

STATE OF VERMONT



REQUEST FOR PROPOSALS
FOR
REGISTERED ENGINEER
Experienced in
Design & Investigation of Dams

STATE OF VERMONT REQUEST FOR PROPOSALS

REGISTERED ENGINEER
Experienced in
Design & Investigation of Dams

RFP RELEASED ON: November 30, 2018

PROPOSAL DUE DATE: January 8, 2019, 2:00 pm

This RFP is issued by:

**The State of Vermont
Public Utility Commission**

**Proposals must be delivered to:
Vermont Public Utility Commission**

Via email: puc.businessmanager@vermont.gov

OR

**U.S. Mail to: ATTN: Business Manager
112 State Street, 4th Floor
Montpelier, VT 05620-2701**

Request for Proposals

The State of Vermont Public Utility Commission (“Commission”) is soliciting proposals from registered engineers experienced in the design and investigation of dams.

The Commission is a quasi-judicial agency that regulates public utilities and, among other things, monitors the safety of hydroelectric dams.

Pursuant to 10 V.S.A. Chapter 43, no one may build or alter a nonfederal dam in Vermont impounding more than 500,000 cubic feet of water and used in the production of electricity without authorization from the Commission. As part of its review, the Commission is required to

[E]mploy an engineer to investigate the property, review the plans and specifications, and make additional investigations as the State agency having jurisdiction considers necessary to ensure that the project adequately provides for the public safety. The engineer shall report his or her findings to the State agency having jurisdiction. (10 V.S.A. §1087)

Also pursuant to 10 V.S.A. §1095, the Commission may institute investigations by an engineer as described in Section 1087 regarding the safety of any existing dam on receipt of a petition signed by the legislative body of a municipality.

Commission Rule 4.522,¹ relating to the safety of hydroelectric dams, requires that

[s]afety [i]nspections shall be required of any dam: (1) [t]hat is more than twenty-five feet in height above streambed or that has a gross storage capacity of more than 750 acre-feet; or (2) [t]hat has a significant or high hazard potential or is determined by the Commission to require inspection under this Rule.

Inspection requirements are described in Commission Rule 4.526, reporting requirements in Rule 4.527, and corrective measures in Rule 4.530. Corrective measures must be described in a corrective plan and schedule (Commission Rule 4.532). Additionally, Commission Rule 4.543 specifies Commission requirements regarding Emergency Action Plans.

Scope of Service Requested

The Commission seeks a registered engineer experienced in the design and investigation of dams to provide services related to:

- (a) Petition for Commission approval under 10 V.S.A. § 1087 filed by Green Mountain Power Corporation (“GMP”) to implement physical improvements and operational changes to the Marshfield #6 dam at its Molly’s Falls Hydroelectric Facility in Cabot, Marshfield, and Peacham, Vermont (the “Petition”), and

¹ <https://puc.vermont.gov/document/board-rule-4500-safety-hydroelectric-dams>

- (b) Investigation pursuant to 10 V.S.A. § 1095 and Commission Rule 4.500 into safety concerns related to the Marshfield #6 dam and GMP’s Emergency Action Plan raised by the Town of Plainfield, Vermont (the “Investigation”).

A. The Commission anticipates that the scope of the engineer’s tasks regarding GMP’s Petition will depend on whether the parties reach agreement and file stipulations or not. Accordingly, the Commission seeks proposals for two possible outcomes for this task, including Option (A)(1) - Stipulated Outcome, and Option (A)(2) - Evidentiary Hearing Outcome.

The anticipated schedule for each task in this RFP is based on the currently proposed schedule for the Petition, shown in the following table. All dates are subject to change and are provided here to give RFP respondents information about the steps in the proceeding and the general time-frames involved from one step to the next.

18-2549-PET Schedule from Order of November 8,2018:

Nov. 14	GMP files supplemental testimony on emergency spillway conceptual design
Nov. 29	Site visit
Dec. 6	Alternate date for site visit
Dec. 13	Deadline for round 1 discovery on GMP by parties
Dec. 31	GMP replies to parties’ round 1 discovery
Jan. 16	Deadline for round 2 discovery on GMP by parties
Jan. 30	GMP replies to parties’ round 2 discovery
<i>If matter is not contested by any party:</i>	
Feb. 27	Parties file stipulations
Mar. 18 - 22	Evidentiary hearing if no contested issues remain
Apr. 8 - 12	GMP files proposed findings and order
<i>If matter is contested:</i>	
Feb. 20	Parties file testimony; ANR files draft 10 V.S.A. § 1084 certification
Mar. 6	Discovery on non-petitioner testimony
Apr. 3	Non-petitioners’ reply to discovery
Apr. 12	GMP rebuttal testimony
May 10	Non-petitioners’ discovery on rebuttal testimony
May 22	GMP replies to discovery
Jun. 12	Non-petitioners’ surrebuttal testimony
Jun. 14	GMP request for live sur-surrebuttal testimony; deadlines for objections to prefiled testimony; ANR final § 1084 certification
Jul. 8 - 12	Evidentiary hearing
tbd	Post- hearing briefs
tbd	Post-hearing reply briefs

