

# **REQUEST FOR PROPOSAL (RFP)**

## **SUPPLEMENTAL BENEFITS PROGRAM**

### **SHORT TERM DISABILITY INSURANCE**



**STATE OF CONNECTICUT  
OFFICE OF THE STATE COMPTROLLER  
165 CAPITOL AVENUE  
HARTFORD, CT 06106-1775**

## **I. STATEMENT OF OBJECTIVES**

In accordance with Section 3-123g of the Connecticut General Statutes, the State of Connecticut, Office of the State Comptroller's (OSC) Vendor Advisory Committee (VAC), will be considering submissions from vendors interested in providing short term disability insurance coverage under the Supplemental Benefits Program (Program) to State employees. The cost of such benefits for active employees will be remitted to selected vendors through voluntary payroll deductions.

Based upon the Committee's recommendations, the Comptroller intends to authorize the selected applicants to market approved products and services to State employees and retirees under stipulated terms and conditions for a period of three years commencing January 1, 2021 and expiring December 31, 2023. The contract will include a clause that reserves the right to the Comptroller to renew the contract for up to two additional one- year periods at the conclusion of the contract term. This right will be exercised solely at OSC's discretion. The State reserves the right to award or reject any and all proposals in whole or in part, to waive technical defects, irregularities and omissions if, in its judgment, the best interest of the State will be served.

Proposals will only be accepted from vendors that submitted a proposal for these products in response to the Request for Information (RFI) issued June 24, 2020.

## **II. BACKGROUND AND LEVEL OF ACTIVITY**

Short term disability insurance, as such, is not offered by the State. The State Employees Retirement System (SERS) provides pension benefits for employees who become permanently disabled from performing their duties. All SERS members are protected against service-connected disabilities upon commencement of employment. However, pension benefits for non-service connected disabilities are only available to SERS members with ten or more years of employment. SERS members with less than ten years of employment are assigned to two retirement plans, known as Tier III and Tier IV. Summary Plan Descriptions for those plans are posted on the State Comptroller's Home Page at the following web site: [www.osc.state.ct.us/empret/](http://www.osc.state.ct.us/empret/)

Under the current Program, Colonial Life & Accident Insurance Company (Colonial Life) and Lincoln National market a short term disability (STD) insurance policy to State employees. Colonial's current STD policy covers both on-the-job and off-the-job accident and illness while Lincoln's STD policy covers off-the-job accident and illness. General information regarding Colonial's and Lincoln's policies and riders may be obtained from the Connecticut State Insurance Department, Life and Health Division, where they are approved and filed.

The State of Connecticut currently employs approximately 55,000 State employees of which approximately 50,000 would be eligible for the short term disability program. As of June 1, 2020, there were 8,377 active State employees participating through payroll deduction under Colonial's short term disability insurance policy remitting \$9.7 million annually. As of June 1, 2020, there were 1242 active State employees participating through payroll deduction under Lincoln's short term disability insurance policy, remitting approximately \$1.7 million annually.

## **III. PLANNED SCHEDULE OF RFP ACTIVITIES**

It is the State's intention to comply with the following schedule:

<b>Date</b>	<b>Activity</b>
September 1, 2020	Release RFP
September 8, 2020	Bidder Question Deadline by 2:00 PM EDT
September 16, 2020	Bidder Questions Answered
October 1, 2020	Proposals due by 2:00 PM EDT
October 15, 2020	Finalist Interviews (if necessary)
October 19, 2020	Contract Awarded
October 26, 2020	Begin Implementation, testing
January 1, 2021	Effective Date for Contract

- These dates represent a tentative schedule of events. The State reserves the right to modify these dates at any time, with appropriate notice to prospective bidders.
- This RFP does not commit the State to award a contract. The State reserves the right to reject all proposals, and at its discretion, may withdraw or amend this RFP at any time.
- The State may revise and amend the RFP prior to the due date for the proposal. If, in the opinion of the State, revisions or amendments will require substantive changes in proposals, the due date may be extended.
- The State reserves the right to reject any and all proposals received, for specific reasons, which include, but are not limited to, non-compliance with RFP requirements.
- Responses to this RFP will be the primary source of information used in the evaluation process. Each bidder is requested and advised to be as complete as possible in its response. The State reserves the right to contact any bidder to clarify any response or make a presentation.

#### **IV. INSTRUCTIONS FOR SUBMITTING OFFERS**

All sections must be answered completely and, as outlined in the RFP. It is not acceptable to use the term “See Attached” as a response to any of the questions, fee quotation forms, etc. Such a response may jeopardize your chances for consideration. The State reserves the right to ask bidders follow-up questions as may be necessary to fully evaluate bidder capabilities.

##### **A. Bidder Questions**

Any questions regarding content should be submitted directly Questions via email or telephone will not be accepted. The State reserves the right to provide a combined answer to similar questions. Any and all questions and answers to this RFP will be posted by **September 16, 2020** on the OSC website at <http://www.osc.ct.gov/vendor/index.html>.

## **B. Proposal Submission**

**All proposals must be received by 2:00 P.M. (EDT), October 1, 2020 in order to be considered.**

Each bidder must submit:

1. One original, plus two copies (one unbound) of its response in a sealed package upon which a clear indication has been made of the RFP reference title and the date and time the proposal is submitted; and .
2. Two copies of its complete response on a thumb drive or CD/DVD; and
3. Any bidder that submits trade secrets or confidential commercial or financial information that it claims is exempt from disclosure under the Freedom of Information Act (FOIA) must also provide one copy of its RFP response from which all trade secrets and financial/confidential data have been redacted on a thumb drive or CD/DVD. (This redacted copy may be disclosed without objection in the event that the State receives a FOIA request for the bidder's proposal.)

The package should be delivered to:

STATE OF CONNECTICUT  
OFFICE OF THE STATE COMPTROLLER  
Attention: Steven Cosgrove, Supplemental Benefits  
Administrative Services Division  
165 Capitol Avenue, Fourth Floor  
Hartford, CT 06106

## **C. Evaluation of Proposals**

Each Proposal will be evaluated by a screening committee against the following criteria to determine which Contractor is most capable of implementing the State's requirements. (Not listed in order of importance.)

1. The benefit of the product or service to State employees.
2. The price or rate of the product or service including the competitiveness of proposed cost.
3. The skill, ability, competence and integrity of the Contractor and Contractor's personnel to deliver such product and service, including the Contractor's understanding of the project and its purpose and scope, as evidenced by the proposed approach and the level of effort.
4. The past performance of the Contractor. In considering past performance, the VAC will evaluate the skill, ability and integrity of the applicant in terms of the applicant's fulfillment of past contract obligations, and experience or lack thereof in delivering the same or similar products and services.
5. At the Vendor Advisory Committee's option, presentation to a screening committee.

## **D. Contract Period**

The State of Connecticut is seeking a contract-effective date commencing January 1, 2021. Insured proposals should include rates that are guaranteed for January 1, 2021 through December 31, 2021 and proposed guaranteed premium rates for future contract periods. There will also be the potential for two one-year extensions.

**E. Restriction on Contact with State Personnel**

Except as called for in this RFP, from the date of release of this RFP until the right to negotiate a contract is awarded as a result of this RFP, any communications with personnel employed by the Comptroller's Office or members of the Vendor Advisory Committee about the RFP until selection of the successor bidders are prohibited. All communications must be directed to Steven Cosgrove at [OSC.RFP@ct.gov](mailto:OSC.RFP@ct.gov). For violation of this provision, the State reserves the right to reject the proposal of the violator.

**F. Conflict of Interest**

The bidder shall certify in writing that no relationship exists between the bidder and the State of Connecticut that interferes with fair competition or is a conflict of interest, and no relationship exists between the bidder and another person or organization that constitutes a conflict of interest with respect to any State contract. Any successful bidder must execute a contract and grant disclosure and certification form.

The bidder shall provide assurances that it presently has no interest and shall not acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder. The bidder shall also provide assurances that no person having any such known interests shall be employed during the performance of this contract.

**G. Governing Law**

The contract shall be governed in all respects by the laws of the State of Connecticut.

**H. Verification of Accuracy.**

Your response must designate the individual responsible for coordinating proposal responses and for binding the company to the responses to this RFP.

**I. Terms and Conditions**

Contractors responding to this RFP must be willing to adhere to the following conditions and must affirmatively state their adherence to these requirements with a transmittal letter appended to their proposal response.

1. **Acceptance or Rejection by the State**—The State reserves the right to accept or reject any or all proposals submitted for consideration. All proposals will be kept sealed and safe until the deadline for submission has passed. By responding to this procurement, applicants agree to accept the Comptroller's determinations as final.
2. **Conformance with Statutes**—Any contract awarded as a result of this RFP must be in full conformance with statutory requirements of the State of Connecticut and the federal government.

3. **Ownership of Proposals**—All proposals submitted in response to this RFP are to be the sole property of the State and will be subject to the applicable Freedom of Information provisions of Conn.Gen.Stat. §§1-200 et seq. Any proposer that submits matter that it in good faith determines to contain trade secrets or confidential commercial or financial information must mark such materials as “CONFIDENTIAL” and provide two redacted copies of its RFP response on a thumb drive or CD/DVD, which may be disclosed without objection in the event a FOIA request is made for its proposal.
4. **Ownership of Subsequent Products**—Any product, whether acceptable or unacceptable, developed under a contract award as a result of this RFP is to be the sole property of the State of Connecticut, unless explicitly stated otherwise in the RFP or contract.
5. **Communication Blackout Period**—Except as called for in this RFP, contractors may not communicate about the RFP with any of the following: employees within the OSC or members of the Vendor Advisory Committee until the successful bidder(s) are selected. No Contractor or Contractor's representative may contact an employee of the State or member of the Vendor Advisory Committee regarding their proposal until final selections have been made. Until such time as final selections are made, any such contact will be considered collusion under the "Terms and Conditions" herein and may be grounds for disqualification of the Contractor's proposal.
6. **Designation of person to receive notices.**—All bidders should designate an individual to provide notice including data, answers to questions submitted by other potential contractors, requests for clarification and other matters about the selection process.
7. **Availability of Work Papers**—All work papers and data used in the process of performing this project must be available for inspection by the State of Connecticut Auditors of Public Accounts for a period of three (3) years or until audited.
8. **Timing and Sequence**—All timing and sequence of events resulting from this RFP will ultimately be determined by the State. Late responses may or may not be considered, and it will be left to the Comptroller’s discretion whether to accept or reject late responses.
9. **Stability of Proposed Prices**—Any price offerings from Contractors must be valid for a period of one hundred eighty (180) days from the due date of the Contractor proposals.
10. **Oral Agreements**—Any alleged oral agreement or arrangement made by a Contractor with any agency or employee will be superseded by the written agreement.
11. **Amending or Canceling Requests**—The State reserves the right to amend or to cancel this RFP prior to the due date and time, if such action is deemed to be in the best interest of the State.
12. **Rejection for Default or Misrepresentation**—The State reserves the right to reject the proposal of any Contractor that is in default of any prior contract or for misrepresentation.
13. **State's Clerical Errors in Awards**—The State reserves the right to correct inaccurate awards resulting from its clerical errors.
14. **Rejection of Qualified Proposals**—Proposals are subject to rejection in whole or in part if they limit or modify any of the terms and conditions and/or specifications of the RFP.
15. **Contractor Presentation of Supporting Evidence**—A Contractor, if requested, must be prepared to present evidence of experience, ability, service facilities and financial standing necessary to satisfactorily meet the requirements set forth or implied in the proposal.
16. **Changes to Proposal**—No additions or changes to the original proposal will be allowed after submittal. However, OSC reserves the right to seek clarification of a response.
17. **Expenses Incurred**—The State will not reimburse any Contractor for any costs or expenses incurred in preparing proposals or in any other connection with the RFP, including travel expenses relating to an oral presentation. All expenses incurred by the Contractor in preparing and submitting proposals are the sole responsibility of the Contractor.

