

Vermont Clean Water Board Special Meeting Minutes

Date/Time: Thursday, August 12, 2021, 3:30-4:30 pm

Virtual Option to Attend: Microsoft Teams Meeting

Physical Location to Attend In-Person: Agency of Natural Resources, One National Life Drive, Montpelier, VT 05602 in the Limestone Room (Davis Building, Third Floor, Room D313).

Meeting agenda, materials, minutes, and recording are posted online at: <https://dec.vermont.gov/water-investment/cwi/board/meetings>.

Clean Water Board Members/Designees:

Susanne Young, Agency of Administration (AoA) Secretary and Clean Water Board Chair (Present)
Tayt Brooks, Agency of Commerce and Community Development (ACCD) Deputy Secretary (Present)
Alison Conant (Present)
Bob Flint, public member (Present)
Joe Flynn, Agency of Transportation (VTrans) Secretary (Present)
James Giffin, public member (Present)
Julie Moore, Agency of Natural Resources (ANR) Secretary (Present)
Anson Tebbetts, Agency of Agriculture, Food and Markets (AAFM) Secretary (Absent) – Diane Bothfeld, Agency of Agriculture, Food and Markets (AAFM) Director of Administrative Services (Present as designee)
Chad Tyler, public member (Present)

1. Welcome

Susanne Young, Secretary of Administration and Clean Water Board Chair

The Chair, AoA Secretary Susanne Young convened the meeting at 3:32 am and reviewed the agenda. Clean Water Board members reviewed meeting minutes from the past four meetings and voted to approve without edits.

- a. December 2, 2020 Meeting Minutes: Motion was made by VTrans Secretary Joe Flynn to approve minutes, seconded by ANR Secretary Julie Morre. ACCD Deputy Secretary Tayt Brooks and AAFM Director of Administrative Services Diane Bothfeld abstained. Motion passed.
- b. January 22, 2021 Meeting Minutes: Motion was made by VTrans Secretary Joe Flynn to approve minutes, seconded by James Giffen. ACCD Deputy Secretary Tayt Brooks and AAFM Director of Administrative Services Diane Bothfeld abstained. Motion passed.
- c. April 19, 2021 Meeting Minutes: Motion was made by VTrans Secretary Joe Flynn to approve minutes, seconded by James Giffen. AAFM Director of Administrative Services Diane Bothfeld abstained. Motion passed.
- d. June 30, 2021 Meeting Minutes: Motion was made by VTrans Secretary Joe Flynn to approve minutes, seconded by James Giffen. AAFM Director of Administrative Services Diane Bothfeld abstained. Motion passed.

2. Review draft revised State Fiscal Year (SFY) 2022 clean water budget proposal

Julie Moore, Secretary of Natural Resources

ANR Secretary Moore reviewed the draft revised SFY 2022 clean water budget proposal, which programs \$10 million in American Rescue Plan Act (ARPA) funds appropriated by the State Legislature across Clean Water Fund line-items (supporting materials #5 and #6).

Questions/Discussion on Proposal:

- a. VTrans Secretary Joe Flynn expressed support for the proposal and re-allocation of CWF dollars towards Municipal Mitigation Assistance Programs and that demand currently outweighs supply.
- b. AAFM Director of Administrative Services Diane Bothfeld indicated support for the proposal and highlighted that the demand for the two agricultural assistance programs, proposed to receive ARPA funds, is higher than available funding. Diane Bothfeld also indicated the funding would help both unmet demand and cost-overruns on existing projects.
- c. Bob Flint indicated he sees challenges at state agencies managing these dollars and the associated workload. He asked whether there was a way to engage with partners to help with administration of funds.
- d. Secretary Moore explained that part of the intention for the partner capacity funding is to try and ensure we have the framework and structure in place to support the spending of these dollars.
- e. Secretary Young pointed the Clean Water Board members to supporting material #8 which included public comment for their consideration.

3. Public Comment

Public comment from Vermont Association of Conservation Districts Executive Director Jill Arace confirmed what the Agencies had expressed in terms of high demand for funds. The State Natural Resources Conservation Council holds a block grant from the Department of Environmental Conservation to support natural resource, stormwater, and three-acre clean water projects. They hosted a very early funding round and found the program already over-subscribed for funds that they had expected to be spent over a two-year period. Projects are a mix of design and shovel-ready implementation work.

4. Discuss and approve draft revised SFY 2022 clean water budget proposal

Full Board

Secretary Young entertained a motion to approve the revised SFY 2022 clean water budget recommendation, as presented. Motion was made by VTrans Secretary Joe Flynn, seconded by AAFM Director of Administrative Services Diane Bothfeld. No discussion. Motion passed.

5. Preview draft SFY 2023 clean water budget process

Emily Bird, Department of Environmental Conservation Clean Water Initiative Program Manager
Emily Bird explained that the SFY 2023 budget process (supporting material #9) will be the first year budgeting for new funding programs under Clean Water Service Delivery Act (Act 76 of 2019). As such, the timeline for the SFY 2023 budget process has been pushed back a month to allow the Agency time to develop the Water Quality Restoration Formula Grant allocations needed to inform the SFY 2023 budget process. The SFY 2023 proposal will include Clean Water Fund, Capital Bill, and \$10 million in ARPA funds. No questions were offered.

6. Review Clean Water Fund operating statement and revenue projections

Emily Byrne, Agency of Natural Resources Director of Finance and Administration

Emily Byrne provided an overview of Clean Water Fund operating statement (supporting material #10), including revenue actuals for SFY 2021 and projections for SFY 2022–2024. For SFY 2021, all revenue streams came in overbudget. The majority of this increase in revenue was due to an increase in property transfers, which economists believe is a one-time anomaly and is expected to return to normal levels for SFY 2023–2024. Meals and Rooms tax revenue appear to increase significantly

since SFY 2020, due to the fact that revenue was allocated towards the Clean Water Fund for only part of the SFY 2020. No questions were offered.

7. Update on Audit

AoA Secretary Young provided an update on the status of the legislatively required independent audit of the Clean Water Fund. An original RFP was released in the spring of 2020 but no bids were received and work was delayed by the COVID-19 pandemic. The legislature granted an extension and the new deadline is January 2023. The RFP is expected to be released very shortly. If no qualified bids are received, the Clean Water Board will have to make a recommendation to the legislature as to whether this mandate should be modified.

8. Adjourn

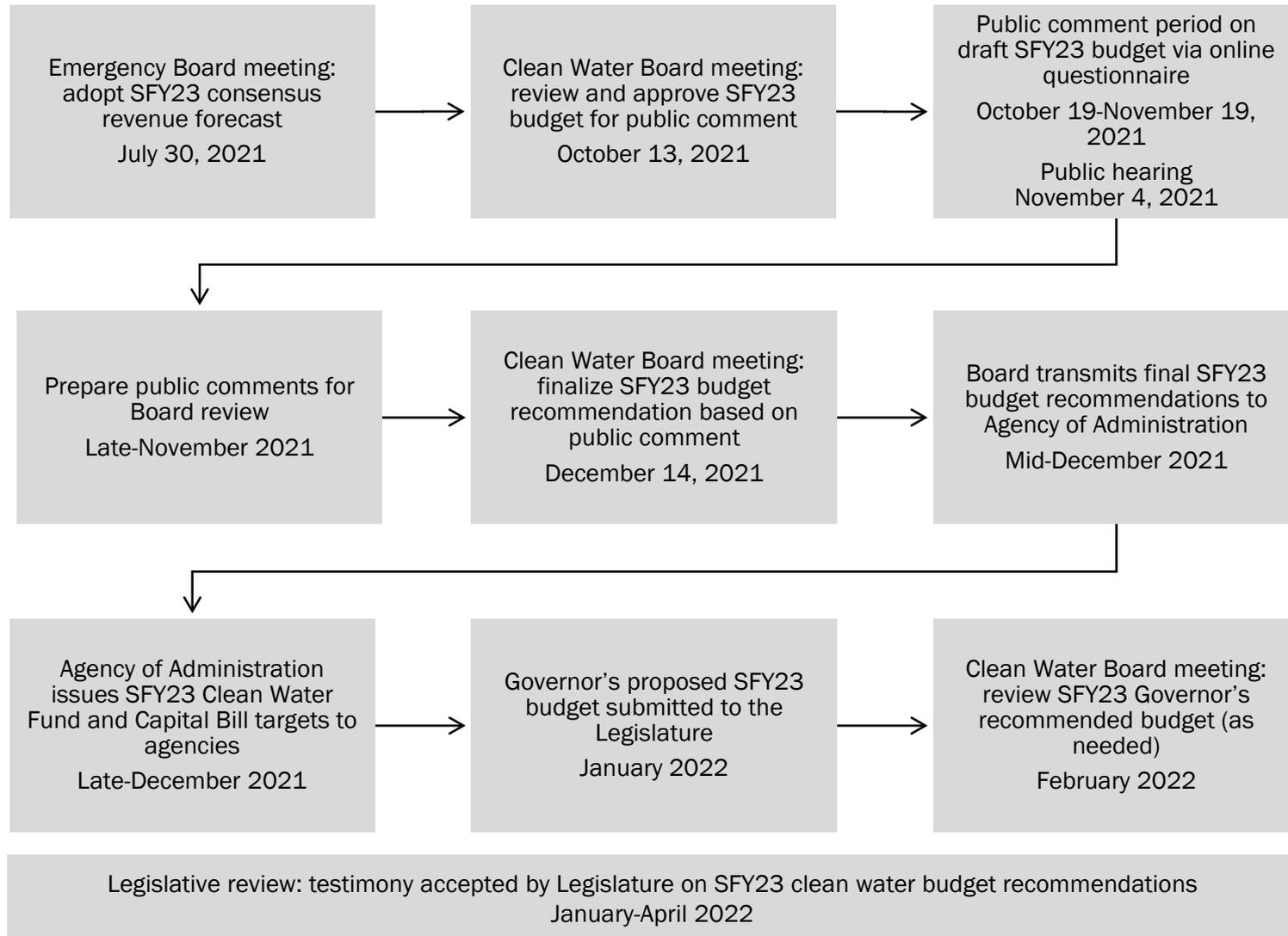
Secretary Young entertained a motion to adjourn. Motion was made by Chad Tyler, seconded by ANR Secretary Julie Moore. Motion to adjourn passed at 4:12 pm.

Supporting Materials:

1. December 2, 2020 Draft Clean Water Board Meeting Minutes
2. January 22, 2021 Draft Clean Water Board Meeting Minutes
3. April 19, 2021 Draft Clean Water Board Meeting Minutes
4. June 30, 2021 Draft Clean Water Board Meeting Minutes
5. Memorandum: FY22 Clean Water Board Funding Allocation (August 10, 2021)
6. Draft Revised SFY 2022 Clean Water Budget (August 12, 2021)
7. Draft Revised SFY 2022 Clean Water Budget Line-Item Descriptions (August 12, 2021)
8. Public Comment Letter to the Clean Water Board (July 15, 2021)
9. Draft SFY 2023 Clean Water Budget Process (August 12, 2021)
10. Clean Water Fund Operating Statement and Revenue Projections (August 9, 2021)

State Fiscal Year (SFY) 2023 Clean Water Budget Process (July 2021 – April 2022)

Updated September 28, 2021



Visit the [Clean Water Board webpage](#) for more information. [Subscribe to the Clean Water E-Newsletter](#) or visit the [DEC Calendar](#) to be notified of upcoming Clean Water Board meetings.

Clean Water Fund Operating Statement - Appropriation Basis 8/9/2021

	Actual	Actual	January 2021 Rev. Update	Actual	January 2021 Rev. update	July 2021 Rev. update	July 2021 Rev. update	July 2021 Rev. update
	FY 2019	FY 2020	FY 2021	FY 2021	FY 2022	FY 2022	FY 2023	FY 2024
Revenue								
(a) Clean Water Surcharge (PTT)	4,996,998	4,973,378	7,180,000	8,327,370	7,580,000	8,880,000	7,320,000	6,110,000
(b) Interest Income	121,810	90,087	-	41,320	-	-	-	-
(c) Reversions	-	-	-	-	-	-	-	-
(d) Donations	-	-	-	-	-	-	-	-
(e) Escheats	-	1,293,747	3,040,000	3,159,383	2,687,626	2,562,292	2,562,292	2,562,292
(f) Meals and Rooms Tax	-	6,620,286	7,584,000	8,629,034	9,984,000	10,794,000	11,616,000	12,282,000
(g) Subtotal Sources	5,118,808	12,977,498	17,804,000	20,157,108	20,251,626	22,236,292	21,498,292	20,954,292
Appropriations								
(h) DEC	1,630,000	10,375,000	9,581,000	9,581,000	10,746,607	10,746,607		
(i) DEC Adjustments	140,000	(626,201)	-	(650,715)	-	-		
(j) ACCD	100,000	200,000	169,000	169,000	200,000	200,000		
(k) ACCD Adjustments	-	(100,000)	-	-	-	-		
(l) VCGI	-	-	-	-	-	-		
(m) VTRANS	-	770,000	3,977,000	3,977,000	3,977,000	3,977,000		
(n) VTRANS Adjustments	-	(117,485)	-	650,715	-	-		
(o) FPR	-	-	50,000	50,000	600,000	600,000		
(p) AOA	100,000	150,000	169,000	169,000	156,000	156,000		
(q) Subtotal Uses	1,970,000	10,651,314	13,946,000	13,946,000	15,679,607	15,679,607	-	-
(r) Revenue Surplus/Deficit	3,148,808	2,326,184	3,858,000	6,211,108	4,572,019	6,556,685	21,498,292	20,954,292
Transfers (To)/From								
(s) Transfer (to) Agriculture CWF	(1,670,000)	(3,255,000)	(3,408,000)	(3,408,000)	(4,521,393)	(4,521,393)		
(u) AAFM Adjustment	-	-	-	-	-	(1,400,000)		
(v) Transfer (to) Lakes in Crisis Fund	-	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)		
(w) Transfer (to)/From Contingency Reserve	(450,000)	450,000	-	-	-	-	-	-
(x) Subtotal Transfers	(2,120,000)	(2,855,000)	(3,458,000)	(3,458,000)	(4,571,393)	(5,971,393)	-	-
(y) Current Year Unallocated/Unreserved	1,028,808	(528,816)	400,000	2,753,108	626	585,292	21,498,292	20,954,292
Reserve								
(z) Contingency Reserve	950,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Available Funds								
(aa) Prior Year Balance Unreserved/Unallocated	542,465	1,571,273	1,042,457	1,042,457	1,442,457	3,795,565	4,380,857	-
(bb) Current Year Unallocated/Unreserved	1,028,808	(528,816)	400,000	2,753,108	626	585,292	21,498,292	20,954,292
(cc) Summary of Unallocated/Unreserved	1,571,273	1,042,457	1,442,457	3,795,565	1,443,083	4,380,857	25,879,149	20,954,292

Updated: September 28, 2021

Clean Water Board

State Fiscal Year (SFY) 2023 Clean Water Budget Overview

Budget Development Approach and Line-Item Descriptions

Budget Development Approach

Summary of Adjustments Made Due to Clean Water Service Delivery Act of 2019 (Act 76)

Act 76 demands a significant re-organization of the Clean Water Budget structure due to a new priority scheme and the introduction of new funding programs. To maximize efficiency, this budget framework capitalizes on pre-existing programs to the greatest extent possible where they meet the statutory intent of Act 76 and only introduces new line items where necessary. New line-items for SFY23 are indicated with an asterisk throughout this document and on the Clean Water Budget spreadsheet. Below is a summary of significant changes made to address new budget obligations under Act 76:

- Existing programs from SFY22 were reviewed to determine their alignment with the new funding prioritization scheme. Relevant programs were grouped into three tiers based on 10 V.S.A. § 1389 (e) for the Clean Water Fund. Remaining programs were grouped as “Clean Water Budget Other Priorities.”
- New line items were introduced to the appropriate tiers based on the new grant and financing programs described in 10 V.S.A. § 925-928.
- To meet the intent of prioritization, roughly 60% of the budget was allocated to Tier 1 initiatives, 30% to Tier 2 initiatives, and 10% to Tier 3 and “other” initiatives. The percent allocations change slightly based on fund source (Clean Water Fund, Capital Bill, and American Rescue Plan Act – ARPA - Federal Dollars). Since certain fund sources are restrictive on which project types are eligible, focus was given to maximizing opportunities to leverage Capital and ARPA dollars where possible to alleviate strains on the Clean Water Fund. This led to some deviations in the target 60:30:10 prioritization breakdown.

