STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION

INSURANCE DIVISION
89 MAIN STREET
MONTPELIER, VERMONT 05620-3101
802-828-3301
www.dfr.vermont.gov

TO: Firms Competent to Perform the Financial Examination of Insurance Companies

DATE: January 7, 2013

SUBJECT: Request for Proposal

The Vermont Department of Financial Regulation (the "Department") is requesting proposals from qualified and experienced firms to perform financial examinations of domestic and foreign insurance companies as needed by the Department. The scope of work to be done and the information that must be presented in your proposal are described in the enclosed Request for Proposal.

Two copies of each proposal must be submitted no later than Monday, February 11, 2013 at 3:00 PM EST to:

Louisa Neveau
Executive Assistant to the Deputy Commissioner of Insurance
Department of Financial Regulation
89 Main Street
Montpelier, Vermont 05620-3101

The Department reserves the right to accept or reject any or all bids. Two or more qualified staff members of the Department will evaluate the proposals. If a firm is selected, representatives will be invited to sign a contract.

If you have any questions about the proposal process, please feel free to call Louisa Neveau at (802) 828-4842.

Enclosure

Request for Proposal
This is a Sealed Bid Response
Financial Examinations of Insurance Companies

RFP Issuance Date: **Monday, January 7, 2013**

Questions Due by: **Monday, January 21, 2013**

Questions concerning this request for proposal must be in writing and received by Louisa Neveau by 3:00 PM EST Monday, January 21, 2013. Questions may be e-mailed to Louisa.Neveau@state.vt.us. At the close of the question period, a copy of all questions or comments and the State's responses will be posted on the State's web site http://vermontbusinessregistry.com/. Every effort will be made to have these available soon after the question period ends, contingent on the number and complexity of the questions. The Department reserves the right to select which questions it will answer.

Proposal Due Date: **3:00 PM EST, Monday, February 11, 2013**

Two (2) Copies of the proposal must be received by the Department in printed form and delivered to:

Louisa Neveau
Vermont Department of Financial Regulation
Insurance Division
89 Main Street
Montpelier, Vermont 05620-3101

"Sealed bid instructions" after this page.

Date of Public Bid Opening:	**Tuesday, February 12, 2013**
Time of Public Bid Opening:	**10:30 AM EST**
Location of Public Bid Opening:	**Department Conference Room, 89 Main Street, 2nd Floor, Montpelier, VT 05620-3101**

Please be advised that all notifications, releases and amendments associated with the RFP will be posted at http://vermontbusinessregistry.com/. The State will make no attempt to contact vendors with updated information. It will be the responsibility of each vendor to periodically check this site for the latest details.

RFP Contact Person:
Louisa Neveau
(802) 828-4842 (Phone)
(802) 828-3306 (Fax)
Louisa.Neveau@state.vt.us **(E-mail)**

Sealed Bid Instructions

All bids must be sealed and addressed to the Vermont Department of Financial Regulation, Insurance Division, 89 Main Street, Montpelier, Vermont 05620-3101.

BID ENVELOPES MUST BE CLEARLY MARKED "SEALED BID" AND SHOW THE BID TITLE, OPENING DATE AND NAME OF BIDDER.

All bidders are hereby notified that sealed bids must be in the office of the Vermont Insurance Division (the Division) by the bid due date and time. Bidders are cautioned that it is their responsibility to originate the sending of bids in sufficient time to insure receipt by the Division on or before the bid due date. Hand carried bids shall be delivered to a representative of the Division on or before the bid due date. Bids not in possession of the Division by the due date and time will not be considered.

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

All bids will be opened publicly. Any interested party may attend bid openings. Bid results may be requested in writing and are available once an award has been made.

FAXED BIDS: FAXED bids will **NOT** be accepted.

ELECTRONIC BIDS: ELECTRONIC Bids will **NOT** be accepted.

