

## XX. APPENDICES

### Appendix I – Standard State Contract Templates, Forms and Other Links

a. [Standard State Contract Templates](#)

i. [Standard Contract for Service Template](#)

ii. [Information Technology \(IT\) Contract Template](#)

iii. [Short-Form Contract for Service Template w/Term & Conditions](#)  
[restricted use to some contracts under \$25,000 – see Section V.B.1.]

b. [Contract Amendment Template](#)

c. [Form AA-14 – Contract Summary and Certification Form](#)

d. [Contract File Check List](#)

e. [Bulletin 3.5 Contracting Waiver Plan form](#)

f. [IRS Publication 15 -A](#)

*[Note: Refer to §2 for IRS rules determining Contractor vs. Employee.]*

## Appendix II: Attachment A – Statement of Work Guidelines

The Statement of Work (SOW) is the area in a contract where the work to be performed is described. The SOW will contain reference to any milestones, reports, deliverables, and services expected to be provided by the Contractor, as well as outline any obligations of the State. The SOW should also contain a timeline for all deliverables.

The problem most often seen with SOWs is a lack of specificity. A well-written SOW is a clearly descriptive scope which identifies the responsibilities of both parties and avoids any ambiguity.

A well-written SOW consists of a highly tailored series of carefully worded statements that answer the following questions:

- What work is to be done?
- What are the deliverables?
- Who is going to do the work?
- When is the work going to be done?
- How will the work be performed?
- How can you tell when the work is completed?
- How will you measure the performance of the work: How Much Did We Do? How Well Did We Do It? Is Anyone Better Off?

### A Statement of Work should include the following components:

1. **Need Statement** - Succinctly describe the State need that the work of this Contractor will address.
2. **Goals of the Agreement** - At the beginning of this section, complete the following sentence (please be succinct): The goal of this project is to... Complete the sentence with a brief description of the goal(s) and how the goal(s) shall be met. Goals can be technical, economic or social. Please be brief, two to three sentences maximum.
3. **Objective of the Agreement/Deliverables** - Complete this section with the affirmative obligations of the contractor, the objectives of the contract/project or goals to be achieved and the deliverables. Objectives and goals should be measurable.

**X Poor Example:** Task: Assess class needs for public health awareness.  
Deliverable: Write curriculum to address needs.

The problem with the above example is that nothing is specified. The task should be measurable and the deliverable must be quantifiable.

**✓ Good Example:** Task: Survey 4 classes of 20 students in asthma awareness. Each class will answer a 25 question survey that assesses their general knowledge of asthma issues as they relate

to public health. One reviewer should take up to 1 hour with each class to take the survey and another 2 hours per class to assess the data.

Deliverable: A 10 - hour curriculum for graduate student classes of up to 20 students that addresses issues of deficiencies in public health awareness in asthma prevention and care.

By reading the tasks and deliverables, the associated costs should be easily constructed, aiding in the construction of a detailed Attachment B, Payment Provisions. More importantly, in reviewing the deliverables, there should be no question about what is expected of the performing party. A SOW may contain many deliverables, but each should be broken down into tasks and products to specify what is expected.

- 4. Administration** - If there are meetings, calls, conferences, or other “soft” deliverables, they should be outlined in the administration portion of the SOW. Any requirement that is not an end product of a specific task, but is required of the performing party, needs to be described in the administration section of the SOW.

**X Poor Example:** The Contractor will be required to give periodic reports of progress during the soybean season with more frequent reports during the height of the season.

The problem with the above example is it does not specify what needs to be in the reports, what “periodic” or “more frequent” means, and when the “height of the season” is.

**✓ Good Example:** The Contractor *shall* be required to give weekly reports consisting of: wind pattern analysis, fungi spore distribution, and potential risk areas. During the height of the season, May 15 - July 15, the Contractor may be required to give twice - weekly reports.

