidder is located for any and all bids received by the due date.

5.1.3.**BID DELIVERY INSTRUCTIONS:** Bids will only be accepted via email submission to [AHS.DCFESDGrantsAndContracts@vermont.gov](mailto:AHS.DCFESDGrantsAndContracts@vermont.gov). **EMAIL SUBJECT LINE MUST BE: BID: 03440-COVID\_MEALS-21.** Bids must consist of a single email with a single, digitally searchable PDF attachment containing all components of the bid. Multiple emails and/or multiple attachments will not be accepted. There is an attachment size limit of 40 MB. It is the Bidder's responsibility to compress the PDF file containing its bid, if necessary, in order to meet this size limitation.

**6. ATTACHMENTS:**

6.1. Certificate of Compliance and Price Schedule

6.2. Worker Classification Compliance Requirement; Subcontractor Reporting Form

6.3. Standard State Contract with its associated attachments, including but not limited to, Attachment C: Standard State Provisions for Contracts and Grants, Attachment E: Business Associate Agreement, and Attachment F: Agency of Human Services' Customary Contract/Grant Provisions.

6.4. STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)

6.5. US DEPARTMENT OF HOMELAND SECURITY STANDARD TERMS AND CONDITIONS

**CERTIFICATE OF COMPLIANCE AND PRICE SCHEDULE**

**For a bid to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.**

- A. **NON-COLLUSION:** Bidder hereby certifies that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, bidder understands that this paragraph might be used as a basis for litigation.
  
- B. **CONTRACT TERMS:** Bidder hereby acknowledges that is has read, understands and agrees to the terms of this RFP, including Attachment C: Standard State Contract Provisions, and any other contract attachments included with this RFP.
  
- C. **FORM OF PAYMENT:** Does Bidder accept the Visa Purchasing Card as a form of payment?  
  
\_\_\_\_ Yes \_\_\_\_ No
  
- D. **WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to Bidder when the amount of its bid exceeds \$250,000.00.

**Self-Reporting.** Bidder hereby self-reports the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers, that occurred in the previous 12 months.

Summary of Detailed Information	Date of Notification	Outcome

**Subcontractor Reporting.** Bidder hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this RFP, Bidder will 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), and Bidder will provide any update of such list to the State as additional subcontractors are hired. Bidder further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

**EXPEDITED AND SCALABLE MEALS PREPARATION AND DELIVERY SERVICES:**  
*CERTIFICATE OF COMPLIANCE AND PRICE SCHEDULE: Page 2 of 4*

**E. Executive Order 05 – 16: Climate Change Considerations in State Procurements Certification**

**Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims):**

1. Bidder owns, leases or utilizes, for business purposes, space that has received:
- Energy Star® Certification
  - LEED®, Green Globes®, or Living Buildings Challenge<sup>SM</sup> Certification
  - Other internationally recognized building certification:
- 

2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder's place of business. Please explain:
- 

3. Please Check all that apply:
- Bidder can claim on-site renewable power or anaerobic-digester power ("cow-power"). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.
  - Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.
  - Bidder's heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.
  - Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this? \_\_\_\_\_
  - Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc.
  - Bidder offers employees an option for a fossil fuel divestment retirement account.
  - Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:
- 
- 

4. Please list any additional practices that promote clean energy and take action to address climate change:
- 
- 
-



**EXPEDITED AND SCALABLE MEALS PREPARATION AND DELIVERY SERVICES:  
 CERTIFICATE OF COMPLIANCE AND PRICE SCHEDULE: Page 4 of 4**

**PLEASE EXPLAIN IN DETAIL ANY CONSTRAINTS THAT YOU HAVE ON ABILITY TO SERVE ALL MEALS ON ALL DAYS AT ANY SITE OR SITES (EXPLAIN IN DETAIL IF IT VARIES BY SITE) (ATTACH ADDITIONAL SHEETS IF NEEDED):**