Of the four new grant programs described in 10 V.S.A. § 925-928, two (the Water Quality Enhancement Grant and the Municipal Stormwater Implementation Grant) described objectives partially met by existing initiatives. As such, both line items in the budget include both pre-existing programs from SFY22 and new programs to fill in any gaps in meeting the statutory goals/outcomes. Reasoning and design for these two programs are described as follows.

A Note on Water Quality Enhancement Grants

Pursuant to 10 V.S.A. § 926, the Secretary shall administer a Water Quality Enhancement Grant Program. This program shall be a competitive grant program to fund projects that protect high quality waters, maintain or improve water quality in all waters, restore degraded or stressed waters, create resilient watersheds and communities, and support the public’s use and enjoyment of the State’s waters.

The SFY23 draft Clean Water Budget proposes meeting the statutory goals/outcomes of the Water Quality Enhancement Grant Program through two sub-programs:

- Vermont Housing and Conservation Board's (VHCB) "Land Conservation and Water Quality Projects" line item, funded with Capital Bill dollars in the SFY23 draft Clean Water Budget, achieves goals of the Water Quality Enhancement Grant Program through the funding of conservation activities that protect and maintain water quality.
- Vermont Department of Environmental Conservation (DEC) Clean Water Initiative Program's (CWIP) "Statewide Non-regulatory Clean Water Projects" line item, funded with Clean Water Funds, achieves goals of the Water Quality Enhancement Grant Program to:
 - Continue access to funding statewide for non-regulatory clean water projects, not to overlap with projects eligible under the Water Quality Restoration Formula Grant. This includes eligible clean water project types for regions of the state that do not yet have an operational Clean Water Service Provider to receive Water Quality Restoration Formula Grant allocations.
 - Incorporate additional eligible project types, not to overlap with VHCB's Land Conservation and Water Quality Projects line item, to support the statutorily defined outcomes of the Water Quality Enhancement Grant Program to protect high quality waters, maintain or improve water quality, restore degraded or stressed waters, create resilient watersheds and communities (e.g., flood mitigation), support the public's use and enjoyment of the State's waters (e.g., public access). The Program will aim to maximize co-benefits in project prioritization like public access, wildlife habitat, and flood mitigation. The Clean Water Initiative Program will engage with stakeholders to further define this grant subcategory's scope and eligible project types to fulfill the statutory intent, while avoiding duplication/overlap with other Clean Water Budget line items.

The Water Quality Enhancement Grants must be at a funding level of at least 20 percent of the annual balance of the Clean Water Fund, provided that the maximum amount recommended shall not exceed \$ 5,000,000. The draft SFY23 Clean Water Budget funds this grant category at the full \$5,000,000 maximum across the Capital Bill and Clean Water Fund.

A Note on Municipal Stormwater Implementation Grants

Pursuant to 10 V.S.A. § 928, the Secretary shall administer a Municipal Stormwater Implementation Grant Program to provide grants to any municipality required to obtain or seek coverage under the Municipal Roads General Permit (MRGP), the Municipal Separate Storm Sewer Systems (MS4) permit, a permit for impervious surface of three acres or more, or a permit required by the Secretary to reduce the adverse impacts to water quality of a discharge or stormwater runoff. The SFY22 Clean Water Budget supported municipalities in municipal roads general permit work through two Agency of Transportation (VTrans) programs. The SFY22 Clean Water Budget also supported MS4 permit and municipal Three-Acre General Permit design/implementation through DEC's CWIP "Stormwater Project

Delivery, Planning and Implementation” line item, including school district municipalities in achieving three-acre permit obtainment and compliance through the Green Schools Initiative.

The SFY23 draft Clean Water Budget proposes meeting the statutory goals/outcomes of the Municipal Stormwater Implementation Grants through two sub-programs:

- VTrans’ Municipal Roads Grants-in-Aid and Municipal Better Roads programs will continue to support implementation of the MRGP stormwater requirements.
- DEC’s new Municipal Three-Acre General Permit and MS4 program will support implementation of the MS4 and Three-Acre General Permit stormwater requirements.

Pursuant to 10 V.S.A. § 928, the grant program shall only be available in basins where a Clean Water Service Provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. Sufficient progress in year one of Formula Grant allocations (SFY23) is considered active participation in Clean Water Service Provider Start-up scope of work.

State Fiscal Year (SFY) 2023 Clean Water Budget Line-Item Descriptions

Organized alphabetically by agency.

Agency of Administration (AoA)

Line 4.2: Stormwater Utility Payments

- This line item is no longer a statutory obligation and is not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e).

The Clean Water Board has awarded monies to support the establishment and maintenance of stormwater utilities (up to \$25,000 per year per municipality). There are currently five municipalities that have established stormwater utilities: Williston, Colchester, South Burlington, St. Albans City, and Burlington. The SFY23 budget proposes ending utility incentive payments after five years. All stormwater utilities except St. Albans City have received five years of incentive payments as of SFY22. Therefore, the SFY23 budget proposes to continue to support St. Albans City for another two years as this is the only municipality on this list that has not received the five years of utility support. These funds are appropriated through the Agency of Administration. VTrans publishes an [annual report about municipal stormwater utilities related to VTrans expenditures](#).

Agency of Agriculture, Food and Markets (AAFM)

Line 1.5: Water Quality Grants to Partners and Farmers

- This line item and all associated funding initiatives reflects a Tier 1 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(1)(C).

- a. Capital and ARPA Funds: AAFM provides grants and contracts for capital expenditures that include the installation of best management practices (BMPs) on farms in Vermont. BMPs are site-specific on-farm conservation practices implemented to address the potential for agricultural pollutants to enter the waters of the state. Below is a summary of the programs connected with the Capital and ARPA Funds for this line-item.
- i. Best Management Practices (BMP) Program, 6 V.S.A. §§ 4820 – 4826. Eligible practices may include manure and agricultural waste storage facilities, composting stack pads, silage leachate collection, laneway development & stream crossings, and clean water diversions.
 - ii. Conservation Reserve Enhancement Program (CREP), 6 V.S.A. § 4829. The program funds 15 to 30-year term water quality agreements to install perennial grass or woody vegetation within buffers. This program receives a 4:1 federal to state program match.
 - iii. Grassed Waterway and Filter Strip (GWFS) Program, which replaced the Vermont Agricultural Buffer Program, 6 V.S.A. § 4900. The GWFS Program can provide technical and financial assistance to Vermont farmers for in-field agronomic best practices to address critical source areas, erosion, and surface runoff. Eligible practices include establishment of grassed waterways, filter strips, and critical source field area seedings that will remain established for 10 years.
 - iv. Capital Equipment Assistance Program, 6 V.S.A. § 4828. Financial assistance is available for new or innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to state waters, improve water quality of state waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers when they apply manure.
 - v. Agricultural Environmental Management (AEM) Program, 6 V.S.A. 4830. The AEM Program is established to provide farms of Vermont with state financial assistance to alternatively manage their farmstead, cropland, and pasture in a manner that will address identified water quality concerns that, traditionally, would have been wholly or partially addressed through federal, state, and landowner investments in BMP infrastructure, in agronomic practices, or both.
- b. Clean Water Funds: AAFM administered grants and contracts that are non-capital funds are used to support:
- i. Farm Agronomic Practices (FAP) Program, 6 V.S.A. § 4951. The FAP Program utilizes state funding to help Vermont farms implement soil-based agronomic practices that improve soil quality, soil health, increase crop production, and reduce erosion and agricultural waste discharges. The FAP Program also provides education and instructional activity grants to support outreach regarding the impacts of agricultural practices on water quality and current state agricultural water quality regulations. Eligible practices include cover cropping, crop to hay rotation, crop to hay rotation with nurse

crop, conservation tillage, no till pasture and hayland renovation, rotational grazing, manure injection, educational or instructional activities.

- ii. The Agricultural Clean Water Initiative Program (Ag-CWIP) is AAFM's grant funding program made possible by the Clean Water Fund, created by Act 64 of 2015 (i.e., the Vermont Clean Water Act). Funding is awarded to a wide variety of partner organizations through various grant opportunities such as Education and Outreach, Organizational Development, Farm Conservation Practice Surveys, Innovative Nutrient Reduction activities and more. This funding develops and supports the continual improvement of water quality across the state of Vermont by supporting organizations to provide farmers with education and outreach, technical assistance, identifying and implementing BMPs, planning, and more.
- iii. Innovative water quality improvement methods for manure management, phosphorus reduction and new techniques that directly assist partners and farmers in water quality implementation activities.
- iv. Agronomy and Conservation Assistance Program (ACAP). Support for the ACAP service agreements to continue delivering agronomic (field-based) technical support to farmers in the Lake Champlain Basin, in coordination with federal and state agencies.

Line 1.61: Program Support

- This line item is not a statutory obligation and is not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e). Line item funds operating activities that are foundational to supporting the structure and function of the Clean Water Fund and program obligations under Act 76 and Act 64.

The AAFM supports a portion of the water quality program staff and operating costs from the Clean Water Fund. The necessary increase in staffing was created as part of the Vermont Clean Water Act development process and allowed the AAFM to meet the [Phosphorus Total Maximum Daily Loads for Vermont Segments of Lake Champlain](#) (i.e., Lake Champlain TMDLs) and statewide on farm inspection and technical assistance goals for achieving water quality improvements.

Agency of Commerce and Community Development (ACCD)

Line 4.3: Better Connections (Stormwater Planning) and Downtown Transportation Fund

- This line item is not a statutory obligation and is not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e).

Better Connections is an award-winning interagency grant program (VTrans, ACCD, ANR, Vermont Department of Health) that supports the implementation of local projects to increase local transportation options, build resilience, and revitalize communities. Funding will help municipalities incorporate stormwater management strategies into downtown and village center transportation and

community revitalization plans. In partnership with VTrans, the Downtown Transportation Fund will help municipalities incorporate stormwater BMPs into infrastructure improvement projects that make Vermont's downtown areas more pedestrian, bike, and transit friendly.

Agency of Natural Resources (ANR)

Line 1.1: Water Quality Restoration Formula Grant to Clean Water Service Providers*

- This line item reflects a Tier 1 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(1)(B).

The Secretary shall administer a Water Quality Restoration Formula Grant Program to award grants to Clean Water Service Providers (CWSP) to meet the pollutant reduction requirements under 10 V.S.A. § 921-923. The grant amount shall be based on the annual pollutant reduction goal established for the Clean Water Service Provider multiplied by the standard cost for pollutant reduction including the costs of administration and reporting. The standard cost shall include the costs of project identification, project design, and project construction. The SFY 2023 (year 1) Formula Grant budget allocation is based on targets scaled to funds available while CWSP and partner capacity development efforts are underway. Formula Grants to each CWSP will be proportional to load reduction targets required by basin. Eligible clean water project types that can be funded under these Formula Grants will be non-regulatory project types as described in the Clean Water Initiative Program's Funding Policy Guidance. This includes projects across a range of sectors including floodplain and stream restoration, buffer plantings, stormwater management improvements, wetlands restoration, and lake shoreline restoration. Formula Grant allocations are to be refined on an annual cycle based on methodology feedback from program partners. Total Formula Grant estimated need based on targets will be further refined in future budget cycles, pending results from additional planning tools, currently under development. CWSPs will be responsible for designing how Formula Grant allocations are apportioned and awarded to project implementers within their respective basins using state-derived Guidance. Formula Grants will be administered by the ANR DEC Clean Water Initiative Program. Spending initiatives that fell under the following SFY22 budget line items may be included within this new formula structure:

- Natural Resources Restoration
- Multi-sector Innovation, Grant Administration and Partner Support
- Stormwater Project Delivery, Planning, and Implementation

Line 1.2: Water Quality Restoration Formula Grant to Clean Water Service Providers (O&M)*

- This line item reflects a Tier 1 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(1)(A).

The cost of clean water project operation, maintenance, inspection, and verification is not factored into the Act 76 Formula Grant standard cost calculations. In making recommendations regarding the appropriate allocation of funds from the Clean Water Fund, the Board is directed to prioritize grants to Clean Water Service Providers to fund the reasonable costs associated with the inspection,

verification, operation, and maintenance of clean water projects in a basin. As such this is a separate line item directed towards established CWSPs to support these activities and ensure that installed practices continue to realize their phosphorus reduction potentials across their expected design lives. Funds must be used to support operation, maintenance, inspection, and verification of clean water projects funded by the Formula Grants or otherwise tracked with phosphorus reductions attributed to the CWSP. Operation and maintenance funding needs are expected to increase over time as more projects reach installation. Allocated values in future budget requests will be adjusted depending on available funding and CWSP projected needs. Operation and Maintenance Grants will be administered by the ANR DEC Clean Water Initiative Program.

Line 1.3: Basin Planning, Basin Water Quality Council Participation, Education, and Outreach

- This line item reflects a Tier 1 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(1)(E).

This line item supports partners' participation and outreach throughout the tactical basin planning process and basin water quality council participation, pursuant to 10 V.S.A. § 1253(d)(3). Funding shall be at least \$500,000. Eligible tactical basin planning activities are prescribed in 10 V.S.A. § 1253(d)(3). Funds are provided in the form of annual contracts to eligible basin planning partner entities defined in statute. Basin planning contracts will be administered by the ANR Clean Water Initiative Program with technical project management assistance from the Water Investment Division.

Line 1.41: Statewide Non-regulatory Clean Water Projects*

- This line item reflects a Tier 1 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(1)(D) and is considered one of two programs designed to meet the statutory intent of 10 V.S.A. § 926.

Vermont Department of Environmental Conservation (DEC) Clean Water Initiative Program's (CWIP) "Statewide Non-regulatory Clean Water Projects" line item, funded with Clean Water Funds, achieves goals of the Water Quality Enhancement Grant Program to:

- a. Continue access to funding statewide for non-regulatory clean water projects, not to overlap with projects eligible under the Water Quality Restoration Formula Grant. This includes eligible clean water project types for regions of the state that do not yet have an operational Clean Water Service Provider to receive Water Quality Restoration Formula Grant allocations.
- b. Incorporate additional eligible project types, not to overlap with VHCB's Land Conservation and Water Quality Projects line item, to support the statutorily defined outcomes of the Water Quality Enhancement Grant Program to protect high quality waters, maintain or improve water quality, restore degraded or stressed waters, create resilient watersheds and communities (e.g., flood mitigation), support the public's use and enjoyment of the State's waters (e.g., public access).

The Program will aim to maximize co-benefits in project prioritization like public access, wildlife habitat, and flood mitigation. The Clean Water Initiative Program will engage with stakeholders to further define this grant subcategory's scope and eligible project types to fulfill the statutory intent, while avoiding duplication/overlap with other Clean Water Budget line items.

Under Act 76 Section 8 the Secretary is instructed to provide additional weight to geographic areas not served by a Clean Water Service Provider when making funding decisions for Enhancement Grants. The structure of this funding, to continue access to funding statewide for non-regulatory projects is intended to address this obligation.

Enhancement grants offered under this line item may vary in structure between grants or contracts depending on the scope of work. Some funds may be administered through a block grant structure. The intent is to support the full life cycle of projects from development through implementation, as well as operation and maintenance if funding allows.

