REQUEST FOR PROPOSALS

FLOOD COMMUNITY ASSISTANCE PROGRAM (FCAP)
TWO RIVERS-OTTAUQUECHEE REGIONAL COMMISSION

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Date of Issue: **February 28, 2025**

Deadline: **Submission via email to kgeiger@trorc.org and pfellows@trorc.org no later than 4:00 PM EST March 21, 2025.**
No paper copies will be accepted. Adobe PDFs are the required method of delivery.

Background

Vermont was struck by a series of floods in 2023, with the largest being floods in July 2023 (DR-4720). This was followed by severe flooding a year later. This builds on a history of flooding in the state that has led to many federally declared floods. To plan for avoiding future flood damages in select communities hit hard by the 2023 floods the Two Rivers-Ottauquechee Regional Commission (TRORC) has contracted with the Vermont Department of Environmental Conservation (VTDEC), with funding from FEMA, to engage in an outreach effort that is primarily meant to assist flood-affected towns in better managing floodplain development to reduce flood risk. This effort will be known as "Flood Community Assistance Program (FCAP)".

This effort is intended to be coordinated with previous work by TRORC, under contract to Vermont Emergency Management (VEM), to manage engineering services to help these communities prioritize, select, and develop applications to the Federal Emergency Management Agency for physical flood damage reduction projects. That process is known as RIVER (https://riverprojectsvt.org/). RIVER is a separate process to the work under this request, and this work will build on the work completed under the RIVER project (https://riverprojectsvt.org/).

What has become evident during discussions with the affected communities in RIVER is that an effective response and preparation for the next flood is hindered by:

- A lack of understanding of river dynamics,
- Flood risk being minimized despite recent actual events,
- A sense of community residual fear,
- Regulatory actions to reduce flood damage not being well understood, and
- Failure to reach those most affected by flooding.

These factors lead to:

- Unworkable 'solutions' being put forward,
- Lack of political will to address flooding,
- Lack of ability to honestly discuss risk,

- Lack of uptake of improved flood regulations, emergency warning or preparedness, and
- Lack of public support for serious flood reduction actions.

Consultant services under this RFP will help address these shortcomings in understanding, acceptance, commitment, and cohesion through a series of facilitated public events and outreach materials. This work will focus on:

- Barre, Berlin, Montpelier
- Barton, Glover
- Hardwick
- Cambridge, Johnson, Wolcott
- Ludlow
- Weston, Jamaica, Londonderry
- Plymouth, Bridgewater, and Woodstock.

Work under this RFP will *focus* on these communities, but will recognize the larger upstream watershed contexts. These areas are not homogenous and have varying degrees of flood studies and other projects underway in them already.

Consultants will have local support for their work provided by the relevant regional planning commission (RPC) under separate contract to TRORC for outreach to local officials, local situational knowledge, arranging meeting locations and logistics, and staff support at events. The RPCs are under separate contract to TRORC for these services, and will not be providing direct support to this project.. The RPCs will not be managing the meetings, preparing ads, or generating materials. They may be used as sounding boards when developing materials/approach for the FCAP project.

Consultant work will need to mesh with other interconnected projects that are ongoing at the state, regional, or community level to avoid redundancy or conflicting messages, and increase synergy and alignment.

The contract currently has a very short timeframe due to FEMA requirements**.**

TRORC will make its firm/team selection(s) and notify all firms on or before March 26, 2025.

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1. General Information

1.0 Qualifications

The firm/firm teams replying to this RFP must demonstrate in their proposal experience and technical expertise in:

- River dynamics (including fluvial erosion, sediment transport and headcutting);
- NFIP flood regulation best practices;
- Meeting facilitation;
- Creation of highly effective communication materials, including visual, graphic and web content;
- Work in rural areas;
- Psychological support in moving past the distressing effects of disasters;
- Standard FEMA recovery and mitigation processes; and
- Ability to hold difficult community conversations.

It is unlikely that a single firm will possess all of the above, and so a team of firms approach is encouraged. All teams will have a lead firm. The successful firm/team will be familiar with Vermont's flood history and relevant federal and state environmental laws, regulations, standards and guidance, including Vermont's Stream Alteration Permit.