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**PLEASE EXPLAIN IN DETAIL ANY EXTENT TO WHICH YOUR PRICES WOULD BE DIFFERENT IF YOU WERE SELECTED TO PROVIDE SOME BUT NOT ALL MEALS OR SOME BUT NOT ALL DAYS AT ANY SITE OR SITES (EXPLAIN IN DETAIL IF IT VARIES BY SITE) (ATTACH ADDITIONAL SHEETS IF NEEDED)**

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2. **Hourly Labor Rates (this category is intended for and limited to services, such as but not only delivery, that may not be capable of being included on a per-meal basis).**

Service Category/Title of Positions	Hourly Rate
	\$
	\$
	\$

3. **PER-ROOM-PER-MEAL DELIVERY COSTS:** Please indicate your ability, if requested by the State, to do per-meal-per-room deliveries at some or all sites, and the pricing rate structure that you would request to do so. This is at the sole option and discretion of the State of whether, when, where, or how much it might be used:

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**G. Acknowledge receipt of the following Addenda:**

Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_

Bidder Name: \_\_\_\_\_ Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

\_\_\_\_\_ E-Mail: \_\_\_\_\_

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

Signature of Bidder (or Representative)

(Type or Print)

**END OF CERTIFICATE OF COMPLIANCE and PRICE SCHEDULE**



**EXPEDITED AND SCALABLE MEALS PREPARATION AND DELIVERY SERVICES**

**SUBCONTRACTOR REPORTING FORM**

**This form must be completed in its entirety and submitted prior to contract execution and updated as necessary and provided to the State as additional subcontractors are hired.**

The Department of Buildings and General Services in accordance with Act 54, Section 32 of the Acts of 2009 and for total project costs exceeding \$250,000.00 requires bidders to comply with the following provisions and requirements.

Contractor is required to provide a list of subcontractors on the job along with lists of subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. Include additional pages if necessary. This is not a requirement for subcontractor's providing supplies only and no labor to the overall contract or project.

<b>Subcontractor</b>	<b>Insured By</b>		<b>Subcontractor's Sub</b>	<b>Insured By</b>

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

Name of Company: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

Fax Number: \_\_\_\_\_

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

Name: \_\_\_\_\_

Failure to adhere to Act 54, Section 32 of the Acts of 2009 and submit Subcontractor Reporting: Worker Classification Compliance Requirement will constitute non-compliance and may result in cancellation of contract and/or forfeiture of future bidding privileges until resolved.

Email Completed Form to: [AHS.DCFESDGrantsAndContracts@vermont.gov](mailto:AHS.DCFESDGrantsAndContracts@vermont.gov)

## STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, Department for Children and Families, Economic Services Division (hereinafter called "State"), and \_\_\_\_\_, with a principal place of business in \_\_\_\_\_, (hereinafter called "Contractor"). Contractor's form of business organization is \_\_\_\_\_. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this Contract is the provision of food preparation and delivery services to identified households impacted by COVID-19. Detailed services to be provided by Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$\_\_\_\_\_.00.
4. **Contract Term.** The period of Contractor's performance shall begin on \_\_\_\_\_, 21\_\_ and end on \_\_\_\_\_, 21\_\_ with an option to extend up to twelve (12) additional calendar months.
5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.
6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
7. **Termination for Convenience.** This contract may be terminated by either party at any time by giving written notice at least five (5) calendar days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination. This contract may also be cancelled immediately by the State with an email notice as detailed in the first paragraph of Attachment B.
8. **Attachments.** This contract consists of \_\_\_ pages including the following attachments which are incorporated herein:
  - Attachment A - Statement of Work
  - Attachment B - Payment Provisions
  - Attachment C – "Standard State Provisions for Contracts and Grants"
  - Attachment D – Modifications (if applicable)
  - Attachment E – Business Associate Agreement
  - Attachment F - AHS Customary Grant/Contract Provisions
  - Attachment G - Other Contract Provisions/Reporting forms
  - Attachment H - STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)
  - Attachment I – US DEPARTMENT OF HOMELAND SECURITY STANDARD TERMS AND CONDITIONS
9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:
  - (1) Standard Contract
  - (2) Attachment D (if applicable)
  - (3) Attachment C (Standard State Provisions for Contracts and Grants)
  - (4) Attachment A
  - (5) Attachment B
  - (6) Attachment E