Statewide Non-regulatory Clean Water Projects, a subset of Enhancement Grants, will be administered by the ANR DEC Clean Water Initiative Program with technical project management assistance from other staff in the Water Investment and Watershed Management Divisions. Spending initiatives that fell under the following SFY22 budget line items may be included within this new Enhancement Grant structure:

- Natural Resources Restoration
- Multi-sector Innovation, Grant Administration and Partner Support
- Stormwater Project Delivery, Planning, and Implementation

Line 1.62: Program and Partner Support

- This line item is not a statutory obligation and is not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e). Line item includes all initiatives under the ANR DEC Clean Water Initiative Program that are foundational to supporting the structure and function of the Clean Water Fund and program obligations under Act 76 and Act 64. The initiatives listed below are all pre-existing from SFY22.
 - a. Supports development of nutrient pollutant reduction target setting and project tracking and accounting, as well as other requirements associated with developing and implementing programs in Act 76 of 2019. Includes site hosting and data management services for tools that support river, floodplain, and wetland restoration project identification and prioritization, and estimate projects' phosphorus reductions.
 - b. Supports unmet organizational capacity needs for partners to ensure a strong partnership network to deliver high quality and high priority clean water projects.
 - c. Supports lab analytical and testing expenses to process water quality samples collected by partners as well as other collaborative, targeted water quality monitoring efforts.

- d. Supports ANR DEC's program capacity to administer grants and contracts.
- e. Includes WWTF operator support for optimization and high-strength source management in place of near-term capital investments to implement major nutrient TMDLs (e.g., Lake Champlain TMDLs). Programming covers technical, analytical, and asset management. Federal funds may become available but are limited in scope and location.

Line 2.11: Forestry and Portable Skidder Bridges and Water Quality Practices

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(B).

The Department of Forests, Parks and Recreation (FPR) provides direct grants to loggers to reimburse a portion of the cost of skidder bridges (per 2017 Act 75, 10 V.S.A. § 2622a). Portable skidder bridges prevent erosion and runoff at stream crossings on logging jobs. This also supports FPR's capacity to enhance implementation of Acceptable Management Practices (AMPs) for Maintaining Water Quality on Logging Jobs.

Line 2.12: Implement Best Management Practices (BMPs) at State Forests, Parks, and Recreational Access Roads

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(B).

DEC's Municipal Roads General Permit (MRGP) program is a streamlined process for inventorying roads and prioritizing and constructing projects to improve water quality. This relatively simple framework has been adopted to incentivize non-regulatory road best management practices (BMPs). This project involves using a modified MRGP inventory methodology, a field application for data collection, and a companion database to gather and store data for road and trail networks on ANR land, including State Forests, Wildlife Management Areas, State Parks, and recreational access points and constructing projects based on the prioritized list of road and trail BMPs to reduce nutrient and sediment pollution.

Line 2.23: Municipal Three-Acre General Permit and MS4*

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(C).

This is one of two programs proposed to support the Municipal Stormwater Implementation Grant initiative as outlined in 10 V.S.A. § 928. This line item includes three spending initiatives to be managed by either the Water Infrastructure Financing Program (WIFP) or the Clean Water Initiative Program (CWIP) to assist municipal entities in addressing regulatory obligations as follows:

- a. Municipal Three-Acre Financing: This financing program will help affected towns secure funding for Three-Acre General Permit obtainment and compliance. Towns will be able to use funds,

some of which may be paired with WIFP financing, to procure engineering analysis and permitting services, complete designs, and go to construction for stormwater treatment practices needed to meet permit compliance. Program structure and delivery is still under development and will be designed and managed by the Water Infrastructure Financing Program. Program is eligible for and will be funded by American Rescue Plan Act (ARPA) dollars over the next few years to relieve pressure on the Clean Water Fund.

- b. Municipal Separate Storm Sewer System (MS4) Permit Formula Grant: This Formula Grant program, to be designed and managed by the ANR DEC Clean Water Initiative Program, will assist MS4 communities with developing and implementing clean water projects to comply with MS4 permit obligations to implement Flow Restoration Plans and Phosphorus Control Plans. Eligible project types include those identified within MS4s' approved Flow Restoration Plans or Phosphorus Control Plans. Spending initiatives that fell under the "Stormwater Project Delivery, Planning, and Implementation" SFY22 budget line items may be included within this new grant structure.
- c. Green Schools Initiative: This initiative includes passthrough funds to entities to assist public schools in Lake Champlain and Memphremagog basins in obtaining and complying with the Three-Acre General Permit (design, permitting, construction). Co-funded with Lake Champlain Basin Program federal funds administered by the Clean Water Initiative Program. Program is eligible for and will be funded by American Rescue Plan Act (ARPA) dollars over the next few years depending on projected needs to relieve pressure on the Clean Water Fund.

Line 2.4: Innovative or Alternative technologies or practices to improve water quality

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(D).

Supports development and use of technologies, practices, or policies that facilitate, optimize, or accelerate cost-effective nutrient pollution removal strategies, such as the [Vermont Phosphorus Innovation Challenge](#). This is a cross-agency effort, and grants are awarded on a competitive basis. Funds may be used to support other innovative phosphorus reduction-based projects. This line item is populated with funds on an as-needed basis. No funding needs are projected for SFY23, as the AAFM-administered Vermont Phosphorus Innovation Challenge is still in progress with prior year funding.

Line 3.1: Developed Lands Implementation Grant*

- This line item reflects a Tier 3 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(3).

The Secretary shall administer a Developed Lands Implementation Grant Program to provide grants or financing to persons who are required to obtain a permit to implement regulatory requirements that are necessary to achieve water quality standards. Program shall be administered by the Water Infrastructure Financing Program. Program will support private land Three-Acre General Permit

obtainment and compliance through design and implementation. Initial Three-Acre General Permit funding assistance was administered through ANR DEC Clean Water Initiative Program's Design and Implementation Block Grant program, which will transition into this new program in SFY23. Program is eligible for and will be funded by American Rescue Plan Act (ARPA) dollars over the next few years to relieve pressure on the Clean Water Fund.

Line 4.1: Lakes in Crisis Fund

- This line item is a statutory obligation but not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e).

Line item reflects the Agency of Natural Resources' recommended annual budget for the fund pursuant to 10 V.S.A. § 1314 (b). Currently only one lake, Lake Carmi, is designated as a Lake in Crisis. In addition to the Lakes in Crisis Fund, ANR and AAFM use other grant programs to support phosphorus mitigation in the Lake Carmi watershed. The *Lake Carmi Crisis Response Plan*, the *2019 Lake Carmi Clean Water Progress Report*, and other resources are available at the [Restoring Lake Carmi webpage](#). Funds are managed by the Department of Environmental Conservation's Lakes and Ponds Program within the Watershed Management Division. Eligible practices and projects are determined by the Lakes and Pond Program. Funds are provided as a mix of grants and contracts depending on the scope of work. Pursuant to 10 V.S.A. § 1313, recipients of Lakes in Crisis Fund grants shall pay at least 35 percent of the total eligible project cost.

Line 4.4: State Match to Clean Water State Revolving Fund Federal Grant

- This line item is not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e) but is critical towards leveraging federal funding into the CWSRF.

The Clean Water State Revolving Fund (CWSRF) provides low-interest loans for municipal and private entity stormwater, wastewater, and natural resources projects. Vermont provides a 20% match to draw down federal funds. All the 20% state match funds, federal funds, and repayment funds, minus administrative expenses are used to provide loans for a wide range of water-quality projects that includes combined sewer overflow abatement (CSO), plant refurbishment, plant upgrades, sludge and septage improvements, sewer line replacement and extension, pump station upgrades, plant enlargements, stormwater improvements, and municipally sponsored private wastewater disposal systems. The interest rate/administrative fee on loans to private entities will be slightly higher than rates to municipalities, and these revenues will be used to offset reduced rates on loans to municipalities that promote natural resources projects. By statute, municipal projects always have priority over loans to private entities. Program is administered by the Water Infrastructure Financing Program.

Line 4.5: Municipal Pollution Control Grants

- This line item is not reflected as a tiered priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e) but the Legislature has adopted a priority system for Municipal Pollution Control Grants, found in 10 V.S.A. § 1626b(c) and § 1628, and the Department of Environmental

Conservation Chapter 2 – Municipal Pollution Control Priority System Rule, adopted December 2017.

In addition to low-interest loans through the Clean Water State Revolving Loan Funds, some municipal clean water projects are eligible for Municipal Pollution Control Grants in SFY 2023 for up to 35% of the project cost. The source of funding for municipal pollution control grants is the Capital Bill. These grants are for municipalities only. This grant program is administered by the Water Infrastructure Financing Program. Eligible project types focus on management of stormwater, sewage, or waste, including improvements to a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

Agency of Transportation (VTrans)

Line 2.21: Municipal Roads Grants-in-Aid

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(C). This is one of two VTrans initiatives proposed to support the Municipal Stormwater Implementation Grant initiative as outlined in 10 V.S.A. § 928.

Provides financial assistance to municipalities to bring hydrologically connected municipal road segments into full compliance with the Municipal Roads General Permit. Funds are dispersed by formula to all participating municipalities based on hydrologically connected road miles. Practices eligible for funding under this program include drainage ditch installation and upgrades, turnouts, removal of high road shoulders, and stabilization of drainage culverts and catch basin outlets, and on Class 4 roads, stabilization of gully erosion.

Line 2.22: Municipal Better Roads Program

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(C). This is one of two VTrans initiatives proposed to support the Municipal Stormwater Implementation Grant initiative as outlined in 10 V.S.A. § 928.

Construction projects funded by grants to municipalities in the Better Roads Program are meant to be quick, low-cost projects that are easy to advance without all the requirements of federal funding. Example construction projects include ditching, check dams, slope stabilization, and structure/culvert upgrades. All Clean Water Funds awarded through the Better Roads Program will be used to bring hydrologically connected municipal road segments into full compliance with the Municipal Roads General Permit. Other funding sources may be used to support other types of construction projects through the Better Roads Program. In addition to the construction projects, which are funded in part by the Clean Water Fund and in part with funds appropriated through the Transportation Bill, VTrans also funds road erosion inventories through the Better Roads Program, as required by the Municipal Roads General Permit. Grant award lists going back to FY 2014 can be found [here](#).

Vermont Housing and Conservation Board (VHCB)

Line 1.42: Land Conservation and Water Quality Projects

- This line item reflects a Tier 1 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(1)(D) and is considered one of two programs designed to meet the statutory intent of 10 V.S.A. § 926.

Part of VHCB's core funding, this allocation is used for grants to eligible applicants (land trusts and other conservation non-profits, towns, certain state agencies) for conservation and water-quality related investments in fee lands and conservation easements. All grants will require perpetual conservation restrictions. Those with surface waters will include specific water quality-related easement provisions such as riparian buffers and wetland protection zones.

Line 2.3: Water Quality Farm Improvement and Retirement Projects

- This line item reflects a Tier 2 priority for Clean Water Fund spending pursuant to 10 V.S.A. § 1389 (e)(2)(E).

VHCB works closely with other partners – particularly AAFM and ANR – to identify agricultural land that is difficult to farm without adversely impacting water quality. These funds would allow VHCB to help fund the purchase and/or conservation of such properties with a goal of taking them all or mostly out of production. All grants will require perpetual conservation restrictions. VHCB also uses this funding to award grants to farmers for water quality-related capital improvements. Eligible projects include production area improvements, manure management projects, farm equipment, and pasture management. Grants typically help farmers pay for project components that state and federal grant programs cannot cover. In cases of significant hardship, the grants may assist farmers who are otherwise unable to fully meet the cost share requirements for priority AAFM BMP or U.S. Department of Agriculture Natural Resources Conservation Service projects.

CLEAN WATER BOARD
DRAFT State Fiscal Year (SFY) 2023 Clean Water Budget (10/8/2021)

No.	Sector	Agency	Activity	Clean Water Fund	Capital Bill	American Rescue Plan Act (ARPA)**	Total SFY 2023
Clean Water Budget Statutory Priority Tier 1 (Items of Equal Priority)							
1.1	Multi-Sector	ANR-DEC (CWIP)	Water Quality Restoration Formula Grants to Clean Water Service Providers*	7,000,000			7,000,000
1.2	Multi-Sector	ANR-DEC (CWIP)	Water Quality Restoration Formula Grants to Clean Water Service Providers (O&M)*	210,000			210,000
1.3	Multi-Sector	ANR-DEC (CWIP)	Basin Planning, Basin Water Quality Council Participation, Education, and Outreach	600,000			600,000
<i>1.4 Water Quality Enhancement Grants</i>							
1.41	Multi-Sector	ANR-DEC (CWIP)	Statewide Non-regulatory Clean Water Projects (not to Overlap with Formula Grants)*	3,000,000			3,000,000
1.42	Natural Resources	VHCB	Land Conservation and Water Quality Projects		2,000,000		2,000,000
1.5	Agriculture	AAFM	Water Quality Grants to Partners and Farmers	4,991,111	2,651,781	3,000,000	10,642,892
<i>1.6 Agency and Partner Operating Support</i>							
1.61	Agriculture	AAFM	Program Support	825,000			825,000
1.62	Multi-Sector	ANR-DEC (CWIP)	Program and Partner Support	950,540			950,540
Tier 1 SUBTOTAL				17,576,651	4,651,781	3,000,000	25,228,432
Tier 1 % of Total				68%	42%	30%	54%
Clean Water Budget Statutory Priority Tier 2 (Items of Equal Priority)							
<i>2.1 Outreach and Implementation of Forestry Acceptable Management Practices for Maintaining Water Quality</i>							
2.11	Natural Resources	ANR-FPR	Forestry and Portable Skidder Bridges and Water Quality Practices	110,000			110,000
2.12	Natural Resources	ANR-FPR	Implement BMPs at State Forests, Parks, and Recreational Access Roads		700,000		700,000
<i>2.2 Municipal Stormwater Implementation</i>							
2.21	Roads	VTrans	Municipal Roads Grants-in-Aid (MRGP)	3,317,498			3,317,498
2.22	Roads	VTrans	Municipal Better Roads (MRGP)	1,000,000			1,000,000
2.23	Stormwater	ANR-DEC (WIFP & CWIP)	Municipal Three-Acre General Permit and MS4*	3,600,000		4,000,000	7,600,000
2.3	Agriculture	VHCB	Water Quality Farm Improvement and Retirement Projects		800,000		800,000
2.4	Multi-Sector	ANR-DEC (CWIP)	Innovative or Alternative Technologies or Practices to Improve Water Quality				-
Tier 2 SUBTOTAL				8,027,498	1,500,000	4,000,000	13,527,498
Tier 2 % of Total				31%	14%	40%	29%
Clean Water Budget Statutory Priority Tier 3							
3.1	Stormwater	ANR-DEC (WIFP)	Developed Lands Implementation Grants*			3,000,000	3,000,000
Tier 3 SUBTOTAL				-	-	3,000,000	3,000,000
Tier 3 % of Total				0%	0%	30%	6%
Clean Water Budget Other Priorities							
4.1	Multi-Sector	ANR-DEC (Lakes)	Lakes in Crisis Fund	50,000			50,000
4.2	Stormwater	AoA	Stormwater Utility Payments (\$25K each)	25,000			25,000
4.3	Stormwater	ACCD	Better Connections and Downtown Transportation Fund	200,000			200,000
<i>Capital Bill Priorities</i>							
4.4	Wastewater	ANR-DEC (WIFP)	State Match to Clean Water State Revolving Fund (CWSRF) Federal Grant		1,548,219		1,548,219
4.5	Wastewater	ANR-DEC (WIFP)	Municipal Pollution Control Grants		3,300,000		3,300,000
Other SUBTOTAL				275,000	4,848,219	-	5,123,219
Other % of Total				1%	44%	0%	11%
Total Requested				25,879,149	11,000,000	10,000,000	46,879,149
Anticipated SFY 2023 Revenue				25,879,149	11,000,000	10,000,000	46,879,149

DRAFT SFY 2023 Clean Water Budget by Agency

Additional capital investment needed to leverage federal infrastructure investment beyond SFY 2023 Clean Water Budget:

***Infrastructure Investment and Jobs Act (IIJA) CWSRF state match: \$931,980

Supplemental Municipal Pollution Control Grants need: \$6,507,564

Agency	Clean Water Fund	Capital Bill	ARPA**	Total SFY 2023
AAFM	5,816,111	2,651,781	3,000,000	11,467,892
ACCD	200,000	-	-	200,000
ANR (DEC)	15,410,540	4,848,219	7,000,000	27,258,759
ANR (FPR)	110,000	700,000	-	810,000
AoA	25,000	-	-	25,000
VHCB	-	2,800,000	-	2,800,000
VTrans	4,317,498	-	-	4,317,498
Total	25,879,149	11,000,000	10,000,000	46,879,149

* Denotes new budget activity line item in SFY 2023.