DATE: _____

Request for Proposal
This is a Sealed Bid Response
Financial Examinations of Insurance Companies

BIDS MUST BE RECEIVED BY: Monday, February 11, 2013 AT: 3:00 PM EST

_____ (VENDOR)
_____ (ADDRESS)
_____ (ADDRESS)
_____ (CITY, STATE ZIP)
_____ (COUNTRY)

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

THE UNDERSIGNED HAS READ, UNDERSTOOD AND ACCEPTED ALL PROVISIONS, TERMS AND CONDITIONS OF THIS PROPOSAL.

Vermont Tax Certificate

To meet the requirements of Vermont Statute 32 V.S.A. § 3113, by law, no agency of the State may enter into, extend or renew any contract for the provision of goods, services or real estate space with any person unless such person first certifies, under the pains and penalties of perjury, that he or she is in good standing with the Department of Taxes. A person is in good standing if no taxes are due, if the liability for any tax that may be due is on appeal, or if the person is in compliance with a payment plan approved by the Commissioner of Taxes, 32 V.S.A. § 3113.

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

Quotation Valid for _____ Days Date: _____
Name of Company: _____
Federal Identification Number: _____

Telephone Number: _____
Fax Number: _____
E-mail Address: _____

By:_____ Name:_____
Signature (Proposal Not Valid Unless Signed) (Type or Print)

Price Quotation Form

Contract Period July 1, 2013 through June 30, 2015

(Billable Rate Only)

Date: _____

Classification	**Hourly Rate**
Financial Examination:	
Principal/Partner**:**	
Administrative Examiner:	
Examiner in Charge:	
Senior Examiner:	
Examiner Other:	
Other Staff:	
Actuarial Review:	
Principal/Partner:	
Administrative Examiner:	
Examiner in Charge:	
Senior Examiner:	
Examiner Other:	
Other Staff:	
Information Systems Evaluation:	
Principal/Partner:	
Assignment Manager:	
On-Site Staff Supervisor:	
Senior Automated Exam Specialist:	
Junior Automated Exam Specialist:	
Other Staff:	

<u>This form must accompany your Bid Proposal</u>

In accordance with State of Vermont's Bulletin 3.5, all requests for proposal bids for personal service contract must include a price quotation form. **Instructions:** fill out all job classifications pertinent to contract bid, hourly rate (per classification) and any specifications or policies. If job classification is not listed, write the title next to the closest described classification on the list.

INTRODUCTION:

The Vermont Department of Financial Regulation (hereafter the "Department") is seeking bid proposals from firms competent to perform examinations of domestic and foreign insurance companies for the Department during the course of July 1, 2013 - June 30, 2015. The Department recognizes the important contribution and vital impact that small businesses have on the State's economy. In this regard the Department subscribes to a free and open bidding process that affords all businesses equal access and opportunity to compete for State contracts for goods and services. The Department also encourages businesses owned by minorities and women to compete for State contracts.

B. **BACKGROUND:**

The Department is charged with ensuring the solvency of insurance companies in Vermont through comprehensive regulatory oversight and examination. The nature of the work sought by the Department in this Request for Proposal requires a broad range of financial examination and business expertise. The performance of these duties requires familiarity with general financial standards, examination requirements and standards of the National Association of Insurance Commissioners (NAIC), and Vermont's insurance laws and statutes.

C. **KEY ASPECTS:**

i. It is expected that several companies will meet the criteria and be offered contracts. **In accordance with the State of Vermont Bulletin 3.5, all successful bidders will be required to sign a contract substantially in the form of the standard State contract, a copy of which is attached hereto as Exhibit A.**
ii. The location of the work will be determined by the Department depending on prevailing circumstances. Although unpredictable, the Department currently expects some of the work to be performed both inside and outside the State of Vermont.
iii. Firms that sign contracts will be assigned work as needed by the Department. The amount of time and staff level needed for each job will be agreed upon in advance when the job is assigned.
iv. Cost is a significant factor in selecting successful bidders, but it is not necessarily the only determining factor. A bidder's comparative superior experience and knowledge may result in a bid selection other than the lowest bid submitted.
v. **The Department will require successful bidders to procure and maintain professional liability insurance for any and all services performed under the contract, with minimum coverage of $1,000,000 per occurrence.** Please see the form of contract attached as Exhibit A for further detail on additional insurance requirements.