18. **Collusion**—By responding to this RFP, the Contractor implicitly states that the proposal is not made in connection with any competing Contractor submitting a separate response to the RFP and is in all respects fair and without collusion or fraud. It is further implied that the Contractor did not participate in the RFP development process, had no knowledge of the specific contents of the RFP prior to its issuance, and that no employee of the agency participated directly or indirectly in the Contractor's proposal preparation.
19. **Conformance to Instructions**—All responses to the RFP must conform to the instructions herein. Failure to provide any required information, provide the required number of copies, meet deadlines, answer all questions, follow the required format, or failure to comply with any other requirements of this RFP may be considered appropriate cause for rejection of the response.
20. **Appearances**—In some cases, Contractors may be asked to appear to give interviews, presentations or further explanation to the RFP's screening committee.
21. **Standard Contract and Conditions**—The Contractor must accept the State's standard contract language and conditions. See Standard Contract and Conditions. Attachment A.
22. **Entire Agreement**—The contract will represent the entire agreement between the Contractor and the State and will supersede all prior negotiations, representations or agreements, alleged or made, between the parties. The State shall assume no liability for payment of services under the terms of the contract until the successful Contractor is notified that the contract has been accepted and approved by the Office of the State Comptroller and by the Office of the Attorney General. The contract may only be amended by means of a written signed agreement by the Office of the State Comptroller, the Contractor, and the Office of the Attorney General.
23. **Rights Reserved to the State**—the State reserves the right to award in part, to reject any and all proposals in whole or in part, to waive technical defects, irregularities and omissions if, in its judgment, the best interest of the State will be served.
24. **Receipt of Summary of State Ethics Laws.** The Contractor must acknowledge that is has received a summary of State Ethics Laws by submitting a signed receipt via BizNet (see Section V below). A copy of the State Ethics Laws Summary is Attachment B.

#### J. **Standard Contract Terms and Conditions**

Be advised that the State has certain contract requirements. Contractors responding to this RFP must be willing to adhere to the following contract requirements and must affirmatively state their adherence to these terms and conditions with a transmittal letter appended to their proposal response.

Attachment A is a sample contract containing standard terms and conditions. The Contractor must agree that the contract shall be governed by, construed, and enforced in accordance with the laws and court decisions of the State of Connecticut without giving effect to its principles of conflicts of laws. Under no circumstances may a State contract contain limited liability and/or binding arbitration provisions. The State may not indemnify a Contractor or waive its sovereign immunity.

At all times, Contractor shall utilize approved, qualified personnel necessary to perform the services under this Agreement. If at any time the State in its sole discretion determines that the personnel/staff assigned to perform the services under this agreement is incompetent, dishonest or uncooperative, State reserves the right to request that Contractor reassign personnel/staff and arrange for an employee(s) or subcontractor(s) satisfactory to State to provide the services otherwise performable by the Contractor hereunder.

Contractor shall review any requests by State to reassign personnel/staff. In requesting such reassignment of personnel/staff, State shall give thirty days (30) notice to Contractor of State's desire

for such reassignment. Contractor will then have fifteen (15) days to investigate the situation and attempt, if it so desires, to resolve the situation to the mutual satisfaction of the parties. Should the parties not reach a mutual resolution, then fifteen (15) days thereafter, or thirty (30) days from the date of the notice of reassignment, the State may terminate this agreement by providing written notice.

Contractor shall advise the State promptly, in writing, of any labor related occurrence known to Contractor involving Contractor's employees, which may reasonably be expected to affect Contractor's performance of services under this agreement. Notwithstanding such occurrence, the Contractor shall at all times assign competent personnel/staff to perform the services contracted for under this agreement.

## **V. ADDITIONAL PROCUREMENT REQUIREMENTS**

The Connecticut Department of Administrative Services (“DAS”) has implemented a requirement that all firms seeking to do business with the State create a business profile on the DAS Business Network (“BizNet”) system. BizNet eliminates certain redundancies, such as the requirement to complete and submit forms even though the forms had been recently submitted in response to another Request for Proposals. In addition to eliminating redundancy, BizNet has automated the completion and submission of required Ethics Affidavits and Non Discrimination forms. Firms must now upload these forms electronically to their BizNet account and update them on an annual basis, rather than submitting paper copies with each proposal. Firms will have the ability to view, verify and update their information by logging in to their BizNet account, prior to submitting responses to an RFP.

Additional required forms as described below must be submitted to or be on file with the BizNet system by the deadline for submission of proposals. Paper or electronic copies need not be provided with the submission to the Comptroller's office.

Create an account on BizNet by using the following link:

<https://www.biznet.ct.gov/AccountMaint/Login.aspx>. Once your firm creates an account, login and select “CT Procurement” and then “Company Information” for access. If you experience difficulty establishing or otherwise managing your firm's account, please call DAS at 860-713-5095.

The following forms must be completed and uploaded to BizNet in accordance with the following instructions:

### **Required Forms**

Follow instructions for submission of the following:

1. a) Agency Vendor Form (SP-26NB), available at:  
[http://das.ct.gov/Purchase/Info/Vendor\\_Profile\\_Form\\_\(SP-26NB\).pdf](http://das.ct.gov/Purchase/Info/Vendor_Profile_Form_(SP-26NB).pdf)
2. b) W-9 Form, available at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

### **Ethics Certifications**

The following Ethics Forms must be signed, dated, notarized, uploaded or updated on BizNet. To obtain these forms, you must login to BizNet and follow the instructions referenced above.

OPM Ethics Form 1: Gift & Campaign Contribution Certification;

OPM Ethics Form 5: Consulting Agreement Affidavit;

OPM Ethics Form 6: Affirmation of Receipt of State Ethics Laws Summary

OPM Ethics Form 7: Iran Certification



For information on how to complete these forms, please access the Office of Policy and Management website by using the following link:

[http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038&opmNAV\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038&opmNAV_GID=1806)

### **Affirmative Action and Nondiscrimination**

Choose one (1) of the forms listed below that applies to your business. Complete and upload or update the form on BizNet annually. To obtain a copy of these forms, you must login to BizNet and follow the instructions referenced above.

Form A: Representation by Individual (Regardless of Value); or

Form B: Representation by Entity (Valued at \$50,000 or less); or

Form C: Affidavit by Entity (Valued at \$50,000 or more); or

Form D: New Resolution by Entity; or

Form E: Prior Resolution by Entity

For information on how to complete these forms, please access the Office of Policy and Management website by using the following link:

[http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNAV\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNAV_GID=1806)

### **Commission on Human Rights and Opportunities (“CHRO”) Workplace Analysis Affirmative Action Report/Employment Information Form.**

The CHRO Workplace Analysis Affirmative Action Report/Employment Information must be completed in BizNet and updated as necessary. You must login to BizNet and follow the Instructions referenced above. For information on how to complete these forms you may contact Diane Comeau at [Diane.Comeau@ct.gov](mailto:Diane.Comeau@ct.gov) for assistance.

For information about how to upload the Ethics Affidavits and Non-Discrimination forms please access the following page. <http://das.ct.gov/images/1090/Upload%20Instructions.pdf>.

**Affirmative Action.** The proposal must include a summary of the Contractor's experience with affirmative action including a summary of the Contractor's affirmative action plan and the Contractor's affirmative action policy statement.

Regulations of Connecticut State Agencies Section 46a-68j-30(10) require agencies to consider the following factors when awarding a contract that is subject to contract compliance requirements:

- The Contractor's success in implementing an affirmative action plan;
- The Contractor's success in developing an apprenticeship program complying with Section 46a-68-1 to 46a-68-17 of the Connecticut General Statutes, inclusive;
- The Contractor's promise to develop and implement a successful affirmative action plan;
- the Contractor's submission of employment statistics contained in the "Workforce Analysis Affirmative Action Report," indicating that the composition of its work force is at or near parity when compared to the racial and sexual composition of the work force in the relevant labor market area; and
- The Contractor's promise to set aside a portion of the contract for legitimate small Contractors and minority business enterprises, where applicable (See C.G.S. §32-9e).

The State of Connecticut's Contract Compliance Forms applicable to State contracts are available at <http://www.ct.gov/chro/cwp/view.asp?a=2525&Q=315900>, please click on the four forms indicated below to download the pdf files from the CHRO web page:

**Notification to Bidders**

This document gives notice that the contract to be awarded is subject to the contract compliance requirements mandated by State statutes and regulations.

**Workforce Analysis Affirmative Action Report-State Contractors**

This employment information form is used to report the racial and sexual composition of a firm's or corporation's workplace. The form must be completed by the Contractor and submitted with the proposal.

**Affidavit for Certification of Subcontractors as Minority Business Enterprises**

Upon award of a contract, this form is used to document the good faith efforts of a Contractor to include minority business enterprises as subcontractors (including suppliers) on the State contract

**Contract Compliance Notice Poster**

This notice concerns the prohibition of discrimination in employment practices. Upon award of a State contract, the notice must be posted by the Contractor in conspicuous places accessible to all employees and applicants for employment. More information about the State of Connecticut's Contract Compliance requirements is available on the Commission on Human Rights and Opportunities' web site at [www.state.ct.us/chro](http://www.state.ct.us/chro) under "Contract Compliance."

Your proposal should confirm you have downloaded, completed, and submitted all of the procurement documents listed above to BizNet. If not, please explain.

**Authorized Agent**

An authorized agent for the Contractor with authority to negotiate and contractually bind the Contractor must sign the proposal; such individual's title, address, and telephone number must also be provided.

**Freedom of Information**

All materials submitted in connection with this RFP are subject to the terms of the State of Connecticut Freedom of Information Act (FOIA), Conn.Gen.Stat. §§1-201 et seq. and all rules, regulations and interpretations resulting therefrom. Due regard will be given for the protection of proprietary information contained in a vendor's proposal. Each vendor should identify particular sentences, paragraphs, pages or sections in its response which it in good faith believes to be exempt from disclosure under FOIA by marking each as "CONFIDENTIAL". It will not be sufficient for vendors to state in general terms that the entire proposal is proprietary in nature and therefore not subject to release to third parties. (See instructions below on submitting a redacted thumb drive with your response.)

