



STATE OF VERMONT
OFFICE OF THE STATE TREASURER

109 State Street, 4th Floor
MONTPELIER, VERMONT 05609-6200
802-828-2301
www.vermonttreasurer.gov

REQUEST FOR PROPOSAL

IN-STATE AND/OR OUT-OF-STATE UNCLAIMED PROPERTY EXAMINATION SERVICES

DATE: September 22, 2010

QUESTIONS DUE BY: October 8, 2010

DATE OF BID OPENING: October 22, 2010

TIME OF BID OPENING: 2:00 P.M.

LOCATION OF BID OPENING: 109 State Street, Montpelier, VT, 4th Floor

CONTACT: Donna Holden
TELEPHONE: (802) 828-3708
E-MAIL: Donna.Holden@state.vt.us
FAX: (802) 828-2772



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SEALED BID INSTRUCTIONS

All bids must be sealed and must be addressed to the Office of the State Treasurer, 109 State Street, 4th Floor, Montpelier, VT 05609-6200. **BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.**

Please be advised to allow extra time for delivery of your proposal due to internal mail processing procedures.

All bidders are hereby notified that sealed bids must be in the Office of the State Treasurer by the time of the bid opening. Bidders are cautioned that it is their responsibility to originate the sending of bids in sufficient time to ensure receipt by the Office of the State Treasurer prior to the time of the bid opening. Hand-carried bids shall be delivered to a representative of the Office of the State Treasurer prior to the bid opening. Bids not in possession of the Office of the State Treasurer at the time of the bid opening will not be considered.

The Office of the State Treasurer may, for cause, change the date and/or time of the bid opening. If a change is made, the Office of the State Treasurer will make a reasonable effort to inform all bidders.

All bids will be publicly opened. Any interested party may attend the bid opening. Bid results may be requested in writing and are available once an award has been made.



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DATE: September 22, 2010

REQUEST FOR PROPOSAL
THIS IS A SEALED BID RESPONSE
BIDS MUST BE RECEIVED BY October 22, 2010 at 2:00 P.M.

This form must be completed and submitted as part of the response for the bid to be considered valid. The undersigned has read, understood and accepted all provisions, terms and conditions of this proposal.

VERMONT TAX CERTIFICATE

To meet the requirements of Vermont Statute 32 V.S.A. § 3113, by law, no agency of the State may enter into, extend or renew any contract for the provision of goods, services or real estate space with any person unless such person first certifies, under the pains and penalties of perjury, that he or she is in good standing with the Department of Taxes. A person is in good standing if no taxes are due, if the liability for any tax that may be due is on appeal, or if the person is in compliance with a payment plan approved by the Commissioner of Taxes, 32 V.S.A. § 3113.

In signing this bid, the bidder certifies under the pains and penalties of perjury that the company/individual 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 as of the date this statement is made.

Quotation Valid for _____ Days Date: _____

Telephone Number: _____

Name of Company: _____

Fax Number: _____

Federal Identification Number: _____

E-mail address: _____

By: _____

Name: _____

Signature (Proposal Not Valid Unless Signed)

(Type or Print)



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1 OVERVIEW

The following subsections provide general information about the RFP.

1.1 Executive Summary

The Vermont Office of the State Treasurer is seeking proposals from firms or individuals to supply in-state and/or out-of-state unclaimed property examination services. The selected bidder(s) shall provide unclaimed property identification, examination, processing, collection, reporting, and delivery services through examinations of businesses/entities (i.e., holders). The examinations shall be in accordance with State statute 27 V.S.A. Chapter 14 (“State of Vermont’s Unclaimed Property Laws”) and under the direction of the Director of the Unclaimed Property Division of the Office of the State Treasurer.

Proposal specifications are set forth in Section 2, “Scope of Services.”

If you are an existing contractor, you may bid on the RFP.

Proposals in response to this RFP are due no later than 2:00 P.M. Eastern Time (ET) on October 22, 2010.

1.2 Background

The State of Vermont Treasurer administers the Unclaimed Property Program in accordance with 27 V.S.A. Chapter 14 (“State of Vermont’s Unclaimed Property Laws”). The Program provides that businesses and other entities report and remit unclaimed property to the State. Within the context of this law, unclaimed property may consist of property such as cash, outstanding checks, dormant checking/saving accounts, safe deposit box contents, stocks, bonds, mutual funds and other general ledger or outstanding liabilities due or owing a person, business or entity as defined in the unclaimed property law. The Treasurer serves as the custodian of these properties until they are returned to the rightful owner. Currently, the Vermont Unclaimed Property database of approximately 284,000 owner records represents over \$48 million in assets.

In an effort to implement all components of the Unclaimed Property Law, and to heighten awareness and ensure legal compliance, the Treasurer utilizes authorized measures of informing, educating, and instructing all businesses of their legal responsibilities in filing and remitting reportable unclaimed property. These include notifications to businesses, educational seminars, holder technical assistance, and in-state and out-of-state examinations. Out-of-state examinations are usually conducted through a multi-state process. The intent of this RFP is to secure in-state and/or out-of-state Unclaimed Property examination services.