- (7) Attachment F
- (8) Attachment G
- (9) Attachment H
- (10) Attachment I

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

By the State of Vermont:

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

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By the Contractor:

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

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **ATTACHMENT A STATEMENT OF WORK**

### **A. PROGRAM BACKGROUND**

The Vermont Department for Children and Families, Economic Services Division (ESD) helps individuals and families to meet their basic needs through the administration of public benefit programs. In response to the COVID-19 Pandemic, households experiencing homelessness who are eligible for emergency shelter assistance are being placed in hotels and motels in lieu of congregate emergency shelter spaces as well as in isolation and recovery sites as needed to provide a safe location to isolate and/or quarantine as needed to help reduce the spread of COVID-19. Service delivery is being provided to households on-site in these hotels, motels, and isolation and recovery sites to support implementation of COVID-19 related requirements and guidelines for hygiene promotion, sanitation, and social distancing guidelines, including the Governor's emergency orders.

### **B. SERVICE DESCRIPTION**

The Contractor shall prepare and deliver meals for adults and children identified by ESD who aren't served by other programs and are receiving emergency shelter assistance through ESD or isolation and recovery assistance as outlined in D. Specifications below.

### **C. SERVICE GOALS & OUTCOMES**

The services provided will:

- reduce food insecurity to households experiencing homelessness during the COVID-19 Pandemic; and
- support COVID-19 guidelines, including the Governor's emergency orders.

### **D. SPECIFICATIONS**

**[TO BE DEVELOPED IN FURTHER DETAIL BASED UPON THE SCOPE HEREIN, IN CONJUNCTION WITH INFORMATION FROM THE SELECTED BIDDER AND THAT IS CONSISTENT WITH THE SCOPE AND WITH STATE CONTRACT TERMS AND FORMATS]**

### **E. PERFORMANCE MEASURES**

100% of the meals ordered by ESD shall be prepared and delivered to each specified delivery location on time.

In the event that the Contractor's performance for the above measure falls below 75% of the stated goal, the Contractor, in conjunction with the ESD Designee, shall develop a written performance improvement plan.

### **F. PROGRAM ADMINISTRATION AND EVALUATION**

The State shall monitor and evaluate the Contractor's performance based on the following: meal preparation and delivery reports, financial reports, and correspondence with the Contractor.

## **ATTACHMENT B PAYMENT PROVISIONS**

As this contract is funded predominately by Federal funds, in the event the Federal funds supporting this contract become unavailable, are reduced, or are projected to be exhausted prior to the end of the award term, the State may, as stated in Clause 7 of the Standard Contract for Services page of this agreement, cancel this contract effective immediately with an email notice, and the State shall have no obligation to pay the Contractor from State or Federal revenues.

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor shall be paid for services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page one of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
  - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
  - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** calendar days from the date the State receives error-free financial and meal preparation and delivery reports. Vermont State Fiscal Year Close Out starts the last week of May/first week of June and runs through early July. During this period of time, no financial reports or invoices are processed for payment in the State of Vermont Vision system.
3. Contractor shall submit detailed Financial and Delivery Reports itemizing all work performed during the reporting period, including the dates of service, costs per meal, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State on a weekly basis. All Meal Preparation and Delivery Reports and Requests for Payment must include the Contract # for this agreement.
4. The State shall reimburse the Contractor, subject to #3 above, on a weekly or bi-weekly basis as negotiated with the apparently successful bidder(s), up to the maximum payable for the Contract.
5. Contractor shall be paid for services actually delivered or performed beginning on (insert start date).
6. As contract award amounts are based on state and federal fiscal year budgets, no payments shall be issued 90 calendar days after the end date of this agreement as budgets close out and funds are no longer available.
7. Financial Reports are to be submitted electronically; and Request for Payment forms shall be sent electronically as a .pdf with an original signature or electronic signature.
8. Contractor agrees to produce, on request, the source documents upon which all invoices are based.
9. Contractor shall submit Financial Reports and Requests for Payment to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, Requests for Payment shall be submitted not more frequently than weekly or bi-weekly as negotiated with the apparently successful bidder(s).
10. The rates for services provided are as follows:

**[TO BE DEVELOPED IN FURTHER DETAIL BASED UPON THE SCOPE HEREIN, IN CONJUNCTION WITH INFORMATION FROM THE SELECTED BIDDER AND THAT IS CONSISTENT WITH THE SCOPE AND WITH STATE CONTRACT TERMS AND FORMATS]**

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

“Attachment C: Standard State Provisions for Contracts and Grants” (revision version dated December 15, 2017) constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.

**ATTACHMENT E:  
BUSINESS ASSOCIATE AGREEMENT  
REVISED MAY 22, 2020**

“Attachment E: Business Associate Agreement” constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.

**ATTACHMENT F:  
AGENCY OF HUMAN SERVICES’ CUSTOMARY CONTRACT/GRANT PROVISIONS  
REVISED MAY 16, 2018**

“Attachment F: Agency of Human Services’ Customary Contract/Grant Provisions” constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.

**ATTACHMENT H:**  
**STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)**  
**for all Contracts and Purchases<sup>1</sup> of Products and Services Connected with 2020 Pandemic**

**BYRD ANTI-LOBBYING AMENDMENT**

Contractors who apply or bid for an award of \$100,000 or more certify that each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the recipient who in turn will forward the certification(s) to the awarding agency

**PROCUREMENT OF RECOVERED MATERIALS**

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpq-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

**CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
4. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
5. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

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<sup>1</sup> These terms, developed by the Vermont Attorney General's Office, are to be included, without any changes, **in all contracts, and any amendments to contracts**, intended or expected to be used in connection with the State of Vermont's response to the 2020 Pandemic. THESE TERMS ARE ALSO TO BE USED AND ADDED FOR **ANY TRANSACTIONS**, SUCH AS BUT NOT ONLY PURCHASE ORDERS, TAKING PLACE UNDER AN EXISTING CONTRACT, IF THE PURCHASE IS FOR THE PANDEMIC AND IF THERE IS ANY POTENTIAL DOUBT AS TO WHETHER THE OVERLYING CONTRACT HAS THESE TERMS. These terms and conditions shall also be added in instances in which a purchase without formal contract is otherwise duly authorized.

6. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

### **CONTRACTOR BREACH, ERRORS AND OMISSIONS**

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

### **TERMINATION FOR CONVENIENCE**

1. General
  - a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
  - b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
  - c. No compensation will be allowed for items eliminated from the Contract.
  - d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.
2. Contractor Obligations

After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

- a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.



- e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
- f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

### 3. Claim by Contractor

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

### 4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. Settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

**ATTACHMENT I**  
**2020 US DEPARTMENT OF HOMELAND SECURITY STANDARD TERMS AND CONDITIONS**

The 2020 U.S. Department of Homeland Security (“DHS”) Standard Terms and Conditions, Version 10.1 (dated Dec. 31, 2019) apply to all Public Assistance awards under major disaster declaration FEMA-4532-DR-VT. These terms and conditions flow down to subrecipients, unless a particular award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

**ASSURANCES, ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, REPRESENTATIONS, AND CERTIFICATIONS**

1. DHS financial assistance recipients must complete either the Office of Management and Budget (“OMB”) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (“DHS FAO”) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.
2. DHS financial assistance recipients are required to follow the applicable provisions of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

**DHS SPECIFIC ACKNOWLEDGEMENT AND ASSURANCES**

1. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.
2. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
3. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
4. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
5. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
6. Recipients of federal financial assistance from DHS must complete the *DHS Civil Rights Evaluation Tool* within thirty days of receipt of the Notice of Award or, for State Administering Agencies, thirty days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years as long as they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov). This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.
7. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov) prior to expiration of the 30-day deadline.