D. **NATURE OF THE WORK:**

Contractor agrees to perform or participate in financial examinations or investigations for assigned companies. The nature of the work required includes satisfactory performance of the following under the direction of the Department:

- Thorough inspection and full-scope or limited-scope (targeted) examinations of the affairs of insurers to ascertain financial condition, ability to fulfill obligations and compliance with the provisions of law. Examinations to be conducted according to the National Association of Insurance Commissioners (NAIC) Financial Examiners Handbook, the NAIC Accounting Practices and Procedures Manual, and other appropriate matters promulgated by the NAIC, together with any useful or necessary modifications or adaptations thereof required or approved by the Commissioner.

- Coordination and cooperation with insurance departments, attorneys, appraisers, independent actuaries, independent certified public accounts or other professionals and specialists.
- Evaluation of corporate governance, internal controls, information systems and established risk management processes.
- Preparation and interpretation of key ratios, trends and other analytical procedures in developing an understanding and creating expectations regarding insurer financial results.
- Review of insurance contracts and related premiums and commissions.
- Assessment of recorded reserves and related liabilities through review of actuarial analysis of property/casualty, life accident and health companies.
- Evaluation of investment strategies/philosophies and assessment or valuation of assets reported in financial statements (including invested assets, real estate, collateral loans, mortgage and other assets).
- Analysis of facultative and treaty reinsurance arrangements, including identification of unusual contract features and assessment of risk transfer.
- Review of reserve valuation reports and preparation of Certificates of Reserve Valuation for domestic life insurance companies.
- Cash flow and/or liquidity analysis.
- Evaluation of financial forecasts and projections.
- Analysis of terms and conditions of acquisitions, mergers, and other complex transactions proposed by domestic insurers.
- Ability to testify regarding specific findings resulting from work conducted for the Department.
- Ability to create and maintain electronic work papers through TeamMate software.
- Other work as required by the State.

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

E. NATURE OF THE CONTRACT

i. Assignment will be at the discretion of the Department. A firm's selection by the Department and execution of a contract bears no commitment by the Department to use a Contractor's services during the course of the contract term.

ii. Payment of services for each contract shall be written for a maximum dollar value determined by the State. The Department reserves the right to establish the dollar value for each contract. It is possible, for example, that two contracts resulting from the request for proposal will have different maximum dollar values. Furthermore, a contract's maximum dollar value shall in no way represent a commitment to the Contractor for services or compensation. Payment to a Contractor will only be for services rendered on projects assigned to a Contractor by the Department. If a Contractor receives no assignments, there shall be no payment to that Contractor.

iii. All bills requesting payment for services by the Contractor for work rendered must be submitted to the Department **within 30 days** of the close of the month in which services were rendered. The Department may require a detailed description of work performed, costs and expenses.

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

F. BASE CONTRACT TERM: July 1, 2013 – June 30, 2015

The State expects to enter into a contract to cover the period commencing July 1, 2013 and ending June 30, 2015. The contract shall further include an option to extend the contract for one year, covering the period

between July 1, 2015 and June 30, 2016. Any such extension shall require an amendment to the contract and the approval of both the State and the Contractor.

G. **CHARACTERISTICS REQUIRED OF SUCCESSFUL BIDDERS**:

i. Strong financial expertise in the field of insurance.
ii. Ability to carefully follow the examination requirements of the NAIC and Vermont statutes and regulations.
iii. Detailed experience with similar assignments..
iv. Excellent understanding of regulatory and financial issues.
v. Adherence to high professional standards and a reputation for quality.
vi. Experience with EDP systems evaluations.
vii. Experience with automated examination techniques and processes; including electronic work-papers and statistical sampling.