1.1 Project Coordinator

Kevin Geiger, Chief Planner, hereinafter referred to as the Project Coordinator, shall act as liaison between the selected firms/teams and participating communities.

1.2 Compliance with Federal, State, and Local Laws and Regulations

Prospective firms/teams should be aware that a contract with the TRORC will be subject to, and be in accordance with, all Federal, State, and local laws and regulations, as may be applicable, and must comply with the federal terms and conditions as well as pass-thru provisions appended to this RFP and Vermont State grant and audit policies in Bulletin 5 and the requirements of 2 C.F.R. pt. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This includes, among other things, the requirement to comply with the procurement standards at 2 C.F.R. § 200.317-327.

Each firm must be registered with the Vermont Secretary of State or as a foreign firm. TRORC will not select firms that are listed on the federal System for Award Management Exclusion List or the Vermont Agency of Administration's Debarment List.

1.3 Revisions to the Request for Proposals

In the event it becomes necessary to revise any part of this RFP, revisions will be provided to all who requested this RFP and will be posted on the TRORC website. TRORC shall bear no responsibility or liability due to copies of revisions lost in emailing or not delivered to prospective firms/teams due to unforeseen circumstances.

1.4 Response Deadline and Questions

In order to be considered for selection, a proposal meeting all requirements of Section 2 of this RFP must arrive at the TRORC office via email by the deadline noted above.

TRORC shall bear no responsibility for any proposals that arrive, by any means, beyond the Response Deadline indicated above in this RFP. TRORC will notify all firms/teams whose proposals were received by the deadline.

Questions regarding this RFP shall be submitted in writing only to the Project Coordinator, by email to kgeiger@trorc.org.

TRORC will maintain a list of RFP questions and answers linked to the TRORC website (https://www.trorc.org/rfps-rfqs). **Questions will be accepted until noon on March 17, 2024, at which time all questions and responses will be posted to the TRORC RFP page (https://www.trorc.org/rfps-rfqs/) to ensure all parties have adequate time to review the answers before the proposal submission deadline.**

1.5 Time of Performance

Performance under the scope of work will terminate June 30, 2025, unless the contract term is extended by a future contract amendment.

2. Proposal Information

The prospective firms/teams are to follow the instructions contained herein in preparing and submitting their response to this RFP. **Failure to follow instructions may automatically lead to the proposal not being reviewed and will at least result in major point deductions.**

2.0 Proposal Format

Proposals shall be prepared simply, providing a straightforward and concise description of the firm's or team's ability to satisfy the requirements of this RFP. **Proposal components shall be packaged for the entire firm/team as a single proposal in three separate PDF documents (a cover letter, technical proposal, and cost proposal).** PDF files shall be named as to be identifiable to the firm and contents (ex. Lessfloody_CL.pdf, Lessfloody_technical.pdf, Lessfloody_cost.pdf). Paper copies will not be accepted. Proposal formats are an example of firm's/team's expertise in communication in delivering information.

The name of the firm(s) and the title of this RFP must appear on the front page of the proposal. Each page of the technical scope or cost proposals must be numbered consecutively, excluding all appended material. Only one proposal should be prepared and submitted by the lead firm if assembling a team of firms.

2.1 Proposal Contents

The proposal **must contain** the following components:

1. Cover letter signed by a principal or CEO of the firm/lead firm of the team, expressing the firm or team's interest in working with the TRORC. The cover letter shall include the primary contact regarding the proposal; physical addresses, email addresses, and telephone numbers of all firms involved on this project; structure of firm or team, i.e. sole proprietorship, partnership, or corporation; size of firm(s) and number of years firm(s) have been in business; and a statement regarding the firm's or firms' financial stability and ability to complete all services.
2. Signed Certificates of Non-Collusion and Tax Compliance of all firms involved on this project, appended to this RFP (Attachments A, B and G).
3. A Technical Scope as outlined in 2.2
4. A Cost Proposal as outlined in 2.3.