**VI. QUESTIONNAIRE/REQUIRED ELEMENTS**

Each response should include the following:

**A. Title Page**

Provide a title page indicating the date, subject, name of the Contractor, central office address and the local office address (if a local office will be performing the contracted services) and the mailing

address, e-mail address, telephone number, name and title of the Contractor's contact person for the purpose of clarifying any information submitted.

**B. Organizational Structure**

Provide a general description of the Contractor's organization, including the legal structure (corporation, partnership, franchise, etc.), the number of professional and support staff employed and the primary business functions (benefits consulting, actuarial consulting, asset management, insurance provider, etc.).

**C. Contractor Experience/Description**

A description of the Contractor that will underwrite short term disability insurance coverage including the Contractor's experience specific to the services requested in this RFP, along with the relevant experience of the staff/principal(s) who would be assigned to this project. List all comparable governmental agencies, corporations, and organizations that the staff members designated for the engagement of services sought by this RFP have provided these services to within the past two (2) years, specifying those with a unionized workforce. In addition, the listing should include the number of years that the Contractor has been retained by comparable governmental agencies, corporations, and organizations to provide such services. Contractors are encouraged to identify other experience, factors, or strengths that they possess which may assist the State in its selection process.

**D. Financials:**

Each carrier must provide detailed information on the financial standing of the insurer proposing to offer the plan, including its most recent financial ratings from the independent rating agencies, such as A.M. Best Company, Standard & Poor's and Moody's. If the insurer offers multiple lines of insurance, please describe the overall financial status of the insurer and specific financial information regarding the insurer's short term disability insurance portfolio. Each carrier must also provide a listing of all requests they have made in the past for rate increases their short term disability insurance policies, both in Connecticut and nationwide. The listing should note the state the request was made in, the amount of the request, whether the request was granted and, if so, the amount of increase granted.

**E. Policy Description:**

Each submission must contain a complete description of the features of the short term disability insurance policy, whether group or individual, that is being offered for review by the VAC. This description must specifically address the policy's:

- a) Underwriting criteria. Specifically, will there be a guaranteed issue feature and who would be eligible? Will there be any sort of simplified or modified underwriting criteria utilized and who would be eligible? What length open enrollment period for any guaranteed issue or simplified/modified underwriting will be available, and for whom (i.e. all employees or just certain employees)? Who will be subject to normal underwriting?
- b) Treatment of pre-existing conditions (if any)
- c) Waiting period (if any)
- d) Availability of policy to employee's family members (if any)
- e) Portability (if any)
- f) Riders (if any)

Where the Connecticut State Insurance Department has approved a policy, a copy must be submitted. Where the policy has yet to receive Insurance Department approval (for instance, because the policy is being written for the specific purpose of this RFP or otherwise awaiting administrative action) a draft copy must be submitted. Each submission must clearly state the program discount associated with such offering.

**F. Premiums:**

Each submission must contain a full schedule of premiums along with the representation that such premiums will be guaranteed for the contract term proposed. Premium schedules must be provided in bi-weekly or monthly amounts. Provide sample quotes for each category or age band quoted.

The State is not responsible for any costs incurred by any party in responding to this RFP.

**G. References**

Provide the names, addresses, and phone numbers of past and present customers who can serve as references. References should include managers and union officials who have worked directly with the Contractor in engagements similar to the scope of the work proposed in the RFP.

**H. Computer Systems**

Each submission must provide a description of on-site computer system Contractor will be using.

I. **Backup Equipment**

Describe the alternative backup for all equipment which may be used by Contractor.

J. **Data Security**

Contractor must describe its data security protocols to protect confidential information and prevent data breaches, inclusive of procedures reflecting compliance with Public Act 15-142.

K. **Subcontracts**

Identify the subcontractor(s), if any, to be utilized in meeting the service requirements of the RFP and a listing of the specific tasks to be assigned to the subcontractor(s).

L. **Recommended Work Plan**

Provide a statement of the Contractor's capacity to provide each of the deliverables specified in this RFP within the expressed time frame.

M. **Remittance File Layout/ Submission Requirements**

The selected Contractor must conform to the file layout requirements of the State of Connecticut Core-CT system.

There are currently two methods for exchanging files with the State's Core-CT system:

1. The carrier logs into the secure Core-CT Production Supplier Portal via https to download files. The URL is <https://corect.ct.gov:10400/psp/PSPRD/signon.html> or <https://corect.ct.gov:10400/psp/PSPRD/signon.html>
  2. The carrier logs into the secure Core-CT Axway Server. The URL is <https://sfile.ct.gov/> For those using an automated system Axway has a client available at <http://www.axway.com/productssolutions/securetransport>
- Testing Requirements**

At least one test cycle must be completed successfully prior to going live employing one of the previously mentioned file transports.

The Core-CT Supplier Portal uses a non-standard port (10400 for Production, 15000 for Test) and that may require action by the carrier's Tech Support area to accomplish this. Vendors must report in their response to this RFP whether they were able to successfully reach the portal sign on page at: <https://corect.ct.gov:10400/psp/PSPRD/signon.html> or have obtained Axway client software and successfully connected to: <https://sfile.ct.gov/>

For testing purposes, the link to the TEST supplier portal is:  
<https://corect.ct.gov:15000/psp/PSTPR/?cmd=login&languageCd=ENG&>

Additional information for all parties that exchange data with State's Core-CT system is available at: <http://www.core-ct.state.ct.us/hrint/>

**All respondents must confirm that they can access the Core-CT portal address from the Production Supplier Portal URL <https://coreps.ct.gov/PSPRD/signon.html> and the Test Supplier Portal URL <https://corepstpr.ct.gov/PSTPR/signon.html>**

N. **Audit Work Plan**

Provide a detailed written explanation of the procedures that vendor has in place to ensure that employee identification data is verified prior to submission of a payroll deduction or any changes thereto. Additionally, submit a detailed description of audit procedures in place utilizing the outbound transmission files from Core-CT.

O. **Sole or Multi-Vendor Arrangement**

Each response must clearly stipulate whether its terms are applicable to a sole vendor arrangement (meaning one Contractor would be selected to market the Program) or a multi-vendor environment (meaning more than one Contractor would be selected), or both. Where a Contractor is agreeable to participating in both a sole vendor arrangement and a multi-vendor environment, indicate clearly the resultant impact, if any, on its fee schedule.

P. **Transition Plan**

In the event that the incumbent Contractor is not selected such incumbent's payroll deducted premiums would cease. Accordingly, all responses should include a transition plan for employees currently purchasing short term disability insurance.

Q. **Sales and Marketing**

Proposals must contain a work plan for marketing the Program to employees located throughout the State. Each Contractor must provide a proposed plan for marketing its approved product(s) to employees located in agencies, like the Department of Corrections and Department of Public Safety, where on-site visits are not feasible or where healthcare concerns make in-person marketing infeasible.

Please identify the resources that will be dedicated to these purposes, such as internet links, sample sales and marketing materials, descriptive brochures, CD's/DVD's, letters, presentations and enrollment forms. (Note that any sales and marketing fees must be rolled into the pricing structure.)

Provide a sample of any relevant publications, reports, policy and procedural recommendations, memoranda, etc. from previous engagements that the Contractor transmits to clients on a regular basis concerning the scope of work proposed in this RFP.

R. **Acknowledgement**

Each proposal must contain the Contractor's acknowledgement that it accepts as final the determinations of the State Comptroller.

S. **State Specific Toll Free Number**

Please confirm that Contractor will operate a State-specific toll free number during the entire contract period.

T. **Reporting**

Please confirm that Contractor will be provide ongoing quarterly reporting to Comptroller relative to product(s) offered to participating employees.

U. **Web Site**

Each Contractor must specify and include samples of a State specific web site relative to the product(s) offered.

V. **Conflict of Interest**

Disclose any current or past (within the last ten years) business relationships which may pose a conflict of interest.

W. **Regulatory Issues**

Disclose any regulatory problems experienced in the past ten years.

X. **Affirmative Action**

The proposal must include a summary of the Contractor's experience with Affirmative Action including a summary of the Contractor's affirmative action plan and the Contractor's affirmative

**ATTACHMENT A**

**AGREEMENT FOR THE STATE OF CONNECTICUT VOLUNTARY  
SUPPLEMENTAL BENEFIT PROGRAM PAYROLL DEDUCTION SLOT**

This Agreement (“Agreement”) for the State of Connecticut Voluntary Supplemental Benefit Program (“Program”) payroll deduction slot is made and entered into as of the 1st day of January 2021 (“Effective Date”) by and between the State of Connecticut (“State”) by and through Office of the State Comptroller (“Comptroller” and/or “Agency”), and [ ] (“Carrier” and/or “Contractor”).

WITNESSETH THAT:

WHEREAS, under the authority of Conn. Gen. Stat. Section 3-112 and Section 3-123g the Comptroller has approved a payroll deduction slot for [ ] insurance, which shall be offered to active and retired employees of the State.

WHEREAS, the Carrier desires to [ ] insurance, to active (and retired) employees of the State.

WHEREAS, the State has selected the Carrier to provide [ ] insurance under the Program on the terms and conditions set forth below.

NOW, THEREFORE, intending to be legally bound, the State, and Carrier hereby agree as follows:

*Section 1 – Definitions.*

“Employees” shall mean all permanent, active employees (excluding per diem employees and temporary or seasonal employees) of the State who work a minimum of seventeen and one-half (17.5) hours or more per week.

*Section 2 – Agreement to Provide Services/ Rates/ Payroll Deduction Slot.*

(a) Services The Carrier hereby agrees to offer [ ] insurance to State employees pursuant to its [ ] Insurance Program (the “Program”). The Carrier’s solicitation and marketing to Employees, subject to Section 9 of this Agreement, shall be limited to [ ] insurance offered under the aforementioned Program.

The Carrier shall continue to provide those who previously purchased [ ] insurance through the Program, the opportunity to upgrade their coverage should such upgrades become available in the future.

(b) Rates The Carrier agrees that any policies issued to an employee of the State hereunder will be pursuant to its filed and approved insurance policy rates and forms with the Connecticut Insurance Department.



(c) Payroll Deduction Slots The State agrees to provide payroll deduction to employees paying premium for the purchase of [\_\_\_\_\_] insurance offered under this Agreement, and to continue to provide payroll deduction for those currently paying premium for coverage previously obtained.

*Section 3 - Entire Agreement.*

This Agreement embodies the entire agreement between the State and the Carrier on matters specifically addressed herein. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. This Agreement shall supersede all prior written agreements between the parties and their predecessors. No changes, amendments or modifications of any terms or conditions of the Agreement shall be valid unless reduced to writing and signed by both parties. The Carrier's proposal dated [\_\_\_\_\_] , was created and used as determinative in the competitive procurement that resulted in this Agreement. That proposal is attached hereto as a reference exhibit (Exhibit A). In the event of any conflict between the proposal and this Agreement, this Agreement shall prevail.

*Section 4 – Term*

This Agreement shall be effective January 1, 2021 and shall expire on December 31, 2023, at which time the parties may agree to extend the Agreement for an additional term, not to exceed two years.