H. **ISSUES THAT MUST BE ADDRESSED IN THE PROPOSAL:**

The bid is the Department's primary vehicle for obtaining essential information on which contract award decisions are based. Instructions contained in this Request For Proposal must be met in order to qualify for consideration. Bids that do not meet or comply with all instructions may be considered non-responsive. Mere reiterations of Request For Proposal stated services are discouraged as they do not provide insight into the bidder's understanding of the required tasks and responsibilities, nor the uniqueness of the bidder's performance capabilities. At a minimum, the bid proposal must address the following issues:

i. The bidder's approach to providing services.
ii. Firm qualifications and similar experiences (at least two references – including contact person's name and telephone number) must be provided.
iii. Primary areas of focus, if any, within the insurance industry.
iv. Staff resumes citing credentials.
v. Staff supervision and work product approval procedures.
vi. Description of final work products and/or reports.
vii. Work paper availability and records retention.
viii. Report issue procedures, timing, and approval.
ix. State government references and/or insurance industry projects.
x. Conflict of interest resolution.
xi. Sample of similar work.
xii. Compensation:
    a. Hourly rates by staff level. (Use attached price quotation form.)
    b. Out-of-pocket expense reimbursement levels and arrangements (when applicable, reimbursement levels should be consistent with the current NAIC recommended values).

I. **PAYMENT PROVISIONS:**

The State requires that a proposal must provide one hourly rate for each staff class identified in the proposal. A blended rate, whereby a proposal identifies one hourly rate for all categories of services, is not acceptable. The Department will also not accept a range of hourly compensation for the same staff level or function. The State will reimburse Contractor for travel expenses based on State of Vermont per diem for lodging, meals and incidentals. State will reimburse for airfare (receipt required). Vehicle mileage will be reimbursed at a rate determined at the time the contract is executed. The Contractor must bill the Department for work performed at least once a month.

J. **CONFIDENTIALITY**

The bidder agrees to keep the information related to the Department and all related agencies and companies confidential. Other than the reports submitted to the Department, the bidder agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner of form or authorize or permit others to do so. Bidder will take reasonable measures as are necessary to restrict access to the information while in the bidder's possession to those employees on his/her staff and the agency who must have the information on a "need-to-know" basis, and (s)he agrees to immediately notify, in writing, the Department's authorized representative in the event (s)he determines, or has reason to suspect, a breach of this requirement. Upon request the bidder will provide the Department with a copy of its protocols and procedures for maintaining confidentiality.

K. **EVALUATION CRITERIA**:

The Department will review the proposal and evaluate based on the following criteria:

i. Understanding of work to be performed and prior experience.
   a. Completed similar assignments.
   b. Experience working for state regulatory systems.
ii. Quality of staff and supervision:
   a. Qualifications of staff to be assigned.
   b. Supervision exercised over staff.
iii. Adequate staff to satisfactorily complete assignments in a timely manner.
iv. Quality and appropriateness of references.
v. Billable Rate (See Price Quote Form).

Two or more qualified Department staff members will independently evaluate each proposal on the above criteria. Each criteria is evaluated as either; "doesn't meet requirements", "meets requirements", or "exceeds requirements". Criteria evaluated as "meets requirements" are assigned a score of one point; criteria evaluated as "exceeds requirements" are assigned a score of three points. Each bidder's criteria score is totaled and evaluated for Contractor selection. A recommendation for one or more Contractors from this Request for Proposal to the Deputy Commissioner of Insurance is based on this evaluation.