** ARPA-funded activities will be reviewed against addenda recently issued by Agency of Administration to bulletins governing state grants and contracts addressing ARPA-specific requirements and ARPA guidance from U.S. Treasury anticipated in November 2021.

*** Pending passage by U.S. Congress.

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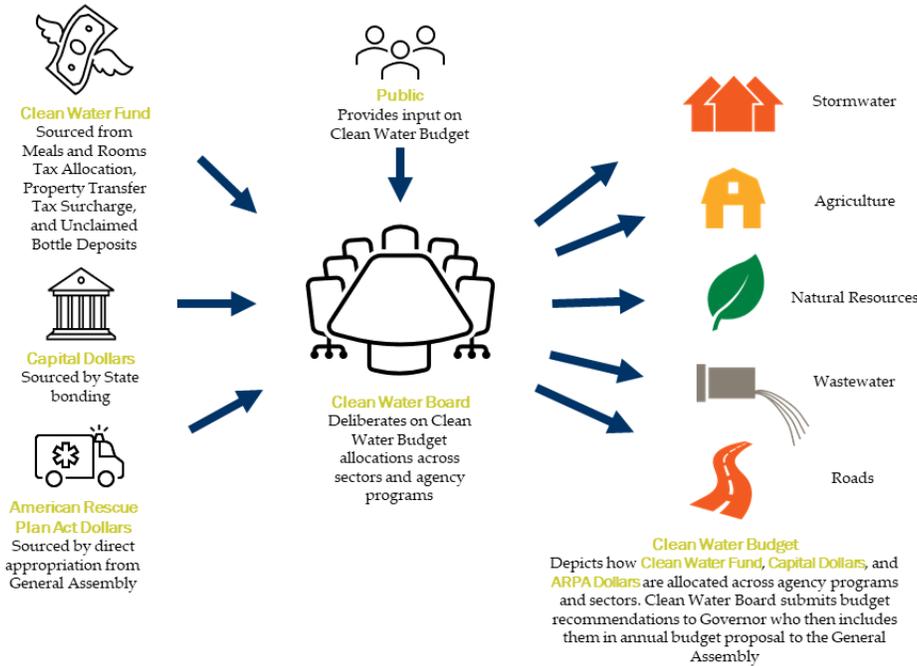


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State Fiscal Year 2023 Clean Water Budget Public Comment Online Questionnaire

Section 1. Introduction

The Clean Water Budget is funded by State Capital Dollars; the Clean Water Fund with revenue from the Meals and Rooms Tax Allocation, Property Transfer Tax Surcharge, and unclaimed bottle deposits; and other revenues dedicated for deposit into the Fund by the General Assembly. Recommendations for how the state Clean Water Budget is allocated are made by the Clean Water Board, with representation from five state agency secretaries: Administration; Agriculture, Food and Markets; Commerce and Community Development; Natural Resources; and Transportation. In addition, four members of the public are appointed by the Governor. Under 10 V.S.A. § 1389 (d)(3)(E) the Board must solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding the allocation of funds from the Clean Water Fund.



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Below is a description of the land uses that impact clean water, the types of projects that this budget supports, and the additional benefits of supporting clean water projects for that land use.

Land Use	Clean Water Project Objectives and Example Project Images	Additional Benefits
 AGRICULTURE	Addresses runoff and soil erosion from farm production areas and farm fields 	<ul style="list-style-type: none"> • Supports Clean Water Act compliance • More cost-effective • Leverages federal funds • Supports agricultural economy
 DEVELOPED LANDS	Addresses stormwater runoff from developed lands, such as parking lots, sidewalks, and rooftops 	<ul style="list-style-type: none"> • Supports Clean Water Act compliance • Increases flood resilience • May enhance aesthetic appeal
 NATURAL RESOURCES	Restores functions of "natural infrastructure"—river channels, floodplains, lakeshores, and wetlands 	<ul style="list-style-type: none"> • Supports Clean Water Act compliance • More cost-effective • Increases flood resilience • Improves habitat • Enhances recreation
 ROADS	Addresses stormwater runoff from roads 	<ul style="list-style-type: none"> • Supports Clean Water Act compliance • More cost-effective • Increases flood resilience • Leverages federal funds • Reduces future road maintenance costs
 WASTEWATER	Decreases nutrients (phosphorus and nitrogen) through enhanced wastewater treatment and addresses aging infrastructure 	<ul style="list-style-type: none"> • Protects public health and safety • Supports Clean Water Act compliance • Leverages federal funds

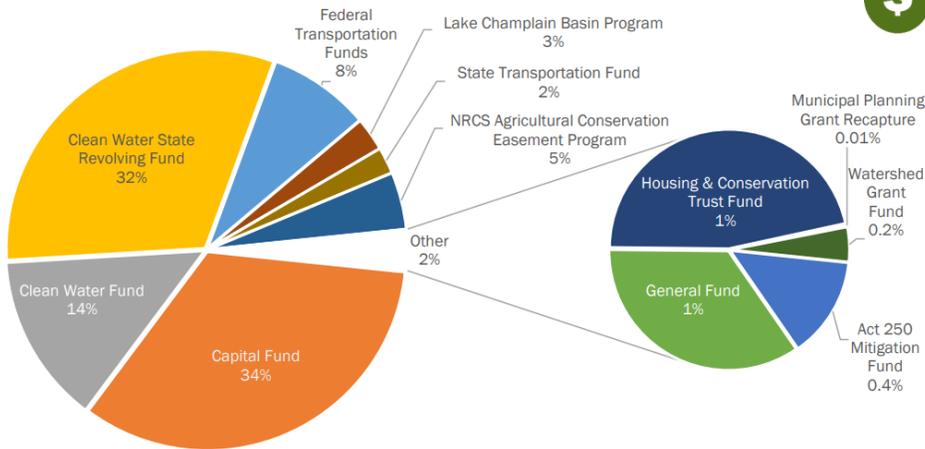
The purpose of the Clean Water Budget is to provide the financing necessary to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters. The Clean Water Budget, however, is not the only source of funding/financing that supports clean water projects. The image below shows how from State Fiscal Years 2016 through 2020 Capital and Clean Water Fund Dollars only accounted for 48% of all state-administered funds contributing to improving Vermont's water quality. You can learn more about all of Vermont's investments in clean water by reviewing the most recent *Vermont Clean Water Initiative Annual Performance Report* here: <https://dec.vermont.gov/water-investment/cwi/reports> or by exploring the [Clean Water Interactive Dashboard](#).

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Investments by Funding Source



SFY 2016-2020 Total: \$194,366,224

If you would like to learn more about the SFY2023 Clean Water Budget, you can review the Draft Budget and Line-item Descriptions here: [LINK](#)

Section 2. Overall Budget

$$\begin{matrix}
 \$25.9 & + & \$11 & + & \$10 & = & \$46.9 \\
 \text{MILLION} & & \text{MILLION} & & \text{MILLION} & & \text{MILLION}
 \end{matrix}$$

Estimated Fiscal Year 2023 Clean Water Fund revenue from Meals and Rooms Tax Allocation, Property Transfer Tax Surcharge, and Unclaimed Bottle Deposits.

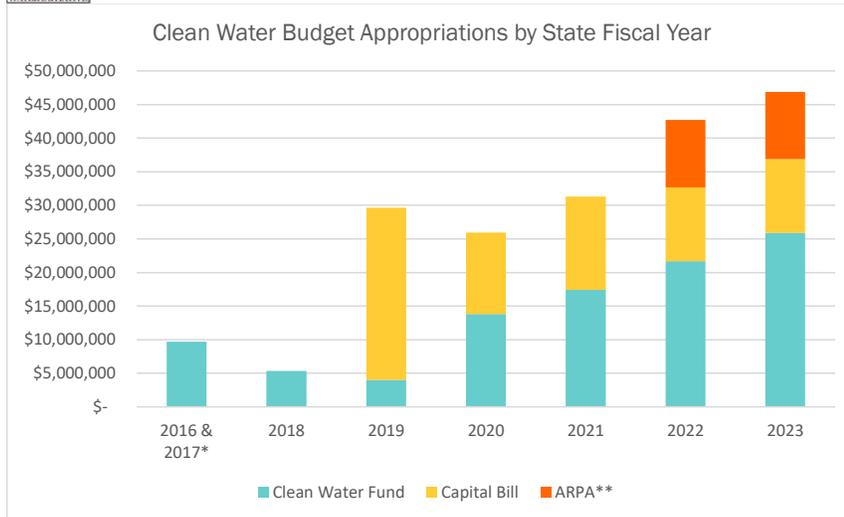
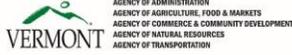
Estimated Fiscal Year 2023 funds from Capital Bill.

Legislative allocation from American Rescue Plan Act (ARPA) for Fiscal Year 2023.

Estimated Fiscal Year 2023 Clean Water Budget.

The State Fiscal Year 2023 Clean Water Budget is estimated to be roughly \$46.9 million. This represents an increase from prior year budget levels. Figure below shows the Clean Water Budget values recommended by the Clean Water Board since its inception in SFY 2016.

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*Note that SFY 2016 and 2017 funds were programmed together.

**ARPA stands for American Rescue Plan Act dollars.

Under 10 V.S.A. § 1389 (d)(3)(C)(ii), if the Board determines that there are insufficient funds in the Clean Water Fund to issue all grants or financing required to support the Water Quality Restoration Formula Grants, Water Quality Enhancement Grants, Developed Lands Implementation Grants, and Municipal Stormwater Implementation Grants, it may choose to make recommendations to the Governor and General Assembly on additional revenue to address unmet needs.

Section 2 Questions

- Factoring in the funding provided by the Capital Bill and ARPA, do you believe there are sufficient funds in the Clean Water Fund to cover the obligations under 10 V.S.A. §925-928 (establishment of Water Quality Restoration Formula Grants, Water Quality Enhancement Grants, Developed Lands Implementation Grants, or Municipal Stormwater Implementation Grants)?
 - Yes
 - No
 - Unsure
- If you selected no above, what is the total size (in dollars) of the Clean Water Fund you would like to see the Board recommend to the Governor and General Assembly?
 - Short answer

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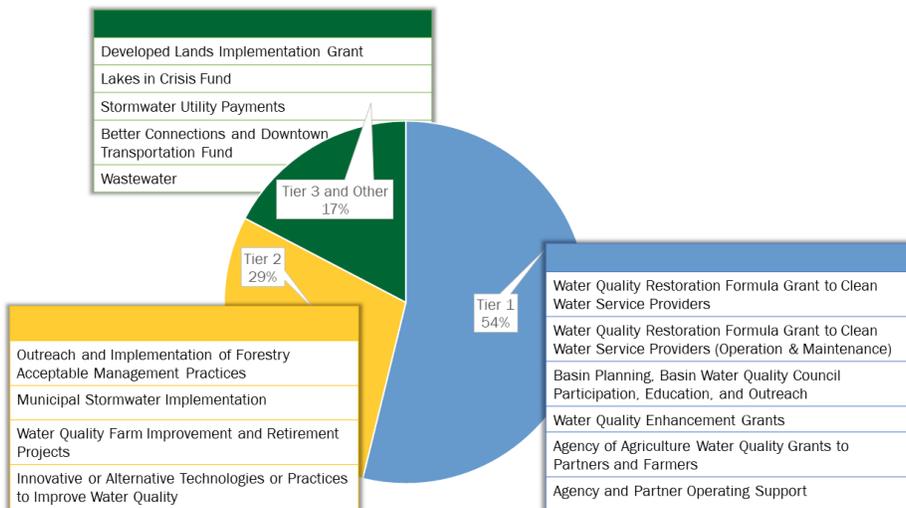
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Section 3. Tiering and Prioritization

Vermont's new Clean Water Service Delivery Act of 2019 (Act 76) demands a significant re-organization of the Clean Water Budget structure due to a new priority scheme introduced under 10 V.S.A. § 1389 (e). To meet the statutory intent of prioritization, roughly 54% of the budget was allocated to first priority or "Tier 1" line items/funding programs, 29% to second priority or "Tier 2" line item/funding programs, and 17% to third priority or "Tier 3" and "other" line items/funding programs. The image below shows line items/funding programs by priority tier. You can read more about each line item/funding program by reviewing the line-item descriptions provided here: [LINK](#)



Section 3 Questions

1. Do you agree with the percent of funds allocated to Tier 1, Tier 2, and Tier 3/other priorities?
 - ii. Yes
 - iii. No
 - iv. Unsure
2. If you answered no above, what would be your preferred percent breakdown of spending across the three tiers? Your percentages must add up to 100.
 - a. Tier 1 _____ %
 - b. Tier 2 _____ %
 - c. Tier 3 and Other _____ %

Commented [PG3]: Conditional question, just appears if no is selected in previous question.

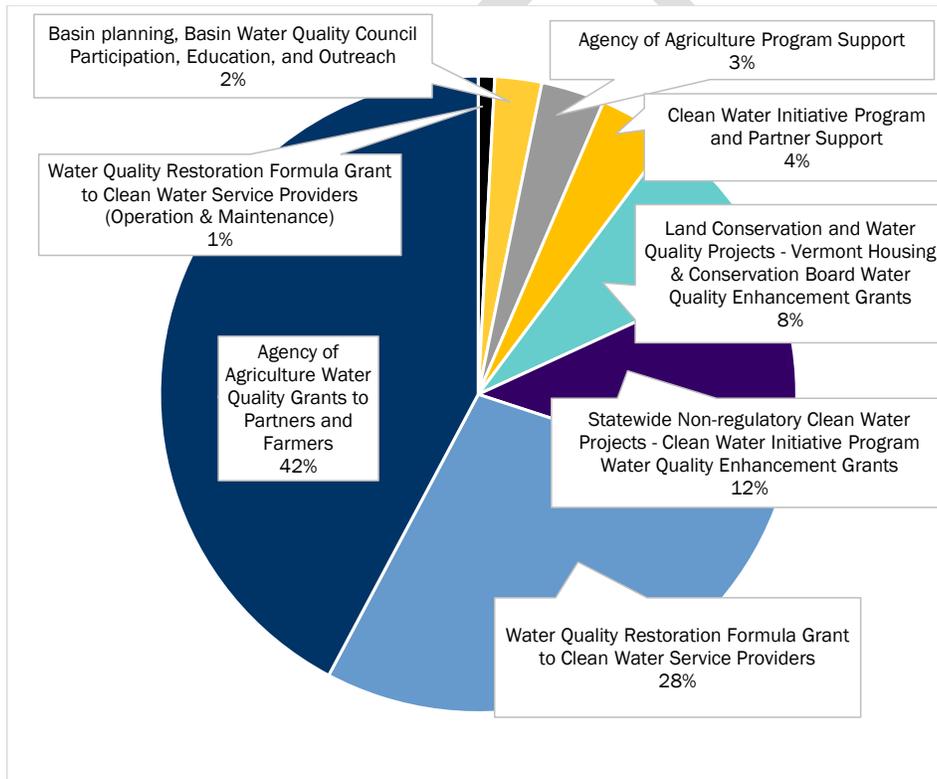


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Section 4. Within a Tier

Within a given tier, line items are statutorily defined as being of equal priority although they differ in funding based on the expense, scope, and, in some cases, statutorily set minimums/maximums. For each tier below, the image demonstrates how funds are currently allocated across specific line items/funding programs in the draft SFY23 Clean Water Budget. You can learn more about each line item/funding program by reviewing line-item descriptions here: [LINK](#). Please re-rank the spending programs within each tier to reflect your preferred priorities. Items moved to the top are ranked higher. Based on your ranking the Clean Water Board may consider a different percentage breakdown across the initiatives within each tier.