*Section 5 – Termination*

(a) Termination for Convenience: Notwithstanding any provisions in this Contract, Comptroller or Contractor, through a duly authorized employee, may terminate the Contract pursuant to this section by giving at least 60 days' notice in writing to the other party.

(b) Termination for Cause: If either party breaches the Agreement in any material respect, the non-breaching party shall provide written notice of the breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) days from the date the breaching party receives the notice. Their right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured during the 10-day period. The notice may include an effective Contract Termination date if the breach is not cured by the stated date. Unless otherwise modified by the non-breaching party in writing prior to the Termination date, no further action shall be required of any party to affect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date, then the non-breaching party may terminate the Agreement by giving the breaching party no less than twenty-four hours written notice.

(c) Any notice of Termination must be sent to the address listed in Section 20 of the Agreement via certified mail, return receipt requested or by hand delivery.

(d) Upon receipt of a written notice of Termination from Comptroller, the Contractor shall cease operations as Comptroller directs in the notice, and take all actions that are necessary or appropriate, or that Comptroller may reasonably direct. Comptroller will forward to Carrier all accrued but unpaid premiums that have been collected by the State by payroll deduction through the effective date of Termination.

(e) For breach or violation of any of the provisions in the section concerning Representations and Warranties, Comptroller may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.

(f) Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.

(g) Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract.

#### *Section 6 –Continuation of Coverage.*

In the event that a covered employee leaves state service the Carrier shall continue to provide coverage if the covered employees so chooses, limited only by the terms and provisions of the insurance policies, and the Carrier shall bill such person directly.

In the event that this Agreement expires and is not renewed or is otherwise terminated as provided in Section 5 of this Agreement, the Carrier shall continue to provide coverage if the covered employee person so chooses, limited only by the terms and provisions of the insurance policies, and the Carrier shall bill such person directly. In the event that this Agreement expires and is not renewed or is otherwise terminated as provided in Section 5 of this Agreement, the Carrier shall not offer or market coverage under the Program or offer payroll deductions to any state employee.

#### *Section 7 –Policy Changes.*

The Carrier shall provide to those who purchased coverage through the Program the opportunity to explore all coverages available to state employees should upgrades become available under the Program. The Carrier shall notify the Comptroller's Office prior to offering any change in coverage. It is understood that Carrier must obtain approval of any coverage change from the Connecticut Insurance Department prior to offering the same under the Program.

*Section 8 – Effective Dates of Coverage.*

Effective dates of coverage shall be determined in accordance with the request of a participating employee but in no event shall coverage be earlier than the morning of the day after telephone contact if the coverage is bound via telephone.

*Section 9 – Marketing*

(a) Carrier shall submit a marketing plan to Comptroller for review and written approval. This marketing plan and the Comptroller's approval thereto are attached hereto as Exhibit B and are incorporated herein by reference. Such marketing plan shall include, but not be limited to, an identification of any other person or companies engaged by the Carrier to market such coverage under the Agreement. The Carrier shall coordinate any marketing strategy through the Comptroller. The Carrier, and any agent or person employed by the Carrier to market [\_\_\_\_\_] insurance under this Agreement, shall conduct its marketing activities in accordance with the marketing plan approved by the Comptroller.

(b) The Carrier shall pay for all educational, marketing and enrollment expenses associated with the Program and its offering except for Program administrative expenses incurred by the Comptroller. Unless otherwise agreed the Comptroller shall pay for promotional activities specifically generated by the Comptroller in connection with the Program.

(c) Prior to their distribution to employees (and retirees), the Carrier agrees to submit to the Comptroller for review and prior approval all communication, marketing and educational materials related to the Program, including, but not limited to, letters, brochures, flyers, posters, web sites, radio/television advertising, newspaper advertising, billboards, etc. All marketing material must contain truthful information and not convey negative or disparaging information about competitors' products or contain comparisons to competitors' products. Carrier shall not offer incentives or promotions to enroll in coverage, including, but not limited to, door prize giveaways and raffles. Carrier is permitted to offer business related items such as pens, pencils, and magnets. Carrier agrees to distribute only such material and items as have been submitted to and approved by the Comptroller.

(d) The Comptroller agrees to actively promote the Program to employees through letters, and other means at his disposal and further agrees to work with state employee unions and various State Agencies to educate employees as to the availability of the Program.

*Section 10– Advertising, Publicity and Promotion.*

Unless specifically authorized in writing by the Comptroller, the Carrier shall have no right to use, and shall not use, the name of the State of Connecticut, its officials or employees, the seal of the State, or the seal of the Comptroller:

(a) In any advertising, publicity, promotion; nor

(b) To express or imply any endorsement of the Carrier's products or services; nor

(c) To use the names of the State, its officials or employees or the State seal or Comptroller's seal in any manner (whether or not similar to uses prohibited by subparagraphs (a) and (b) above), except as only to manufacture and deliver in accordance with this Agreement such items as are hereby contracted by the State, provided however, the use of the State seal shall require specific and express permission from the Secretary of the State.

### *Section 11 - Personnel*

At all times, Carrier shall utilize approved, qualified personnel and any Comptroller-approved material subcontractors necessary to perform the services under this Agreement. Carrier shall advise the Comptroller promptly, in writing, of any actual or anticipated labor dispute or other labor related occurrence known to Carrier involving Carrier's employees or subcontractors which may reasonably be expected to affect Carrier's performance of services under this Agreement. The Comptroller may then, at his option, ask Carrier to arrange for a temporary employee(s) or subcontractor(s) satisfactory to the Comptroller to provide the services otherwise performable by Carrier hereunder.

Carrier shall, if requested to do so by the Comptroller, reassign from the Comptroller's account any employee or authorized representatives whom the Comptroller, in his sole discretion, determines is incompetent, dishonest, or uncooperative. In requesting the reassignment of an employee under this paragraph, the Comptroller shall give ten (10) days' notice to Carrier of the Comptroller's desire for such reassignment. Carrier will then have five (5) days to investigate the situation and attempt, if it so desires, to satisfy the Comptroller that the employee should not be reassigned; however, the Comptroller's decision in its sole discretion after such five (5) day period shall be final. Should the Comptroller still desire reassignment, then five days thereafter, or ten (10) days from the date of the notice of reassignment, the employee shall be reassigned from the Comptroller's account.

### *Section 12 – Subcontracting.*

The Carrier may enter into one or more subcontracts for the performance of portions of its services and obligations under this Agreement. The Carrier shall notify the State prior to the effective date of such subcontract of the identity of any material subcontractor together with a description of the portions of the work to be subcontracted and the State shall approve such subcontractor prior to commencement of work or service and such approval shall not be unreasonably withheld. Notwithstanding such subcontracting and/or delegation of duties, the Carrier shall remain responsible to the State for ensuring that its obligations under this Agreement are performed in accordance with the applicable provisions of this Agreement.

### *Section 13 – Compensation for Brokers/Enrollers*

As of the effective date of this Agreement, the Carrier shall provide to the Comptroller any and all agreements for compensation with its brokers and/or enrollers who are authorized to serve employees of the State pursuant to this Agreement. Compensation for purposes of this Agreement includes, but is not limited to, any and all fees, bonuses, salary, commissions, expenses, finder's fees, awards payments, rollovers, override agreements, consolidation and book rolling. Carrier

is prohibited from providing any contingent commissions, rollovers, override payments or volume based bonuses to brokers and/or enrollers for recommending the Carrier's insurance product,

The Carrier is prohibited from providing any compensation, as defined in this section, except for permitted compensation to brokers and/or enrollers, to any organization, group, individual, firm or agency for placement of or access to insurance for employees of State pursuant to the Program or this Agreement, provided except that the Parties agree that the Carrier may compensate third parties such as agents, producers, brokers and consultants, in furtherance of fulfilling its obligations under this Agreement.

Any violation of this section shall be grounds for immediate termination of the payroll slot for insurance offered by the Carrier.

*Section 14 – Payment Schedules, File Requirements and Work Papers.*

(a) The Carrier shall accept and abide by the State's payroll deduction file transmission requirements. In order to ensure accurate collection of premiums by Carrier Comptroller may develop specific file, reporting and auditing requirements, and Carrier agrees to accept and abide by such requirements as a condition of receiving payroll deductions.

(b) It is the Carrier's responsibility to ensure that payroll deductions are only submitted for individuals that have authorized it to collect premiums for coverage via payroll deduction. The Carrier shall verify an individual's enrollment data (including name, address, employee ID number, and other identifying data) prior to submitting to Comptroller a payroll deduction file that would have the effect of commencing or increasing an employee's payroll deduction with regard to a policy issued by Carrier.

(c) Notwithstanding any occurrence beyond his reasonable control, the Comptroller agrees to remit to Carrier, on a bi-weekly basis, an amount of funds attributable to those individuals who have authorized Carrier to collect premiums via payroll deduction together with a funding report that lists all employees covered and their corresponding premium amounts.

(d) On a regular basis, but no less frequently than monthly, the Carrier shall cross-check the Comptroller's funding report against its list of policy holders and premiums and shall notify Comptroller immediately of any discrepancies.

(e) If it is determined that Carrier has used the payroll deduction file to collect premium from an individual that has not authorized such deduction, Carrier shall refund such incorrectly deducted premiums promptly.

(f) By the Effective Date, the Carrier shall develop a payment schedule and a procedure for notifying the Comptroller of any changes to an individual's deduction amount as a result of dropping, upgrading or downgrading coverage.

(g) All work papers and data used in the performance of this contract must be available for inspection by the State of Connecticut for a period of three (3) years or until audited.

(h) Carrier is responsible for ensuring compliance with the requirements of Conn.Gen.Stat. §31-71e and agrees not to submit a payroll deduction file that would have the effect of increasing the amount of an employee's payroll deduction amount without written consent.

*Section 15 – Reporting.*

The Comptroller reserves the right to request additional reports as may be necessary; the Carrier agrees to abide by and accept the Comptroller's reporting requirements.

The Carrier shall submit the following reports to the Comptroller on a quarterly basis (within 30 days of the end of the quarterly period) beginning with the effective date of the Agreement:

(a) A report detailing the number of active employees who have purchased or dropped coverage through the Program, the total amount of premiums received in accordance with pay frequency (payroll deduction, direct bill, EFT, etc.), and the total number of policies in force;

(b) A report detailing the number of retired employees who have purchased or dropped coverage through the Program, the total amount of premiums received in accordance with pay frequency (pension deduction, direct bill, EFT, etc.), and the total number of policies in force;

(c) A claims activity report detailing the number of claims received, number of claims processed, number of claims denied, number of claims pending, claim turnaround time, financial claim payment accuracy rate and non-financial claim coding accuracy rate on an aggregate basis with specific State employee metrics. The aggregate data provided shall be broken down by line of business, including but not limited to, [\_\_\_\_\_] insurance; and

(d) A report detailing target telephone response time, abandonment rate, and written response rate.