L. **ADDITIONAL PROVISIONS:**

i. Statement of Rights: The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a bid.
ii. Non-Collusion: The State of Vermont is conscious of, and concerned about collusion. It must therefore be understood by all, that in signing bid and contract documents, they agree that the prices quoted have been arrived at without collusion, and that no prior information concerning these prices has been received from, or given to, a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, all bidders must understand that this paragraph might be used as a basis for litigation.
iii. Public Record: The successful bid will become part of the contract file and will become a matter of public record, as will all other bids received. If a bid includes material that is considered by the bidder to be proprietary and confidential under 1 VSA, Chapter 5, the bidder shall clearly designate the material as such, explaining why such material must be considered confidential. The bidder must identify each exemption from release, including the prospective harm to the competitive position of the bidder if the identified material were to be released. The Division will determine if such designated information meets statutory requirements pertaining to materials exempted from Vermont's public records law. Under no circumstances can entire bid or price information be marked confidential. Bids so marked may not be considered.

EXHIBIT A

STATE OF VERMONT
STANDARD CONTRACT FOR PERSONAL SERVICES

1. Parties. This is a contract for personal services between the State of Vermont, Department of Financial Regulation, (hereafter called "State"), and _____, with its principal place of business at _____, (hereafter called "Contractor"). Contractor's form of business organization is _____. It is the Contractor's responsibility to determine if by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. Subject Matter. The subject matter of this contract is personal services, generally on the subject of the financial examination of insurance companies. Detailed services to be provided by the contractor are described in Attachment A.

3. Maximum Amount. In consideration of the services to be performed by Contractor, the State agrees to pay Contractor in accordance with the payment provisions specified in Attachment B, a sum not to exceed $_____.

4. Contract Term. The period of Contractor's performance shall begin on July 1, 2013 and end on June 30, 2015. The period may be extended to June 30, 2016 upon agreement of both parties.

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

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

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

7. Cancellation. Either party may cancel this contract by giving written notice at least 30 days in advance.

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

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

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

By the STATE OF VERMONT

Date: _____

Signature: _____
Susan L. Donegan
Commissioner
Vermont Department of Financial Regulation

By the CONTRACTOR

Date: _____

Signature: _____

Print Name: _____

Title of Endorser: _____

Business Name: _____

EXHIBIT A
ATTACHMENT A
DEPARTMENT OF FINANCIAL REGULATION
SPECIFICATIONS OF WORK TO BE PERFORMED

Contractor agrees to perform or participate in financial examinations or investigations for assigned companies. The nature of the work required includes satisfactory performance of the following under the direction of the Department:

- Thorough inspection and full-scope or limited-scope (targeted) examinations of the affairs of insurers to ascertain financial condition, ability to fulfill obligations and compliance with the provisions of law. Examinations to be conducted according to the National Association of Insurance Commissioners (NAIC) Financial Examiners Handbook, the NAIC Accounting Practices and Procedures Manual, and other appropriate matters promulgated by the NAIC, together with any useful or necessary modifications or adaptations thereof required or approved by the Commissioner.
- Coordination and cooperation with insurance departments, attorneys, appraisers, independent actuaries, independent certified public accounts or other professionals and specialists.
- Evaluation of corporate governance, internal controls, information systems and established risk management processes.
- Preparation and interpretation of key ratios, trends and other analytical procedures in developing an understanding and creating expectations regarding insurer financial results.
- Review of insurance contracts and related premiums and commissions.
- Assessment of recorded reserves and related liabilities through review of actuarial analysis of property/casualty, life accident and health companies.
- Evaluation of investment strategies/philosophies and assessment or valuation of assets reported in financial statements (including invested assets, real estate, collateral loans, mortgage and other assets).
- Analysis of facultative and treaty reinsurance arrangements, including identification of unusual contract features and assessment of risk transfer.
- Review of reserve valuation reports and preparation of Certificates of Reserve Valuation for domestic life insurance companies.
- Cash flow and/or liquidity analysis.
- Evaluation of financial forecasts and projections.
- Analysis of terms and conditions of acquisitions, mergers, and other complex transactions proposed by domestic insurers.
- Ability to testify regarding specific findings resulting from work conducted for the Department.
- Ability to create and maintain electronic work papers through TeamMate software.
- Other work as required by the State.