## STANDARD TERMS AND CONDITIONS

### **I. Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

### **II. Activities Conducted Abroad**

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

### **III. Age Discrimination Act of 1975**

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975)(codified as amended at 42 U.S.C. § 6101 *et seq.*), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

### **IV. Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990)(codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

### **V. Best Practices for Collection and Use of Personally Identifiable Information (PII)**

Recipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines personally identifiable information (“PII”) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

### **VI. Civil Rights Act of 1964 – Title VI**

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified as amended at 42 U.S.C. § 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Civil Rights Act of 1964 are set forth at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

### **VII. Civil Rights Act of 1968**

Recipients must comply with Title VII of the Civil Rights Act of 1968, Pub. L. No. 90-284 (codified as amended at 42 U.S.C. § 3601 *et seq.*), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex, as implemented by the

U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units— *i.e.*, the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. See 24 C.F.R. Part 100, Subpart D.

#### **VIII. Copyright**

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

#### **IX. Debarment and Suspension**

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

#### **X. Drug-Free Workplace Regulations**

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sections 5152-5158 of the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106.

#### **XI. Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

#### **XII. Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX**

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 *et seq.*), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

#### **XIII. Energy Policy and Conservation Act**

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. § 6201 *et seq.*), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**XIV. False Claims Act and Program Fraud Civil Remedies**

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§ 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.

**XV. Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

**XVI. Federal Leadership on Reducing Text Messaging while Driving**

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in Executive Order 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

**XVII. Fly America Act of 1974**

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

**XVIII. Hotel and Motel Fire Safety Act of 1990**

Recipients, in accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, Pub. L. No. 101-391 (codified as amended at 15 U.S.C. § 2225a), must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 29 of the Federal Fire Prevention and Control Act of 1974, Pub. L. No. 93-498 (codified as amended at 15 U.S.C. § 2225.)

**XIX. Limited English Proficiency (Civil Rights Act of 1964, Title VI)**

Recipients must comply with Title VI of the *Civil Rights Act of 1964*, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

**XX. Lobbying Prohibitions**

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person 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 any federal action

related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

**XXI. National Environmental Policy Act**

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) (“NEPA”) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

**XXII. Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

**XXIII. Non-Supplanting Requirement**

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

**XXIV. Notice of Funding Opportunity Requirements**

All the instructions, guidance, limitations, and other terms and conditions set forth in the Notice of Funding Opportunity (“NOFO”) for this program, or FEMA State Agreement (“FSA”) as applicable, are incorporated here by reference. All recipients must comply with any such requirements set forth in the program NOFO or FSA.

**XXV. Patents and Intellectual Property Rights**

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 *et seq.*, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

**XXVI. Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

## **XXVII. Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. § 794) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

## **XXVIII. Reporting of Matters Related to Recipient Integrity and Performance**

### **1. General Reporting Requirements**

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients during that period of time must maintain the currency of information reported to the System for Award Management ("SAM") that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under Pub. L. No. 110-417, § 872, as amended 41 U.S.C. § 2313. As required by Pub. L. No. 111-212, § 3010, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

#### **1. Proceedings about Which Recipients Must Report**

Recipients must submit the required information about each proceeding that is:

- a. In connection with the award or performance of a grant, cooperative agreement, or procurement contract from the federal government;
- b. Reached its final disposition during the most recent five-year period; and
- c. One or more of the following:
  - 1) A criminal proceeding that resulted in a conviction;
  - 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - 3) An administrative proceeding that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - 4) Any other criminal, civil, or administrative proceeding if:
    - a) It could have led to an outcome described in this award term and condition;
    - b) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
    - c) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

#### **2. Reporting Procedures**

Recipients must enter the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. Recipients do not need to submit the information a second time under financial assistance awards that the recipient received if the recipient

already provided the information through SAM because it was required to do so under federal procurement contracts that the recipient was awarded.