2.2 Technical Scope

The Technical Scope **must contain** the following (please provide the same information for the subcontracting firm(s) as well):

1. List of those people in the firm(s) who will be doing the bulk of the work on the project, including names, education, professional licenses, registrations or certifications, and relevant experiential background. Please designate the Principal in Charge, the Project Manager, and the roles of other key personnel.
2. A list of any actions taken by any regulatory agency or litigation involving the firm(s) or its agents or

employees with respect to any work performed. If no such actions have been taken, state that in the cover letter.

3. Applicants and their subcontractors shall indicate that they have or are willing to obtain coverage for the following minimum insurance requirements: general liability coverage of $1 million per occurrence and $2 million in the aggregate, products / completed operations aggregate coverage of $1 million, personal and advertising injury coverage of $1 million, motor vehicle liability coverage of $1 million combined single limit, and proof of workers' compensation insurance that accords with the laws of the State of Vermont, and professional errors and omissions coverage of $1 million. Coverage shall be primary and non-contributory with any other insurance and self-insurance. If a contract is awarded, TRORC and the state of Vermont must be listed as Additional Insureds on the insurance policy.
4. List of similar projects relevant to the Scope of Work that the firm(s) have worked on, ideally in topography and flood regimes similar to Vermont, **including client contact information.** Given the wide-ranging nature of the Scope, firms/teams may provide examples of separate projects that addressed each area of the Scope cumulatively. Provide a summary of no more than two pages for each of such projects. A link to a project website may be used instead if available. I**ndicate whether the specific staff who worked on the reference projects are the same as staff listed in the proposal. If not, please provide additional project references that staff listed in the proposal have worked on.**
5. A detailed description of your approach for completing the Scope of Work outlined in section 5 of this RFP, including a description of the tasks to be performed by the firm/team, and any subcontractors, and a proposed timeline. **If the firm/team desires to propose alternatives to the Scope of Work, they must do this in addition to responding to the Scope, clearly labeling the alternative section as "Alternative", and an explanation for their proposed variance. If the firm/team proposes to do only part of the Scope, they must label their proposal as "Partial Response".**

2.3 Cost Proposal

The total awarded under this RFP is expected to be in the $70,000 range. The cost proposal must be separate from the technical scope, listing the prime firm and each anticipated subcontractor separately, and must include:

1. An anticipated hourly rate schedule for all billed staff job categories, as well as any fees, markups, and travel costs.
2. Due to the varied nature of which communities the consultant will be working in, proposal meeting direct costs should use mileage and travel hours for a staff person to attend a meeting in Montpelier, VT. Provide standard lodging rates if overnight stays are anticipated, understanding that many community meetings are in the evening. Firms are not permitted to charge markup on travel costs and will use the GSA Standard Mileage Rates.
3. An itemized breakdown of any subcontractor costs and direct expenses proposed, along with any markup rate for subcontractor invoices.

2.4 Subcontracting

Subcontracting will be allowed for tasks required by this RFP. Any intent to subcontract on the part of the prospective firm/team must be specifically described in the technical qualifications statement and cost proposal, and information on the subcontracted firms must be submitted as specified under sections 2.1 and 2.2 above.

2.5 Copies/Ownership of Proposals

In order to be considered for selection, prospective firms/teams must submit a complete response to this RFP. **Electronic submissions of PDFs are required.** Proposals become the property of TRORC and VTDEC. TRORC does not share proposals outside of selection committees unless required by law or as part of a contract.

In the event that firms have proprietary concerns, proposals shall identify any material included in the response that is considered to be proprietary or otherwise exempt from public disclosure in the event of a public records

request, pursuant to 1 V.S.A. § 317(c). In such cases, firms shall provide as a separate PDF, a redacted copy of its proposal that may be made public. 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. The redacted version must include a written explanation for each marked section that would support a reasonable claim of exemption, such as, for example, a description of the proprietary nature of the information and the harm that would occur should the material be disclosed. Under no circumstances can the entire response or price information be marked confidential.

2.6 Cost Liability

The TRORC assumes no responsibility and no liability for costs incurred relevant to the preparation and submission of proposals, or any other costs prior to issuance of a contract.

