

Note: All sections are required. Incomplete forms will be returned to department.

CHECK ONLY ONE BOX IF APPLICABLE:

I. CONTRACT INFORMATION:

ARRA Contract ACA Contract

Agency/Department: Auditor of Accounts/ Contract #: 23700 Amendment #:
 Vendor Name: KPMG LLP VISION Vendor No: 12873
 Vendor Address: P.O. Box 564, Burlington, VT 05402-0564
 Starting Date: 4/1/2013 Ending Date: 6/30/2018 Amendment Date: 10/31/2012
 Summary of agreement or amendment: A-133 and financial statement audit

II. FINANCIAL INFORMATION

Maximum Payable: \$6,392,700 Prior Maximum: \$ Prior Contract # (If Renewal):
 Current Amendment: \$ Cumulative amendments: \$ % Cumulative Change: %
 Business Unit(s): 1255 VISION Account: 507100

III. PERFORMANCE INFORMATION

Does this Agreement include Performance Measures tied to Outcomes and/or financial reward/penalties? Yes No

Estimated Funding Split: G-Fund % S-Fund % F-Fund % GC-Fund % Other 100.00 %

III. PUBLIC COMPETITION

The agency has taken reasonable steps to control the price of the contract or procurement grant and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:
 Standard bid or RFP Simplified Bid Sole Sourced Qualification Based Selection Statutory

IV. TYPE OF AGREEMENT & PERFORMANCE INFORMATION

Check all that apply: Service Personal Service Architect/Engineer Construction Marketing
 Information Technology Other, describe:

V. SUITABILITY FOR CONTRACT FOR SERVICE

Yes No n/a If this is a Personal Service contract, does this agreement meet all 3 parts of the "ABC" definition of independent contractor? (See Bulletin 3.5) If NO, then contractor must be paid through Payroll

VI. CONFLICT OF INTEREST

By signing below, I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

Yes No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VII. PRIOR APPROVALS REQUIRED OR REQUESTED

Yes No Agreement must be approved by the Attorney General under 3 VSA §311(a)(10) (personal service)
 Yes No I request the Attorney General review this agreement as to form
 No, already performed by in-house AAG or counsel: _____ (initial)
 Yes No Agreement must be approved by the Comm. of DH; for IT hardware, software or services and
 Telecommunications over \$100,000
 Yes No Agreement must be approved by the CMO; for Marketing services over \$15,000
 Yes No Agreement must be approved by Comm. Human Resources (privatization and retiree contracts)
 Yes No Agreement must be approved by the Secretary of Administration

VIII. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

I have made reasonable inquiry as to the accuracy of the above information:

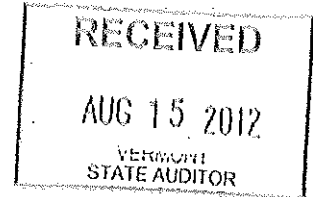
Date: 11/14/12 Agency/Department Head: Joseph Tubary
 Date: 12-14-12 Approval by Attorney General: [Signature]
 Date: [Signature] Agency Secretary or Other Department Head (if required): [Signature]
 Date: 11/16/12 Approved by Commissioner of Human Resources: [Signature]
 Date: [Signature] Secretary of Administration: [Signature]

DEC 10 2012

THOMAS M. SALMON, CPA, CFE
STATE AUDITOR



STATE OF VERMONT
OFFICE OF THE STATE AUDITOR



MEMO TO: Jeb Spaulding, Secretary
Agency of Administration

FROM: Thomas M. Salmon, CPA, CFE
Vermont State Auditor

DATE: August 13, 2012

RE: Request for Waiver from Bulletin No. 3.5
related to "Duration of Contract" clause

Approved 8/13/12
Jes S.

Jeb:

I would like to request your approval for the waiver referenced above, which I believe is in the best interests of the State, and which stabilizes our budget for the next five years.

As you remember, for many years this Office has had only one bidder for the Single Audit contract – KPMG. Despite widespread appeals, we could not benefit from a competitive situation and had to request sole source approval of our contracts from your office. In 2008 we were able to attract two bidders by going to a long-term contract.

