VERMONT

**Department of Public Service**
112 State Street [phone] 802-828-2811
Montpelier VT 05609-3001 [fax] 802-828-2382
http://publicservice.vermont.gov/

# SEALED BID

# REQUEST FOR PROPOSAL

## Technical Assistance for Microcell Deployment

| | |
|---|---|
| **ISSUE DATE:** | **September 10, 2019** |
| **NOTICE OF INTENT TO BID** | **September 27, 2019** |
| **QUESTIONS DUE BY:** | **October 4, 2019** |
| **BIDDERS' CONFERENCE:** | **October 11, 2019** |
| **RFP RESPONSES DUE BY:** | **October 25, 2019 4:00 p.m.** |
| **BID OPENING:** | **October 28, 2019 11:00 a.m.** |

**PLEASE BE ADVISED THAT ALL NOTIFICATIONS, RELEASES, AND AMENDMENTS ASSOCIATED WITH THIS RFP WILL BE POSTED AT:**
https://publicservice.vermont.gov/requests-for-proposals

**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 WEBPAGEFOR ANY AND ALL NOTIFICATIONS, RELEASES AND AMENDMENTS ASSOCIATED WITH THIS RFP.**

**STATE CONTACT:** **Clay Purvis, Director for Telecommunications**
**TELEPHONE:** **(802) 371-9655**
**E-MAIL:** **clay.purvis@vermont.gov**
**FAX:** **(802) 828-2382**

1. **OVERVIEW:**

1.1. **SCOPE AND BACKGROUND:** Through this Request for Proposal (RFP) the Vermont Department of Public Service (hereinafter the "State") is seeking to establish contracts with one or more companies (Contractor) to provide resources and technical assistance to municipalities seeking to acquire or use State-owned 2G microcells for the purpose of providing emergency communications.

1.2. **CONTRACT PERIOD:** Contracts arising from this RFP will be for a period of **2 Years**. The State anticipates the start date will be December 1, 2019.

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' NOTICE OF INTENT TO BID:** Any bidder interested in receiving notifications about this RFP and participating in the question and answer period are advised to send a notice of intent to bid to the Department of Public Service by the date indicated on the front of this RFP. Bidders should provide the name of the company, contact information, and a statement indicating bidder's intent to submit a proposal to this RFP.

1.5. **QUESTION AND ANSWER PERIOD:** Any vendor requiring clarification of any section of this RFP or wishing to comment or take exception to any requirements of the RFP must submit specific questions in writing no later than the deadline for question indicated on the first page of this RFP. Questions may be e-mailed to the point of contact on the front page of this RFP. Any comments, questions, or exceptions not raised in writing on or before the last day of the question period are waived. 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

https://publicservice.vermont.gov/requests-for-proposals

Every effort will be made to post this information as soon as possible after the question period ends, contingent on the number and complexity of the questions.

1.6. **BIDDERS' CONFERENCE:** The Department will hold a conference call with bidders to answer any remaining questions. The Conference will be held by phone. Directions for dialing in will be posted prior to the meeting date.

2. **DETAILED REQUIREMENTS/DESIRED OUTCOMES:**

2.1. The State seeks proposals to offer technical assistance for microcell deployment.

2.2. In 2011, the Vermont Telecommunications Authority (VTA) acquired a network composed of small cell compact Radio Access Network devices (RANs), which offer voice and text service[1] designed for attachment on utility poles, below the telecom space. The RANs provide service throughout an area with about ½ mile radius. Each site requires electrical power and broadband internet access for backhaul connectivity to the core network[2]. Of the 401 RANs acquired, 163 have been commissioned, 30 have been installed but not commissioned, and 208 RANs are in storage. The State cannot guarantee the condition of the RANs. Bidders are encouraged to contact the manufacturer, Vanu, Inc,. for information regarding the operation of the RANs. The RANs were leased to Vanu CoverageCo, and were deployed and operational for some time. The company found the business model challenging and eventually electricity and internet services to the RANs were discontinued and the State terminated the equipment lease in 2018.

[1] The RANs include software-defined CMRS radio systems with a chassis supporting two modules. All systems are equipped with one module supporting GSM (GSM/EDGE/UMTS/HSPA) and another module supporting CDMA (CDMA2000/1xRTT); both modules operate in Cellular and PCS frequency bands. Vanu, Inc. has stated that modules supporting 4G-LTE are in development, so either the GSM or CDMA modules could be replaced with a 4G-LTE module in the future. Vanu, Inc. no longer supports this system and firmware.