*Section 16 – Applicable Law and Litigation.*

This Agreement shall be governed by, construed, and enforced in accordance with the laws and court decisions of the State of Connecticut without giving effect to its principles of conflicts of laws. The Carrier agrees that the sole and exclusive means for the presentation of any claims against the State arising from this contract shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings in any State or Federal Court in addition to, or in lieu of, said Chapter 53 proceedings.

The Contractor shall provide written notice to the state of any litigation that relates to the services directly or indirectly provided under this Agreement or that has the potential to impair the ability of the Contractor to fulfill the terms and conditions of this Agreement, including but not limited to financial, legal or any other situations which may prevent the Contractor from meeting its obligation under the Agreement.

*Section 17 – Indemnity.*

(a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' fees, arising, directly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance. The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.

(b) The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.

(c) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract and shall provide a certificate of coverage to the State prior to the effective date of the Contract.

(d) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

#### *Section 18 – Sovereign Immunity.*

Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed and understood that the State of Connecticut shall not be construed to have waived any rights or defenses of sovereign immunity which it may have with respect to all matters arising out of this Agreement.

#### *Section 19– Authorizations.*

Each party hereby represents that it has the unrestricted right and authority to enter into and perform its obligations under this Agreement.

#### *Section 20 – Notices.*

All notices required or permitted to be given or made in this Agreement shall be in writing. Such notice(s) shall be deemed to be duly given or made if delivered by hand, by certified or registered mail or by nationally recognized overnight courier to the address specified below:

If to Comptroller: Office of the State Comptroller  
Healthcare Policy & Benefit Services Division  
55 Elm Street  
Hartford, CT 06106  
Attn: Thomas C. Woodruff, Ph.D., Director

If to Carrier:

*Section 21– Grievance Procedures.*

By the effective date of this Agreement, the Carrier shall submit a grievance procedure to the Comptroller for review and written approval by the Comptroller. The Carrier shall implement the grievance procedure as approved by the Comptroller. The Carrier’s Grievance Procedure is attached hereto as Exhibit C and is incorporated herein by reference.

*Section 22 – Nondisclosure.*

The Carrier shall not release any information concerning the services provided pursuant to this Agreement or any part thereof to any member of the public, press, business entity or any official body unless prior written consent is obtained from the Comptroller, except to the extent required by law, legal process or regulatory authority having jurisdiction over the Carrier.

*Section 23– Confidentiality.*

All employee data provided to Carrier by the State will be treated as proprietary to the State and confidential. The Carrier agrees to hold such employee information in strictest confidence and not to disclose or otherwise make available any of such information in any form to any person except to those employees of the State or the Carrier or the subcontractors of the Carrier who need access to the information to facilitate the provision of services under this Agreement, except where a disclosure of such information by Carrier is required by other governmental authority to ensure compliance with laws, rules or regulations, in which event disclosure will be limited to that actually so required. Where such disclosure is required, the Carrier will provide advance notice to the Comptroller of the need for the disclosure and will not disclose absent consent from the Comptroller, except to the extent required by law, legal process or regulatory authority having jurisdiction over such party. Nothing herein shall be construed to prohibit Carrier from providing routine information to employees or beneficiaries concerning the Program. Contractor agrees and warrants that this Section 23 is binding on any subcontracts for the performance of services and obligations under this Agreement.

Except customer information, all materials associated with the Agreement and information exchanged in the course of providing services may be subject to disclosure under the Connecticut Freedom of Information Act (“FOIA”) and all corresponding rules, regulations and interpretations.



(a) Within 30 days of the execution of this Agreement Contractor shall notify the State in writing of any trade secrets, proprietary or confidential information contained in this Agreement that it claims may be exempt from public disclosure under FOIA. In making a request for protection of materials the Contractor must specifically identify those particular sentences, paragraphs, pages, or sections of the Agreement that the Contractor believes are exempt from disclosure under the FOIA and provide a convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Contractor that would result if the identified material were to be released and reasons why the materials are legally exempt from release pursuant to the FOIA.

(b) If the Contractor indicates that certain information is submitted in confidence it shall specifically and clearly mark said documentation as "CONFIDENTIAL". Comptroller shall keep said information confidential to the extent permitted by law. Comptroller, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to the FOIA. The Contractor shall have the burden of establishing that the availability of any FOIA exemption in any proceeding where it is an issue.

(c) In the event the State is served with any subpoena or court order demanding the release or disclosure of data or information that has been identified as proprietary or confidential, the State agrees to notify Contractor upon receipt of such request to allow Contractor to seek injunctive relief to prevent the release of such data or information.

(d) In no event shall Comptroller or the State have any liability for the disclosure of any documents in its possession, which the State or Comptroller believes are required to be disclosed pursuant to the FOIA or other requirements of law. To the extent that any other provision or part of the Contract conflicts with or is in any way inconsistent with this section, this section controls and shall apply.

*Section 24 - Discovery of Conflicts, Errors, Omissions and Discrepancies.*

In case of conflicts, discrepancies, errors or omissions among the various parts of this Agreement, any such matter shall be submitted immediately by the Carrier to the Comptroller for clarification. The Comptroller shall issue such clarification within a reasonable period of time. Any service affected by such conflicts, discrepancies, errors or omissions which are performed by the Carrier prior to clarification by the Comptroller shall be at the Carrier's risk. This section 15 shall not be interpreted to allow Carrier to discontinue coverage of insurance to Employees.

*Section 25– Amendments.*

This Agreement may be amended only with the consent and signature of both parties and with the approval of the Attorney General.

*Section 26– Non-Waiver.*

None of the conditions of this Agreement shall be considered waived by any party hereto unless given in writing. No such waiver shall be a waiver of any past or future default, breach or modification of any of the conditions of this Agreement unless expressly stipulated in such waiver.

*Section 27– Assignment.*

This Agreement shall not be assigned by either party without the express prior written consent of the other.

*Section 28 – Executive Orders.*

The Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At VRIAC's request, the OSC shall provide a copy of these orders to the Contractor. The Contract may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions.

*Section 29 – Summary of State Ethics Laws.*

Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract. (See Exhibit D, attached hereto and incorporated by reference herein.)

*Section 30– Campaign Contribution Restriction.*

Pursuant to the requirements of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising State contractors of State campaign contribution and solicitation prohibitions, and will inform its Contractor Parties of the contents of the notice.

*Section 31 – Nondiscrimination and Affirmative Action Provisions.*

(a) For purposes of this Section, the following terms are defined as follows:

- (1) "Commission" means the Commission on Human Rights and Opportunities;
- (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
- (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- (4) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- (5) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- (6) "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
- (7) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- (8) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- (9) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b) (1) The contractor agrees and warrants that in the performance of Services under the Contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or

physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the Services involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the Services involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

(c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The Contractor shall include provisions similar to the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

(g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

(h) The Contractor shall include provisions similar to the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

*Section 32 – Health Insurance Portability Act.*

(a) The parties acknowledge and affirm their understanding that plans for the provision of [\_\_\_\_\_] insurance is an “excepted benefit” within the meaning of 42 U.S.C. §300ggg-91(c) and for that reason is not subject to the requirements of HIPAA. If an appropriate party or entity determines that it does apply, then in that event either party may terminate this Agreement on notice to the other. If neither party terminates, for purposes of this Section the following definitions shall apply:

- (1) “Business Associate” shall mean the Contractor.
- (2) “Covered Entity” shall mean the Agency.

- (3) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
- (4) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- (5) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
- (6) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- (7) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
- (8) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- (9) “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.202.
- (10) “This Section of the Contract” refers to the HIPAA Section of this Contract, in its entirety.
- (11) (10)“Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.
- (12) (11)“Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.

(b) If the Contactor is a Business Associate under HIPAA, the Contractor shall comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.

(c)The Contractor and the Agency shall safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state laws regarding confidentiality, which includes but is not limited to the requirements of HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.

(d) The Agency is a “covered entity” as that term is defined in 45 C.F.R. § 160.103.

(e)The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103.

(f) The Contractor is a “business associate” of the Agency, as that term is defined in 45 C.F.R. § 160.103.

(g) Obligations and Activities of Business Associates:

- (1) Business Associate shall not use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.

- (2) Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate shall use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate shall report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any Security Incident of which it becomes aware.
- (6) Business Associate shall insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, shall agree to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate shall provide access, at the request of the Covered Entity, and in the time and manner agreed to by them, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate shall make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by them.
- (9) Business Associate shall make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by them or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (11) Business Associate shall provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection 10 of this Section of the

Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(12) Business Associate shall comply with any State law that is More Stringent than the Privacy Rule.

(i) Permitted Uses and Disclosure by Business Associate

(1) General Use and Disclosure. Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

(2) Specific Use and Disclosure.

(3) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(A) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(B) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services as defined in 45 C.F.R. § 164.501, to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations Of Covered Entity

(1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

(3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.



(k) Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for Data Aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination

- (1) The term of this Section of the Contract shall be effective as of the date the Contract is effective and shall Terminate or Expire when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Upon Covered Entity's knowledge of a material breach of this Section by Business Associate, Covered Entity shall either proceed in accordance with the Breach section of this Contract or, if neither Cancellation nor a cure is feasible, then Covered Entity shall report the breach to the Secretary.

(A) Effect of Termination, Cancellation and Expiration

Except as provided above, upon Termination, Cancellation or Expiration of this Contract, Business Associate shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions

- (1) A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) The Parties shall take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and HIPAA.

- (3) The respective rights and obligations of Business Associate under this section of the Contract shall survive the Termination or Cancellation of this Contract.
- (4) This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (5) Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any Claim related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any Contractor Parties or any other party to whom Business Associate has disclosed PHI pursuant to this Section of the Contract. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

### *Section 33 - Data Security*

(a). Definitions: As used in this section:

- (1) "Contractor" means an individual, business or other entity that is receiving confidential information from a state contracting agency or agent of the state pursuant to a written agreement to provide goods or services to the state.
- (2) "State agency" means any agency with a department head, as defined in section 4-5 of the general statutes.
- (3) "State contracting agency" means any state agency disclosing confidential information to a contractor pursuant to a written agreement with such contractor for the provision of goods or services for the state.
- (4) "Confidential Information" means a state employee's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation, personally identifiable information subject to 34 CFR 99, as amended from time to time and protected health information, as defined in 45 CFR 160. 103, as amended from time to time. In addition, "confidential information" includes any information that OSC identifies as confidential to the contractor. "Confidential Information" does not include information that may be lawfully obtained from publicly available sources or from

federal, state, or local government records that are lawfully made available to the general public.

- (5) "Confidential Information Breach" means an instance where an unauthorized person or entity accesses confidential information that is subject to or otherwise used in conjunction with the Agreement in any manner, including, but not limited to, the following occurrences: (A) Any Confidential Information that is not encrypted or secured by any other method or technology that renders the personal information unreadable or unusable is misplaced, lost, stolen or subject to unauthorized access; (B) one or more third parties have accessed, or taken control or possession of, without prior written authorization from the state, (i) any Confidential Information that is not encrypted or protected, or (ii) any encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (C) there is a substantial risk of identity theft or fraud of the State's Plan Participants.