- 5. Timeline** - This section lays out all dates for the project tasks and deliverables. Also included are the dates for the administration portion of the SOW.
- 6. Key Elements** - Between the Needs Statement, Goals of the Agreement, Objectives/Deliverables, Administration, and Timeline components of the SOW, there should be no ambiguity as to what is expected of the performing party. Together, these elements should paint a thorough picture of what is expected, when, and in what form, while noting any special requirements.

## Appendix III: Attachment B Payment Provision Guidelines

The main body of the Standard State Contract only states the maximum amount to be paid. Attachment B describes how and when payments will be made. Although the Payment Provisions (Attachment B) need not be long in the case of simple contracts, a well-written Attachment B is vital to eliminating payment problems during the contract term.

The language below may be used as the standard opening paragraph for Attachment B:

*“The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this Agreement, item 3. State of Vermont payment terms are Net 30 days from date of invoice; payments against this contract shall comply with the State’s payment terms. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this Attachment. The following provisions specifying payments are as follows:”*

The following requirements and/or areas to consider may assist agencies in developing well-written payment terms:

### 1. **PRICING: What is the price based on and does it relate to Attachment A?**

- Units of work measures, such as hourly rates, hourly rates by specified position(s) or equipment;
- Specific and measurable deliverables, tasks or benchmarks;
- Progress payments based on days/weeks/months;
- Achievement of outcomes and/or performance measures toward the final result, as outlined in Statement of Work-Attachment A;
- Quality standards;
- Formal acceptance process for deliverables;
- Additional items included in the price, such as fuel surcharges, environmental fees, etc.;
- Retainage provisions.

### 2. **INVOICE SUBMISSION, APPROVAL AND ACCEPTANCE: What is the invoice and payment process?**

- Detailed invoices are required, per [32 V.S.A. §463](#). A detailed invoice must include the following details:
  - The name and address of the contractor (letterhead or signed by contractor);
  - Specific language itemizing the deliverables, units of measure, steps achieved or progress made;
  - Dates of service or specific dates worked;
  - The contract number and the name of the project;
  - Delivery tickets (proof of purchases), receipts or other documents to be attachments to substantiate the invoice;
- Other invoice review and approval considerations may include:
  - To whom and where the contractor remits the invoice for pre-payment review and approval;
  - The invoicing schedule, preferably on a monthly basis.
  - How will you know when the work being billed is acceptable – who decides?

- Who is(are) authorized approvers for the invoice?
- Address the process for invoices not approved due to: unacceptable work; missing a deadline; incomplete work; etc.
- Address the process for handling and resolving payment disputes.
- Address any funding contingencies upon which this contract is based that could affect payment to the Vendor (i.e., Federal Grant Awards, Legislative Appropriation, etc.).

**3. CONTRACTOR PAYMENTS: What can the Contractor expect?**

- Standard State payment policy is Net 30 days, from date of error free invoice receipt;
- The preferred method of payment is by ACH (Automated Clearing House is a secure payment transfer system that connects all U.S. financial institutions. The *ACH* network acts as the central clearing facility for all Electronic Fund Transfer (EFT) transactions that occur nationwide.);
- To provide a current IRS Form W-9, signed within the last 6 months.
- Retainage provisions.
  
- **PAYMENT QUESTIONS: Whom should the contractor communicate with if they have a question about their payment or method of payment (check, ACH Transfer, etc.)?** In addition, the State Treasurer's Office maintains a Vendor Portal on which Vendors may access any payment made electronically, by ACH or wire: <http://www.vermonttreasurer.gov/accounting-services/Vendor-portal>.

## Appendix IV: Attachment D – Examples of Common Additional Term & Conditions

Many contracts can be fully described using the Contract and standard Attachments A, B and C. In some cases, however, agencies will want to add additional provisions tailored to a specific need or their Contracting Waiver Plan, not available in the standard contract and Attachments.

In addition, when contracting for professional services, agencies will be required (absent an appropriate waiver) to include a professional liability insurance provision. Attachment D of the contract “Approved Modifications to Attachment C” should be used for these modifications, as necessary. Consult with the AGO or the Director of Risk Management to ensure you are selecting the correct language.