[2] All installed sites had access to broadband internet service, but the majority were served by DSL, and the previous operator stated that the backhaul speeds available would not be sufficient to support 4G LTE service, even if the radios were upgraded.

2.3. The State conducted an open-ended RFP in 2018 seeking support to expand wireless coverage in the areas previously served by the RANs, potentially using the RANs. The State received two responses, but neither offered a conclusive solution to employ the RANs.

2.4. The State is concurrently seeking proposals in a separate RFP for a Contractor to operate microcells with some funding provided by Vermont towns.

2.5. In this RFP, the State seeks proposals for resources and technical assistance to municipalities seeking to acquire or use State-owned 2G microcells for the purpose of providing emergency communications. Technical assistance shall include a cost-benefit analysis, which shall include consideration of rates and charges related to electric, backhaul, and geolocation services, pole rental fees, backup-power requirements, colocation requirements, the use of radio spectrum, and the negotiation of roaming agreements with national wireless providers.

2.6. Bidders should review section 27a(a) of Act 79, adopted by the Vermont legislature in 2019.

https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT079/ACT079%20As%20Enacted.pdf

2.7. As specified in section 27a(a) of Act 79, any contract for these services will not exceed $100,000.

2.8. The proposal should lay out the bidder's qualifications, and offer hourly rates for the requested technical support.

2.9. Upon identification of a qualified candidate and entering a contract for support, the State will solicit interest from Vermont municipalities. Should any municipalities request the support of the contractor, the State will direct the contractor to proceed, the contractor will provide the services without any cost to the municipality. The contractor will be paid by the State for services rendered for the municipality.

2.10. Vermont municipalities may lease the RANs, either previously installed or new stock, from the State at no cost. As specified in section 27a(b) of Act 79, the State will provide financial assistance to municipalities for capital costs associated with the acquisition or installation of 2G microcells. Specifically, this support will be limited to $3,800 for installation of a RAN at a new location, or $1,000 to re-commission a RAN at a previously installed location. These funds may only be used for capital costs, including installation and commissioning of the RANs, or any ancillary costs associated with deploying RANs such as makeready, electrical service or Internet access. The municipality is responsible for operational costs.

2.11. General Proposal Requirements. Every proposal must meet the following General Proposal Requirements:

2.11.1. Demonstration of expertise in an area. Please limit any descriptions of personnel expertise to synopsis' rather than full resumes.

2.11.2. Statement that the respondent is in compliance with the tax laws of the State of Vermont.

2.11.3. Each proposal must specifically identify those portions of the response that the respondent considers proprietary or confidential. Under no circumstances will a statement that the entire proposal is confidential be accepted.

2.11.4. Each proposal must begin with a completed one-page Cover Sheet identifying the sections respondent is addressing.

2.11.5. The contents of the proposal should follow the outline of the RFP.

2.12. General Proposal Evaluation Criteria. Successful bidders will demonstrate the following:

2.12.1. The ability to move swiftly into a contract soon.

2.12.2. The most cost-effective use of State resources.

2.12.3. The ability to demonstrate feasibility prior to contract signing.

2.12.4. The ability to assess long-term sustainability of the equipment and technology.

2.12.5. The assess long-term sustainability of the business plan and accuracy of underlying assumptions.

2.12.6. Evidence of substantial experience, technical, and personnel capacity.

2.12.7. Evidence of ability to asses financial capacity to run a network, including previous, current, and pro-forma financial statements demonstrating financial health necessary to run the network.

2.12.8. Ability to assess Roaming agreements with nationwide CMRS providers, or independent retail CMRS

2.12.9. Ability to assess CMRS Spectrum – either owned or leased

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 initial 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.

**3.1.3. Retainage.** In the discretion of the State, a contract resulting from this RFP may provide that the State withhold a percentage of the total amount payable for some or all deliverables, such retainage to be payable upon satisfactory completion and State acceptance in accordance with the terms and conditions of the contract.

3.2. **BEST AND FINAL OFFER**:

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.

3.2.1.1. 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.

3.2.2. **Evaluation of Responses and Selection of Bidder(s).** 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.

3.3. **WORKER CLASSIFICATION COMPLIANCE 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 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.

**1.** Proven experience and history of operating similar networks

**2.** Business plan and pro-forma demonstrate a reasonable likelihood of success, including evidence of roaming agreements, Vermont based spectrum, in-state staff or contractors, and capital outlay necessary to bring the state-owned network online and maintain the system going forward.