Bidders have the option to bid on either the In-State or Out-of-State examination services, or both services, being sought in this RFP.

Additional information about the Unclaimed Property Program is available on the Treasurer’s Web site www.vermonttreasurer.gov.

1.3 Minimum Bidder Qualifications

The bidder must meet all of the following minimum qualifications to be given further consideration. Failure to satisfy each of the minimum qualifications will result in the immediate rejection of the proposal.

- The firm or individual submitting a response to this RFP must have at least three (3) years of experience in one of the following: a) unclaimed property examination services, b) accounting and auditing, or c) similar professional experience which demonstrates the ability to provide the services outlined in the Scope of Services of this RFP.
- The firm or individual submitting a response to this RFP must have all authorizations, permits, licenses, and certifications as may be required under federal, state, or local law to perform the services specified in this RFP.

1.4 Single Point of Contact

The single point of contact for questions and all other contractual matters relating to this RFP is:

Name: Donna Holden
Title: Contracts Administrator
Vermont State Treasurer's Office
109 State Street, 4th Floor
Montpelier, Vermont 05609-6200
Telephone: 802-828-3708
FAX: 802-828-2772
E-Mail: Donna.Holden@state.vt.us

All e-mail communication with Ms. Holden must include the words "UP Audit Services RFP" in the subject line.

Attempts by bidders to contact any other party may result in the rejection of their proposal.

1.5 Bidder Questions

Questions must be submitted in writing via e-mail by the date and time specified in Section 1, *RFP Timetable*. All questions submitted must include the name of the firm and the person submitting the questions. Only those inquiries received by the established deadline shall be considered by the State. Inquiries received after the established deadline shall not be entertained.

E-mail is the preferred method of communicating questions. All e-mail communications with Ms. Holden must include the words "UP Audit Services RFP" in the subject line.

Responses to questions will be posted to our Web site at www.vermonttreasurer.gov.

1.6 RFP Timetable

RELEASE DATE OF THE RFP:	September 22, 2010
QUESTIONS DUE BY:	October 8, 2010
ANSWERS TO QUESTIONS POSTED ON www.vermonttreasurer.gov	October 13, 2010
ALL PROPOSALS MUST BE RECEIVED NO LATER THAN 2:00 P.M. Eastern Daylight Savings Time ON:	October 22, 2010

1.7 Attachments to RFP

The following information has been attached to the RFP:

- **Attachment A** – Standard Contract Provisions
- **Attachment B** – Confidentiality Agreement
- **Attachment C** – V.S.A. 27, Chapter 14 Unclaimed Property

2 SCOPE OF SERVICES

2.1 General Information

The selected bidder shall provide unclaimed property identification, examination, processing, collection, reporting and delivery services through examinations of businesses/entities (i.e., holders). The examinations shall be in accordance with state statute 27 V.S.A. Chapter 14 (“State of Vermont’s Unclaimed Property Laws”) and under the direction of the Director of the Unclaimed Property Division of the Office of the State Treasurer.

Services may consist of **on-site** examination of general ledger records and related records to include a review and testing of accounts payable, payroll, other liability accounts, and outstanding checks or **off-site** processing of unclaimed property records that are provided by the holders. Examples include information on equity-related assets and related data that is voluntarily provided by a transfer agent, holder, or intermediary. A determination of the appropriate examination method will be made jointly with Treasury personnel.

Contractors must commit to identifying potential audit candidates and follow through on all identified audits. Contractors should use available analytical tools to identify potential audit candidates. The bidders should identify the types of analyses utilized. Different types could include geographic, industry classification, or annual revenue.

As the purpose of the services is to identify non-compliant firms and bring them into compliance, the selected bidder shall not conduct examinations on, nor process records at, the State’s expense for any holder more than one time, unless authorized by the State. This will include any of the holder’s related or affiliated entities, including but not limited to a parent, subsidiary, and management/fund company. If authorized, the contingency fee, if applicable, will be based on a reduced percentage not to exceed two thirds percent (66.67%) of the fee that would be due if the audit were the first approved audit of that entity.

Payment of Contractor’s fees will not be made on audit (property) reports that do not contain all required information or reports not formatted to the correct specifications. Property must be coded with the applicable property code. The use of “other” or “miscellaneous” property code categories can be used only when no other property code is applicable. The property report must include the “Start Transaction Date” and “End Transaction Date” for all property.

The selected bidder shall conduct such examinations of firms identified by the State Treasurer’s Office or by the selected bidder, upon approval of the State Treasurer’s Office. The bidder will review preliminary documentation to determine if further investigation is warranted or to identify potential conflicts of interest. The bidder will then conduct further examinations only when it has been established that the various entities have likely not reported, or have not properly reported, unclaimed property to the State in accordance with the requirements of the statute. The Office of the State Treasurer will provide written approval prior to the commencement of an examination. Upon examination and identification of unclaimed property, the selected bidder shall then coordinate the delivery of related property to the State Treasurer’s Office, or to a custodian of the State as directed, in compliance with state statute.