Tier 1



Agency of Agriculture Water Quality Grants to Partners and Farmers

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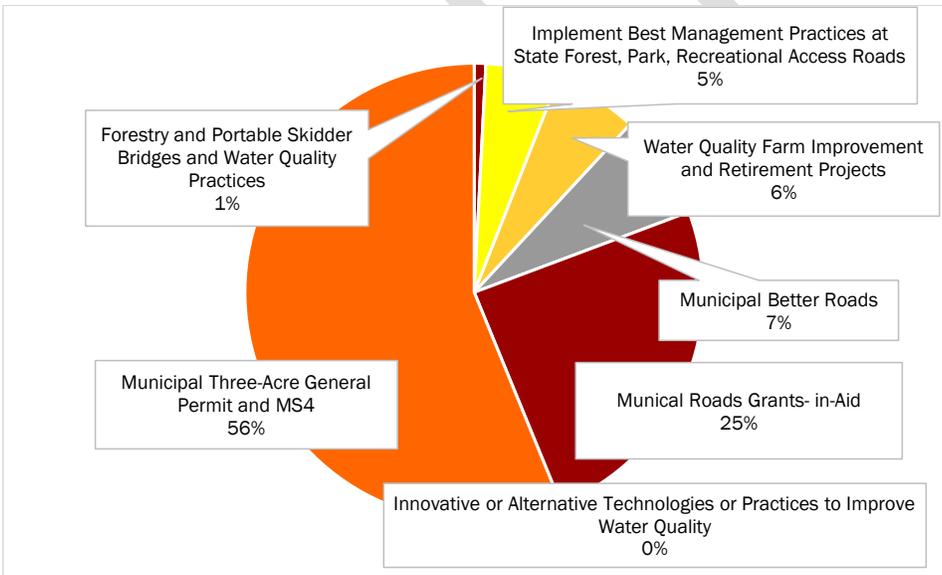
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Water Quality Restoration Formula Grant to Clean Water Service Providers
Statewide Non-regulatory Clean Water Projects - Clean Water Initiative Program Water Quality Enhancement Grants
Land Conservation and Water Quality Projects - Vermont Housing & Conservation Board Water Quality Enhancement Grants
Clean Water Initiative Program and Partner Support
Agency of Agriculture Program Support
Basin planning, Basin Water Quality Council Participation, Education, and Outreach
Water Quality Restoration Formula Grant to Clean Water Service Providers (Operation & Maintenance)

Tier 2



Municipal Three-Acre General Permit and MS4
Municipal Roads Grants-in-Aid
Municipal Better Roads
Water Quality Farm Improvement and Retirement Projects

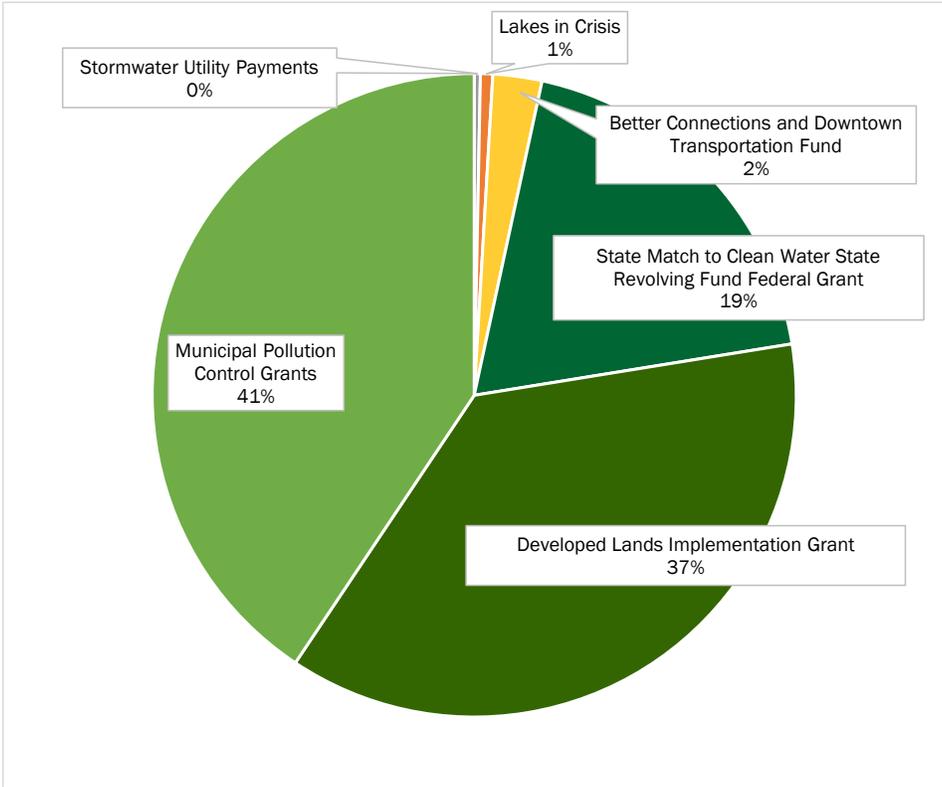
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Implement Best Management Practices at State Forest, Park, Recreational Access Roads
Forestry and portable skidder bridges and water quality practices
Innovative or alternative technologies or practices to improve water quality

Tier 3 and Other



Municipal Pollution Control Grants
Developed Lands Implementation Grant
State Match to Clean Water State Revolving Fund Federal Grant
Better Connections and Downtown Transportation Fund

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Lakes in Crisis Fund

Stormwater Utility Payments

Section 5. Other Comments and Close-out

Section 5 Questions

1. Do you feel there are any unmet needs in supporting clean water priorities based on the programs and initiatives as presented in the draft SFY23 Clean Water Budget?
 - i. Short answer
2. Do you have any other comments on the draft SFY23 Clean Water Budget?
 - i. Short answer
3. Do you have any suggestions on how we can improve future public questionnaires on the Clean Water Budget?
 - i. Short answer
4. How did you hear of this questionnaire (select all that apply)?
 - i. Print, radio, or television news source
 - ii. Social media
 - iii. Website
 - iv. Online forum (like Front Porch Forum)
 - v. Email
 - vi. Word of mouth
 - vii. Vermont Clean Water Initiative e-newsletter
 - viii. Other (please specify)
5. Please enter your zip code to help us understand the statewide distribution of responses to this questionnaire.
6. If you would like to be added to the Vermont Clean Water Initiative mailing list to be kept informed about the State's progress in safeguarding clean water, please provide your contact information below.
 - i. Name
 - ii. Email
7. We are interested to know who is completing this questionnaire. Which groups do you belong to or identify with? Select all that apply.
 - Agricultural Producer/Farmer
 - Forester/Forest Landowner

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AGENCY OF COMMERCE & COMMUNITY DEVELOPMENT
AGENCY OF NATURAL RESOURCES
AGENCY OF TRANSPORTATION

- Business Owner
- Recreational User
- Concerned resident
- Student
- Natural Resources Conservation District
- Regional Planning Commission
- Watershed Group or Other Nongovernmental Organization
- State Legislator
- Municipal Employee/Representative
- Other (please specify)

DRAFT



Department of Buildings & General Services
Office of Purchasing & Contracting
109 State Street [phone] 802-828-2211
Montpelier VT 05609-3001 [fax] 802-828-2222
<http://bgs.vermont.gov/purchasing>

SEALED BID

REQUEST FOR PROPOSAL

Program Audit of Clean Water Fund

ISSUE DATE: Monday, October 4, 2021

BIDDERS' CONFERENCE: There will be no bidders' conference

QUESTIONS DUE BY: Monday, October 18, 2021 10:00 AM
(State's answers anticipated, but not assured, on or about Monday, 10/25)

RFP RESPONSES DUE BY: Monday, November 1, 2021 3:00 PM

PLEASE BE ADVISED THAT ALL NOTIFICATIONS, RELEASES, AND ADDENDUMS ASSOCIATED WITH THIS RFP WILL BE POSTED AT:

<http://www.bgs.state.vt.us/pca/bids/bids.php>

THE STATE WILL MAKE NO ATTEMPT TO CONTACT INTERESTED PARTIES WITH UPDATED INFORMATION. IT IS THE RESPONSIBILITY OF EACH BIDDER TO PERIODICALLY CHECK THE ABOVE WEBPAGE FOR ANY AND ALL NOTIFICATIONS, RELEASES AND ADDENDUMS ASSOCIATED WITH THIS RFP.

STATE CONTACT: Trevor R. Lewis, State Commodity Procurement Administrator
TELEPHONE: (802) 828-2217
E-MAIL: SOV.ThePathForward@vermont.gov

USE EMAIL SUBJECT LINE: CLEAN WATER RFP

NOTICE TO READERS OR RECIPIENTS OF THIS DOCUMENT:

If you receive this as only a one-page document, then you must treat this as an Invitation to Bid, which simply, and only, gives you notice of the issuance of this RFP. **To access the full, actual RFP, you must go to the web address URL that is on this page, above, and look for the specific RFP on this subject that will be among the multiple RFPs posted at that website.** There, and only there, you will find full detail of the scope of this bid event, and how to submit a bid. *(if you are receiving this or accessing this as a multi-page document consisting of a total of 36 pages, then you are in possession of the full, actual RFP)*

1. OVERVIEW:

- 1.1. **SCOPE AND BACKGROUND:** Through this Request for Proposal (RFP) the State of Vermont Agency of Administration (hereinafter the "State") is seeking to establish contracts with one or more companies that can provide a Program Audit of the Clean Water Fund, in accordance with 10 V.S.A. § 1389b. <https://legislature.vermont.gov/statutes/section/10/047/01389b>
- 1.2. **CONTRACT PERIOD:** Contracts arising from this RFP will be for a period of one year with an option to renew for up to one additional one-year period. The State anticipates the start date will be as soon as practicable.
- 1.3. **SINGLE POINT OF CONTACT:** All communications concerning this RFP are to be addressed in writing to the State Contact listed on the front page of this RFP. Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.
- 1.4. **BIDDERS' CONFERENCE:** There will be no bidders' conference.
- 1.5. **QUESTION AND ANSWER PERIOD:** Any bidder requiring clarification of any section of this RFP or wishing to comment on any requirement of the RFP must submit specific questions in writing no later than the deadline for question indicated on the first page of this RFP. Questions may be e-mailed to the point of contact on the front page of this RFP. **USE EMAIL SUBJECT LINE: CLEAN WATER RFP** Questions or comments not raised in writing on or before the last day of the question period are thereafter waived. At the close of the question period a copy of all questions or comments and the State's responses will be posted on the State's web site <http://www.bgs.state.vt.us/pca/bids/bids.php> . Every effort will be made to post this information as soon as possible after the question period ends, contingent on the number and complexity of the questions.
- 1.6. **CHANGES TO THIS RFP:** Any modifications to this RFP will be made in writing by State through the issuance of an Addendum to this RFP and posted online at <http://www.bgs.state.vt.us/pca/bids/bids.php> . Verbal instructions or written instructions from any other source are not to be considered.

2. DETAILED REQUIREMENTS/DESIRED OUTCOMES:

*The State prefers, but is not strictly limited to selecting, a single bid, covering the entire scope, referred to in this RFP as **Scope of Work, Part 1: Conduct an Independent Program Audit of the Clean Water Fund (10 V.S.A. §§ 1389b(a)(1) – (3), (6)) and Scope of Work, Part 2: Assess Capacity of State Government to Effectively Administer and Enforce Agricultural Water Quality Regulatory Requirements (10 V.S.A. §§ 1389b(a)(4) – (5)),***

from a single bidder. However, the State recognizes that some of the distinct areas of subject matter involved in the two scopes of work in this RFP require different particular skillsets that may not all be possessed in full by a single individual or a single organization.

If a bidder proposes to meet the various required skillsets by an arrangement involving a prime contractor and one or more subcontractors, the prime contractor must be the bidder, but the prime contractor's bid must very clearly identify any and all subcontractors, must clearly describe how scope, roles, and responsibilities will be allocated among all entities, and must provide a substantiation of the specific relevant experience and qualifications of both the prime contractor and any/all subcontractors.

Similarly, if a bidder proposes to meet the various required skillsets by some form of joint venture, the bidder must very clearly explain the proposed entity type and structure of joint venture in detail, must very clearly identify any/ all participants in the joint venture, must clearly describe how scope, roles, and responsibilities will be allocated among and across entities, and must provide a substantiation of the specific relevant experience and qualifications of any/ all participants in the proposed joint venture.

The State reserves the right, in its sole discretion, to award separate sub-portions of the scope of work covered by this RFP to separate bidders. The State reserves the right, in its sole discretion, to use the Best and Final Offer ("BAFO") process (as described elsewhere within this RFP) to explore and negotiate such a potential award of different sub-portions of the scope of work covered by this RFP to separate bidders, but the State's ability to explore and negotiate multiple awards in that manner shall not be limited to the BAFO process, nor shall the BAFO process be limited to the potential allocation of work across multiple bidders..

Vermont statutes, at 10 V.S.A. § 1389b, sub-sections (a) & (b), require:

CLEAN WATER FUND AUDIT

(a) On or before January 15, 2023, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

- (1) a summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;*
- (2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;*
- (3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;*
- (4) an assessment of the capacity of the Agency of Agriculture, Food and Markets (AAFM) to effectively administer and enforce agricultural water quality requirements on farms in the State;*
- (5) an assessment of the capacity of the Department of Environmental Conservation (DEC) to effectively administer and enforce agricultural water quality requirements on farms in the State; and*
- (6) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.*

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

The Agency of Administration is seeking one or more qualified, independent environmental consultant(s) or organization(s) (hereinafter, “consultant”) to conduct this program audit. The consultant(s) shall have knowledge of the Federal Clean Water Act, state water quality requirements and programs, the Phosphorus Total Maximum Daily Loads (TMDLs) for Vermont Segments of Lake Champlain (i.e., Lake Champlain TMDL) and attendant implementation plan, other large-scale watershed management programs across the country that are similarly dominated by non-point source pollution control work, as well as the program elements of the interagency Vermont Clean Water Initiative as detailed in the annual *Clean Water Investment Report*¹ produced by the State of Vermont, available at <https://dec.vermont.gov/water-investment/cwi/projects#Reports>. The consultant(s) must have relevant technical and performance measurement and data management expertise necessary to complete this program audit.

Bidders must, as part of their bid submission, disclose, clearly and with specificity, any involvement that any bidder(s) organization(s), or that any individual(s) within any bidder(s) organization(s) have had, directly or indirectly, in projects receiving funding from the Clean Water Fund. The State will consider such involvement in relation to the potential for an Organizational Conflict of Interest (OCOI), which shall be defined as:

Organizational conflict of interest (OCOI) means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the work is or might be otherwise impaired, or a person has an unfair competitive advantage, or there is a substantial risk that information gained by the person during the course of the work (if awarded the work) could be used against the State, or used for or against other parties, in other matters in a manner that would give the person an unfair advantage in those other matters.

¹ The Clean Water Investment Report is titled “Vermont Clean Water Initiative Annual Investment Report” for reporting periods of State Fiscal Year (SFY) 2016-2018 and is titled “Vermont Clean Water Initiative Annual Performance Report” for reporting period SFY 2019.

It shall be a condition precedent to the submittal of any bid(s) that the bidder(s) recognize and fully and unconditionally consent that the determination of the existence, extent, or seriousness of OCOI, and of whether an OCOI can or cannot adequately be avoided or mitigated, is a matter for the sole discretion of the State.

The selected consultant(s) will work with an interagency team, including representatives from the Agency of Administration appointed by the Secretary, and subject matter experts appointed by the Secretaries of the Agency of Agriculture, Food & Markets and the Secretary of the Agency of Natural Resources throughout the process. There shall be a minimum of five such SME team “touch points” for the following purposes:

- 1) Introductory meeting with audit team to review audit scope and identify document and data relevant and necessary to the audit
- 2) transmittal and review of existing documentation and datasets;
- 3) review of draft audit report and recommendations;
- 4) review State’s comments to draft audit; and recommendations; and
- 5) delivery and presentation of final report

The final audit must be provided to the Secretary of Administration no later than December 20, 2022 for submission to the General Assembly no later than January 15, 2023; additional incremental time requirements, prior to December 20, 2022 are set forth in detail in subsequent portions of this RFP.

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

Scope of Work, Part 1:

Conduct an Independent Program Audit of the Clean Water Fund ([10 V.S.A. §§ 1389b\(a\)\(1\) – \(3\), \(6\)](#)).