**Below are examples** of the more common modifications, including explanatory guidance where necessary.

***Owner’s protective liability insurance:*** The contractor shall carry liability insurance protecting the State and the contractor from all claims because of bodily injury or death and property damage, arising out of the work performed under the contract. The liability insurance shall be in an amount not less than \$1,000,000 and a certificate of insurance shall be furnished to the State before commencement of work.

**Guidance:** *Owners Protective Liability Insurance should be utilized when a contractor’s business involves work at multiple job sites (not necessarily all for the State) and it is unclear whether the contractor would have adequate insurance coverage in the event of multiple occurrences at different sites. For example, contracts with large construction companies should include such a clause.*

***Professional liability insurance:*** Before commencing work on this contract and throughout the term of this contract, contractor shall procure and maintain professional liability insurance for any and all services performed under this contract, with minimum coverage of \$\_\_\_\_\_ per occurrence.

**Guidance:** *Licensed Professionals with whom the State contracts, such as lawyers, architects, engineers, health care providers, etc. must be required to maintain professional liability insurance in sufficient amounts to protect the State’s interest from the consequences of negligence. It is important to note that “Professional liability” is a generic category of coverage including types such as: Physician’s medical malpractice; architect’s errors & omissions; etc. The Director of Risk Management will determine the minimum amount appropriate for different classes of professionals.*

***Availability of federal funds:*** This contract is funded in whole or in part by federal funds. In the event the federal funds supporting this contract become unavailable or are reduced, the State may cancel this contract immediately, and the State shall have no obligation to pay Contractor from State revenues.

**Guidance:** *Use this clause when the state Agency is not willing or able to compensate for the loss of federal funds on short notice. Agency fiscal officers should closely monitor funding availability and performance under these contracts, as the State may remain liable for expenditures made in good faith by the Contractor prior to notice of cancellation.*

**Compliance with other laws:** The Contractor agrees to comply with the requirements of [*list specific applicable federal or state statutory or regulatory provisions*], and agrees further to include a similar provision in any and all subcontracts.

**Guidance:** Use this clause to refer to any statutory or regulatory provisions that must by law, grant condition or otherwise, be included in the wording of the contract. This may include in particular cases the provisions of the Federal Rehabilitation Act of 1973 (Sec. 504), as amended; the Age Discrimination Act of 1975; and the Civil Rights Act of 1964.

**Confidentiality:** Sometimes agencies have legitimate needs to protect confidential information. The RFP can require contractors to maintain confidentiality, although the contract ultimately should duplicate this requirement. Conversely, bidders sometimes want to know how the State will treat the bidder's proprietary information. The RFP should state whether such information will be returned, retained or destroyed by the Agency.

**Contractors' liens:** Contractor will discharge any and all contractors' or mechanics' liens imposed on property of the State through the actions of subcontractors.

**Guidance:** On occasion a subcontractor may do some work to State property that could be construed by the subcontractor to give rise to a lien against the property. While artisans' (mechanics') liens cannot be enforced against State property (See 12 V.S.A. § 5601(a)), it is nevertheless best practice to require the contractor to correct the matter and thereby avoid litigation.

**Cost of materials:** Contractor will not buy materials and resell to the State at a profit.

**Identity of workers:** The Contractor will assign the following individuals [*list individuals*] to the services to be performed under the provisions of this contract, and these individuals shall be considered essential to performance. Should any of the individuals become unavailable during the period of performance, the State shall have the right to approve any proposed successors, or, at its option, to cancel the remainder of the contract.

**Individually identifying information:** Contractor must not use or disclose any individually identifying information that pursuant to this contract is disclosed by the State to the contractor, created by the contractor on behalf of the State, or used by the contractor for any purpose other than to complete the work specifications of this contract unless such use or disclosure is required by law, or when contractor obtains permission in writing from the State to use or disclose the information and this written permission is in accordance with federal and state law.