This past March we discussed the fact that we were in the last year of the existing contract and agreed that it may be in the best interest of Vermont to go out with an RFP for a new 5-year audit contract.

That RFP process was successful in attracting three bidders. All three bidders presented aggressive proposals with significantly lower audit cost proposals over the next five years than we are currently paying. Jim Reardon, commissioner of the Department of Finance and Management reviewed the proposals, participated in the bidders' presentation meetings and offered his evaluation for our consideration.

KPMG was selected as the preferred audit contractor.

The good news is that we will enjoy a stable audit process at significantly lower cost to Vermont by offering this long term contract. We also have the right to cancel this contract without cause by giving notice at least 150 days in advance of the end of each fiscal year. We are, therefore, *not* locked in to a multi-year commitment, which is discouraged in Bulletin No. 3.5. However, we do have price stability through 5 years if we choose to retain the vendor that long. In my view, we are benefiting from the financial discount of a longer-term agreement, while retaining the prospect of easy cancellation by the State.

**STATE OF VERMONT
STANDARD CONTRACT FOR PERSONAL SERVICES**

1. **PARTIES:** This is a contract for personal services between the State of Vermont, Office of the State Auditor (hereafter called "the State Auditor"), and KPMG LLP, with a place of business in Colchester, Vermont, 05446 (hereafter called "Contractor"). Contractor's form of business organization is limited liability partnership. Contractor is required by law to have a Business Account Number from the Vermont Department of Taxes. Account Number is 23096. References to the State include agencies and departments required to provide information and representation letters relating to services to be provided by the Contractor.
2. **SUBJECT MATTER:** The subject matter of this contract is personal services generally on the subject of auditing in conformity with the Federal Single Audit Act, OMB Circular A-133 and relevant State statutes. Detailed services to be provided by the Contractor are described in Attachment A.
3. **MAXIMUM AMOUNT:** In consideration of the services to be performed by Contractor, the State Auditor agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$ \$6,392,700.
4. **CONTRACT TERM:** The period of Contractor's performance shall begin on April 1, 2013 and end on June 30, 2018.
5. **PRIOR APPROVALS:** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.
 - a. Approval by the Attorney General's Office is required.
 - b. Approval by the Secretary of Administration is required.
6. **AMENDMENT:** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State Auditor and Contractor.
7. **CANCELLATION:** This contract may be canceled by either party by giving written notice at least 150 days in advance of the end of the fiscal year ending on June 30 for that fiscal year's audit. For example, if the Contractor or State Auditor elects to cancel the contract for the fiscal year 2015 audit, notification of cancellation must be provided by January 2, 2015.
8. **ATTACHMENTS:** This contract consists of 21 pages including the following attachments which are incorporated herein:

- a. Attachment A - Specifications of Work to be Performed
- b. Attachment B - Payment Provisions
- c. Attachment C - Customary State Contract Provisions
- d. Attachment D - Other Contract Provisions

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

by the STATE OF VERMONT

Date: 12/7/12

Signature: [Handwritten Signature]

Name: James D. Justice

Agency: State Auditor Deputy

by KPMG LLP

Date: 12/7/12

Signature: [Handwritten Signature]

Name: SPAWN WARREN

Fed. ID/Soc. Sec. #: _____

Title: Partner

ATTACHMENT A
SPECIFICATION OF WORK TO BE PERFORMED

I. SERVICES REQUIRED

GENERAL: Contractor will provide certain specific services as set forth below in the performance of the State's single audit for the fiscal years ending June 30, 2013 thru June 30, 2017,