- A. Review existing documentation related to (i) intended water quality benefits of projects and programs funded or implemented by the State and (ii) expenditures in and results of projects and programs funded or implemented by the state, as well as (iii) authorization, continuation, and funding levels of the Clean Water Fund.

Documents that should be reviewed will include, but may not be limited to, the following:

- i. Planning documents and datasets *identifying intended water quality benefits of projects and programs funded or implemented by the state:*
 1. Lake Champlain Phosphorus TMDL and Vermont Lake Champlain Phosphorus TMDL Phase 1 Implementation Plan available at <https://dec.vermont.gov/watershed/restoring/champlain>
 2. Lake Memphremagog Phosphorus TMDL and Implementation Plan (i.e., Lake Memphremagog Tactical Basin Plan) available at <https://dec.vermont.gov/water-investment/watershed-planning/tactical-basin-planning/basin17>
 3. Vermont Tactical Basin Plans for each of Vermont’s Tactical Basin Planning watersheds available at <https://dec.vermont.gov/water-investment/watershed-planning>
 4. Watershed Projects Database containing water quality improvement projects identified through Tactical Basin Planning available at <https://anrweb.vt.gov/DEC/cleanWaterDashboard/WPDSearch.aspx>; also searchable through the Clean Water Project Explorer by selecting project status “Potential Projects” available at <https://anrweb.vt.gov/DEC/CleanWaterDashboard/ProjectExplorer.aspx>
 5. Progress Report on River Basin Water Quality Management Planning (Tactical Basin Planning) During 2019 available at <https://dec.vermont.gov/water->

[investment/watershed-planning/tactical-basin-planning](#)

- ii. Reports and datasets summarizing expenditures in and results of *water quality projects and programs funded from the Clean Water Fund or implemented by the State*:
 1. Lake Champlain TMDLs Accountability Framework Report Card from EPA (April 2018) and Lake Champlain TMDLs Accountability Framework Interim Report Card from EPA (February 2017) available at <https://dec.vermont.gov/watershed/restoring/champlain>
 2. Vermont Clean Water Initiative Investment Report, 2016, 2017, 2018, available at <https://dec.vermont.gov/water-investment/cwi/projects#Reports>
 3. Vermont Clean Water Initiative Performance Report, 2019, 2020 available at <https://dec.vermont.gov/water-investment/cwi/projects#Reports>, including:
 - a. Interim TMDL Implementation Status for the Lamoille River (Appendix B) and Missisquoi Bay (Appendix C) Watersheds
 - b. Summary of Methods used to Estimate Pollutant Reductions (Appendix F) (more robust documentation under development as required by Act 76 of 2019)
 4. Clean Water Reporting Framework (CWRP) data summary reports and raw data used to generate above listed Investment and Performance Reports, to be provided to selected contractor upon request; projects contained in CWRP are also searchable through the Clean Water Project Explorer by selecting project statuses “Projects in Progress” and “Completed Projects” available at <https://anrweb.vt.gov/DEC/CleanWaterDashboard/ProjectExplorer.aspx>
 - iii. Reports summarizing long term funding and financing needs to meet State of Vermont water quality requirements, *pertinent to authorization and continuation of the Clean Water Fund and funding levels*, available at <https://dec.vermont.gov/water-investment/cwi/board> under “Other Legislative Reports”:
 1. State of Vermont Office of the State Treasurer Clean Water Report Required by Act 64 of 2015, 2017
 2. Report of the Working Group on Water Quality Funding 2017 Act 73, Section 26, 2017
 3. Report on Federal Funding Related to Water Quality Improvement Efforts in Vermont, 2017, 2018, 2019
- B. Review expenditures from the Clean Water Fund, including the water quality projects and programs that received funding.
- C. Analyze and summarize the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the state.
- i. Evaluate results of the projects and programs funded and/or completed from the Clean Water Fund or implemented by the State since SFY 2016 in regard to: (1) project output metrics statewide and (2) project-level estimated phosphorous pollution reductions in Lake Champlain and Lake Memphremagog, where applicable and quantifiable.
 - ii. Evaluate the efficacy of State of Vermont agencies’ clean water data, data management systems, and pollution accounting methodologies in quantifying results of Clean Water Fund investments, including assessment of improvements made between 2016 and the present to State of Vermont tracking systems. Make recommendations on specific areas to focus development and documentation of pollution accounting methodologies required by Act 76 of 2019, as appropriate.
- D. Evaluate whether water quality projects and programs funded or implemented by the state are achieving the intended water quality benefits.

- i. Recommend any modifications in current measurement tools or new measurement tools to more effectively track progress toward water quality goals as established in the Lake Champlain TMDL, Lake Memphremagog TMDL, Act 64 of 2015, and Act 76 of 2019, including establishment of benchmarks and targets for measuring incremental progress, as required by Act 76 of 2019 and Phase 3 Tactical Basin Plans (in progress).
 - ii. Evaluate and recommend any rebalancing the proportion of dollars being invested in the steps of a typical project life cycle to optimize priority project delivery, including: planning and assessment; project design and engineering; project implementation and construction; operation and maintenance; monitoring; education, outreach and technical assistance; and, research and innovation.
- E. Recommend whether the General Assembly should authorize continuation of the Clean Water Fund, and if so, at what funding level.

Scope of Work, Part 2:

Assess Capacity of State Government to Effectively Administer and Enforce Agricultural Water Quality Regulatory Requirements ([10 V.S.A. §§ 1389b\(a\)\(4\) – \(5\)](#)).

- A. Assess the capacity of state government, including resources currently housed within the Agency of Agriculture, Food and Markets (AAFM) and the Agency of Natural Resources Department of Environmental Conservation (ANR-DEC), to effectively administer and enforce agricultural water quality regulatory requirements on Vermont farms. Recommend any modifications in the current structure that would support more effective administration and enforcement of agricultural water quality requirements on farms. Evaluation should address at least:
- (1) ability of programs to meet statutorily or delegated required inspection quantity and/or timeframes
 - (2) ability of the programs to meet statutorily and delegated permitting requirements including those delegated by the Clean Water Act
 - (3) timeliness in investigating complaints and/or referrals to gather sufficient evidence for enforcement,
 - (4) ability of inspectors to adequately document and make determinations on water quality violations on farm visits for enforcement;
 - (5) adequacy of enforcement activities to remedy water quality violations in a timely manner and deter future water quality violations;
 - (6) assessment of compliance with the MOU for point and non-point source discharges, and
 - (7) adherence to transparency and communication policies established between Agencies (LEAN policy).
- B. The Assessment referenced at “A,” immediately above, will require the selected bidder(s) to review materials that will include, but not be limited to, materials that, as of the time of contractor’s review, are confidential and exempt from disclosure under the Vermont Public Records Act. The State may require the selected bidder to enter into a Confidentiality Agreement substantially similar to the Confidentiality Agreement contains as Appendix 1.
- Illustrative (but not exclusive) examples of types of information and information sources that selected bidder(s) will be available and relevant to the review are contained in Appendix 2 at the end of this RFP.
- Each of the above Appendices to this RFP is illustrative and not exclusive, and it is a condition of any bid(s) that such illustrative and not exclusive nature of such Appendices is accepted by bidder(s).
- C. Based on the findings of the program evaluation, develop recommendations to:
- (1) optimize cost effectiveness of future Clean Water Fund investments;

- (2) establish interim targets to assess future progress meeting water quality goals, such as goals described in the Lake Champlain TMDL and Act 64 of 2015;
 - (3) establish targets for reporting future progress and to prioritize investments; and
 - (4) enhance clean water project data tracking and ability to quantify project results.
- D. Present the results of the program audit in the form of a final written report to the Agency of Administration.

Staging of Work: The preferred approach is for Part 1 and Part 2 of the Scope of work to proceed concurrently and in parallel.

Work Plan/Timeline:

Submissions shall include a comprehensive work plan to address the components of the Scopes of Work including the specific elements to be performed, their schedule and frequency, and the bidder’s proposed schedule for payments in relation to stages and deliverables. The proposal shall discuss any anticipated problem areas and proposed solutions. The workplan/timeline should include a time frame for completion of tasks between June 1 and following deadlines:

December 1, 2021	<i>(or as soon as practicable thereafter, and following selection of contractor and award of contract):</i> Introductory meeting with Audit team and state representatives
June 15, , 2022	Submission of draft audit report and recommendations to Secretary of Administration;
September 15, 2022	Receive State comments on initial comment draft,
November 1, 2022	Provide State Secretary of Administration with a revised comment draft
December 20, 2022	Submission of final report to Secretary of Administration
December 31, 2022	Receive State instruction to return and/or destroy confidential information, and certify same to State in writing

[At State’s option: follow-up work which may include but not be limited to Legislative testimony]

3. GENERAL REQUIREMENTS:

- 3.1. **PRICING:** Bidders must price the terms of this solicitation at their best pricing. Any and all costs that Bidder wishes the State to consider must be submitted for consideration. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State.
 - 3.1.1. Prices and/or rates shall remain firm for the initial term of the contract. The pricing policy submitted by Bidder must (i) be clearly structured, accountable, and auditable and (ii) cover the full spectrum of materials and/or services required.
 - 3.1.2. The bidder’s price quotes should be firm fixed price including all travel and expenses and any other costs, broken out and quoted on a task-by-task basis, **which should specifically match and track “Major Stages” in Section 2 of this RFP**, for the entire contract period. Pricing may be structured differently for work leading to the major deliverable audit report and for optional provision of post-delivery support and legislative testimony (the State may, in its sole discretion, consider time-rate based pricing for work after the delivery of the final report).
 - 3.1.3. **Disclosure Requirement:** Bidders must, as part of their bid submission, disclose, clearly and with specificity, any involvement that any bidder(s)’, organization(s), or that any individual(s) within any

bidder(s)' organization(s) have had, directly or indirectly, in projects receiving funding from the Clean Water Fund.

3.1.4. Retainage. In the discretion of the State, a contract resulting from this RFP may provide that the State withhold a percentage of the total amount payable for some or all deliverables, such retainage to be payable upon satisfactory completion and State acceptance in accordance with the terms and conditions of the contract

3.2. BEST AND FINAL OFFER:

3.2.1. Best and Final Offer (BAFO). At any time after submission of Responses and prior to the final selection of Bidder(s) for Contract negotiation or execution, the State may invite Bidder(s) to provide a BAFO.

3.2.1.1. The state reserves the right to request BAFOs from only those Bidders that meet the minimum qualification requirements and/or have not been eliminated from consideration during the evaluation process.

3.2.1.2. The State reserves the right, in its sole discretion, to use the BAFO process to explore and negotiate a potential award of different sub-portions of the scope of work covered by this RFP to separate bidders, but the State's ability to explore and negotiate multiple awards in that manner shall not be limited to the BAFO process. The State has no obligation to do so. The State's use of the BAFO process is also in no way restricted to this potential exploration or negotiation of possible award of different sub-portions of the scope of work covered by this RFP to separate bidders; the BAFO process may cover any broader or other aspects of scope, approach, cost, or any other considerations. As noted elsewhere, the State's overall preference is most likely a single award in response to a single bid, but the direction and outcome are in the State's sole and final discretion.

3.2.2. Evaluation of Responses and Selection of Bidder(s). The State shall have the authority to evaluate Responses and select the Bidder(s) as may be determined to be in the best interest of the State and consistent with the goals and performance requirements outlined in this RFP.

3.3. WORKER CLASSIFICATION COMPLIANCE REQUIREMENTS: In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), Bidders must comply with the following provisions and requirements.

3.3.1. Self Reporting: For bid amounts exceeding \$250,000.00, Bidder shall complete the appropriate section in the attached Certificate of Compliance for purposes of self-reporting information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers. The State is requiring information on any violations that occurred in the previous 12 months.

3.3.2. Subcontractor Reporting: For bid amounts exceeding \$250,000.00, Bidders are hereby notified that upon award of contract, and prior to contract execution, the State shall be provided with a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54). This requirement does not apply to subcontractors providing supplies only and no labor to the overall contract or project. This list MUST be updated and provided to the State as additional subcontractors are hired. A sample form is available online at <http://bgs.vermont.gov/purchasing-contracting/forms>. **The subcontractor reporting form is not required to be submitted with the bid response.**

3.4. EXECUTIVE ORDER 05-16: CLIMATE CHANGE CONSIDERATIONS IN STATE PROCUREMENTS:

For bid amounts exceeding \$25,000.00 Bidders are requested to complete the Climate Change Considerations in State Procurements Certification, which is included in the Certificate of Compliance for this RFP.

After consideration of all relevant factors, a bidder that demonstrates business practices that promote clean energy and address climate change as identified in the Certification, shall be given favorable consideration in the competitive bidding process. Such favorable consideration shall be consistent with and not supersede any preference given to resident bidders of the State and/or products raised or

manufactured in the State, as explained in the Method of Award section. But, such favorable consideration shall not be employed if prohibited by law or other relevant authority or agreement.

3.5. **METHOD OF AWARD:** Awards will be made in the best interest of the State. The State may award one or more contracts and reserves the right to make additional awards to other compliant bidders at any time if such award is deemed to be in the best interest of the State. All other considerations being equal, preference will be given first to resident bidders of the state and/or to products raised or manufactured in the state, and then to bidders who have practices that promote clean energy and address climate change, as identified in the applicable Certificate of Compliance.

3.5.1. **Evaluation Criteria:** Consideration shall be given to the Bidder's project approach and methodology, qualifications and experience, ability to provide the services within the defined timeline, cost, and/or success in completing similar projects, as applicable, and to the extent specified below.

- (0- 20 POINTS) Consulting team members with strong experience and expertise in environmental, regulatory, financial, data management, and performance measurement evaluation.
- (0- 10 POINTS) Overall project cost
- (0- 10 POINTS) Workplan and timeline
- (0- 10 POINTS) References and work products
- (0- 20 POINTS) Representative project experience demonstrating working knowledge of types of programs and projects eligible for funding by the Clean Water Fund and experience demonstrating working knowledge of the types of enforcement processes performed by the Agencies
- (0- 5 POINTS) Strong written and oral communication skills
- (0- 20 POINTS) Full coverage of the totality of diverse skillsets involved, and, if a bid proposal involves more than one contractor (such as a prime contractor/subcontractor or joint venture arrangement), a clear structure as to roles and responsibilities, and inter-entity coordination, for the overall scope
- (0- 5 POINTS) Demonstration of willingness and ability to maintain confidentiality of materials designated by State as confidential, including but not only demonstration of specific information security polic(ies) and practices that protect systems and processes and media that may contain State Data from internal and external security threats, and protect State Data from unauthorized disclosure.

TOTAL BASED ON ALL CRITERIA: 100 POINTS

PASS/ FAIL: Organizational Conflict of Interest ("OCOI"): After consideration of all other factors, the State will consider each bidder(s)' mandated disclosures of any involvement that any bidder(s)' organization(s), or that any individual(s) within any bidder(s)' organization(s) have had, directly or indirectly, in projects receiving funding from the Clean Water Fund.

The State will consider such involvement in relation to the potential for an Organizational Conflict of Interest (OCOI), which shall be defined as:

Organizational conflict of interest (OCOI) means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the work is or might be otherwise impaired, or a person has an unfair competitive advantage, or there is a substantial risk that information gained by the person during the course of the work (if awarded the work) could be used against the State, or used for or against other parties, in other matters in a manner that would give the person an unfair advantage in those other matters.

It shall be a condition precedent to the submittal of any bid(s) that the bidder(s) recognize and fully and unconditionally consent that the determination of the existence, extent, or seriousness of OCOI, and of whether an OCOI can or cannot be successfully avoided or adequately mitigated, is a matter for the sole discretion of the State.

The State will consider, in its sole discretion, whether a bidder(s) other activities or relationships create an actual or potential OCOI. If the State, in its sole discretion, believes that there is or may

be an actual or potential OCOI, the State will identify any actions that could potentially be taken to adequately avoid or mitigate such OCOI. The State shall have the option, but no obligation, to confer with bidders, during the Best and Final Offer (BAFO) stage, or otherwise before a final award, as part of the State's determination of whether any OCOI can be successfully avoided or adequately mitigated. The State will award the contract to the apparent otherwise-successful bidder(s) unless an OCOI is determined to exist that cannot be successfully avoided or adequately mitigated. If the State in its sole discretion, determines that an OCOI cannot be successfully avoided or adequately mitigated, the State will proceed to apply the same OCOI determination and analyses to the next-most-successful bidder(s), until the State arrives at an acceptable bidder that is not disqualified on the basis of OCOI, provided, however, that in any instance and for any reason, including but not limited to OCOI, the State shall have total discretion to reject any and all bids.