The examinations by selected bidder may include all property subject to unclaimed funds reporting under the State of Vermont’s Unclaimed Property Laws and may involve the parent companies and their subsidiaries, divisions, and affiliates. It is expected, however, that work completed under any contract

awarded pursuant to this RFP shall be conducted on companies incorporated or based in Vermont. The selected bidder will perform this work at the direction of the Unclaimed Property Director at the Office of the State Treasurer.

Specific tasks to be included within the scope of services include, but are not limited to the following:

1. Examination, Identification, and Collection of Unclaimed Property

It is expected that upon identification of a holder, the selected bidder shall enter into a written agreement with the holder (“Engagement Letter”) to conduct the examination and report the property to the Treasurer. The Engagement Letter should identify the type of property to be examined, the scope of the procedures, the period to be examined, and the estimated completion date of the examination, which should be within one year.

In conjunction with the examination, identification, and collection of unclaimed property, the selected bidder shall:

- (a) Review and analyze records of unclaimed property obtained from holders and/or their agents;
- (b) Prepare reports and make a determination of unclaimed property in accordance with the requirements of the State of Vermont’s Unclaimed Property laws;
- (c) Certify that proper due diligence has been completed per V.S.A 27, Chapter 14
- (d) Demand from holders and/or their agents delivery to the State of the property deemed to be owed under the State’s unclaimed property laws; and
- (e) Deliver the unclaimed property to the State or its designee.

The selected bidder shall commence in-state examinations thirty (30) days from the date a holder is notified and shall commence out-of-state examinations ninety (90) days from the state’s/selected bidder’s notification to identify and collect unclaimed property. The examination of the books and records of unclaimed property and the demand for delivery of reportable property shall be made pursuant to the laws of Vermont and shall adhere to the Uniform Unclaimed Property Act. All findings in connection with the examination of holders and the demands for payment of the unclaimed property shall be made pursuant to the laws of Vermont.

The selected bidder may disclose information it acquires through the verification process to other states, which have entered into a similar agreement with the selected bidder, pursuant to a plan whereby the State similarly benefits from such reciprocal discoveries. The State Treasurer’s office and the selected bidder will jointly establish procedures for the sharing of such information. These procedures will be incorporated into any contract awarded as a result of this RFP.

2. Delivery

The selected bidder shall direct holders or transfer agents to deliver all cash, safe deposit box contents, securities, and related owner information to the State. Delivery of property to the State shall occur within thirty (30) calendar days once the property is identified and collected.

Certificates for securities must be registered in the name of the State. Certificates that cannot be transferred must still be remitted to State of Vermont in the nominee or original owner's name. When applicable, shares will be reported electronically to the State of Vermont's securities account at BNY/Mellon.

The original date that certificates are registered in the name of the State or credited in book entry form must be retained, and must become a part of all reports relating to such certificates.

Selected bidder may demand delivery of property by a holder to the State. Selected bidder and the holder shall reconcile and agree upon the report to be filed with the State prior to delivery of the property demanded.

While in the possession of the selected bidder, the unclaimed property assets will be deposited in an interest bearing account or fund approved in advance by the State Treasurer. All interest earnings shall be remitted to the state.

3. Report Forms

Upon delivery, selected bidder shall provide written and electronic reports in NAUPA Format to the State that shall, to the extent available, incorporate or otherwise be accompanied by the following information:

- (a) Name and address of holder
- (b) Federal employer identification number of holder
- (c) Name and address of owner
- (d) Social security number or federal tax identification number of owner(s)
- (e) Holder account number
- (f) Class of security
- (g) CUSIP number
- (h) Description of property
- (i) Date of last account activity
- (j) Interest/dividends due
- (k) Market value at receipt by the selected bidder, as applicable
- (l) Total cash received
- (m) A calculation of fees

The selected bidder shall, contemporaneously with the delivery of property to the State submit to the Unclaimed Property Division verifiable documentation supporting the interest earned on the property from the date the property is received by the selected bidder or, if the property is securities, the valuation of the securities on the date the securities were received by selected bidder.

The selected bidder shall provide the State with a monthly status report (work in progress) that sets forth the status of the examination commenced pursuant to the Agreement.

Selected bidder shall be the custodian of the records for the work performed under this Agreement.

Selected bidder shall maintain these records for five (5) years after the end of the performance of the Agreement. State shall have access to all records related to the performance of the Agreement upon request.

4. Enforcement

The Selected bidder shall inform holders regarding the provisions of the Vermont State Statutes for notifying owners of their unclaimed property. Upon conclusion of the services provided herein, the selected bidder shall advise the holder of its continuing obligation to report unclaimed property directly to the State.

If a holder refuses to subject itself to an examination or to cooperate in an ongoing examination by selected bidder, or fails or refuses to report and deliver unclaimed property, the selected bidder shall advise the State of the holder's refusal within seven (7) days of such occurrence.

The selected bidder shall notify the State if a holder files for bankruptcy before or during an approved examination within seven (7) days of discovery by selected bidder of the bankruptcy filing. In such case, selected bidder will prepare a proof of claim or provide such information to enable the State to file a proof of claim within fourteen (14) days of discovery by selected bidder of the bankruptcy. Selected bidder will not file said proof of claim on behalf of the State without the express written approval of the State.

The selected bidder cannot initiate legal action against or enter into an agreement with a holder on behalf of the State without the prior written consent of the State.