- i. The Contractor will serve as the principal auditor for the State's single audit in conformity with the Federal Single Audit Act, OMB Circular A-133, 32 V.S.A. Section 163 and Generally Accepted Government Auditing Standards (GAGAS) – all of which are incorporated herein and made part of this contract. The Contractor will sign all component reports to be included in the single audit report.
- ii. Contractor will perform tests as part of its audit procedures performed in accordance with the provisions of OMB Circular A-133, to evaluate the effectiveness of the design and operation of internal controls that Contractor considers relevant to preventing or detecting material noncompliance with laws, regulations, contracts, and grants applicable to each of the State's major programs. The tests of internal control performed in accordance with OMB Circular A-133 are less in scope than would be necessary to render an opinion on internal control.
- iii.
Contractor will perform tests of the State's compliance with certain provisions of laws, regulations, contracts, and grants that Contractor determines to be necessary based on the *OMB Circular A-133 Compliance Supplement (Compliance Supplement)*, which outlines procedures suggested by each federal agency but do not cover all areas of regulations governing each program. Outside program reviews by federal agencies may identify additional instances of noncompliance.
- iv. These audits shall be conducted in accordance with generally accepted government auditing standards for financial audits and shall cover the operations of the State, excluding the audits of the component units and the Lottery Fund which are conducted by other auditors.
- v. The Contractor shall allow State personnel from the State Auditor's Office and staff from relevant federal agencies reasonable access to audit work papers at no cost. In addition, if deemed in accordance with Professional Standards by the Contractor, the Contractor shall grant access to other agencies or departments within the State at no cost as approved by the Auditor.

- vi. The State Auditor will coordinate the maintenance of independence on behalf of State agencies with regard to consulting work provided by the Contractor to State agencies. The Contractor will work collaboratively with the State Auditor to discuss the nature and extent of consulting work conducted for all State agencies prior to the acceptance of such work. Any consulting engagements will be outside the contract for audit services.
 - vii. Contractor will provide Sate with a copy of Contractor's most recent peer review report.
- b. **SPECIFIC SERVICES REQUIRED:** In addition to the audit services described in Section 1a. above, the specific services, audit scope and objectives to be provided by the Contractor are detailed in the following outline. The activities listed are not necessarily in chronological sequence nor exhaustive.
- i. The Contractor will provide a minimum of 400 hours of IT controls work as part of this contract engagement. The IT controls work will be performed by IT professionals employed by Contractor with expertise in IT auditing. Contractor will provide the State Auditor and the relevant State agency or department with written comments pertaining to any control issues noted as a result of this work. These comments, as appropriate, will be included in the State-wide management letter which will be made publicly available consistent with the State's public records law and may be posted on the State's website.
 - ii. The Contractor will be responsible for auditing and will audit the basic financial statements reported in the State's financial report, the CAFR. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards issued by the Comptroller General of the United States. The Contractor will prepare and sign the audit opinion and the report on internal control over financial reporting and on compliance and other matters. The Contractor shall determine whether the Basic Financial Statements prepared by the State and presented in the Comprehensive Annual Financial Report (CAFR) are presented fairly in conformity with the accounting principles generally accepted in the United States (GAAP). The Contractor will perform tests of the accounting records and such other procedures as it considers necessary in the circumstances to provide a reasonable basis for its opinion on the financial statements. Contractor will also assess the accounting principles used and significant estimates made by the State and evaluate the overall financial statement presentation and because the determination of abuse is subjective, *Government Auditing Standards* does not

expect auditors to provide reasonable assurance of detecting abuse.

The Contractor will determine whether the schedule of expenditures of federal awards, which is issued in a separate single audit package and not with the financial statements, and any Supplemental Information presented with the financial statements is presented fairly in all material respects in relation to the State's financial statements as a whole. Contractor will not provide an opinion or assurance on Required Supplemental Information, however Contractor will perform certain limited procedures to the required supplementary information. Contractor's report relating to the financial statements will include Contractor's consideration of the required supplementary information. in accordance with GAGAS.