3. Proposal Evaluation

TRORC reserves the right to reject any or all proposals received, to combine proposals or parts of proposals, negotiate with any qualified source, or to cancel in part or in its entirety this RFP as in its best interest. This solicitation in no way obligates TRORC to award a contract.

A selection committee shall select a short list of qualified firms or teams whose proposals will be most advantageous to TRORC, cost and other factors considered. The successful firms/teams will be required to sign a contract with TRORC in which they accept responsibility for the performance of services as stated in their proposal.

The Technical Scope and Cost Proposals will be evaluated considering the criteria listed below by a selection committee based on the following criteria:

- Completeness and responsiveness of submission
    - **Threshold criterion: TRORC reserves the right not to evaluate a proposal that is late, in the wrong format, or is missing any of the required components outlined in section 2 of this RFP.**
- Proposal Format and Clarity (20 pts):
    - Is the proposal clear and easy to understand?
    - Does the proposal thoroughly but succinctly address the Scope of work?
- Technical Scope (50 pts overall):
    - Does the proposal show an understanding and familiarity with the subject matter? (20 pts)
    - Do the personnel to be assigned to this project have the necessary qualifications to conduct this work (15 pts)
    - Does the firm/team have a proven record of successful completion of similar projects, within time and budget constraints? (15 pts)
- Cost Proposal (30 pts):
    - Is the cost proposal clearly linked to the proposed scope of work?
    - Do cost estimates show a familiarity with likely work?
    - Are the proposed costs reasonable based on comparison with other firms and other available market information?

The selection committee may elect to interview firms/teams prior to final selection. **Firms/teams should keep times available on March 24 and March 25 for interviews.**

4. Work Assignment, Ownership, Coordination and Billing

Firms under contract will work under the direction of the TRORC, but in collaboration with VTDEC, local Selectboards, respective RPCs, and other interested parties.

4.1 Assignment

The successful firm or team is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of the contract or its rights, title, or interest therein or its power to execute such contract to any other person, company, or corporation without prior written consent and approval by the TRORC. Prior to accepting work developing a project/application, potentially assigned firms must disclose any current or previous client arrangement relating to the site/municipality to avoid a conflict of interest.

4.2 Ownership of Material

All rights, titles to, and ownership of the data, material, and documentation resulting from this project and/or prepared for TRORC pursuant to this contract shall remain with TRORC, the State of Vermont, and FEMA.

4.3 Access to and Retention of Records

In addition to terms stated elsewhere in this RFP, TRORC/DEC/FEMA shall have access, upon demand, to any books, documents, papers, and records of the successful firms or teams, which are directly pertinent to this contract, for the purposes of making audit examinations, excerpts, and transcriptions. The successful firm or team shall insert identical rights of access for these parties into any subcontractor agreement under this contract. This right shall be reserved for the term of the contract, plus 3 years from closeout. All records must be maintained for at least three years from the date of the final payment and closeout.

4.4 Project Coordination

TRORC will be working closely with VTDEC to coordinate the delivery of this project. The Project Coordinator shall act as liaison between the successful firm/team and VTDEC, but the contractor should assume 3 coordination meetings with TRORC and VTDEC.

4.5 Maintaining Expenditure Record

The successful firm or team will establish and maintain an accounting system to provide for accurate identification of receipts and expenditure of funds under this project and will utilize generally accepted accounting principles. The firm/team shall track all costs, expenses and billing and provide this information with their invoice to the Project Coordinator and Program Manager on a monthly basis. Firms shall be prepared for audit and compliance visits at their offices by TRORC staff.

4.6 Payment

TRORC has a stellar payment record. The TRORC shall endeavor to pay firms/teams within 30 days after review and approval of invoices. Payments will only be for allowable items approved by the Project Coordinator.

All invoices shall be submitted in a timely fashion and shall reference " Flood CAP". Each invoice will also include an updated summary of:

A. All amounts contracted over the course of the grant term, by proposed task,
B. All amounts paid by TRORC over the course of the project, by proposed task,
C. Current invoice amount and remaining balances by task (after including the amount of the current invoice)
D. Itemized subcontractor expenses and supporting subcontractor invoice documentation.