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

EXHIBIT A
ATTACHMENT B
STATE OF VERMONT CONTRACT FOR PERSONAL SERVICES
PAYMENT PROVISIONS

Contractor may assess and collect fees as follows:
1. Maximum payable amount on the contract, including all fees, charges and expenses shall not exceed: $_____. The State does not guarantee the assignment of any minimum number of hours or any other work under this contract.
2. The State agrees to pay Contractor an hourly rate as detailed on the form below.

Classification	**Hourly Rate**
Financial Examination:	
Principal/ Partner:	
Administrative Examiner	
Examiner in Charge	
Senior Examiner	
Examiner Other	
Other Staff:	
Actuarial Review:	
Principal/Partner	
Administrative Examiner	
Examiner in Charge	
Senior Examiner	
Examiner: Other	
Information Systems Evaluation:	
Principal/ Partner:	
Assignment Manager:	
On-Site Staff Supervisor:	
Senior Automated Exam Specialist:	
Junior Automated Exam Specialist:	
Other Staff:	

3. Expenses: State will reimburse Contractor for reasonable expenses. State will reimburse Contractor for travel expenses utilizing the most current State of Vermont Per Diem Study for lodging, meals and incidentals. State will reimburse for airfare (receipt required). Mileage will be reimbursed at current State of Vermont rate. A billing for mileage shall include the points of origin and destination and the number of miles traveled. Only actual charges will be paid.

4. Invoices shall include itemized breakdown per assigned job by staff class with their hourly rate, date of work performed, total hours worked, description of work performed and necessary receipts for expenses. Each invoice shall include a unique invoice number. Invoices for services by the Contractor for work rendered must be submitted to the State within 30 days of the closing of the month in which services were rendered.

5. Invoices shall be submitted on a monthly basis to: Louisa Neveau, Department of Financial Regulation, Insurance Division, 89 Main Street, Montpelier, VT 05620-3101.

EXHIBIT A
ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS

1. Entire Agreement: This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

2. Applicable Law: This Agreement will be governed by the laws of the State of Vermont.

3. Definitions: For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Sub-recipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.

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

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

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

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

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

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

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

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

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

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

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

$1,000,000 Per Occurrence
$1,000,000 General Aggregate
$1,000,000 Products/Completed Operations Aggregate
$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: $1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability Insurance. Before commencing work on this contract and throughout the term of this contract, Contractor shall procure and maintain professional liability insurance for any and all services performed under this contract, with minimum coverage of $1,000,000 per occurrence.

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

9. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a single audit is

required for the prior fiscal year. If a single audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

A single audit is required if the Subrecipient expends $500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a single audit is required.

10. Records Available for Audit: The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.

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

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

13. T**axes Due to the State**:

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

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

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

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

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

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

b. is under such an obligation and is in good standing with respect to that obligation; or

c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

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

15. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

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

17. Copies: All written reports prepared under this Agreement will be printed using both sides of the paper.

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

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

19. Certification Regarding Use of State Funds: In the case that Party is an employer and this agreement is a State Funded Grant in excess of $1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

ATTACHMENT D
OTHER CONTRACT PROVISIONS

1. Confidentiality. Contractor agrees to keep information related to the State and all agencies and companies related to this contract confidential. Other than the reports submitted to the State, the Contractor agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form or authorize or permit others to do so. Contractor will take reasonable measures as are necessary to restrict access to information in the Contractor's possession to those employees on his/her staff who must have the information on a "need to know" basis. Contractor agrees to immediately notify, in writing, the State's authorized representative in the event Contractor determines or has reason to suspect a breach of this requirement. Upon request Contractor will provide the State with a copy of its protocols and procedures for maintaining confidentiality.

2. Prior Approval of Workers. The state shall have the right to approve any personnel the Contractor proposes to assign to work requested by the State prior to the commencement of such work. If the proposed personnel of the Contractor are not acceptable to the State, the State may choose to withdraw the assignment of such work from the Contractor, and Contractor will assign personnel acceptable to the State.

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

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