- iii. The Contractor will perform sufficient procedures in accordance with GAGAS to determine whether it may rely upon the processing of financial and program transactions by the State's information technology systems.
- iv. The Contractor will make specific inquiries of State personnel about the representations embodied in the financial statements and the effectiveness of internal control, and will obtain a representation letter about these matters from State personnel, including but not limited to personnel from the Department of Finance & Management, Agency of Human Services, Agency of Transportation and other agencies or departments as necessary to complete the audits. The responses to Contractor's inquiries, the written representations, and the results of audit tests will be included as evidential matter Contractor will rely upon in forming an opinion on the financial statements.
- v. The Contractor either plans to rely or will rely upon other auditors' opinions related to component units and the Lottery Fund. The Contractor may disclose this reliance in its audit opinion or may elect to assume responsibility for the work of the other auditors insofar as that work relates to the Contractor's expression of an opinion in the financial statements taken as a whole, and not make reference to the other auditors' work. In either case, the fee will not be adjusted.
- vi. The Contractor will issue a report on compliance with requirements applicable to each major program and internal control over compliance in accordance with the provisions of OMB Circular A-133. According to OMB Circular A-133, Contractor will not determine whether the State has complied with laws, regulations and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs. Contractor will prepare a schedule of findings and questioned costs in accordance with OMB Circular A-133.

- vii. Contractor will follow up on prior audit findings. In accordance with *Government Auditing Standards* and as part of Contractor's planning of the audit, Contractor will evaluate whether the State has taken appropriate corrective action to address findings and recommendations from previous engagements that could have a material effect on the financial statements. The State will identify previous audits, attestation engagements, or other studies that relate to the objectives of the audit, including whether related recommendations have been implemented prior to July 31, and will provide an update prior to November 30 of each fiscal year.
- viii. Contractor will perform procedures to assess the accuracy of the summary schedule of prior audit findings. The Contractor should perform follow-up procedures whether or not a prior audit finding related to a major program in the current year or a finding related to internal controls over financial report or compliance with laws and regulations in the current year. The Contractor will complete a template to be provided by the SAO for documenting follow up on prior year audit recommendations. If the State's response includes a disagreement or inadequate corrective action, the Contractor shall address in the audit report the reason(s) why the State's views are invalid.
- ix. The Contractor will communicate all findings to affected State entities to validate accuracy and shall document findings in accordance with the GAGAS of criteria, condition, cause and effect.
- x. Contractor will conduct meetings with the State Auditor's Office to review and obtain concurrence on the overall audit plan.
- xi. Contractor will conduct entrance and exit meetings with agencies and departments in the single audit scope and shall invite the State Auditor or the Auditor's appointed representative to attend these meetings.
- xii. Senior representatives of the Contractor will conduct annual audit planning conferences with the State Auditor, the Commissioner of Finance and Management, and Secretaries or Commissioners of relevant agencies/departments.
- xiii. Senior representatives of the Contractor will be available to make formal presentations of the results of the audit to the Legislature, if so requested.
- xiv. Senior representatives of the Contractor will meet with the State

Auditor and Commissioner of Finance and Management to communicate status updates, as necessary, during the course of audit fieldwork. Commencing in September each year, the frequency of the meetings will be weekly.

c. REPORTING:

- i. The Contractor will prepare and sign the following reports (a. through d.) required under the Single Audit Act.
 - a. Independent Auditors' Report on the Basic Financial Statements.
 - b. The Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*.
 - c. Independent Auditors' Report on the Schedule of Expenditures of Federal Awards.
 - d. Independent Auditor's Report on Compliance with Requirements Applicable to Each Major Program and Internal Control over Compliance in Accordance with OMB Circular A-133.
 - e. Schedule of Findings and Questioned Costs
 - f. Schedule of Expenditures of Federal Awards and Accompanying Footnotes¹
 - g. Summary of Prior Year Findings¹
- ii. The Contractor will provide a draft of all reports to the State Auditor for review one week prior to the date reports are provided to the State management for inclusion in the CAFR or Single Audit report.
- iii. The Contractor will provide the State's management at relevant agencies and departments with the opportunity to respond to audit findings and will include the State's responses in the internal control report and in the Schedule of Findings and Questioned Costs. The State shall respond within 20 business days of receiving the audit findings. In addition, for the internal control

¹ The Schedule of Expenditures of Federal Awards and Accompanying Footnotes included in the Single Audit Report and the Summary of Prior Findings, a component of the package submitted to the Federal Clearinghouse, are prepared by management and provided to the Contractor.

report, the Contractor will include the State's responses in the report.