Work submitted that fails to comply with the approved scope will not be reimbursed and may lead to contract termination. Invoices that fail to contain required information will not be paid and be returned for correction.

4.7 Reports

All documents related to the project shall be provided in Acrobat portable document format (pdf). Drafts and final reports must be submitted a minimum of one full week prior to meetings at which they will be discussed.

4.8 Pass Through Provisions

The firm/team, in performing any work funded by FEMA, must comply with the pass-thru federal and state terms and conditions appended to this RFP.

4.9 Additional Provisions

The following actions are violations to Federal awards and are subject to criminal prosecution, fines, restitution, and civil penalties:

- Charging personal expenses as business expenses against the award.
- Charging for costs which have not been incurred or are not attributable to the award.
- Charging for inflated labor costs or hours, or categories of labor which have not been incurred (for example, fictitious employees, contractors, or consultants).
- Falsifying information in grant applications or contract proposals.
- Billing more than one Federal award or contract for the same work.
- Falsifying test results or other data.
- Substituting approved materials with unauthorized products.
- Misrepresenting a project's status to continue receiving government funds.
- Charging higher rates than those stated or negotiated for in the bid or contract.
- Influencing government employees to award a grant or contract to a particular company, family member, or friend.

5. Scope of Work

The main products of this project are a set of meetings, a set of materials, and two reports.

1. Meetings

At least 5 meetings will be held across the state to roughly cover the affected communities listed above. Many of these communities are holding/have held similar meetings already, and so it is important to not duplicate past meetings. To that end, the project meetings may take place in different venues/times/formats than have occurred/are occurring. Additional smaller meetings are encouraged in proposals.

Developing meeting goals, materials and doing the outreach for the meetings will require considerably more time than the meetings themselves. The RPCs are contracted separately to provide the firm/team with local knowledge and to actually procure meeting space. RPCs can provide a way to reach local officials as well via email, newsletters, etc.

Contractors will be expected to engage VTDEC and TRORC in conversations that develop meeting goals and approaches, identify communities and locations, and as they develop materials for the meetings and other formats.

Meetings are expected to take place in April and May. At a minimum, meetings must discuss flood risk, flood dynamics, range of workable disaster reduction actions, and assist with implementation of Section 3, 6 and 10 of Act 121 of 2024 that seek to better regulate river corridors and NFIP flood hazard areas.

2. Materials

Materials are needed to convey a series of concepts underlying flood risk and regulations. For example, it makes no sense to talk about preserving meander beltwidth without an understanding what that is and why it is important. Base flood elevation is a core concept of NFIP regulations, but it is poorly understood. VTDEC is in the process of preparing some related materials, and FEMA and other entities have created materials online around

flood education. Contractors should familiarize themselves with existing materials in order to share best practices and develop new materials. Contractors will be expected to meet with TRORC and VTDEC to review areas/types of materials prior to developing them, and during development. It is envisioned that short videos, Powerpoint slides, graphics, or short phrases to paragraphs will be developed to communicate needed concepts. A FAQ document may also be a good avenue. White papers and lengthy texts are not encouraged. Pieces that connect with those at risk by sharing personal stories are encouraged.

3. Report

Contractors will need to summarize the efforts under this project in a project recap. Contractors will also need to create a report on findings and conclusions of the project, including ways to reach those at flood risk; common misperceptions and how to address them; obstacles to community adoption of flood preventative regulations; and suggested ways to regulate development (both under NFIP and in river corridors) that are protective of people and places, respects river dynamics, are feasible, and easily administered.

ATTACHMENTS

ATTACHMENT A

ATTACHMENT A

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

_____ Date: ____/____/_____

(Signature)

_____

(Name of person signing proposal)

_____

(Name of business)

ATTACHMENT B

ATTACHMENT B

CERTIFICATION OF TAX COMPLIANCE

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all tax returns and paid all state taxes required under law.