- 3.5.2. **Presentations and/or Interviews:** Final presentations and/or interviews, if deemed necessary by the State will be on-site at the State in Montpelier, Vermont, or, at the State's choice, by conference call. Up to three finalists may be chosen according to the Schedule above from among the bidders to complete a demonstration of their capabilities. The bidder will be expected to demonstrate relevant expertise and provide examples of developed deliverables at the demonstration during the period listed in the Schedule. There will be no cost to the State for these presentations and/or interviews.
- 3.6. **STATEMENT OF RIGHTS:** The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Bidders may be asked to give a verbal presentation of their proposal after submission. Failure of bidder to respond to a request for additional information or clarification could result in rejection of that bidder's proposal. To secure a project that is deemed to be in the best interest of the State, the State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions. The State also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the State. The State further reserves the right to conform the selection process, award and/or proposed contract language at any time during the procurement process to comply with state or federal statute, regulation or grant requirement.
- 3.7. **CONTRACT NEGOTIATION:** Upon completion of the evaluation process, the State may select one or more Vendors with which to negotiate a contract, based on the evaluation findings and other criteria deemed relevant for ensuring that the decision made is in the best interest of the State. In the event State is not successful in negotiating a contract with a selected Vendor, the State reserves the option of negotiating with another Vendor, or to end the proposal process entirely.
- 3.8. **COST OF PREPARATION:** Bidder shall be solely responsible for all expenses incurred in the preparation of a response to this RFP and shall be responsible for all expenses associated with any presentations or demonstrations associated with this request and/or any proposals made.
- 3.9. **CONTRACT TERMS:** The selected bidder(s) will be expected to sign a contract with the State, including the Standard Contract Form and Attachment C as attached to this RFP for reference. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.
- 3.9.1. **PAYMENT TERMS:** All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. Payment terms are Net 30 days from receipt of an error-free invoice with all applicable supporting documentation. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.
- 3.9.2. **BUSINESS REGISTRATION:** To be awarded a contract by the State of Vermont a vendor (except an individual doing business in his/her own name) must be registered with the Vermont Secretary of State's office <http://www.sec.state.vt.us/tutor/dobiz/forms/fcregist.htm> and must obtain a Contractor's Business Account Number issued by the Vermont Department of Taxes <http://tax.vermont.gov/>.
- 3.9.3. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.
4. **CONTENT AND FORMAT OF RESPONSES:** The content and format requirements listed below are the minimum requirements for State evaluation. These requirements are not intended to limit the content of a

Bidder's proposal. Bidders may include additional information or offer alternative solutions for the State's consideration. However, the State discourages overly lengthy and costly proposals, and Bidders are advised to include only such information in their response as may be relevant to the requirements of this RFP.

4.1. NUMBER OF COPIES:

4.1.1. Submit an unbound original (clearly marked as such) and twelve (12) paper copies and one digital copy in PDF and/or Microsoft Word or other standard Microsoft Office product formats on USB flash drive.

4.1.2. The bid should include a Cover Letter and Technical Response and a separate Pricing Response.

4.2. COVER LETTER:

4.2.1. Confidentiality. To the extent your bid contains information you consider to be proprietary and confidential, you must comply with the following requirements concerning the contents of your cover letter and the submission of a redacted copy of your bid (or affected portions thereof).

4.2.2. The successful response will become part of the contract file and will become a matter of public record, as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under the State's Public Records Act, 1 V.S.A. § 315 et seq., the bidder shall submit a cover letter that clearly identifies each page or section of the response that it believes is proprietary and confidential. The bidder shall also provide in their cover letter a written explanation **for each marked section** explaining why such material should be considered exempt from public disclosure in the event of a public records request, pursuant to 1 V.S.A. § 317(c), including the prospective harm to the competitive position of the bidder if the identified material were to be released. Additionally, the bidder must include a redacted copy of its response for portions that are considered proprietary and confidential. Redactions must be limited so that the reviewer may understand the nature of the information being withheld. It is typically inappropriate to redact entire pages, or to redact the titles/captions of tables and figures. Under no circumstances can the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.

4.2.3. Exceptions to Contract Terms and Conditions. If the bidder wishes to propose an exception to any terms and conditions set forth in the Standard Contract Form and its attachments, such exceptions must be included in the cover letter to the RFP response. Failure to note exceptions when responding to the RFP will be deemed to be acceptance of the State contract terms and conditions. If exceptions are not noted in the response to this RFP but raised during contract negotiations, the State reserves the right to cancel the negotiation if deemed to be in the best interests of the State. Note that exceptions to contract terms may cause rejection of the proposal.

4.3. **BACKGROUND AND EXPERIENCE**. Provide details concerning the form of business organization, company size and resources; describe particular experience relevant to the proposed project, and list all current or past State projects.

4.4. If a Bidder intends to use subcontractors, the Bidder must identify in the proposal the names of the subcontractors, the portions of the work the subcontractors will perform, and address the background and experience of the subcontractor(s), as above.

4.5. **WORK PLAN/ TIMELINE**: Submissions shall include a comprehensive work plan to address the components of the Scope of Work (see Attachment A) including the specific elements to be performed, their schedule and frequency, and the bidder's proposed schedule for payments in relation to stages and deliverables. This should include a realistic timeline for deliverables. The submission shall also discuss any anticipated problem areas and proposed solutions.

4.6. **EXAMPLE WORK PRODUCT**: Submission should include a representative sample of work product such as reports, presentations, or other documentation.

4.7. **REFERENCES**. Provide the names, addresses, and phone numbers of at least three companies with whom the bidder has transacted similar business in the last 12 months. A bidder must include contact names who can talk knowledgeably about performance.

4.8. **PRICE AND PRICING STRUCTURE** The bidder's price quotes should be firm fixed price including all travel and expenses and any other costs, broken out and quoted on a task-by-task basis, **which should specifically match and track "Major Stages" in Section 2 of this RFP, and should be displayed on bidders' completed 'Price Schedule' as found at the end of this RFP**. Pricing may be structured

differently for work prior to and including the delivery of the major deliverable audit report and for optional provision of post-delivery support and legislative testimony (the State may, in its sole discretion, consider time-rate based pricing for work after the delivery of the final report).

4.9. **CERTIFICATE OF COMPLIANCE:** This form must be completed and submitted as part of the response for the proposal to be considered valid.

5. **SUBMISSION INSTRUCTIONS:**

5.1. **CLOSING DATE:** Bids must be received by the due date and at the location specified on the front page of this RFP.

5.2. The bid opening will be held at **109 State Street, Third Floor, Montpelier, VT** and is open to the public.

5.3. **SECURITY PROCEDURES:** Please be advised extra time will be needed when visiting and/or delivering information to 109 State Street. All individuals visiting 109 State Street must present a valid government issued photo ID when entering the facility.

5.4. **SEALED BID INSTRUCTIONS:** All bids must be sealed and must be addressed to the State of Vermont, Office of Purchasing & Contracting, **109 State Street – Third Floor, Montpelier, VT 05609-3001**. BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE REQUISITION NUMBER AND/OR PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.

5.4.1. All bidders are hereby notified that sealed bids must be received and time stamped by the Office of Purchasing & Contracting located at **109 State Street – Third Floor, Montpelier, VT 05609-3001** - by the time of the bid opening. Bids not in possession of the Office of Purchasing & Contracting at the time of the bid opening will be returned to the bidder, and will not be considered. **Any delay deemed caused by Security Procedures and courier/mail delivery service will be at the bidder's own risk.**

5.4.2. There will not be a public bid opening. However, the State will record the name, city and state for any and all bids received by the due date. This information will be posted as promptly as possible following the due date online at: <https://bgs.vermont.gov/content/opc-bid-tabulation-sheets-0> . Bidders are hereby notified to review the information posted after the bid opening deadline to confirm receipt of bid by the State. Any bidder that submitted a bid, and is not listed on the bid tabulation sheet, shall promptly notify the State Contact listed on the front page of this RFP. Should a bidder fail to notify the State Contact listed on the front page of this RFP within two weeks of posting the bid tabulation sheet, the State shall not be required to consider the bid.

5.5. **DELIVERY METHODS:**

5.6. U.S. MAIL OR EXPRESS DELIVERY OR HAND DELIVERY:

5.6.1. All paper format bids must be addressed to the State of Vermont, Office of Purchasing & Contracting, **109 State Street – Third Floor, Montpelier, VT 05609-3001**. BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE REQUISITION NUMBER AND/OR PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.

5.6.2. **NUMBER OF COPIES:**

5.6.3. For bids submitted via mail, express, or in-hand, submit an unbound original (clearly marked as such) and three (3) paper copies and one digital copy in PDF, CD-ROM, or USB flash drive copy

5.6.4. **Paper Format Delivery Methods:**

- 5.6.4.1. U.S. MAIL: Bidders are cautioned that it is their responsibility to originate the mailing of bids in sufficient time to ensure bids are received and time stamped by the Office of Purchasing & Contracting prior to the time of the bid opening.
- 5.6.4.2. EXPRESS DELIVERY:** If bids are being sent via an express delivery service, be certain that the RFP designation is clearly shown on the outside of the delivery envelope or box. Express delivery packages will not be considered received by the State until the express delivery package has been received and time stamped by the Office of Purchasing & Contracting. **Due to security procedures express deliveries must be received by 10:30 AM in order to be received by the Office of Purchasing & Contracting that same day.**
- 5.6.4.3. HAND DELIVERY: Hand carried bids shall be delivered to a representative of the Office of Purchasing & Contracting prior to the bid opening. A Security Officer is at 109 until 4:30pm which is the normal hours. We can let your bidders in. If a door is locked and the Security Officer is not there, please ask them to call the 24/7 duty phone, (802) 828-0777, and someone will address the issue
- 5.6.4.4. E-MAIL BIDS. Emailed bids will be accepted. Bids will be accepted via email submission to SOV.ThePathForward@vermont.gov **USE EMAIL SUBJECT LINE: CLEAN WATER RFP** Bids must consist of a single email with a single, digitally searchable PDF attachment containing all components of the bid. Multiple emails and/or multiple attachments will not be accepted. There is an attachment size limit of 40 MB. It is the Bidder's responsibility to compress the PDF file containing its bid if necessary in order to meet this size limitation.
- 5.6.4.5. FAX BIDS: Faxed bids will not be accepted.

6. ATTACHMENTS:

- 6.1. Standard State Contract Form
- 6.2. Attachment C: Standard State Contract Provisions (December 15, 2017)
- 6.3. Worker Classification Compliance Requirement; Subcontractor Reporting Form
- 6.4 BID SUBMISSION CHECKLIST:
 - ✓ Required Number of Copies
 - ✓ Cover Letter
 - ✓ Technical Response
 - ✓ References
 - ✓ Price Schedule
 - ✓ Signed Certificate of Compliance

7. APPENDICIES:

- 7.1. Appendix 1: Form of Confidentiality Agreement
- 7.2. Appendix 2: Illustrative types information relevant to the scopes of work that will be available to the selected consultant(s) (this is intended to be illustrative and not exclusive)

STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, Agency of Administration (hereinafter called "State"), and _____, with a principal place of business in _____, (hereinafter called "Contractor"). Contractor's form of business organization is _____. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of a Program Audit of Vermont's Clean Water Fund. Detailed services to be provided by Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$_____.00.

4. **Contract Term.** The period of Contractor's performance shall begin on _____, 20__ and end on _____, 20__.

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

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

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

8. **Attachments.** This contract consists of ___ pages including the following attachments which are incorporated herein:

Attachment A - Statement of Work

Attachment B - Payment Provisions

Attachment C – "Standard State Provisions for Contracts and Grants" a preprinted form (revision date 12/15/2017)

Attachment D – Confidentiality Agreement (which may resemble "Appendix 1" to this RFP)

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

- (1) Standard Contract
- (2) Attachment C (Standard State Provisions for Contracts and Grants)
- (3) Attachment A
- (4) Attachment B
- (5) Attachment D Confidentiality Agreement (which may resemble “Appendix 1” to this RFP)

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By the Contractor:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTACHMENT A – STATEMENT OF WORK

The Contractor shall: *conduct an Independent Program Audit of the Clean Water Fund:*

[THE SCOPE OF THE CONTRACT THAT IS EXPECTED TO RESULT FROM THIS RFP WILL LARGELY BE INFORMED BY THE SCOPE AS DEFINED WITHIN THE RFP ITSELF, BUT MAY BE FURTHER INFORMED BY ADDITIONAL INFORMATION OR CONSIDERATIONS THAT THE STATE LEARNS OR CONSIDERS SUBSEQUENT TO THE RFP, INCLUDING BUT NOT LIMITED TO WHAT THE STATE MAY LEARN OR CONSIDER IN REVIEWING BIDS AND NEGOTIATING WITH BIDDERS]

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
 - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract # for this contract.
4. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly.
5. Invoices shall be submitted to the State at the following address: _____
6. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are as follows: _____

[THE STAGING OF PAYABLES IS EXPECTED TO LARGELY BE INFORMED BY THE INCREMENTS OF MAJOR DELIVERABLES AS DEFINED WITHIN THE RFP, WITH SOME SUBSTANTIAL DEGREE OF END-LOADING IN ORDER TO UNDERSCORE THE IMPORTANCE OF SCHEDULE AND FINAL DELIVERABLES, BUT MAY BE FURTHER INFORMED BY ADDITIONAL INFORMATION OR CONSIDERATIONS THAT THE STATE LEARNS OR CONSIDERS SUBSEQUENT TO THE RFP, INCLUDING BUT NOT LIMITED TO WHAT THE STATE MAY LEARN OR CONSIDER IN REVIEWING BIDS AND NEGOTIATING WITH BIDDERS]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

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

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

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

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

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

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such

disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

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

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

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

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

16. Taxes Due to the State:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27. Termination:

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

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

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

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

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

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

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

- B. **Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. **Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the

imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

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

(End of Standard Provisions)

CERTIFICATE OF COMPLIANCE

For a bid to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.

- A. **NON COLLUSION:** Bidder hereby certifies that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, bidder understands that this paragraph might be used as a basis for litigation.
- B. **CONTRACT TERMS:** Bidder hereby acknowledges that is has read, understands and agrees to the terms of this RFP, including Attachment C: Standard State Contract Provisions, and any other contract attachments included with this RFP.

C. **FORM OF PAYMENT:** Does Bidder accept the Visa Purchasing Card as a form of payment?

Yes No

D. **WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to Bidder when the amount of its bid exceeds \$250,000.00.

Self-Reporting. Bidder hereby self-reports the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers, that occurred in the previous 12 months.

Summary of Detailed Information	Date of Notification	Outcome

Subcontractor Reporting. Bidder hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this RFP, Bidder will provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), and Bidder will provide any update of such list to the State as additional subcontractors are hired. Bidder further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

E. Executive Order 05 – 16: Climate Change Considerations in State Procurements Certification

Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims):

1. Bidder owns, leases or utilizes, for business purposes, space that has received:
- Energy Star® Certification
 - LEED®, Green Globes®, or Living Buildings ChallengeSM Certification
 - Other internationally recognized building certification:

-
2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder's place of business. Please explain:

-
3. Please Check all that apply:
- Bidder can claim on-site renewable power or anaerobic-digester power ("cow-power"). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.
 - Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.
 - Bidder's heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.
 - Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this? _____
 - Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc..
 - Bidder offers employees an option for a fossil fuel divestment retirement account.
 - Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:

-
4. Please list any additional practices that promote clean energy and take action to address climate change:
-
-
-

F. Acknowledge receipt of the following Addenda:

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Bidder Name: _____ Contact Name: _____

Address: _____ Fax Number: _____

_____ Telephone: _____

_____ E-Mail: _____

By: _____ Name: _____
Signature of Bidder (or Representative) (Type or Print)

END OF CERTIFICATE OF COMPLIANCE

PRICE SCHEDULE

MUST BE COMPLETED BY ALL BIDDERS

THIS MUST BE COMPLETED BY EVERY BIDDER FOR PRICING INFORMATION TO ENABLE UNIFORM COMPARISON OF PRICING BETWEEN BIDDERS.