The selected bidder may inform a holder of Vermont law regarding penalties and interests. Selected bidder may not impose, or threaten to impose, penalties and/or interest.

Any document, such as an engagement letter, signed between the selected firms and Vermont holders of unclaimed property shall state that entering into the agreement in no way diminishes rights the State of Vermont has to examine the books of such entity to determine compliance with the law.

The selected bidder is expected to cooperate with the Treasurer and Attorney General's Office in any enforcement action.

2.2 Requirements Related to Conflicts of Interest and Independence

Bidders shall identify all existing or potential conflicts of interest that could prevent the bidder from fully performing the tasks described in this RFP. Such disclosure will be a continuing requirement subsequent to award of a Contract and for the life of the Contract.

In all matters relating to work required by the State the bidder shall remain free from personal and external impediments to independence, and verify their organization is independent and will maintain an independent attitude and appearance with respect to the services required.

2.3 Insurance Coverage

The Contractor shall maintain an errors and omissions insurance policy, which provides a prudent amount of coverage for the willful negligent acts or omissions of any owner, shareholder, employee or agents thereof. The Contractor shall also maintain policies pursuant to the State's Standard Contract provisions as defined in Attachment A.

2.4 Transition Requirements

Transition language may be included in Attachment A of the State's Standard Contract, which the Contractor shall be required to adhere to. If applicable, the following sample of the language below would be adapted to the requested service sought in this RFP and may similarly read:

Cooperation Upon Termination. At the time of termination, or completion of the contract, the Contractor shall cooperate fully and in good faith in the transition of the State's [investments] as directed by the State. Cooperation shall include, but is not limited to: cooperating fully with any new [investment manager or managers] selected by the State and promptly providing to the State and any new [manager or managers] all information necessary to account for the State's [investments] and to assure a prompt and successful transition of the State's [funds].

The bidder should consider and include potential costs of transition in their cost proposal, and outline any transitional issues in their technical proposal response in 4.4, Section 1.

3 PROCUREMENT AND CONTRACTUAL ADMINISTRATION

The following subsections discuss the administrative and contractual requirements that pertain to this procurement.

3.1 Bidding and Contractual Requirements

The State reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Bidders may be asked to give a verbal presentation. Failure of bidder to respond to a request for additional information or clarification could result in rejection of that bidder's proposal. The State reserves the right, at its sole discretion, to accept or reject any and all bids, in whole or in part, with or without cause, and/or to waive any irregularities or informality in a proposal. The State reserves the right to make an award without further discussion of the proposal submitted. The State does not guarantee that an award will be made as a result of this RFP.

3.1.1 Incurred Expenses

The cost of developing and submitting the proposal is entirely the responsibility of the bidder. This includes costs to determine the nature of this engagement, preparation of the proposal, submitting the proposal, negotiating for the contract, and other costs associated with this RFP.

3.1.2 Public Records & Bidder Proprietary Information

All responses will become the property of the State of Vermont and will be a matter of public record. Pursuant to V.S.A. §317 (15), public records requests for information regarding this RFP will not be acted upon pending contract negotiations, and until a signed contract has been recorded by the State.

If the response must include material that is considered by the bidder to be proprietary and confidential under 1 VSA, Chapter 5, the bidder shall clearly designate the material as such, PACKAGE IT SEPARATELY, and explain why such material should be considered confidential. THIS INFORMATION SHALL NOT BE INCLUDED ON THE CD-ROM, RESPONSE COPY as defined in Section 4.

The bidder must identify each page or section of the response that it believes is proprietary and confidential with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the bidder if the identified material were to be released.

Under no circumstances can the entire response or price information be marked confidential. Responses so marked may not be considered.

Any determination to defend information designated as proprietary will be at the sole discretion of the Attorney General's Office and no representation is made that the information can, or will, be protected. Bidders should understand that the State cannot assure records will be exempt from the Access to Public Records law.

3.1.3 Member Confidentiality

The State must protect the confidentiality of its members' and retirees' records. Therefore, each bidder shall be required to execute a Corporate Agreement of Confidentiality in order to submit a proposal for this RFP (see Attachment B). In the event that the bidder is selected to perform services, all bidder staff members assigned to the project in any capacity will be required to sign statements of confidentiality in order to participate in the project.

3.1.4 Pricing

The bidder must be aware that the State wants the most effective combination of price, performance, and quality possible within the constraints of the State's budget. Pricing must be a firm fixed price or specified as an hourly rate, including all expenses. The State will not accept any open-ended, time-and-materials bids. There may be no best and final offer procedure. Therefore, the proposal shall be submitted on the most favorable terms that the bidder can provide.

3.1.5 Subcontracting

The State of Vermont will only enter into contracts with the primary contractor, and the State must approve any subcontractor contract in writing (See State Standard Contract, sub-Attachment C: Sub-Agreements). The selected bidder must assume responsibility for subcontractor performance and payment. Subcontractors must abide by all conditions set forth in the contract with the primary contractor. The successful bidder will be expected to execute sub-agreements for each subcontractor named in the proposal upon award of this contract. The bidder must provide a brief description in the cost proposal in regard to the basis for selecting each subcontractor (low bid, competitive negotiation, technical capabilities, etc.). The bidder must provide subcontractor cost estimates in the bidder's cost proposal.