3.6. **STATEMENT OF RIGHTS:** The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Vendors may be asked to give a verbal presentation of their proposal after submission. 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.

3.7. **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. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.

3.7.1. **PAYMENT TERMS:** All invoices are to be rendered by the Contractor on the vendor's standard billhead 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 days from receipt of an error-free invoice with all applicable supporting documentation. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.

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. **NUMBER OF COPIES**:

4.1.1. Submit an unbound original (clearly marked as such) and two (2) paper copies and one digital copy in PDF provided on a USB flash drive, or emailed to State.telecom@vermont.gov.

4.1.2. 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. 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 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. **BACKGROUND AND EXPERIENCE.** Provide details concerning the form of business organization, company size and resources; describe particular experience relevant to the proposed project, and list all current or past State projects.

If a Bidder intends to use subcontractors, the Bidder must identify in the proposal the names of the subcontractors, the portions of the work the subcontractors will perform, and address the background and experience of the subcontractor(s), as above.

4.4. **REFERENCES.** Provide the names, addresses, and phone numbers of at least three companies with whom you have transacted similar business in the last 12 months. You must include contact names who can talk knowledgeably about performance.

4.5. **REPORTING REQUIREMENTS:** Provide a sample of any reporting documentation that may be applicable to the Detailed Requirements of this RFP.

4.6. **PRICING:** Bidders shall submit their pricing information in the Price Schedule attached to the RFP. Bidders may be required to submit pricing information separate from their bid package if specifically required above.

4.7. **CERTIFICATE OF COMPLIANCE:** 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 due date and at the location specified on the front page of this RFP.

5.2. The bid opening will be held at **112 State State Street, Third Floor, Montpelier, VT in the MEGA conference room** and is open to the public.

5.3. **SECURITY PROCEDURES: Please be advised extra time will be needed when visiting and/or delivering information to 112 State Street.**

5.4. **SEALED BID INSTRUCTIONS:** All bids must be sealed and must be addressed to the State of Vermont, Department of Public Service, **112 State Street – Third Floor, Montpelier, VT 05602**. BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE REQUISITION NUMBER AND/OR PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.

5.4.1. All bidders are hereby notified that sealed bids must be received and time stamped by the Department of Public Service located at **112 State Street – Third Floor, Montpelier, VT 05602** by the time of the bid opening. Bids not in possession of the Department of Public Service at the time of the bid opening will be returned to the vendor, and will not be considered. **Any delay deemed caused by Security Procedures will be at the bidder's own risk.**

5.4.2. The Department of Public Service may, for cause, change the date and/or time of bid openings or issue an addendum. If a change is made, the State will make a reasonable effort to inform all bidders by posting at http://publicservice.vermont.gov/requests-proposals/wireless-network-operator

5.4.3. All bids will be publicly opened. Typically, the Department of Public Service will open the bid, read the name and address of the bidder, and read the bid amount. However, the Department of Public Service reserves the right to limit the information disclosed at the bid opening to the name and address of the bidder when, in its sole discretion, the Department of Public Service determines that the nature, type, or size of the bid is such that the Department of Public Service cannot immediately (at the opening) determine that the bids are in compliance with the RFP. As such, there will be cases in which the bid amount will not be read at the bid opening. Bid openings are open to members of the public. Bid results are a public record however, the bid results are exempt from disclosure to the public until the award has been made and the contract is executed.

5.5. **DELIVERY METHODS:**

**5.5.1. SECURITY PROCEDURES: Note that security procedures concerning delivery of any mail or parcels to 112 State Street, floor 3 may delay receipt of mail/parcel pieces by one business day.**

5.5.2. U.S. MAIL: Bidders are cautioned that it is their responsibility to originate the mailing of bids in sufficient time to ensure bids are received and time stamped by the Department of Public Service prior to the time of the bid opening.

**5.5.3.** EXPRESS DELIVERY: If bids are being sent via an express delivery service, be certain that the RFP designation is clearly shown on the outside of the delivery envelope or box. Express delivery packages will not be considered received by the State until the express delivery package has been received and time stamped by the Department of Public Service.

5.5.4. HAND DELIVERY: Hand carried bids shall be delivered to a representative of the Department of Public Service.

5.5.5. ELECTRONIC: Electronic bids will be accepted.

6. **ATTACHMENTS:**

1. Standard State Contract Form, including Attachments A: Scope of Work, B: Payment Provisions, and C: Standard Provisions
2. Certificate of Compliance
3. Worker Classification Compliance Requirement; Subcontractor Reporting Form
4. List and map of Commissioned Small Cell Sites
5. Equipment Specifications

STATE OF VERMONT STANDARD CONTRACT FOR SERVICES Contract # _____

1. ***Parties.*** This is a contract for services between the State of Vermont, _____ (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 services generally on the subject of _____. 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 _____, 20__ and end on _____, 20__.