The State reserves the right to negotiate or require structuring or allocation of payments, different from that proposed by any/all bidders, in any contract(s) that may result from this RFP.

A. Fixed Price Deliverables:

Deliverable Description	Fixed Price
<p>Deliverable A:</p> <p>Review existing documentation related to:</p> <ul style="list-style-type: none"> (i) intended water quality benefits of projects and programs funded or implemented by the State and (ii) expenditures in and results of projects and programs funded or implemented by the state, as well as (iii) authorization, continuation, and funding levels of the Clean Water Fund. 	<p>\$</p>
<p>Deliverable B:</p> <p>Review expenditures from the Clean Water Fund, including the water quality projects and programs that received funding.</p>	<p>\$</p>
<p>Deliverable C:</p> <p>Analyze and summarize the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the state.</p> <ul style="list-style-type: none"> (i) Evaluate results of the projects and programs funded and/or completed from the Clean Water Fund or implemented by the State since SFY 2016 in regard to: (1) project output metrics statewide and (2) project-level estimated phosphorous pollution reductions in Lake Champlain and Lake Memphremagog, where applicable and quantifiable. (ii) Evaluate the efficacy of State of Vermont agencies' clean water data, data management systems, and pollution accounting methodologies in quantifying results of Clean Water Fund investments, including assessment of improvements made between 2016 and the present to State of Vermont tracking 	<p>\$</p>

<p>systems. Make recommendations on specific areas to focus development and documentation of pollution accounting methodologies required by Act 76 of 2019, as appropriate.</p>	
<p>Deliverable D:</p> <p>Evaluate whether water quality projects and programs funded or implemented by the state are achieving the intended water quality benefits.</p> <ul style="list-style-type: none"> (i) Recommend any modifications in current measurement tools or new measurement tools to more effectively track progress toward water quality goals as established in the Lake Champlain TMDL, Lake Memphremagog TMDL, Act 64 of 2015, and Act 76 of 2019, including establishment of benchmarks and targets for measuring incremental progress, as required by Act 76 of 2019 and Phase 3 Tactical Basin Plans (in progress). (ii) Evaluate and recommend any rebalancing the proportion of dollars being invested in the steps of a typical project life cycle to optimize priority project delivery, including: planning and assessment; project design and engineering; project implementation and construction; operation and maintenance; monitoring; education, outreach and technical assistance; and, research and innovation. 	\$
<p>Deliverable E:</p> <p>Recommend whether the General Assembly should authorize continuation of the Clean Water Fund, and if so, at what funding level.</p>	\$
<p>Deliverable F:</p> <p>Assess the capacity of state government, including resources currently housed within the Agency of Agriculture, Food and Markets (AAFM) and the Agency of Natural Resources Department of Environmental Conservation (ANR-DEC), to effectively administer and enforce agricultural water quality regulatory requirements on Vermont farms. Recommend any modifications in the current structure that would support more effective administration and enforcement of agricultural water quality requirements on farms. Evaluation should address at least:</p> <ul style="list-style-type: none"> (i) ability of programs to meet statutorily or delegated required inspection quantity and/or timeframes 	\$

<ul style="list-style-type: none"> (ii) ability of the programs to meet statutorily and delegated permitting requirements including those delegated by the Clean Water Act (iii) timeliness in investigating complaints and/or referrals to gather sufficient evidence for enforcement, (iv) ability of inspectors to adequately document and make determinations on water quality violations on farm visits for enforcement; (v) adequacy of enforcement activities to remedy water quality violations in a timely manner and deter future water quality violations; (vi) assessment of compliance with the MOU for point and non-point source discharges, and (vii) adherence to transparency and communication policies established between Agencies (LEAN policy). 	
<p>Deliverable G:</p> <p>Based on the findings of the program evaluation, develop recommendations to:</p> <ul style="list-style-type: none"> (i) optimize cost effectiveness of future Clean Water Fund investments; (ii) establish interim targets to assess future progress meeting water quality goals, such as goals described in the Lake Champlain TMDL and Act 64 of 2015; (iii) establish targets for reporting future progress and to prioritize investments; and (iv) enhance clean water project data tracking and ability to quantify project results. 	\$
<p>Deliverable H:</p> <p><u>DRAFT REPORT</u></p> <p>Present the results of the program audit in the form of a Draft Report to the Agency of Administration.</p>	\$
<p>Deliverable I:</p> <p><u>REVISED DRAFT REPORT</u></p>	\$

Receive Agency of Administration comments on Draft Report , incorporate changes based on comments, and provide Revised Draft Report to Agency of Administration	
Deliverable J: <u>FINAL REPORT</u> Receive Agency of Administration comments on Revised Draft Report , incorporate changes based on comments, and provide Final Report to Agency of Administration	\$
Deliverable K: <u>Certification of Destruction of Confidential Information</u> : Destroy confidential information and certify same, in writing, to Agency of Administration	\$
Total Project Cost	\$

B. **Hourly Labor Rates (for potential additional work, including but not only testimony, following the final written report, provided that any such work, if any, shall be in the sole discretion of the State):**

Service Category/Title of Positions	Hourly Rate
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$

Name of Bidder: _____

Signature of Bidder: _____

Date: _____

Appendix 1: Illustrative Confidentiality Agreement

**(this may be subject to refinement based on additional input from State counsel
and/or as a product of dialogue with selected bidder(s))**

CONFIDENTIALITY AGREEMENT

This Agreement for use and non-disclosure of Confidential Information (“Agreement”) is entered into and effective this __ day of _____, 2020 by and between:

[CONTRACTOR]

and

The State of Vermont

Engagement: The Contractor, in the course of engagement by the State for Contract _____ on the subject of _____ (the “Contract”), may or will have access to or learn certain information belonging to the State that is confidential (Confidential Information).

Definition of Confidential Information: Confidential Information as used throughout this Agreement means documents designated by State as “Confidential” at the time of transmission to the vendor.

Limitation on Use: Contractor shall not disclose or cause to be disclosed any Confidential Information, directly or indirectly, or use it in any way, either during the term of this Agreement or at any time thereafter, except as required in the course of the performance of Contractor’s obligations under this Agreement.

Ownership of Information: All files, records, documents, specifications, equipment, reports, publications, illustrations, and similar items relating to the subject matter of the Contract, whether prepared by Contractor or otherwise coming into Contractor’s possession during the term of this Agreement, shall remain the exclusive property of the State.

Information Security: Before receiving or controlling Confidential Information, the Contractor will have an information security policy that protects its systems and processes and media that may contain Confidential Information from internal and external security threats and Confidential Information from unauthorized disclosure, and will have provided a copy of such policy to the State.

Treatment of Confidential Information: The Contractor agrees and acknowledges that Contractor must:

- (a) use the Confidential Information only as may be necessary in the course of performing duties or exercising rights under the Contract;
- (b) not obtain, or retain, any Confidential Information except to the extent required to perform the services under the Contract.
- (c) not make any additional copies of the Confidential Information except upon the State's written authorization, signed by one of the State’s authorized officers;
- (d) provide at a minimum the same care to avoid disclosure or unauthorized use of Confidential Information as Contractor provides to protect its own similar confidential and proprietary information, except that the Contractor acknowledges and agrees that where the Contract or this Confidentiality Agreement set(s) standards higher than Contractor’s own Standard, the highest standard shall govern;
- (e) not publish, reproduce, or otherwise divulge any Confidential Information in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State, and only if that third party is also subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Agreement;
- (f) take all reasonable precautions to protect the Confidential Information;
- (g) not store, access, or transfer Confidential Information to, or from, any location outside the United States;
- (h) not otherwise appropriate such information to its own use or to the use of any other person or entity;
- (i) take reasonable measures as are necessary to restrict access to Confidential Information in the Contractor’s possession to only those employees on its staff who must have the information on a “need to know” basis for the specific purpose of Contractor’s work for the State;

- (j) treat any and all copies of, and notes, memoranda, analyses, compilations, abstracts, synopses, studies of other material produced from, the Confidential Information as Confidential Information;
- (k) communicate only with the designated representatives of the State concerning Confidential Information;
- (l) not use or disclose any Confidential Information for any purpose other than the purpose for which such information was provided in connection with the performance of the Contract, except as permitted by applicable law in the course of performing the Contract or as otherwise required by applicable law;
- (m) not disclose to any person the fact that Confidential Information has been made available to Contractor or that Contractor has reviewed or has in its possession any Confidential Information, except as necessary to perform the Contract and as permitted by applicable law;
- (n) comply with all applicable law regarding the security, handling, use and disclosure of Confidential Information (including, without limitation, all laws and regulations pertaining to Nonpublic Personal Information).

Return upon Termination of Contract: Upon termination of the Contract for any reason whatsoever, Contractor shall immediately deliver to State any and all Confidential Information (including without limitation any Deliverables for which State has made payment in whole or in part), that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time, and Contractor shall certify in writing to the State, that such full and complete return has been performed.

Employees and other entities: Contractor shall take appropriate measures to ensure that all employees, agents, and permitted subcontractors of Contractor comply with the provisions of this Agreement. Such measures shall include, but shall not be limited to, requiring all of Contractor's employees and/ or subcontractors, who have access to any of the material referred to above, to sign an agreement substantially similar to this Agreement.

Security Breach Notice and Reporting. The Contractor shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request. In the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise Confidential Information (a "Security Breach"), the Contractor shall notify the State within 24 hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the Confidential Information used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State.

Obligations Continue Past Term: The obligations imposed on the Contractor shall continue with respect to every part of the Confidential Information, and every obligation hereunder, following the termination of the business relationship between the Contractor and the State, and such obligations shall not terminate until such unit shall cease to be secret and confidential and shall be in the public domain, unless such event placing information in the public domain shall have occurred as a result of wrongful conduct by the Contractor or the contractor's agents, servants, officers, or employees or a breach of the covenants set forth in this Agreement.

Notification to State of Other(s)' attempts to Obtain Confidential Information: The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order or otherwise defend any right it may have to maintain the confidentiality of its Confidential Information.

Specific Performance: The Contractor acknowledges and agrees that a breach of this Agreement would cause the State to suffer irreparable damage that could not be adequately remedied by an action at law. Accordingly, the Contractor agrees that the State shall have the right to seek specific performance of this Agreement to enjoin a breach or attempted breach of the provision thereof, such right being in addition to all other rights and remedies that are available to the State at law, in equity, or otherwise.

Severability: In case any one or more of the provisions or parts of a provision contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement; and this Agreement shall, to the fullest extent possible, be reformed

and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and such provision or part shall be reformed so that it would be valid, legal and enforceable to the maximum extent possible.

Governing Law, Jurisdiction and Venue: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to that jurisdiction and venue for any action or proceeding regarding this Agreement.

Appendix 2:
**Illustrative types information relevant to the scopes of work
that will be available to the selected consultant(s)**

(this is intended to be illustrative and not exclusive)

2017 Amended MOU between AAFM & ANR re: Implementation & Enforcement of Agricultural Water Quality WQ Programs https://agriculture.vermont.gov/sites/agriculture/files/documents/Water_Quality//MOU-between-ANR-%26-AAFM-Water-Quality-Enforcement-Programs.pdf

Background documentation of AAFM administration and enforcement of agricultural water quality requirements:

Enabling Statutory Language

10 V.S.A § 1259(i)

6 V.S.A. Chapter 215 – specifically, 6 V.S.A. Chapter 215 Subchapter 10: Enforcement

EPA Phase 1 Implementation Report Card & Agricultural Water Quality Requirements

<https://www.epa.gov/sites/production/files/2019-05/documents/epa-april-2018-report-card-tmdl-implementation-progress.pdf>

Relevant Agricultural Milestones, Year 1: 1, 2, 3, 4, 5, 6, 7, 16.

Relevant Agricultural Milestones, Year 2: 1, 2, 3, 9, 11, 12.

Act 64 of 2015 Charge for Agricultural Water Quality – Amendments to Required Agricultural Practices (RAPs) and AAFM Water Quality Enforcement

<https://legislature.vermont.gov/Documents/2016/Docs/ACTS/ACT064/ACT064%20As%20Enacted.pdf>

Regulatory Programs for the Agricultural Nonpoint Source Pollution Control Program

Required Agricultural Practices Rule:

https://agriculture.vermont.gov/sites/agriculture/files/documents/RAPFINALRULE12-21-2018_WEB.pdf

MFO (Medium Farm Operation) Rules

LFO (Large Farm Operation) Rules

FY2015 –  2019 Annual Report on AAFM – ANR Water Quality Enforcement Program MOU

<https://legislature.vermont.gov/assets/Legislative-Reports/2019-01-15-Annual-Report-on-AAFM-ANR-MOU.pdf>

Annual AAFM Water Quality Enforcement Reports

<https://agriculture.vermont.gov/water-quality/enforcement-compliance/enforcement-reports>

Background documentation of ANR-DEC administration and enforcement of agricultural water quality requirements:

Enabling State and Federal Statutes:

10 V.S.A. § 1259(a): <https://legislature.vermont.gov/statutes/section/10/047/01259>

10 V.S.A. § 1251 (3), (12), and (13): <https://legislature.vermont.gov/statutes/section/10/047/01251>

10 V.S.A. § 1263 (a) - (g): <https://legislature.vermont.gov/statutes/section/10/047/01263>

40 CFR 122.23: <https://www.law.cornell.edu/cfr/text/40/122.23>

40 CFR 412: <https://www.law.cornell.edu/cfr/text/40/part-412>

DEC enforcement's governing rules: <https://dec.vermont.gov/enforcement/rules>

Regulatory Documents:

Medium Concentrated Animal Feeding Operations (CAFO) General Permit:
https://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/Agriculture/sw_finalsignedGP.pdf

DEC annual enforcement reports: <https://dec.vermont.gov/enforcement/news>

DEC enforcement final actions: <https://dec.vermont.gov/enforcement/final>

DEC enforcement proposed actions: <https://dec.vermont.gov/enforcement/public-notice>

Report of the Vermont State Auditor on DEC's Enforcement:

<https://auditor.vermont.gov/sites/auditor/files/documents/DEC%20-%20Environmental%20Compliance%20Report.pdf>

Documents specific to inspection, investigation and enforcement matters:

AAFM Water Quality Enforcement Tracking sheets

Agricultural water quality complaints received by AAFM

Investigation Reports

Inspection Reports

Referrals to DEC and Attorney General's Office (AGO) and associated documentation

Communications tracking referrals and correspondence with DEC and AGO

Enforcement Actions issued by AAFM Water Quality and associated documentation

Enforcement Follow-Up Reports

Relevant procedures and policy documents

Staff calendar outputs for tracking visits, inspections and investigations

Annual Reports submitted by farms to AAFM to satisfy requirements of 6 V.S.A. Chapter 215

Reviews by Agency staff of submitted Annual Reports

Permit applications and permits issued by AAFM under the authority of 6 V.S.A. Chapter 215

DEC enforcement records, reports, photographs and narratives

DEC complaint intake forms: <https://dec.vermont.gov/content/environmental-violation-report>

DEC agricultural enforcement incident tracking spreadsheet

DEC annual enforcement reports: <https://dec.vermont.gov/enforcement/news>

DEC enforcement final actions: <https://dec.vermont.gov/enforcement/final>

DEC enforcement proposed actions: <https://dec.vermont.gov/enforcement/public-notice>

DEC Inspection reports, and associated records and materials

Staff calendar outputs for tracking visits, inspections and investigations

DEC Referrals to AGO and associated documentation

Communications regarding referrals and correspondence with AAFM and AGO

Assurances of Discontinuance and Administrative Orders for closed agricultural water quality cases

Comments on AAFM permit amendments

Comments on AAFM 2019 winter spreading ban exemption

Notes and materials from the 2017 ANR-AAFM Enforcement Lean Event