3.1.6 Doing Business in Vermont

The bidder awarded this contract shall, upon notification of award, apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, Corporations Division, 81 River Street, Montpelier, VT 05609-1104. The telephone number is (802) 828-2386. The Treasurer's Office will not execute the contract until the bidder is registered with the Secretary of State's Office.

Bidders are responsible for complying with all statutory provisions applicable to doing business in the State of Vermont. The State's Standard Contract (attachment A) is required to be executed after the specific details of the transaction have been inserted. Any objections or requested changes to the standard form language must be provided with the bid, or they shall be waived by the bidder. (see *Contract Duration* below)

3.1.7 Minority Business Enterprises

The State of Vermont recognizes the important contribution and vital impact that small businesses have on the state's economy. In this regard, the state subscribes to a free and open bidding process that affords all businesses equal access and opportunity to compete for state contracts for goods and services. The state also recognizes the existence of businesses owned by minorities and women and has directed all state agencies and departments to make a good faith effort to encourage these firms to compete for state contracts.

3.1.8 Duration of Proposal Offer

Proposals submitted in response to this RFP are irrevocable for 180 days following the due date of proposals. This period may be extended at the request of the State, and with the bidders' written approval.

3.1.9 Revisions to the Solicitation

The State reserves the right to modify requirements should a bidder inquiry identify a change that is in the best interest of the State. Such modifications (or amendments) to the RFP will be posted to the Treasurer's Web site at www.vermonttreasurer.gov and will not be distributed through any other means. It is the bidder's responsibility to check the Web site for such changes.

3.1.10 General Conditions

The general conditions and specifications of the RFP, the successful bidder's response/proposal, all questions and answers, and all RFP amendments (if any) will become part of the contract by reference.

The bidder is expected to respond with due diligence by providing the requested information in the designated manner. Bidders failing to respond to this RFP as prescribed will place themselves at a comparative disadvantage or will be subject to disqualification at the discretion of the State.

3.1.11 Contract Duration

The successful bidder to this RFP can expect a contract with the State (see sample contract Attachment A), for a term of two years, with the option of two one-year extensions.

The successful bidder will be required to execute the State's standard contract after the specific details of the transaction have been inserted. Any objections, or requested changes to the standard form language must be provided with the bid, or they shall be waived by the bidder. Any bidder seeking changes to the State standard form contract, or to add additional language to the contract, must state whether the request is a requirement of their bid or simply a request for the State's consideration. In the event the State determines that an otherwise apparent winning bidder's requirements are unacceptable, it may handle the bid in the manner it deems most appropriate, including but not limited to rejecting the bid as not complying with this RFP. Bidders should be aware that the State of Vermont rarely accepts amendments to its standard form contract.

3.1.12 Documents, Reports, and Other

Bidders should be aware that all documents, reports, computer software, paper and other materials ("Papers"), except for those generally available to the public, which are provided by the State, and any copies of any such Papers that may be reproduced or otherwise procured and all information contained in such Papers, shall be deemed and shall remain property exclusively of the State and shall be available to the State's representatives upon their request. No Papers may be reproduced or otherwise used for purposes unrelated to the subsequent contract.

3.1.13 Errors & Omissions in Proposal

The State will not be liable for any error in the proposal. Bidders will not be allowed to alter proposal documents after the deadline for proposal submission, however, the State reserves the right to make corrections or seek clarifications due to patent errors, identified in the proposals by the State.

3.1.14 Incorporation of RFP and Proposal in Contract

The RFP and bidder's response, including all promises, warranties, commitments, and representations made in the successful proposal, shall be binding and incorporated by reference in the State's contract with the bidder, unless specifically excluded by the State.

3.1.15 Public Announcements/Endorsement

News releases or any other public announcements regarding this RFP, contract award, or this project shall not be released without prior approval from the State. Publicity includes, but is not limited to, news conferences, news releases, advertising, brochures, reports, discussion and/or presentations at conference or meetings.

4 PROPOSAL PREPARATION

This section sets forth the format that must be followed by bidders in developing their proposals in response to this RFP. The instructions provided and format requested for bidder proposals are designed to ensure a clear and complete understanding and comprehensive evaluation of each proposal. There is no intent to limit the content of the proposals or to inhibit a presentation in other than the bidder's favor.

4.1 Proposal Acceptance

The bidder is encouraged to include additional information or data as may be appropriate or to offer alternate solutions. However, the bidder should not exclude from its proposal any portion requested in this document. Proposals that vary materially from this prescribed format may be judged non-compliant and withdrawn from consideration. The bidder should also list any potential conflicts of interest including an explanation.

The bidder must understand that the State will view the degree of compliance with this section as an indication of the degree of cooperation to be expected from the bidder in working with the State after contract award.

4.1.1 *Proposal Packaging and Required Copies*

Cost Proposals (Part IV below) must be packaged separately from Technical Proposals (Parts I, II, and III below) and sealed in a separate envelope, so labeled.