_____ Date____/_____/_____ By:_____

*Signature of Individual or Corporate Name (Mandatory)

Corporate Officer

_____

Federal ID #

*Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant.

ATTACHMENT C

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ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED DECEMBER 7, 2023

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. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party's invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. 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 regarding 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:

- **A.** 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.
- **B.** 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.
- **C.** 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.
- **D.** 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: During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: https://aoa.vermont.gov/Risk- Claims-COI.

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: Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) 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. Use and Protection of State Information:

A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").

B. With respect to State Data, Party shall:

- **i.** take reasonable precautions for its protection;
- **ii.** not rent, sell, publish, share, or otherwise appropriate it; and
- **iii.** upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.

C. With respect to Confidential State Data, Party shall:

- **i.** strictly maintain its confidentiality;
- **ii.** not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
- **iii.** provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
- **iv.** implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
- **v.** promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
- **vi.** upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.iii above in this section, return or destroy all Confidential State Data remaining in its possession or control.

D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:

- **i.** industry-standard firewall protection;
- **ii.** multi-factor authentication controls;
- **iii.** encryption of electronic Confidential State Data while in transit and at rest;
- **iv.** measures to ensure that the State Data shall not be altered without the prior written consent of the State;

v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;

vi. training to implement the information security measures; and

vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.

E. No Confidential 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 United States, except with the express written permission of the State.

F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.

G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives

H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.

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 this 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, and shall include this provision in all subcontracts for work performed in Vermont. 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. Offset: The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

16. Taxes Due to the State: 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.

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, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. 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), as amended by Section 17 of Act No. 142 (2010) and by Section 6 of Act No. 50 (2011).

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 ("Confidentiality and Protection of State Information"); 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. Regulation of Hydrofluorocarbons: Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.

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: https://bgs.vermont.gov/purchasing-contracting/debarment.

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

24. Vermont Public Records Act: Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information 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 lockouts) ("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 use the State's logo or otherwise 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 this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement 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 Agreement immediately, and the State shall have no obligation to pay Party 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 Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. 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.

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 $1,000, 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)

ATTACHMENT D

ATTACHMENT D
OTHER GRANT AGREEMENT PROVISIONS

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS; PROCUREMENT; ORGANIZATIONAL AND FINANCIAL REQUIREMENT; FOLLOWING SUBRECIPIENT PROCEDURES: DISCLOSURE OF INFORMATION AND CONFLICT OF INTEREST;

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this agreement provides for compliance with certification requirements under 10 CFR Part 601 "New Restrictions on Lobbying," and 10 CFR Part 1036 "Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Public Safety determines to award the covered transaction, grant, or other agreement.

1. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, Agreements, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
   b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
   c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
   d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
3. Applicable CFR's and Federal Executive Orders 12549 and 12689 prohibit non-federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000 and non-procurement transactions such as grants or cooperative agreements. By signing this Agreement, the Subgrantee agrees it will verify the status of potential vendors prior to any federal funds being obligated to prevent any debarred or suspended agencies or vendors from receiving federal funds. The Subrecipient can confirm the status of potential vendors by conducting a search on the System for Award Management (SAM) website (https://www.sam.gov/portal/public/SAM/). At this time, DPS does not require Subrecipients to submit proof of verification

with any reimbursement request; however, the Subrecipient must maintain this information, in the form of a screen print, with other grant documentation. This documentation shall be available for review per Attachment C.

3. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

The Subrecipient will or will continue to provide a drug-free workplace by: [3]

1. Maintaining a Zero Tolerance Drug Policy;
2. Posting in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
3. Stating in all solicitations or advertisements for employees or subcontractors placed by or on behalf of the Subrecipient that the Subrecipient maintains a drug-free workplace;
4. Establishing an ongoing drug-free awareness program to inform employees about:
    a. The dangers of drug abuse in the workplace;
    b. The Subrecipient's policy of maintaining a drug-free workplace;
    c. Any available drug counseling, rehabilitation, and employee assistance programs; and
    d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
    e. Including the provisions of the foregoing clauses in all third party contracts, subcontracts, and purchase orders that exceed ten thousand dollars ($10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

4. PROCUREMENT:

The Subrecipient agrees to abide by their respective procurement rules, policies, and/or procedures as outlined in 2 CFR §§ 200.317 to 200.327.