(b) Pursuant to this Agreement OSC will share Confidential Information with Contractor, and Contractor agrees to do the following:

- (1) At its own expense, Contractor will protect from a Confidential Information Breach any and all Confidential Information that it comes to possess or control, wherever and however stored or maintained;
- (2) Implement and maintain a comprehensive data-security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information as set forth in all applicable federal and state law and written policies of the state as set forth in this Agreement. Such data-security program shall include, but not be limited to, the following: (a) A security policy for Contractor employees related to the storage, access and transportation of data containing Confidential Information; (b) reasonable restrictions on access to records containing Confidential Information, including the area where such records are kept and secure passwords for electronically stored records; (c) a process for reviewing policies and security measures at least annually; and (d) an active and ongoing employee security awareness program that is mandatory for all Contractor employees who may have access to Confidential Information provided by the State that, at a minimum, advises such employees of the confidentiality of the information, the safeguards required to protect the information and any applicable civil penalties for noncompliance pursuant to applicable state and federal law;
- (3) Limit access to Confidential Information to authorized Contractor employees and authorized agents of the Contractor, for authorized purposes as necessary for the completion of the contracted services or provision of the contracted goods;
- (4) Maintain all electronic data constituting Confidential Information obtained from the State: (a) In a secure server; (b) on secure drives; (c) behind firewall protections and monitored by intrusion detection software; (d) in a manner where access is restricted

to authorized Contractor employees and their authorized agents; and (E) as otherwise required under applicable state and federal law;

- (5) Implement, maintain and update security and breach investigation procedures that are appropriate given the nature of the information disclosed and that are reasonably designed to protect the Confidential Information from unauthorized access, use, modification, disclosure, manipulation or destruction;
- (6) Notify OSC and the Attorney General as soon as practical after Contractor becomes aware of or has reason to believe that any confidential information of the State or its employees that Contractor possesses or controls has been subject to a confidential information breach;
- (7) Immediately cease all use of the data provided by OSC if so directed by OSC; and
- (8) In accordance with the proposed timetable established pursuant to subdivision (1) of subsection (E) of this section, submit to the office of the Attorney General and OSC:
  - (a) a report detailing the breach or suspected breach, including a plan to mitigate the effects of any breach and specifying the steps taken to ensure future breaches do not occur, or
  - (b) a report detailing why, upon further investigation, Contractor believes no breach has occurred.

(c) Contractor shall not:

- (1) Store data constituting Confidential Information on stand-alone computer or notebook hard disks or portable storage devices such as external or removable hard drives, flash cards, flash drives, compact disks or digital video disks, except as provided for in the Agreement and including alternate measures of security assurance approved pursuant to applicable law, including Connecticut Public Act 142; or
- (2) Copy, reproduce or transmit data constituting Confidential Information, except as necessary for the completion of the contracted services or provision of the contracted goods.

(d) All copies of data constituting Confidential Information of any type, including, but not limited to, any modifications or additions to data that contain confidential information, are subject to the provisions of this section in the same manner as the original data.

(e) In the event of a Confidential Information Breach or a suspected Confidential Information Breach Contractor shall:

- (1) Notify OSC and the office of the Attorney General as soon as practicable when it has reason to believe that there has been a Confidential Information Breach or a suspected Confidential Information Breach.
- (2) Within 3 days of providing the notice of the discovery of a breach or suspected breach of Confidential Information Contractor shall submit to the office of the Attorney General and OSC either (A) a report detailing the breach or (B) a report

detailing why, upon further investigation, the contractor believes no breach has occurred; and

- (3) If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to OSC and the Connecticut Office of the Attorney General, for review and approval.
  - (A) Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach.
  - (B) Such credit monitoring or protection plan shall include but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a.
  - (C) Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach.
  - (D) The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from any State of Connecticut entity or any affected individuals.
- (4) The notice required by subsection (E) of this section may be delayed (1) at the Comptroller's sole discretion based on the report and, if applicable, the plan provided, or (2) if a law enforcement agency or intelligence agency notifies the contractor that such notification would impede a criminal investigation or jeopardize homeland or national security. If notice is delayed pursuant to this subsection, notification shall be given as soon as reasonably feasible by the contractor to the applicable state contracting agency.
- (5) Contractor understands that the Attorney General may investigate any violation of this section. If the Attorney General finds that a contractor has violated or is violating any provision of this section, the Attorney General may bring a civil action in the superior court for the judicial district of Hartford under this section in the name of the state against such contractor. Nothing in this section shall be construed to create a private right of action.
- (6) The requirements of this section shall be in addition to the requirements of Conn. Gen. Stat. Section 36a-701b, as amended, and nothing in this section shall be construed to supersede a contractor's obligations pursuant to the Health Insurance Portability and Accountability Act of 1996 P. L. 104-191 ("HIPAA"), the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g, ("FERPA") or any other applicable federal or state law.

- (7) The Contractor shall incorporate requirements similar to the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in a manner similar to that as provided for in this Section.

*Section 34 – Interpretation.*

The Agreement contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Agreement to those statutes and regulations

*Section 35 – No Filing of Liens*

Notwithstanding anything to the contrary contained herein, both parties hereby acknowledge that this Contract does not: (i) permit the filing of liens against the State; (ii) obligate the State to indemnify or hold the Contractor harmless in any way; (iii) obligate the State to be subject to binding arbitration; or (iv) provide that this Contract is expired or terminated. Further, any foregoing provision of this Contract that would cause this Contract to be considered a contract that: (i) permits the filing of liens against the State; (ii) obligates the State to indemnify or hold the Contractor harmless in any way; (iii) obligates the State to be subject to binding arbitration; or (iv) provides that this Contract is expired or terminated is null, void, unenforceable and hereby stricken from this Contract.

*Section 36 – Force Majeure*

The Comptroller and the Contractor shall not be excused from their obligation to perform in accordance with the Agreement except in the case of Force Majeure events and as otherwise provided for in the Agreement. In the case of any such Force Majeure exception, the nonperforming Party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance. Upon receipt of notice of failure or delay in performance caused by the Force Majeure, performance time shall be considered extended for at least a period of time equivalent to the time lost as a result of any such delay.

*Section 37. Disclaimer of Individual Personal Service Agreement*

Notwithstanding anything to the contrary contained herein, both parties hereby acknowledge that this Contract is not a Personal Service Agreement entered into by OSC for the purpose of hiring an individual as contemplated by Conn. Gen. Stat. Section 4a-58(b). Further, any foregoing provision of this Contract that would cause this Contract to be considered a contract for the purpose of hiring an individual as contemplated by Conn. Gen. Stat. Section 4a-58(b) is null, void, unenforceable and hereby stricken from this Contract.

*Section 38 – Absence of Tangible Personal Property*

Notwithstanding anything to the contrary contained herein, both parties hereby acknowledge that this Contract does not concern or in any way relate to tangible personal property as contemplated by Conn. Gen. Stat. Section 12-411b. Further, any foregoing provision of this Contract that would cause this Contract to concern or in any way relate to tangible personal property as contemplated by Conn. Gen. Stat. Section 12-411b is null, void, unenforceable and hereby stricken from this Contract.

*Section 39 – Absence of State Grant Funding*

Notwithstanding anything to the contrary contained herein, both parties hereby acknowledge that this Contract is not funded by and does not concern or in any way relate to a state grant as contemplated by Conn. Gen. Stat. Section 7-396a. Further, any foregoing provision of this Contract that would cause this Contract to concern or in any way relate to a state grant as contemplated by Conn. Gen. Stat. Section 7-396 a is null, void, unenforceable and hereby stricken from this Contract.

*Section 40 – Disclaimer of Construction/Procurement Status*

Notwithstanding anything to the contrary contained herein, both parties hereby acknowledge that this Contract is not a Large Construction or Procurement Contract as contemplated by Conn. Gen. Stat. 1-101qq and defined in Conn. Gen. Stat. 1-101mm. Further, any foregoing provision of this Contract that would cause this Contract to be considered a Large Construction or Procurement Contract as contemplated by Conn. Gen. Stat. 1-101qq and defined in Conn. Gen. Stat. 1-101mm is null, void, unenforceable and hereby stricken from this Contract.

*Section 41– Disclaimer of Governmental Assignment/Allocation*

It is OSC's express policy to never intentionally assign or allocate, in whole or in part, to any person or contractor, any Governmental Function as defined by Chapter 14 of the Conn. Gen. Stat. and contemplated by Conn. Gen. Stat. Section 1-218. If, however, (a) this Contract has a value greater than or equal to Two Million Five Hundred Thousand Dollars (\$2,500,000) and (b) the State Freedom of Information Commission makes a final determination that this Contract is a contract for the performance of a Governmental Function, then this Contract shall be subject to the provisions of Conn. Gen. Stat. Section 1-218, as may be modified from time to time. Accordingly, OSC shall be entitled to receive a copy of the Contractor's records and files related to its performance of such Governmental Function, and such records and files shall be subject to the State of Connecticut Freedom of Information Act, Conn. Gen. Stat. Sections 1-1-200 *et seq.* No request to inspect or copy such records or files pursuant to the Freedom of Information Act shall be valid unless the request is made to the Office of OSC in accordance with the provisions set forth in the State of Connecticut Freedom of Information Act. Any complaint by a person who is denied

the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Conn. Gen. Stat. Sections 1-205 and 1-206.

*Section 42 – Statutory References*

Both parties to this Contract hereby agree that all references to statutes, public acts and executive orders made herein shall refer to such statutes, public acts and executive orders as they are, were or shall be amended, replaced or superseded, from time to time.

*Section 43 - Counterparts.*

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile or Portable Document Format (PDF) copies thereof shall be deemed to be originals.

IN WITNESS HEREOF, the parties execute this Agreement as of the Effective date.

Metropolitan Property and Casualty Insurance Company

Office of the State Comptroller

By \_\_\_\_\_  
Title

By \_\_\_\_\_  
Comptroller

Date: \_\_\_\_\_

Date: \_\_\_\_\_

State of Connecticut, Attorney General’s Office  
Approved as to form on \_\_\_/\_\_\_/\_\_\_

\_\_\_\_\_





# State Contractors Guide to the Code of Ethics



**Office of State Ethics**

Carol Carson, Executive Director

## State Contractors Guide to the Code of Ethics

### Contact Us



**Agency Address:** Connecticut Office of State Ethics  
18-20 Trinity Street  
Suite 205  
Hartford, CT 06106

**Telephone:** 860-263-2400

**Facsimile:** 860-263-2402

**Website:** [www.ct.gov/ethics](http://www.ct.gov/ethics)

**Business Hours:** 8:00 am to 5:00 pm

**Visitors must enter the building through the door next to the Bushnell Memorial Theater.**

**Specific E-mail Contacts:** For the timeliest responses, please be sure to direct your questions to the appropriate e-mail address; for example, with a question such as, "Can I accept this outside position with a vendor?" please be sure to send your query to [ethics.code@ct.gov](mailto:ethics.code@ct.gov)

- |  |  |
|--|--|
| ➤ Legal Advice Regarding Code of Ethics      | <a href="mailto:ethics.code@ct.gov">ethics.code@ct.gov</a>               |
| ➤ Lobbyist Filing/Reporting Questions        | <a href="mailto:lobbyist.ose@ct.gov">lobbyist.ose@ct.gov</a>             |
| ➤ Public Official Filing/Reporting Questions | <a href="mailto:sfi.ose@ct.gov">sfi.ose@ct.gov</a>                       |
| ➤ Enforcement/Filing a Complaint             | <a href="mailto:ethics.enforcement@ct.gov">ethics.enforcement@ct.gov</a> |
| ➤ All Other Inquiries                        | <a href="mailto:ose@ct.gov">ose@ct.gov</a>                               |

[Staff Phone Number Listing](#)

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### OFFICE OF STATE ETHICS

Created on July 1, 2005, under Public Act [05-183](#), the Office of State Ethics (“OSE”) is an independent regulatory agency charged with administering and enforcing the Connecticut Codes of Ethics (“Ethics Codes”), which are found in Chapter 10 of the Connecticut General Statutes.