Bidders must submit FIVE (5) copies of proposals as well as one (1) CD-ROM containing the appropriate Microsoft Word 2003, Excel 2003, and Project 2003 files to comprise a full proposal set. **DO NOT INCLUDE CONFIDENTIAL OR PROPRIETARY INFORMATION ON THE CD-ROM.** In addition, bidders must provide one (1) unbound master copy of the technical proposal and one (1) unbound master copy of the cost proposal, each packaged separately.

We point out that the requirement for separate Cost Proposals actually doubles the above numbers.

The information in the following table must appear on the title page of each copy of each proposal, on the CD-ROM label, and on the outside of the packages in which they are shipped (if proposals are shipped by overnight courier, the title sheet may be affixed to the package inside the courier's packaging material):

Contents of Response Cover Page

RFP title:	IN-STATE/OUT-OF-STATE UNCLAIMED PROPERTY EXAMINATION SERVICES
RFP section:	Technical or Cost
<i>Closing date and time for submission of proposals: October 22, 2010, 2:00 pm.</i>	
Name, address, e-mail, and (voice) telephone number of firm submitting proposal	

Proposals must be addressed for this RFP to the point of contact identified in Section 1, *Single Point of Contact*.

Please allow extra time for delivery of your proposal due to internal mail processing procedures.

Bidders are to organize their proposals into five parts with a cover letter and other administrative information as follows:

Part I – Administrative	Cover page Cover Letter as described below Tax Certificate Table of Contents
Part II	Bidder Information
Part III	Technical Approach
Part IV	Bidder References
Part V (to be packaged separately)	Cost

The following subsections describe the required content of the bidder’s proposal.

4.2 Bidder’s Proposal PART I -Administrative Section

In addition to the cover page and table of contents, the items that need to appear in the Administrative Section of the proposal are described below.

4.2.1 Cover Letter

The response should contain a cover letter and introduction, including: the company name and address, and the name, e-mail address, and telephone number of the person or persons authorized to represent the respondent regarding all matters related to the response. The cover letter must contain the following statement:

“We have read the State’s Request for Proposals (RFP) for In-State/Out-of-State UP Examination Services and fully understand its intent. We certify that we have adequate personnel, equipment, and facilities to provide the State’s requested services as indicated in our proposal. We understand that our ability to meet the criteria and provide the required services shall be judged solely by the Office of the State Treasurer.”

A person authorized to bind the firm to all commitments made in its response shall sign this letter.

In addition, the cover letter must certify that:

- The response is genuine, and is not collusive or a sham.
- The response is not made in the interest of or on the behalf of any person not named therein.
- The bidder has not directly or indirectly induced or solicited any person to submit a false or sham response or to refrain from submitting a proposal.
- The bidder has not in any manner sought by collusion to secure an advantage over any other respondent.
- The bidder has thoroughly examined the RFP requirements, and the proposed fees cover all the services that the State has requested.
- The bidder acknowledges and accepts all terms and conditions included in the RFP.
- The bidder agrees to provide services in a manner acceptable to the State, and as stipulated in the RFP and subsequent contract.

- The bidder and key professionals do not have or anticipate a potential conflict of interest with the Office of the State Treasurer or the Boards of Trustees of the three retirement systems.
- The bidder and key professionals do not accept fees and derive no benefit from relationships with any persons involved in the RFP.
- The bidder has completed and submitted, with the RFP response, the Vermont Tax Certificate, provided in this RFP.
- The bidder has submitted financial information. Publicly owned businesses agree to provide their most recent annual report, current balance and income statement, and D&B report. Privately owned businesses agree to provide company financials. Proprietary and/or confidential materials must be marked accordingly.

4.2.2 Tax Certificate

This certificate appears on page 3 of this RFP and must be completed and submitted with the response to the RFP.

4.3 Bidder’s Proposal PART II – Bidder Information

4.3.1 Section 1 – General

In this section, the bidder shall provide basic information about its firm and staff, including the following:

- Please provide a description of the ownership and structure of the firm, which includes the parent company and any affiliated companies and/or joint ventures.
- Are any near-term changes to the firm’s corporate or organizational structure anticipated? If yes, please specify.
- Please list all office locations and the number of individuals working in each office. Please specify which office would be the primary relationship office.
- Please provide the most recently completed SAS 70 or external Quality Control Review, if applicable. Please provide or describe the results of your most recent peer review.
- Please provide the most recently completed audited financial statements for your firm.
- Provide information on all “related” or “affiliated” firms that will provide services described in this RFP.
- Provide any restrictions, regulatory action, consent orders, past or pending litigation relating to your firm, principals, or individual personnel within the past three years.
- Please complete the following chart:

	Firm Total	Exam Function
Accounting	_____	_____
	_____	_____

Information Systems	_____	_____
Research	_____	_____
Auditing	_____	_____
Legal	_____	_____
Marketing/Sales	_____	_____
Administration/Office Management	_____	_____
Other	_____	_____
Total	_____	_____

4.4 Bidder’s Proposal PART III – Technical Approach

This part of the bidder’s proposal shall address the following:

- **Section 1 – Summary/Overview.** This should include a statement in the bidder’s own words of the overall nature of the services requested in this RFP and a narrative of how it will provide the requested services identified in the RFP. The narrative should address the services outlined in the “Scope of Services” and should be prepared simply and economically, providing a straightforward and concise description of the bidder’s philosophy, services, and qualifications. Please identify if you are bidding for in-state or out of state or both in and out of state audits services. If you have a specialty or a concentration pertaining to unclaimed property audits, please identify that fact.
- **Section 2 – Questions.** Please provide a full but concise response to the following questions.
 - a. Please provide a full biography/résumé for each consultant who will be assigned to the Vermont account(s). Include biographies/ résumés of other key personnel who may be involved in routine services or special projects for the system(s).
 - b. If you have a specialty or a certain concentration pertaining to unclaimed property auditing, please identify that fact.
 - c. Please explain what type of analytical tools that you will use to identify potential audit candidates. Are these tools available to the State to use to conduct its own research?
 - d. If the state identifies potential in state audit candidates, is there reason, beside a potential conflict of interest that you would not agree to audit that candidate? If the State selects a holder for audit, what criteria would you use to evaluate acceptance of the referred audit?
 - e. What criteria will you use to eliminate potential audit candidates?
 - f. Please provide an explanation of how your firm will assure compliance with various statutes, rules, regulations, and administrative bulletins relative to unclaimed property in Vermont.
 - g. Explain your process for negotiating with holders to review their records.
 - h. Is it standard procedure for you to provide written justification addressing the reasons an examination should be conducted?
 - i. Explain your action and process if a holder denies record access, is unwilling to allow the completion of the examination, refuses to enter into an Engagement Letter, or breaches the Engagement Letter?

- j. Do you have an examination manual detailing the procedures to be used in the examination process? If so, provide a basic description of the manual. The selected bidder will be expected to provide a copy of any such manuals to the Office of the State Treasurer if awarded a contract pursuant to this RFP.
 - k. Briefly explain your technical capability to process and identify holder records which have met the statutory requirements of unclaimed property, and to expedite delivery to the State Treasurer.
 - l. Describe your process for determining the value of securities traded on an exchange or in the over-the-counter market.
 - m. Describe your procedures for ensuring that all applicable due diligence requirements, as mandated under the Vermont Unclaimed Property statutes, are met. Will you provide written confirmation that due diligence has been performed?
 - n. Upon completion of the initial exam of holder's records, do you agree to instruct holders, or their agents, to file all future reports directly with the Treasurer's Office, pursuant to the State's reporting requirements?
 - o. Provide details of your insurance coverage and risk mitigation efforts, errors and omissions coverage, and any other fiduciary insurance relevant to the scope of this RFP.
 - p. Describe factors or reasons we should consider your firm more favorably than your competitors.
- *Section 3 – Proposed Value-Added Options* – The State will consider any option proposed by the bidder as a value-added option that will substantially reduce costs, and improve efficiency of operations. This Section is optional (but desirable) in the bidder's proposal.
 - *Section 4 – Assumptions and Exceptions* – Identification of all assumptions that the bidder made in preparing its proposal as well as any exceptions that the bidder takes with regard to the requirements expressed in the RFP. This section must contain a list of **all** assumptions and exceptions, with a cross-reference to the specific section of the RFP to which the assumption or exception applies.

4.5 Bidder's Proposal PART IV– Bidder References

The bidder shall provide a minimum of three (3) references. For each reference, the bidder must include the name, address, e-mail address, and telephone numbers of individuals qualified to provide information from both the management and technical viewpoints. For each reference, the bidder must specify:

- The length of time during which services were performed;
- A description of the specific services provided.

4.6 Bidder's Proposal PART V– Cost

Bidders have the option to bid on either the In-State or Out-of-State examination services, or both types of services, being sought in this RFP.

The bidder shall invoice the State upon delivery of the unclaimed property. The selected bidder shall be paid a fixed percentage of the value of the “net unclaimed property” paid or delivered to the Treasurer. The value of the net unclaimed property shall mean the cash value of the property. If securities, then (1) if traded on an exchange, the closing price of the security within five business days of the date the property is received by the Treasurer or registered to the Treasurer; or (2) if traded over-the-counter, the bid price within five business days of the date the security is received by the Treasurer or registered to the Treasurer; or (3) if unlisted, the value determined by a generally accepted and mutually agreeable and verifiable valuation method applicable to such property.

The value of the net unclaimed property is further defined as the gross value of all unclaimed property received from a holder by the selected bidder reduced by the value of all unclaimed property delivered by the holder, if any, which otherwise would have been delivered pursuant to the reporting practices of the holder prior to execution of the contract. While the state expects delivery directly to its office or a designated custodian, any interest earned on any property delivered to the selected bidder prior to delivery to the state shall be remitted to the State and shall not be included in the value of net unclaimed property.

The Firm shall not charge the Treasurer any fee for filing a holder report, remitting property, or reporting property in which the Firm receives a fee from the holder for reviewing or computing the unclaimed property liability, or similar services.

Cost Proposals must be packaged separately from Technical Proposals and sealed in a separate envelope, so labeled. The bidder has the option of stating fees on the basis of the value of net unclaimed property per holder, irrespective of type of examination, and/or to propose fees based on the type of examination performed. The State Treasurer's Office reserves the right to negotiate fees and methodologies that are in the best interest of the State. The following format(s) should be used.