1. Subrecipient must comply with proper competitive bidding procedures as required by the applicable federal and state rules.
2. The subrecipient entity must maintain written standards of conduct covering conflict of interest and governing the actions of its employees and engaged in selection, award, and administration of contracts.[4]
3. The subrecipient must take all necessary affirmative steps to assure that minority business, women's business enterprises, and labor surplus area firms re used when possible. Please see 2 CFR § 200.321 for the affirmative steps that must be taken.

5. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

1. All Subrecipients are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them. Determining allowability of costs claimed will be consistent with the requirements of the grant award and its applicable regulations.
    a. Subrecipients have the responsibility to employ the organizational and management techniques necessary to assure proper administration and cost allocation, including accounting, budgeting, reporting, auditing and other review controls.
    b. All Subrecipients will accept responsibility for expending and accounting for funds in a manner consistent with an approved project, plan and or program as evidenced by their acceptance of an Agreement award by the Department of Public Safety; Policies, procedures, reporting requirements or other special conditions established by the appropriate Federal agency, if applicable, and the Department of Public Safety.
2. Subrecipients must have an adequate system of internal controls which:
    a. Presents, classifies and retains all detailed financial records related to the Agreement award. Financial records must be retained by the Subrecipient and be available for review for a period of three (3) years after the expiration of the grant period except that records must be retained until completion or resolution of all issues arising from audit, litigation or claims started before the expiration of the three year period, whichever is later.
    b. Provides reasonable assurance that Federal awards are managed in compliance with Federal statutes, regulations, and the terms and conditions. These internal controls should be in compliance with the 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. Provides information for planning, control and evaluation of direct and indirect costs;

[3] 2 CFR § 182
[4] 2 CFR § 200.318(c)(1)

d. Provides cost and property control to ensure optimal use of the grant funds;
e. Controls funds and other resources to ensure that the expenditure of grant funds and use of any property acquired under the grant are in conformance with established guidelines and policies.

3. Notification of Organizational Changes Required:
   a. The recipient shall provide DPS written notification within 30 days should any of the following events occur:
      i. having new or substantially changed systems
      ii. having new compliance personnel
      iii. loss of license or accreditation to operate program
      iv. organizational restructuring.

6. FOLLOWING SUBRECIPIENT PROCEDURES:

The undersigned certifies that the Subrecipient organization has in place standard policies and procedures that govern the Subrecipient's payroll, purchasing, contracting and inventory control in accordance with 2 CFR 200 Subpart E, Appendix A, Section C 1.e or 2 CFR 200.302. The undersigned further certifies that the Subrecipient organization will use those policies and procedures for any approved expenditure under this Agreement and for any equipment purchased with Agreement funds. The undersigned also agrees to make the policies and procedures available for examination by any authorized representatives of the State or Federal Government. This does not relieve the Subrecipient from requirements of federal financial management, requirements in: 2 CFR 200 § 302 Financial Management

7. DISCLOSURE OF INFORMATION:

Any confidential or personally identifiable information (PII) acquired by subrecipient during the course of the subgrant shell not be disclosed by subrecipient to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever without the prior written consent of the Department of Public Safety either during the term of the Agreement or in the event of termination of the Agreement for any reason whatsoever. Subrecipient agrees to abide by applicable federal regulations regarding confidential information and research standards, as appropriate, for federally supported projects.

8. CONFLICT OF INTEREST

Subgrantee/Contractor covenants that, to the best of its knowledge, no person under its employ, including subcontractors, who presently exercises any functions or responsibilities in connection with Board, Department, or projects or programs funded by Board or Department, has any personal financial interest, direct or indirect, in this Subgrant Agreement /Contract.

1. Subgrantee/Contractor further covenants that in the performance of Subgrant Agreement/Contract, no person having such conflicting interest shall knowingly be employed by Subgrantee/Contractor.
2. Any such interest, on the part of Subgrantee /Contractor or its employees, when known, must be disclosed in writing to Department.