- iv. The Contractor and the State shall complete and sign specified sections of the OMB data collection form.
- v. Upon completion of its work, Contractor will address the reports issued under this Contract to the Speaker of the House of Representatives, President Pro-Tempore of the Senate, the Governor and the General Assembly of the State of Vermont. The Contractor will also provide a "SAS No. 114 letter" addressed as above that will include the following matters:
 - 1. Corrected misstatements arising from the audit that could, in the Contractor's judgment, either individually or in aggregate, have a significant effect on the State's financial reporting process. In this context, corrected misstatements are proposed corrections of the financial statements that were recorded by the State and, in Contractor's judgment, may not have been detected except through the auditing procedures performed.
 - 2. Uncorrected misstatements aggregated during the current engagement and pertaining to the latest period presented that were determined by the State to be immaterial, both individually and in aggregate.
 - 3. Any disagreements with the State or other significant difficulties encountered in performance of the audit.
 - 4. Other matters required to be communicated by auditing standards generally accepted in the United States of America.
- vi. Contractor's reports b. and d. above will state that they are intended solely for the information and use of the Speaker of the House of Representatives, President Pro-Tempore of the Senate, the Governor, the General Assembly and management of the State of Vermont and federal awarding agencies and pass-through entities and that they are not intended to be and should not be used by anyone other than these specified parties.
- vii. Contractor may send written reports to the State electronically for the State's convenience, however only the hard copy report is to be relied upon as Contractor's work product.
- viii. Contractor will prepare a written *Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with*

Government Auditing Standards (GAGAS report) in accordance with *Government Auditing Standards on Contractor's* consideration of internal control over financial reporting and tests of compliance made as part of the audit of the financial statements. The objective of the audit of the financial statements is not to report on the State's internal control over financial reporting, and Contractor is not obligated to search for significant deficiencies or material weaknesses, however Contractor will include in its report any significant deficiencies and material weaknesses to the extent they come to Contractor's attention. This report will also include illegal acts and fraud, unless clearly inconsequential, and material violations of provisions of contracts and grant agreements and abuse.

- ix. Contractor will issue a management letter to communicate violations of provisions of grants or contracts and abuse that have an effect on the financial statements that is less than material but more than inconsequential that come to the attention.
- x. Contractor will report fraud or illegal acts directly to parties outside the auditee if the circumstances and the *Government Auditing Standards* require a direct report.
- xi. Contractor's written A-133 Report as provided for in Section 1 c.i.c will include a report on the Schedule of Expenditures of Federal Awards, that will provide Contractor's opinion on the schedule of expenditures of federal awards in relation to the State's financial statements. The A-133 Report will also provide Contractor's opinion on compliance with laws, regulations, contracts, and grants that could have a direct and material effect on a major federal program and will communicate Contractor's consideration of internal control over major federal programs.
- xii. Contractor will address its written A-133 Report to the Speaker of the House of Representatives, President Pro-Tempore of the Senate, the Governor and the General Assembly of the State of Vermont. The report will state that it is intended solely for the information and use of the Speaker of the House of Representatives, President Pro-Tempore of the Senate, the Governor, the General Assembly and management of the State of Vermont and federal awarding agencies and pass-through entities and that it is not intended to be and should not be used by anyone other than these specified parties.
- xiii. The State will distribute the reports issued by KPMG.

d. DEADLINES FOR DELIVERABLES:

- i. All work requirements must be completed and the final single audit report issued within 6 months of the fiscal period end (i.e. by December 31), or upon a schedule mutually agreed upon by the Auditor and the Contractor. It is expected that the report will be issued by December 31 each year and that only unusual events might require consideration of an alternative schedule.
- ii. All necessary work must be completed to allow for issuance of the audit opinion and associated internal control report for the general purpose financial statements within 6 months of the fiscal period end (i.e. by December 31), or upon a schedule mutually agreed upon by the Auditor and the Contractor. It is expected that these reports will be issued by December 31 each year and that only unusual events might require consideration of an alternative schedule.
- iii. The State Auditor will:
 - a. Provide workspace at either the State Auditor's Office at 132 State Street, or other available locations in Montpelier, for a maximum of four (4) of the Contractor's personnel. Photocopying equipment will be made available.
 - b. Assist the Contractor in utilizing central data processing facilities, equipment, software and data files.
 - c. Arrange for the resolution of legal questions with the State's Attorney General.

e. CONTRACTOR STAFF ASSIGNMENT, SUBCONTRACTING, AND OVERSIGHT:

- i. The Contractor shall will partners, managers and supervisors/seniors to the State of Vermont single audit engagement with qualifications at least equivalent to those proposed in its Technical Proposal. It is the Auditor's expectation that the partners listed in the Technical Proposal shall remain on the State of Vermont engagement to the maximum time allowed given the Contractor's partner rotation requirements. In addition, the senior managers assigned to each component of the engagement, specifically the A-133 compliance audit and the basic financial statement audit, will have significant experience with their respective components. Finally, supervisors/seniors assigned to the engagement shall have a minimum of one year of audit experience related to their assignment. For example, the supervisor/senior assigned to coordinate the pension

audit shall have specific experience with public pensions at least equivalent to the State of Vermont pensions.

- ii. The Contractor may utilize the services of qualified Vermont-based independent public accountants and/or independent professional consultants ("Subcontractors") to perform audit procedures for the state-wide financial audit and federal single audit. Preference is to be given to subcontractors who are based in the State of Vermont. Preference is also to be given to smaller businesses, minority-owned firms, and women businesses as stated in OMB Circular A-133 §.305.
 - iii.
 - iv. Contractor may allow its principals who are not licensed as certified public accountants to participate in the audit engagement with the approval of the State Auditor.
 - v. Contractor will use e-mail and other electronic methods to transmit and receive information, including confidential information, between Contractor and the State and other entities engaged by either Contractor and will employ commercially reasonable efforts and take appropriate precautions to protect the privacy and confidentiality of transmitted information.
- f. TRAINING, ACCESS TO CONTRACTOR THOUGHT LEADERSHIP AND KNOWLEDGE TOOLS AND TECHNICAL ACCOUNTING CONSULTATIONS:
- i. The Contractor will have the responsibility for the following:
 - a. Provide training to the State Auditor's staff that will replicate relevant portions of the Contractor's internal annual update training for auditing and technical accounting. It is understood that this internal training generally occurs in April of each year and shall be provided to the Auditor and Subcontractor staff by July of each year of the contract. The cost of this training is included in the negotiated audit fees for each year of the contract.
- g. CPE REQUIREMENTS: The Contractor will meet all Continuing Professional Education (CPE) Standards specified by Government Auditing Standards.
- h. LIMITATIONS
- i. Contractor is not expected under Government Auditing Standards to provide reasonable assurance of detecting abuse.

- ii. Contractor's audit of the financial statements will be planned and performed to obtain reasonable, but not absolute, assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Absolute assurance is not attainable because of the nature of audit evidence and the characteristics of fraud. Therefore, there is a risk that material errors, fraud (including fraud that may be an illegal act), and other illegal acts may exist and not be detected by an audit of financial statements performed in accordance with the auditing standards generally accepted in the United States of America.
- iii. Contractor's audit will not be designed to detect matters that are immaterial to the financial statements.
- iv. Contractor does not make any assurance that it will render an unqualified opinion. Contractor may need to modify its report or withdraw from the engagement under certain circumstances such as those outlined in professional standards including, among others, audit scope limitations, auditor independence, material fraud and management's refusal to provide a representation letter.
- v. Contractor will not provide an opinion on the effectiveness of the State's internal control over financial reporting and this limitation may not meet the needs of some users who require additional information about internal control.
- vi. The audit of the financial statements does not relieve management of the State or those charged with governance of their responsibilities. The State is responsible for preventing and detecting fraud, including the design and implementation of programs and controls to prevent and detect fraud, for adopting sound accounting policies, and for establishing and maintaining effective internal controls and procedures for financial reporting to maintain the reliability of the financial statements and to provide reasonable assurance against the possibility of misstatements that are material to the financial statements.
- i. Contractor will not be required to issue consent letters and/or comfort letters in connection with debt offerings of the State. Should the State determine that a consent letter is required, the Contractor and the State may negotiate a scope of work and a reasonable fee for performance of required procedures and the issuance of a consent letter and/or a comfort letter. If an agreement is reached by the parties to this contract, this contract will be amended to reflect the terms of such agreement. Contractor acknowledges that the State's financial statements, including Contractor's audit report thereon, are "public records" within the meaning of applicable Vermont law. If the State includes or incorporates by reference the State's financial statements and Contractor's audit report thereon into an offering of