#### **4. Reporting Frequency**

During any period when recipients are subject to the main requirement in paragraph 1 of this award term and condition, recipients must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that recipients have not reported previously or affirm that there is no new information to report. Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

#### **5. Definitions**

For the purpose of this award term and condition:

a. *Administrative proceeding* means a non-judicial process that is adjudicatory in nature to decide of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. *Total value of currently active grants, cooperative agreements, and procurement contracts* includes—

1) Only the federal share of the funding under any federal award with a recipient cost share or match; and

2) The value of all the expected funding increments under a federal award and options, even if not yet exercised.

### **XXIX. Reporting Subawards and Executive Compensation**

#### **1. Reporting of First Tier Subawards**

a. *Applicability*. Unless the recipient is exempt as provided in paragraph 4 of this award term, the recipient must report each action that obligates \$25,000 or more in federal funds that does not include Recovery funds (as defined in Section 1512(a)(2) of the *American Recovery and Reinvestment Act of 2009*, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph 5 of this award term).

b. *Where and When to Report*

1) Recipients must report each obligating action described in paragraph 1.a of this award term to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS.)

2) For subaward information, recipients report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2016, the obligation must be reported by no later than December 31, 2016.)

c. *What to report*. The recipient must report the information about each obligating action that the submission instructions posted at <http://www.frs.gov>.

#### **2. Reporting Total Compensation of Recipient Executives**

a. *Applicability and what to report*. Recipients must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year, if—

1) The total federal funding authorized to date under this award is \$25,000 or more;



2) In the preceding fiscal year, recipients received—

- a) 80 percent or more of recipient's annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and
- b) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and
- c) The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78, (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: <http://www.sec.gov/answers/execomp.htm>.)

b. *Where and when to report.* Recipients must report executive total compensation described in paragraph 2.a. of this award term:

- 1) As part of the recipient's registration profile at <https://www.sam.gov>.
- 2) By the end of the month following the month in which this award is made, and annually thereafter.

### **3. Reporting of Total Compensation of Subrecipient Executives**

a. *Applicability and What to Report.* Unless recipients are exempt as provided in paragraph 4 of this award term, for each first-tier subrecipient under this award, recipients shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

1) In the subrecipient's preceding fiscal year, the subrecipient received—

- a) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and
- b) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

2) The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (See the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm> to determine if the public has access to the compensation information.)

b. *Where and When to Report.* Subrecipients must report subrecipient executive total compensation described in paragraph 3.a. of this award term:

- 1) To the recipient.
- 2) By the end of the month following the month during which recipients make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), subrecipients must report any required compensation information of the subrecipient by November 30 of that year.

### **4. Exemptions**

If, in the previous tax year, recipients had gross income, from all sources, under \$300,000, then recipients are exempt from the requirements to report:

- a. Subawards, and
- b. The total compensation of the five most highly compensated executives of any subrecipient.

**5. Definitions.** For purposes of this award term:

a. *Entity* means all of the following, as defined in 2 C.F.R. Part 25:

- 1) A governmental organization, which is a state, local government, or Indian tribe.
- 2) A foreign public entity.
- 3) A domestic or foreign nonprofit organization.
- 4) A domestic or foreign for-profit organization.
- 5) A federal agency, but only as a subrecipient under an award or subaward to a non- federal entity.

b. *Executive* means officers, managing partners, or any other employees in management positions.

c. *Subaward* means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.

- 1) The term does not include the recipient's procurement of property and services needed to carry out the project or program.
- 2) A subaward may be provided through any legal agreement, including an agreement that a recipient or a subrecipient considers a contract.

d. *Subrecipient* means an entity that:

- 1) Receives a subaward from the recipient under this award; and
- 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.

e. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (See 17 C.F.R. § 229.402(c)(2)):

- 1) Salary and bonus.
- 2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised2004) (FAS 123R), Shared Based Payments.
- 3) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- 4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- 5) Above-market earnings on deferred compensation which is not tax-qualified.

6) Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**XXX. SAFECOM**

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

**XXXI. Terrorist Financing**

Recipients must comply with Executive Order 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

**XXXII. Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons.

**1. Provisions Applicable to a Recipient that Is a Private Entity**

a. Recipients, the employees, subrecipients under this award, and subrecipients' employees may not—

- 1) Engage in severe forms of trafficking in persons during the period the award is in effect.
- 2) Procure a commercial sex act during the period that the award is in effect.
- 3) Use forced labor in the performance of the award or subawards under the award.

b. DHS may unilaterally terminate this award, without penalty, if a recipient or a subrecipient that is a private entity—

- 1) Is determined to have violated a prohibition in paragraph 1.a of this award term; or
- 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 1.a of this award term through conduct that is either—
  - a) Associated with performance under this award; or
  - b) Imputed to recipients or subrecipients using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 C.F.R. Part 3000.

**2. Provision Applicable to Recipients Other than a Private Entity**

DHS may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- a. Is determined to have violated an applicable prohibition in paragraph 1.a of this award term; or
- b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph 1.a of this award term through conduct that is either—
  - 1) Associated with performance under this award; or
  - 2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies

on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.

### **3. Provisions Applicable to Any Recipient**

a. Recipients must inform DHS immediately of any information received from any source alleging a violation of a prohibition in paragraph 1.a of this award term.

b. It is DHS’s right to terminate unilaterally that is described in paragraph 1.b or 2 of this section:

1) Implements TVPA, Section 106(g) as amended by 22 U.S.C. 7104(g)), and

2) Is in addition to all other remedies for noncompliance that are available to us under this award.

c. Recipients must include the requirements of paragraph 1.a of this award term in any subaward made to a private entity.

### **4. Definitions.** For the purposes of this award term:

a. *Employee* means either:

1) An individual employed by a recipient or a subrecipient who is engaged in the performance of the project or program under this award; or

2) Another person engaged in the performance of the project or program under this award and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements

b. *Forced labor* means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

c. *Private entity* means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25. It includes:

1) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).

2) A for-profit organization.

d. *Severe forms of trafficking in persons, commercial sex act, and coercion* are defined in TVPA, Section 103, as amended in 22 U.S.C. § 7102.

## **XXXIII. Universal Identifier and System of Award Management**

### **1. Requirement for System for Award Management**

Unless the recipient is exempted from this requirement under 2 C.F.R. § 25.110, the recipient must maintain the currency of their information in the SAM until the recipient submits the final financial report required under this award or receive the final payment, whichever is later. This requires that the recipient review and update the information at least annually after the initial registration, and more frequently if required by changes in the recipient’s information or another award term.

### **2. Requirement for Unique Entity Identifier**

If recipients are authorized to make subawards under this award, they:

- a. Must notify potential subrecipients that no entity (see definition in paragraph 3 of this award term) may receive a subaward from the recipient unless the entity has provided its unique entity identifier to the recipient.
- b. May not make a subaward to an entity unless the entity has provided its unique entity identifier to the recipient.

### **3. Definitions**

For purposes of this award term:

- a. *System for Award Management (SAM)* means the federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found on SAM.gov.
- b. *Unique Entity Identifier (UEI)* means the identifier required for SAM registration to uniquely identify business entities.
- c. *Entity*: means all of the following, as defined at 2 C.F.R. Part 25, Subpart C:
  - 1) A governmental organization, which is a state, local government, or Indian Tribe;
  - 2) A foreign public entity;
  - 3) A domestic or foreign nonprofit organization;
  - 4) A domestic or foreign for-profit organization; and
  - 5) A federal agency, but only as a subrecipient under an award or subaward to a non- federal entity.
- d. *Subaward* means a legal instrument to provide support for the performance of any portion of the substantive project or program for which a recipient received this award and that the recipient awards to an eligible subrecipient.
  - 1) The term does not include the recipient's procurement of property and services needed to carry out the project or program. (See 2 C.F.R. § 200.330.)
  - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient considers a contract.
- e. *Subrecipient* means an entity that:
  - 1) Receives a subaward from the recipient under this award; and
  - 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.

### **XXXIV. USA PATRIOT Act of 2001**

Recipients must comply with requirements of Section 817 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

### **XXXV. Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**XXXVI. Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.