Option (A)(1) Stipulated Outcome

- (a) Review GMP's Prefiled Testimony and Exhibits - including hydrogeologist testimony on Chapter 43 criteria (Perry, 36 pages), Study Report (99 pages), project description testimony (Greenan, 26 pages; project description memo by VHB, 37 pages), project location map and plans (overview plan, new spillway gate plans, spillway concrete resurfacing plans, house and head gate refurbishment plans, project details and safety aspects testimony (Haskell, 12 pages), hydraulic analysis of downstream flooding (69 pages), operational changes testimony (Nelson, 38 pages), memo on shear stress values (11 pages), turbine performance testing memo (14 pages), supplemental Winooski River geomorphic assessments (5 pages), winter drawdown assessment (27 pages), and revised flow and water level proposal (14 pages).

Schedule: review prior to completion of (d) and (e) below.

- (b) Review the 2018 Dam Safety Inspection Report

Schedule: review after it is submitted (which will be on or before December 31, 2018) and prior to completion of (d) and (e) below.

- (c) Review Stipulations - if any are filed between GMP and the other parties, which may include the Vermont Agency of Natural Resources, the Vermont Department of Public Service, Town of Marshfield, Town of Cabot, City of Montpelier, Town of Plainfield, and the Vermont Natural Resources Council.

Schedule: review after stipulations are filed (which will be on or before February 27, 2019) and prior to completion of (d) and (e) below.

- (d) Provide the Commission a list of any questions for GMP or other parties that need to be answered to complete engineer's Report of Conclusions and Recommendations.

Schedule: provide to Commission March 2019.

- (e) Provide the Commission a Report of Conclusions and Recommendations.

Schedule: to be determined based on timing of responses to questions in (d).

- (f) Other Tasks - As deemed necessary by the engineer to accomplish (a) through (e) and to allow the engineer to assess whether the physical improvements and operational changes to the Molly's Falls hydroelectric facility will adequately provide for the public safety.

Option (A)(2) Evidentiary Hearing Outcome

- (a) Review Other Parties' (i.e., non-GMP) Testimony and Exhibits - which may include testimony filed by the Vermont Agency of Natural Resources, Vermont Department of

Public Service, Town of Marshfield, Town of Cabot, City of Montpelier, Town of Plainfield, and the Vermont Natural Resources Council.

Schedule: review after it is submitted (which will be on or before February 20, 2018) and prior to completion of (d) and (e) below.

- (b) Review GMP's Rebuttal Testimony.

Schedule: review after it is submitted (which will be on or before April 12, 2019) and prior to completion of (d) and (e) below.

- (c) Review Other Parties' (i.e., non-GMP) surrebuttal testimony.

Schedule: review after it is submitted (which will be on or before June 12, 2019) and prior to completion of (d) and (e) below.

- (d) Provide the Commission a list of any questions for GMP or other parties that need to be answered to complete the engineer's Report of Conclusions and Recommendations.

Schedule: mid- to late-June 2019.

- (e) Provide the Commission a Report of Conclusions and Recommendations.

Schedule: to be determined based on timing of responses to questions in (d).

- (f) Attend the Commission's evidentiary hearing and appear as a witness to testify regarding the engineer's Report of Conclusions and Recommendations.

Schedule: the evidentiary hearing will be held in Marshfield, Cabot, or Peacham, Vermont, in July 2019; it is anticipated the engineer would be required to attend for a portion of one hearing day in accordance with a pre-determined schedule of witnesses.

- (g) Other Tasks - As deemed necessary by the engineer to accomplish (a) through (f) and to allow the engineer to assess whether the physical improvements and operational changes to the Molly's Falls hydroelectric facility will adequately provide for the public safety.

B. The Commission anticipates that the engineer's tasks regarding the Investigation into the status of maintenance repairs and the Emergency Action Plan for the Marshfield #6 dam will depend on the extent issues are resolved under the Petition described in (A), if a stipulation is filed between parties for any remaining issues, and if the Commission determines that a hearing is required pursuant to 10 V.S.A. § 1095. Accordingly, the Commission seeks proposals for two possible outcomes for this task, including Option (B)(1) - Stipulated Outcome, and Option (B)(2) - Evidentiary Hearing Outcome.