**Information Technology Terms & Conditions:** See IT Guideline for specific Attachment D terms & requirements related IT Activities.

**Legal services:** Contractor will be providing legal services under this contract. Contractor agrees that during the term of the contract he or she will not represent anyone in a matter, proceeding, or lawsuit against the State of Vermont or any of its agencies or instrumentalities. After termination of this contract,

contractor also agrees that he or she will not represent anyone in a matter, proceeding, or lawsuit substantially related to this contract.

**Ownership of equipment:** Any equipment purchased by or furnished to the contractor by the State under this contract is provided on a loan basis only and remains the property of the State.

**Performance bond:** The contractor shall, prior to commencing work under this contract, furnish to the State a payment and performance bond from a reputable insurance company licensed to do business in the State of Vermont, guaranteeing the satisfactory completion of the contract by the contractor and payment of all subcontractors, suppliers and employees.

**Guidance:** *Performance Bonds have limited application in contracts for services. This clause provides protection against failure of the contractor to perform adequately under the contract or distribute funds to subcontractors or suppliers. Since the cost of the bond will increase the State's cost, the clause should only be used on larger contracts or where there are significant concerns about a contractor's financial or other abilities. If a contractor is expected to handle large sums of money as agent for the State, the term "surety bond" should be substituted for "payment and performance bond."*

**Prior approval/review of releases:** Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the contractor under this contract shall be approved/reviewed by the State prior to release.

**Guidance:** *All material published in connection with activities performed under State contract should be reviewed and approved by the appropriate official before release. When academic freedom becomes an issue, Agency review but not Agency approval may be appropriate.*

**Progress reports:** The contractor shall submit progress reports to the State according to the following schedule. *[insert schedule]* Each report shall describe the status of the contractor's performance since the preceding report and the progress expected to be made in the next successive period. Each report shall describe contractor activities by reference to the work specifications contained in Attachment A of this contract and shall include a statement of work hours expended, expenses incurred, bills submitted, and payments made.

**Guidance:** *This clause may be used either in Attachment A (Specifications of Work to be Performed) or Attachment B. It provides information for interim evaluation of the contractor's work and assists in detecting difficulties that may lead to necessary modification or cancellation of the contract. If payments are to be conditioned on receipt of progress reports, this should be clearly set forth in Attachment B: Payment Provisions.*

**Work product ownership:** Upon full payment by the State, all products of the contractor's work, including outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, become the sole property of the State of Vermont and may not be copyrighted or resold by contractor.



## Appendix V: Acronyms Used in This Bulletin

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**AA-14:** State of Vermont Contract Summary and Certification form

**AAG:** Assistant Attorney General

**AG:** Attorney General

**AGO:** Attorney General's Office

**AoA:** Agency of Administration

**BAFO:** Best and Final Offer

**BDA:** Blanket Delegation of Authority

**CIO:** Chief Information Officer, Agency of Administration

**CMO:** Chief Marketing Officer

**CPO:** Chief Performance Officer

**DHR:** Department of Human Resources

**DII:** Department of Information and Innovation

**EBB:** Electronic Bulletin Board

**F&M:** Department of Finance & Management

**FFATA:** Federal Funds Accountability and Transparency Act

**FSRS:** Federal Subaward Reporting System

**GSA:** Federal General Services Administration

**HIPAA:** Health Insurance Portability and Accountability Act

**IRS:** Federal Internal Revenue Service

**IT:** Information Technology

**MOA/MOU:** Memorandum of Agreement; Memorandum of Understanding

**OMB:** Federal (White House) Office of Management and Budget

**OPC:** Office of Purchasing & Contracting

**RFP/RFI/RFC/RFQ:** Request for Proposal; Request for Information; Request for Comment or Request for Quote

**SAM:** Federal System for Awards Management

**SOA:** Secretary of Administration

**SOW:** Statement of Work

**V.S.A.:** Vermont Statutes Annotated