exempt securities without obtaining Contractor's consent to include or incorporate by reference our report on such financial statements, and Contractor is not otherwise associated with the offering document, then State agrees to include the following language in the offering document:

- a. "KPMG LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. KPMG LLP also has not performed any procedures relating to this official statement."

i. State's Responsibilities

- i. The State will comply with U.S generally accepted accounting principles in 1) the presentation of its financial statements and representations contained therein; 2) in identifying and ensuring that the State complies with laws, regulations, contracts, and grants applicable to its activities; 3) informing Contractor of any material violations known to the State of such laws and regulations and provisions of contracts and grants.
- ii. The State, through the State Auditor's Office, will inform Contractor of significant deficiencies and material weaknesses in the design or operation of internal controls known to the State. The audit of the financial statements does not relieve the State of their responsibilities.
- iii. The State will provide Contractor with all records, documentation, and information requested in connection with the audit, will disclose all material information, and will cooperate fully with Contractor in connection with the audit.
- iv. The State will adjust the financial statements to correct material misstatements and will affirm to Contractor in its representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements being reported
- v. The State will comply with OMB Circular A-133 requirements to maintain internal control and compliance requirements applicable to federal programs imposed on it by OMB Circular A-133 and will prepare the following as required by OMB Circular A-133:
 - a. Schedule of expenditures of federal awards;
 - b. Summary schedule of prior audit findings;
 - c. Corrective action plan; and
 - d. Data collection form (Part I).

**ATTACHMENT B
PAYMENT PROVISIONS**

1. **CONTRACTUAL ARRANGEMENTS:** The contract for this engagement will be on a firm, fixed-price basis, inclusive of all personnel, out-of-pocket expenses and other non-direct costs for the audit of fiscal years ending June 30, 2013 thru June 30, 2017.
 - a. A firm price for the services detailed in Attachment A will be in effect for the five years of the contract. Out-of-pocket expenses for travel, lodging, and other non-direct audit expenses will be separately itemized. However, it is understood that the firm, fixed-price shall be inclusive of all out-of-pocket expenses and other non-direct audit expenses.
 - b. The requisite funding to continue this engagement is provided by the Vermont General Assembly.
 - c. Cancellation of this contract by either the Auditor or the Contractor, provided that written notice is given at least 150 days in advance of the fiscal year end that audit services were to have been provided for, will not negate the Auditor's obligation to pay the Contractor for services already rendered in relation to the prior year's audit.
- ii. **PAYMENT:** This fee schedule is effective for audits of Fiscal Years 2013 Thru Fiscal Year 2017.

Year #	Fees
1	\$1,228,400
2	1,253,000
3	1,278,000
4	1,303,600
5	<u>1,329,700</u>
TOTAL	\$ 6,392,700

ALL-INCLUSIVE MAXIMUM PRICE FOR SERVICES: \$6,392,700

The above fee schedule assumes:

1. The Contractor will be paid for services rendered by the Contractor on a monthly basis. Contractor's invoices will recognize a five percent retainage of each invoiced amount pending the proper and timely completion of the project. Contractor's invoices shall be submitted to the Auditor and shall provide a sufficient level of detail to allow the Auditor to understand the nature of the charges. A mutually agreeable format will be determined by the Auditor and Contractor. The Auditor reserves the right to increase the percentage of

retainage or utilize some other mechanism for holding back payment in the event doubt arises regarding the Contractor's ability to continue operations and meet its obligations under this arrangement.