Option (B)(1) Stipulated Outcome

The Commission anticipates that the engineer's tasks will include:

- (a) Review the Town of Plainfield's letters in Case 18-0537-INV describing its concerns with the Marshfield #6 dam (dated 3/26/2018, 11/14/2018).
- (b) Review GMP's responses in Case 18-0537-INV, including a 3/29/2018 cover letter, memorandum, and attachments (414 pages, which includes the 2009 and 2013 safety inspection reports and the 2017 Emergency Action Plan); and GMP filing dated 11/15/2018.
- (c) Review GMP's 2018 corrective action plan (filed 5/14/2018, pages 9-16) and status reports (5/14/2018 plan pages 9-16, 6/20/2018 status report, 2 pages, and 9/26/2018 status report, 5 pages) (all filed by GMP in Case 18A-1359).
- (d) Review the 2018 safety inspection report of the Marshfield #6 dam (anticipated to be filed by 12/31/2018).
- (e) Review the 2018 Emergency Action Plan (anticipated to be filed by 12/31/2018).
- (f) Review GMP's prefiled testimony and exhibits in the Petition described in (A) above to determine whether the information addresses the concerns raised by the Town of Plainfield.
- (h) Provide the Commission a list of any questions for GMP or other parties that need to be answered to complete engineer's Report of Conclusions and Recommendations.

Schedule: provide to Commission late June to early July 2019.

- (g) Provide the Commission a Report of Conclusions and Recommendations that evaluates whether GMP has adequately addressed the safety issues raised by the Town of Plainfield, and if not, recommendations for how they should be addressed.

Schedule: to be determined based on Commission comments.

- (h) Other Tasks - As deemed necessary by the engineer to accomplish (a) through (g).

Option (B)(2) Evidentiary Hearing Outcome

- (a) This task is a follow-on task to Option (B)(a), to attend the Commission's evidentiary hearing in the Investigation and appear as a witness to testify regarding the engineer's report in accordance with 10 V.S.A. § 1095.

Schedule: To be determined based on the outcomes of Task B(1) and Task A.

Schedule and Cost

It is anticipated that the duration of the contract with the Commission will be one year. Respondents should provide detailed rationale for cost estimates based on anticipated level of effort, appropriate level of staffing, and hours to accomplish each task.

Conflict of Interest

GMP and the Vermont Agency of Natural Resources (“ANR”) developed a Memorandum of Agreement in 2012 regarding the Project, and GMP and ANR have coordinated since development of the Memorandum regarding necessary studies and specific details of the proposed physical and operational improvements.

To avoid any conflict of interest, any engineer or engineering firm that has participated in part efforts pertaining to the Memorandum of Agreement, related investigations, and GMP’s Petition in this case, on behalf of GMP or ANR, is precluded from serving as the Commission’s engineer in this matter and should inform the Commission of the nature of the conflict in their response to this request for proposal.

Available Information

The Petition is Commission Case No. 18-2549-PET.

The Investigation is Case No. 18-0537-INV.

GMP has filed its 2018 Corrective Action Plan and quarterly status reports for the Marshfield #6 dam in Case No. 18A-1359.

Information and documents filed in the case are publicly accessible in ePUC, the Commission’s online document management system at <https://epuc.vermont.gov>.

The following requirements are mandatory and are provided to assist vendors in their decisions to respond to this RFP.

Background & 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.

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.

Vermont Public Utility Commission
RFP for Registered Engineer Experienced Design & Investigation of Dams

Responses will be considered by the Commission based on qualifications and experience as well as overall price of services.

Attachments

- a. Standard State of Vermont Contract for Services
- b. Attachment C: Standard State Provisions

Deadline for Responses

Responses to this RFP shall be submitted to Vermont Public Utility Commission, Business Manager, via email (PUC.BusinessManager@vermont.gov) no later than January 8, 2019 @ 2:00PM.

Responses received shall be public records, available for public inspection, after a final contract for these services has been executed.

STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, [REDACTED] (hereinafter called “State”), and [REDACTED], with a principal place of business in [REDACTED], (hereinafter called “Contractor”). Contractor’s form of business organization is [REDACTED]. 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 [REDACTED]. 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 \$ [REDACTED].00.

4. **Contract Term.** The period of Contractor’s performance shall begin on [REDACTED], 20 [REDACTED] and end on [REDACTED], 20 [REDACTED].

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

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

7. **Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.

8. **Attachments.** This contract consists of [REDACTED] 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)

Additional attachments may be lettered as necessary

9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment D (if applicable)
- (3) Attachment C (Standard State Provisions for Contracts and Grants)
- (4) Attachment A
- (5) Attachment B

List other attachments, if any, in order of precedence

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

Date: _____

Signature: _____

Name: _____

Title: _____

By the Contractor:

Date: _____

Signature: _____

Name: _____

Title: _____

Vermont Public Utility Commission
RFP for Registered Engineer Experienced Design & Investigation of Dams

ATTACHMENT A – STATEMENT OF WORK

The Contractor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

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

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

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

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

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

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

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

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

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

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

16. Taxes Due to the State:

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

- B.** Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27. Termination:

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be

returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

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

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

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

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

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

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

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

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

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)