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. ***Cancellation.*** This contract may be canceled by either party by giving written notice at least thirty (30) days in advance.

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" a preprinted form (revision date 12/15/2017)

Attachment D - Other Provisions (if any)

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 Contract Provisions for Contracts and Grants)
(4) Attachment A
(5) Attachment B
List other attachments, if any, in order of precedence

STATE OF VERMONT STANDARD CONTRACT FOR SERVICES Contract # _____

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

| By the State of Vermont: | By the Contractor: |
| --- | --- |
| Date: _____ | Date: _____ |
| Signature: _____ | Signature: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |

## ATTACHMENT A – STATEMENT OF WORK

The successful respondent will be required to

1. Provide resources and technical assistance to municipalities seeking to acquire or use State-owned 2G microcells for the purpose of providing emergency communications.
2. Technical assistance shall include a cost-benefit analysis, which shall include consideration of rates and charges related to electric, backhaul, and geolocation services, pole rental fees, backup-power requirements, colocation requirements, the use of radio spectrum, and the negotiation of roaming agreements with national wireless providers.

## ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 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** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract # for this contract.
4. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly.
5. Invoices shall be submitted to the State at the following address: _____
6. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are as follows: _____
    a. Hourly rates for services to be provided to Vermont Municipalities, for each different class of personnel that may be employed.
    b. Travel will be reimbursed at cost, upon prior approval by the State.
    c. The contractor will be reimbursed for the actual costs incurred at the specified hourly rate for services rendered to municipalities. Reimbursement will only be provided for services provided to municipalities after instruction to proceed is provided by the State.
    d. As specified in section 27a(a) of Act 79, any contract for these services will not exceed $100,000.

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

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

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

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

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

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

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

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

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

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

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

$1,000,000 Each Occurrence

$2,000,000 General Aggregate

$1,000,000 Products/Completed Operations Aggregate

$1,000,000 Personal & Advertising Injury

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

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

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

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

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

**11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such

disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

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

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

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

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

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

- **A.** Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- **B.** Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- **C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- **D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

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

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

- **A.** is not under any obligation to pay child support; or
- **B.** is under such an obligation and is in good standing with respect to that obligation; or
- **C.** has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

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

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

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

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

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

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

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

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

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

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

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

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

**27. Termination:**

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

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

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

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

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

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

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

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

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

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

C. **Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the

imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

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

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

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

(End of Standard Provisions)

# CERTIFICATE OF COMPLIANCE

**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 |
|---|---|---|
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**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.

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℠ 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:

_____

_____

_____

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

Addendum No.:_____ Dated:_____

Addendum No.:_____ Dated:_____

Addendum No.:_____ Dated:_____

Bidder Name: _____ Contact Name: _____

Address: _____ Fax Number: _____

_____ Telephone: _____

_____ E-Mail: _____

By: _____ Name: _____

Signature of Bidder (or Representative) (Type or Print)

**END OF CERTIFICATE OF COMPLIANCE**

**RFP/PROJECT:**
**DATE:**

## WORKER CLASSIFICATION COMPLIANCE REQUIREMENT

**Self Reporting**
**Form 1 of 1**

**This form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.**

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

Bidder is required to self report the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification for worker's compensation. The state is requiring information on any violations that occurred in the previous 12 months.

| Summary of Detailed Information | Date of Notification | Outcome |
|---|---|---|
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**WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** Bidder hereby certifies that the company/individual is in compliance with the requirements as detailed in Act 54, Section 32 of the Acts of 2009.

Date: _____

Name of Company: _____ Contact Name: _____

Address: _____ Title: _____

_____ Phone Number: _____

E-mail: _____ Fax Number: _____

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

*Form must be signed by individual authorized to sign on the bidder's behalf.

**RFP/PROJECT:**
**DATE:**

## WORKER CLASSIFICATION COMPLIANCE REQUIREMENT

### 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 of workers. 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.

| Subcontractor | Insured By | | Subcontractor's Sub | Insured By |
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| | | | | |

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.

Send Completed Form to: Office of Purchasing & Contracting
109 State Street
Montpelier, VT 05609-3001
Attention: Contract Administration