2. The fees for the five fiscal years include the specifications defined in Attachment A.
3. Subject to provisions of the Standard Contract for Personal Services, if other programs or work are added to this contract, the potential adjustments will be subject to negotiation between the Auditor's Office and the Contractor.
4. All modifications and amendments to this contract and payment provisions will be made in consultation with the Auditor subject to approval by the Secretary of the Agency Administration and the availability of funds.
5. Certain provisions of OMB Circular A-133 allows a granting agency to request that a specific program be selected as a major program provided that the federal granting agency is willing to pay the incremental audit cost arising from such selection. Should a granting agency make a request, the State and the Contractor may negotiate a scope of work and a reasonable fee for the incremental cost associated with the additional services required by the request as an amendment to this contract. The State agrees to notify KPMG of any such request by a granting agency.

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS**

1. **Entire Agreement:** This Agreement, including all Attachments, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

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

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

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

The Contractor shall have no obligation to indemnify the State for the State's own actions or omissions. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the

responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

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

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

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

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

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

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

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

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the

Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: <http://finance.vermont.gov/forms>

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

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

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

13. Taxes Due to the State:

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

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

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or

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

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

- 15. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above. The State acknowledges that the Contractor uses third party service providers within and without the United States to provide, at Contractor's direction, administrative and clerical services to the Contractor. Such third party service providers are bound to the same requirements of confidentiality as the Contractor, and the Contractor shall remain responsible for maintaining such confidentiality.
- 16. No Gifts or Gratuities:** Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.
- 17. Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.
- 18. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.
- 19. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

(End of Standard Provisions)

**ATTACHMENT D
OTHER CONTRACT PROVISIONS**

1. **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 \$5,000,000 per occurrence.
2. **Work Product Ownership.** Upon full payment by the State, all deliverables produced by the Contractor for the State, including outlines, reports, charts, sketches, drawings, artwork, plans, photographs, specifications, estimates, computer programs, or similar documents, becomes the property of the State Auditor's Office and may not be copyrighted or resold by the Contractor. The Contractor shall retain ownership and physical custody of the work papers. The State Auditor's Office shall have access to the work papers as necessary, at reasonable times and upon reasonable advance notice, in accordance with the applicable professional standards. Contractor will make certain work papers available in a full and timely manner to regulatory agencies upon request for their reviews of audit quality and for use by their auditors as required but Government Auditing Standards. Contractor will make certain work papers available to the Federal oversight agency pursuant to authority given to it by law or regulation and such access to the requested work papers will be provided under supervision of KPMG personnel. Contractor will provide photocopies of selected work papers to regulatory agencies upon request and those regulatory agencies may intend, or decide, to distribute the photocopies or information contained therein to others, including other government agencies. .
3. **Dispute Resolution:** The parties agree that Rule 16.3 of the Vermont Rules of Civil Procedure, which mandates alternative dispute resolution proceedings in certain cases, will apply to any civil action that may arise between them under this contract.
4. Attachment C is amended as follows:
 - a. The following is added to Attachment C, paragraph 6:
The State will not assert claims against KPMG for liabilities, costs, and expenses attributable to misrepresentations by the State to the Contractor.
 - b. Attachment C, paragraph 9 is deleted.
 - c. Attachment C, paragraph 10 is modified as follows:
Records Available for Audit: The Party will maintain all timekeeping and expense records directly pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work

performed or being performed under this Agreement, in accordance with the applicable professional standards.

6. If the State requests that Contractor produce its documents and/or testimony relating to this engagement for the State in judicial or administrative proceedings to which the Contractor is not a party, the State shall reimburse Contractor at its standard billing rates for its professional time and expenses incurred in responding to such requests.