ATTACHMENT E

ATTACHMENT E
FUNDING SOURCE SPECIAL CONDITIONS

This Agreement is subject to the requirements of all federal laws, policies and bulletins. Most notably:

The following documents are incorporated into this agreement by reference:

- Programmatic Terms and Conditions

A copy of this document has been provided to the Subrecipient.

2023 U.S. Department of Homeland Security Standard Terms and Conditions, which are hereby incorporated by reference.

Federal Guidance must be followed, 2 CFR 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
   1.) Procure or obtain;
   2.) Extend or renew a contract to procure or obtain; or
   3.) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
      i.) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
      ii.) Telecommunications or video surveillance services provided by such entities or using such equipment.
      iii.) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c) See Public Law 115-232, section 889 for additional information.

d) See also §200.471.

This Agreement is also subject to the requirements of the State of Vermont grant and audit policies. The most pertinent bulletins and addendums are:

Bulletin 5 - Single Audit Policy for Agreements
Bulletin 5 - Procedure #1
Bulletin 5 - Procedure #2

ATTACHMENT F

FY 2023 DHS Standard Terms and Conditions

The Fiscal Year (FY) 2023 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2023. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

All legislation and digital resources are referenced with no digital links. The FY 2023 DHS Standard Terms and Conditions will be housed on dhs.gov at www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions.

A. Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

I. DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.

II. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.

III. By accepting this agreement, recipients, and their executives, as defined in 2 C.F.R. § 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

B. General Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

I. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.

II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.

III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

V. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from DHS or one of its awarding component agencies must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of DHS financial assistance should only submit one completed tool for their organization, not per award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and

Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool. DHS Civil Rights Evaluation Tool | Homeland Security

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

C. Standard Terms & Conditions

I. Acknowledgement of Federal Funding from DHS

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

II. Activities Conducted Abroad

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

III. Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

IV. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

V. Best Practices for Collection and Use of Personally Identifiable Information

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

VI. Civil Rights Act of 1964 – Title VI

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

VII. Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection

therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

VIII. Copyright

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

IX. Debarment and Suspension

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

X. Drug-Free Workplace Regulations

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

XI. Duplication of Benefits

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

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

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

XIII. E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety

Recipient State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

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XIV. Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

XV. False Claims Act and Program Fraud Civil Remedies

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

XVI. Federal Debt Status

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

XVII. Federal Leadership on Reducing Text Messaging while Driving

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

XVIII. Fly America Act of 1974

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

XIX. Hotel and Motel Fire Safety Act of 1990

Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a

XX. John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

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

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

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XXII. Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

XXIII. National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq. and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

XXIV. Nondiscrimination in Matters Pertaining to Faith-Based Organizations

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

XXV. Non-Supplanting Requirement

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

XXVI. Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

XXVII. Patents and Intellectual Property Rights

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

XXVIII. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

XXIX. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. § 794,) which provides

that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

XXX. Reporting of Matters Related to Recipient Integrity and Performance

General Reporting Requirements:

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

XXXI. Reporting Subawards and Executive Compensation

Reporting of first tier subawards.

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

XXXII. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Recipients must comply with the "Build America, Buy America" provisions of the Infrastructure Investment and Jobs Act and E.O. 14005. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers
When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. Information on the process for requesting a waiver from these requirements is on the website below.

(a) When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

(1) applying the domestic content procurement preference would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov.

The awarding Component may provide specific instructions to Recipients of awards from infrastructure programs that are subject to the “Build America, Buy America” provisions. Recipients should refer to the Notice of Funding Opportunity for further information on the Buy America preference and waiver process.

XXXIII. SAFECOM

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

XXXIV. Terrorist Financing

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

XXXV. Trafficking Victims Protection Act of 2000 (TVPA)

Trafficking in Persons.

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.

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XXXVI. Universal Identifier and System of Award Management

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

XXXVII. USA PATRIOT Act of 2001

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

XXXVIII. Use of DHS Seal, Logo and Flags

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

XXXIX. Whistleblower Protection Act

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