The OSE’s duties include educating all those covered by the Ethics Codes; interpreting and applying the Ethics Codes; investigating violations of, and otherwise enforcing, the Ethics Codes; and providing information to the public.

The OSE’s jurisdiction:

- |                 |   |
|-----------------|---|
| <b>Part I</b>   | Code of Ethics for Public Officials<br>General Statutes <a href="#">§§ 1-79</a> to <a href="#">1-90a</a>                                |
| <b>Part II</b>  | Code of Ethics for Lobbyists<br>General Statutes <a href="#">§§ 1-91</a> to <a href="#">1-101a</a>                                      |
| <b>Part III</b> | Lobbying: Miscellaneous Provisions<br>General Statutes <a href="#">§§ 1-101aa</a> and <a href="#">1-101bb</a>                           |
| <b>Part IV</b>  | Ethical Considerations Concerning Bidding and State Contracts<br>General Statutes <a href="#">§§ 1-101mm</a> to <a href="#">1-101rr</a> |

The OSE Executive Director has overall responsibility for the welfare and effectiveness of the OSE, which has three divisions, the legal division, the enforcement division, and the administrative division.

The OSE’s governing body is the Citizen’s Ethics Advisory Board (“CEAB”), which has nine members appointed by the Governor and legislative leadership. The CEAB holds monthly meetings that are open to the public. A schedule of CEAB meeting dates, times, and locations is available at [www.ct.gov/ethics](http://www.ct.gov/ethics).

CEAB Members:

- Attend monthly CEAB meetings
- Appoint and evaluate the Executive Director of the OSE
- Issue advisory opinions to persons subject to the Ethics Codes
- Serve as a Hearing Officer for non-confidential hearings held under the Uniform Administrative Procedures Act, General Statutes § [4-166](#) *et. seq.*
- Attend hearings to determine if violations occurred and, if so, assess penalties
- Attend special meetings if necessary
- Oversee legislative agenda

### THE BIG PICTURE

Like state employees and officials, state contractors are subject to the Ethics Codes, but in a more limited manner. That is, they are not, as [Advisory Opinion No. 99-26](#) puts it, “subject to the far more restrictive provisions . . . that apply to state employees and public officials,” but they are subject to certain “narrow constraints.”

As you read through this guide, be aware that these restraints, and those that apply to state employees and officials, were enacted to prevent persons from using their public position or authority for their own financial benefit, or for the financial benefit of certain others (for example, family members).

Also be aware that each state agency has its own ethics policy, which may be more restrictive than what follows, particularly concerning the types of benefits a state employee or official may accept from state contractors (and others).

### CONFLICTS

The Ethics Codes contain two primary conflict statutes that apply specifically to state contractors: General Statutes [§§ 1-86e](#) and [1-101nn](#).

#### GENERAL STATUTES § 1-86e

Section [1-86e](#) applies to any “person hired by the state as a consultant or independent contractor.” Such persons may not do as follows:

- (1) Use the authority, or confidential information, provided under the contract to financially benefit the person, an employee, or an immediate family member;
- (2) Accept another state contract that would impair the person’s independence of judgment in performing the existing contract; or
- (3) Accept a bribe (that is, accept anything of value based on an understanding that the person’s actions on the state’s behalf would be influenced).

**Key points from [Advisory Opinion No. 99-26](#) concerning [§ 1-86e](#):**

- Section [1-86e](#) is not intended to interfere with a contractor’s business, but to prevent a private entity from using state money to, for example, hire immediate family members without appropriate state oversight.
- A conflict of interest exists only if there is a connection between the facts in question and the state money and authority granted to the independent contractor or consultant by contract.

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- The term “independent contractor” does not apply just to individuals, but also to private agencies that contract with the state.
- If a state contractor wants to hire a family member to work under a state contract, the following procedure must be followed:
  1. The contractor must notify the contracting state agency in writing and demonstrate why the individual is appropriate for the job.
  2. The state agency must determine if the person is qualified for the job and whether the compensation is market rate; and if necessary, it may require the contractor to document a job search.

**NOTE:** *In an enforcement action, a former state contractor was alleged to have violated § [1-86e \(a\) \(1\)](#) by using confidential information gained under its contract with a state agency in its subsequent representation of clients before that agency. The contractor entered into a Consent Order with the OSE, agreeing to pay a \$10,000 penalty.*

### GENERAL STATUTES § 1-101nn

**Subsection (a)** of § [1-101nn](#) applies to persons who are, or are seeking to be:

- (1) Prequalified under General Statutes § [4a-100](#);
- (2) A party to a large state construction or procurement contract, as defined in General Statutes § [1-101mm \(3\)](#), with a state or quasi-public agency; or
- (3) A party to a consultant services contract with a state or quasi-public agency.

Such persons may not do as follows:

- (A) Solicit information from state officials or employees that is not available to other bidders;
- (B) Defraud the state (that is, charge a state or quasi-public agency for work not performed or goods not provided);
- (C) Attempt to circumvent state competitive bidding and ethics laws; or
- (D) Provide information about the person’s donation of goods and services to state or quasi-public agencies in order to influence the award of a state contract.

**Subsection (b)** of § [1-101nn](#) applies to a more limited group: Any consultant that is hired by the state *to help plan a state contract*, and any “associated” businesses, as defined in General Statutes § [1-101mm \(1\)](#).

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Under § [1-101nn \(b\)](#) neither the consultant nor any “associated” businesses may serve in the following roles with respect to the contract the consultant helped to plan:

- Consultant to any person seeking to obtain the contract,
- Contractor for the contract, or
- Consultant or subcontractor to the person awarded the contract.

**NOTE:** *If you are unsure whether § [1-101nn](#) applies to you, please contact the OSE, because any person found to have violated this section may be deemed a “nonresponsible bidder” by a state or quasi-public agency. General Statutes § [1-101nn \(c\)](#).*

### ONE MORE CONFLICT RULE (of limited applicability)

General Statutes § [1-84 \(n\)](#) bars the State Treasurer from doing business with an investment services firm whose political committee or principals have contributed to, or solicited contributions for, her exploratory or candidate campaign committee.

The prohibition applies during the term of office for which the candidate is campaigning, as well as for the remainder of an incumbent treasurer’s term.

The prohibition applies only to contributions to the incumbent or victorious candidate for the office. [Advisory Opinion No. 2003-1](#).

### ARE YOU REQUIRED TO REGISTER AS A LOBBYIST?

With certain exceptions, efforts to obtain a state contract can be considered administrative lobbying, requiring registration as a client lobbyist.

#### Some Key Terms

**Client lobbyist:** Generally, an individual or entity that, on its own behalf, expends or agrees to expend \$3,000 or more in a calendar year for *administrative* and/or legislative lobbying and activities in furtherance of lobbying. General Statutes § [1-91 \(12\)](#).

**Lobbying:** Generally, communicating directly, or soliciting others to communicate, with any public official or his or her staff in the legislative or executive branch, or in a quasi-public agency, in an effort to influence legislative or *administrative action*. General Statutes § [1-91 \(11\)](#).

**Administrative action:** Any matter within a state or quasi-public agency’s jurisdiction—such as any action or nonaction concerning a contract. General Statutes § [1-91 \(1\)](#).

### Exceptions to Administrative Lobbying

The following activities are not considered administrative lobbying:

- Preparation of responses to an agency's request for proposals ("RFP"). OSE Regs. § [1-92-42a \(e\) \(1\)](#).
- Communications strictly for informational purposes (e.g., to determine what agency contract proposals will be forthcoming). OSE Regs. § [1-92-42a \(e\) \(3\)](#).
- Communications by a vendor's representative who acts as a *salesperson* and does not otherwise engage in administrative lobbying. General Statutes § [1-91 \(11\) \(B\)](#).
  - "Salespersons": Generally, individuals who have a set territory they routinely cover, and who are not part of a company's executive management. See [Advisory Opinion No. 95-11](#).

Thus, if your contact with state or quasi-public agencies is limited to responding to RFPs, or otherwise pursuing a contract through the **normal agency process**, then you are not required to register as a "client lobbyist."

But you are "lobbying" if you go **outside the agency process** in trying to obtain a state contract. For example:

- Entertaining state employees and officials.
- Communicating with officials outside the agency (such as the Governor or legislators).
- Communicating with officials within the agency but outside the normal process (such as the agency head).

If \$3,000 or more is spent on such lobbying activities, "lobbyist" registration is required. See General Statutes § [1-94](#).

#### **Hypothetical from [Advisory Opinion No. 2003-6](#):**

In responding to a state agency's RFP, a business entity spends \$3,500 in printing and personnel costs in taking a number of steps within the agency's normal contracting process. But in an effort to secure the contract, the entity contacts the Governor, thus taking action outside the normal agency process and, in doing so, expends an additional \$500 in personnel costs. Must it register as a lobbyist?

No. The \$3,500 spent in following the normal process to respond to the RFP is exempted from consideration as a lobbying expense. Therefore this entity would not have to register as a client lobbyist, because it has spent only \$500 towards its lobbying effort.

**NOTE:** *If you are unsure whether you must register as a "lobbyist," please contact the OSE and/or review the "Client Lobbyist Guide to the Code of Ethics."*



### GIFTS

#### GIVING GIFTS

General Statutes § [1-84 \(m\)](#) contains the “gift”-giving bans for state contractors and potential state contractors:

- An individual or entity **doing or seeking to do business** with a state agency may not give a “gift” to any of that agency’s employees or officials.
  - This is an *agency-specific ban*, meaning: If an entity is doing or seeking to do business with State Agency X—but not with any other state agency—then it is prohibited from giving “gifts” only to employees and officials of State Agency X.
- A person **prequalified under § [4a-100](#)** may not knowingly give a “gift” to any state employee or official.
  - This ban is *not agency specific*, meaning it applies to all state employees and officials, even if the person is not doing or seeking to do business with an employee’s or official’s agency. (Registered lobbyists are subject to a similar ban. See General Statutes § [1-97 \(a\)](#).)

#### What is a “gift”?

General Statutes § [1-79 \(5\)](#) defines “gift” in three parts:

1. “anything of value” (for example, money, tickets to a sporting event, meals, services, etc.),
2. “which is directly and personally received” (that is, the state employee or official accepts the opportunity to partake of it),
3. “unless consideration of equal or greater value is given in return” (that is, unless the state employee or official pays fair market value for it).

#### Gift exceptions

There are many benefits that are not deemed “gifts,” some of which may be used by state contractors, including these:

- **Token Items:** Items valued less than \$10 (such as a pen or mug), provided the annual aggregate of such items from a single source is \$50 or less. General Statutes § [1-79 \(5\) \(P\)](#).

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- Food/Beverage: Up to \$50 in food/beverage annually, provided the donor or a representative is in attendance when it is being consumed. General Statutes § [1-79 \(5\) \(I\)](#).
- Training: Training provided by a vendor for a product purchased by a state entity, provided it is offered to all of the vendor's customers. General Statutes § [1-79 \(5\) \(Q\)](#).
- Ceremonial awards: A certificate, plaque or other ceremonial award valued at less than \$100. General Statutes § [1-79 \(5\) \(F\)](#).
- Gifts to the State: Goods or services given to a state entity. The gift must facilitate state action, and must (1) be for use on state property (e.g., a computer), (2) support a state event (e.g., funds to support an agency event), or (3) support the participation by a state employee or official at an event (e.g., funds for an agency employee to attend an educational conference relevant to his state duties). General Statutes § [1-79 \(5\) \(e\)](#).

**NOTE:** There is a "gift" exception in § [1-79 \(5\) \(L\)](#) for "major life events" (a term defined by regulation), but state contractors and potential state contractors may not use it.

### Gift Reporting

If a person doing or seeking to do business with a state agency gives an agency employee or official any of the benefits found in the "gift" exceptions, the person may have a reporting obligation. See General Statutes § [1-84 \(o\)](#).

Generally, if the benefit is valued over \$10, the person (or a representative) must do as follows: Give *both* the recipient *and* the executive head of the recipient's department or agency a written report stating:

- The donor's name,
- A description of the item or items given,
- The value of such items, and
- The cumulative value of all items given to such recipient in the calendar year.

**NOTE:** This helps both the donor and the state employee or official keep track of the "gift" exceptions noted above, so that permissible limits are not exceeded.

### ACCEPTING GIFTS

In [Advisory Opinion No. 99-17](#), the conflict language in § [1-86e \(a\) \(1\)](#) (see above) was interpreted as creating the following rule:

- If, as a state contractor or an employee thereof, you are offered benefits from a person by virtue of your authority under the state contract (for example, clients of the contracting state agency), you may accept **no more** than \$100 annually from that person.

**NOTE:** *In an enforcement action, a former employee of a state contractor was found to have violated § [1-86e \(a\) \(1\)](#)—and ordered to pay a \$10,000 penalty—for using his authority over a subcontractor to solicit free or discounted gifts, services and other items of value (e.g., meals and tickets to sporting events and concerts).*

### NECESSARY EXPENSES

General Statutes § [1-84 \(k\)](#)—the “necessary expenses” provision—prohibits a state employee or official from accepting a fee or honorarium for participating at an event *in his or her official capacity*.

However, a state employee or official may receive payment or reimbursement for “necessary expenses” if—in his or her official capacity—the employee or official *actively participates* in the event (for example, gives a speech or runs a workshop).

“Necessary expenses” are not considered gifts and may include the cost of:

- Travel (coach),
- Lodging (standard room for the nights before, of, and immediately following the event),
- Meals (non-lavish), and
- Conference or seminar registration fees.

“Necessary expenses” do not include the cost of entertainment (tickets to sporting events, golf outings, etc.), or payment of expenses for family members or other guests.

A state contractor has *no reporting obligations* when it pays for, or reimburses, a state employee’s or official’s “necessary expenses.”

#### Example:

A state contractor is hosting an out-of-state conference and would like the Governor to come and give a speech in his official capacity. The contractor has offered to pay the Governor’s

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travel and lodging expenses, to waive his conference registration fee, and to give him a \$500 honorarium. Permissible?

The Governor may not accept the \$500 honorarium (because he is participating in his official capacity), but may accept payment or reimbursement for “necessary expenses,” which include coach-class travel, standard lodging for the nights before, of, and after the speech, and waiver of the conference registration fee.

### HIRING CURRENT OR FORMER STATE EMPLOYEES AND OFFICIALS

#### Former State Employees and Officials

A state contractor wanting to hire a *former* state employee or official should be aware of the Code’s post-state employment prohibitions. See General Statutes §§ [1-84a](#) and [1-84b](#).

Most of these prohibitions are “personal” to the former state employees and officials, meaning they do not apply to their post-state *employers*. These include:

- **Confidential information:** A former state employee or official may *never* “disclose or use confidential information” gained in state service for anyone’s financial gain. General Statutes § [1-84a](#).
- **Side switching:** A former state employee or official may *never* “represent anyone other than the state, concerning any particular matter (1) in which he participated personally and substantially while in state service, and (2) in which the state has a substantial interest.” General Statutes § [1-84b \(a\)](#).
- **Cooling off:** For *one year* after leaving state service, a former state employee or official may not “represent” anyone for compensation before their former state agency. (“Represent” means doing any activity that reveals the former state employee’s or official’s identity.) General Statutes § [1-84b \(b\)](#).

**NOTE:** *Certain former employees and officials of the Department of Consumer Protection and the Department of Emergency Services and Public Protection are subject to a two-year employment ban with respect to entities engaged in Indian gaming operations. General Statutes § [1-84b \(d\)](#) and [\(e\)](#).*

#### Prohibitions on Employer

There are two post-state employment provisions that apply not only to former state employees and officials—but also to those that hire them:

- For *one year* after leaving state service, a former state employee or official may not accept employment with a party to a state contract valued at \$50,000 or more, if:

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- (1) He or she participated substantially in, or supervised, the negotiation or award of that contract, and
- (2) It was signed within his or her last year of state service.

Further, “[n]o party to such a contract or agreement . . . shall employ any such former public official or state employee in violation of this subsection.” General Statutes § [1-84b \(f\)](#).

- Individuals who held designated positions at certain state regulatory agencies may not—for **one year** after leaving state service—“accept employment with a business subject to regulation by that agency.” Further, “[n]o business shall employ a . . . former public official or state employee in violation of this subsection.” General Statutes § [1-84b \(c\)](#).

### Current State Employees and Officials

State contractors wanting to hire a *current* state employee or official should be aware of the Code’s outside-employment rules, which bar the employee or official from:

- Accepting outside employment with an individual or entity that can benefit from the state servant’s official actions (e.g., the individual in his or her state capacity has specific regulatory, contractual, or supervisory authority over the private person). OSE Regs. § [1-81-17](#).
- Using state time, materials, or personnel to perform their outside work. General Statutes § [1-84 \(c\)](#).
- Accepting—or being a member or employee of an entity that agrees to accept—compensation for representing others before 11 statutorily designated state agencies. General Statutes § [1-84 \(d\)](#). The agencies include:
  - the Department of Banking,
  - the Claims Commissioner,
  - the Office of Health Care Access division within the Department of Public Health,
  - the Insurance Department,
  - the Department of Consumer Protection,
  - the Department of Motor Vehicles,
  - the State Insurance and Risk Management Board,
  - the Department of Energy and Environmental Protection,
  - the Public Utilities Regulatory Authority,
  - the Connecticut Siting Council, and
  - the Connecticut Real Estate Commission.

\*\*\*The prohibition on being a “member or employee” applies to entities that are in the business of *representing others* for compensation before the listed agencies (law firms, accounting firms, etc.).

### OTHER OUTSIDE EMPLOYMENT CONSIDERATIONS

There are two other outside employment prohibitions, but they apply only to a limited number of state employees and officials:

- Individuals holding designated positions at certain state regulatory agencies may not—while in state service—“negotiate for, seek or accept employment with any business subject to regulation by his agency.” Also, “[n]o business shall employ a present . . . public official or state employee in violation of this subsection.” General Statutes § [1-84b \(c\)](#).
- Certain present employees and officials of the Department of Consumer Protection and the Department of Emergency Services and Public Protection may not “negotiate for, seek or accept employment with” entities engaged in Indian gaming operations. General Statutes § [1-84b \(d\) and \(e\)](#).

### OTHER CONSIDERATIONS

#### WRITTEN AFFIRMATION CONCERNING STATE ETHICS LAWS SUMMARY

General Statutes § [1-101qq](#) contains three requirements with respect to the OSE’s state ethics laws summary:

1. State agencies must provide large state construction or procurement contractors with the state ethics laws summary; and—before accepting their bids—must obtain written affirmation that their key employees read, understand, and agree to comply with those laws.
2. Large state construction or procurement contractors must, in turn:
  - a. provide their subcontractors and consultants with the state ethics laws summary,
  - b. obtain the same written affirmation as above from their subcontractors and consultants, and
  - c. provide the affirmations to the state agency with which they have the contract—or face termination of the contract.
3. The state ethics laws summary must be included by reference in each contract with a contractor, subcontractor or consultant.

### ETHICS AFFIDAVITS & CERTIFICATIONS FOR STATE CONTRACTS

The Office of Policy and Management has created ethics forms to help executive branch agencies comply with the State's contracting requirements. The forms include, for example, "Affirmation of Receipt of State Ethics Laws Summary" and "Gift and Campaign Contribution Certification." Copies of these forms and other updated information regarding state contractors can be found on the websites of the Office of Policy and Management and the Department of Administrative Services.

**NOTE:** *The OSE does not have jurisdiction over the ethics affidavits and certifications. Questions concerning them should be directed to the Office of Policy and Management.*

### ETHICS ENFORCEMENT

Enforcement of the Ethics Codes is initiated by a complaint, which is filed by the OSE Ethics Enforcement Officer or a member of the public. In most cases, a complaint by the Ethics Enforcement Officer is preceded by a confidential staff evaluation.

A two-stage process follows:

1. Confidential investigation and confidential probable cause hearing.
2. If probable cause is found, a public hearing to determine if a violation has occurred.

At any stage of this process, the OSE and the Respondent may negotiate a settlement.

After a finding or admission of a violation, the CEAB may order the Respondent to comply with the Ethics Codes in the future, file any required report or statement, and/or pay a civil penalty.

For failure to file a report, statement, or other information required by the Ethics Codes, the CEAB may, after a hearing, impose a civil penalty of up to \$10 per day, with the aggregate penalty for any one violation being \$10,000.

The OSE may refer matters to the Chief State's Attorney for criminal prosecution. An intentional violation of the Ethics Codes is a misdemeanor for the first violation, unless the individual has derived a financial benefit of at least \$1,000. In that case, the violation is a class D felony.

The Attorney General may sue for up to three times the economic gain received through knowingly committing or knowingly profiting from a violation of the Code.

The "[Citizen's Guide to Filing a Complaint](#)," which is available on the OSE's website, gives a detailed overview of the complaint process and related confidentiality rules.