The Contractor may not assess or collect a fee from the State where a holder has contracted for a fee with its transfer or disbursing agent to report unclaimed property as part of the services to be rendered, and the transfer agent in turn subcontracts such services to the contractor.

IN-STATE Type of Examination	Fixed Percentage (life of contract)
On-site Examination of a holder’s general ledger and related records and securities related property	
Review off-site processing of unclaimed property records that are voluntarily provided by the holders	

OUT-OF-STATE Type of Examination	Fixed Percentage (life of contract)
On-site Examination of a holder’s general ledger and related records and securities related property	
Review off-site processing of unclaimed property records that are voluntarily provided by the holders	

and/or:

Value of Property Per Holder	Fixed Percentage (life of contract)
\$1 - \$50,000.00	
\$50,001 to \$100,000	

\$100,001 to \$200,000	
Over \$200,000	

NOTE: This part of the proposal must be bound separately and sealed in an envelope separate from the technical proposal and be labeled “Cost Proposal.” Cost information is NOT to be provided in any other part of the bidder’s proposal.

5. BIDDER EVALUATION AND SELECTION CRITERIA

5.1 Bidder Evaluation

The Office of the State Treasurer will conduct a fair and impartial evaluation of the proposals received in response to this RFP.

Fees and compensation will be an important factor in the evaluation of responses. However, the Office of the State Treasurer is not required to select the low-cost bidder, but may select the bid that demonstrates the “best value” overall, including proposed alternatives and that meet the objectives of this RFP. The Office of the State Treasurer reserves the right to negotiate a change in any element of contract performance or cost identified in the RFP.

The factors to be used by the Treasurer’s Office in evaluating the proposals will include, but are not limited to, the following:

Evaluation of Proposals
A. RFP Understanding Approach Clarity Creativity of proposal Responsiveness to Scope of Services and ability to provide requested services
B. General Experience and Qualifications of Firm Experience Assigned personnel Any other resources assigned to State
C. Cost

The Office of the State Treasurer reserves the right to seek clarification of any proposal submitted, request oral presentations and to select the proposal considered to best promote the public interest.

The State of Vermont is conscious of and concerned about collusion. It should therefore be understood by all that in signing the bid and contract documents they agree 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.

Note: Cost proposals will be opened and reviewed only for those bids that meet the established minimum technical thresholds.

ATTACHMENT A – STANDARD CONTRACT PROVISIONS

1. **Parties.** This is a contract for services between the State of Vermont, _____ (hereafter called “State”), and _____, with ___ principal place of business in _____, (hereafter called Contractor”). Contractor’s form of business organization is _____. It is the contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, the 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 _____. Detailed services to be provided by the contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State 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.** If approval by the Attorney General’s Office or the Secretary of Administration is required (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.

- Approval by the Attorney General’s Office /is/is not/ required.
- Approval by the Secretary of Administration /is/is not/ required.
- Approval by the CIO/Commissioner DII /is/is not/ required.

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

7. **Cancellation.** This contract may be canceled by either party by giving written notice at least ____ days in advance.

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

- Attachment A – Specifications of Work to be Performed
- Attachment B – Payment Provisions
- Attachment C – “Standard State Contract Provisions,” a preprinted form (revision date 12/5/2008),
- Attachment D – Other Contract Provisions
- Attachment E- STANDARDS OF CONDUCT (if applicable)

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

by the **STATE OF VERMONT:**

by the **CONTRACTOR:**

Date: _____

Date: _____

Signature: _____

Signature: _____

Name/Title: _____

Name/Title: _____

Agency: _____

**Attachment A:
Specifications of Work to Be Performed**

To be entered by the State.

**Attachment B:
Payment Provisions**

To be entered by the State.

**Attachment C:
Standard State Contract Provisions
FOR CONTRACTS AND GRANTS**

- 1. 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.
- 2. Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
- 3. Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee, or Sub-recipient with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.

4. **Appropriations:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Sub-recipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers' compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

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

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

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

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

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

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

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

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

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

Errors and Omissions: \$5,000,000.00 per occurrence. * Subject to higher available maximums.

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

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

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

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

9. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and if this Sub-recipient expends \$500,000 or more in federal assistance during its fiscal year, the Sub-recipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

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

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

The Su-recipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Sub-recipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Sub-recipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: <http://finance.vermont.gov/forms>

- 10. Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.
- 11. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.
- 12. Set Off:** The State may set off any sums that the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
- 13. Taxes Due to the State:**
 - a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
 - b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
 - c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

- d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

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

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

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

15. Sub-Agreements: Party shall not assign, subcontract or sub-grant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include all subcontract or sub-grant agreements and a tax certification in accordance with paragraph 11 above.

16. 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.

17. Copies: All written reports prepared under this Agreement will be printed using both sides of the paper.

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

**Attachment D:
Other Provisions**

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

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

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

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

Owner's protective liability insurance: The contractor shall carry liability insurance protecting the State and the contractor from all claims because of bodily injury or death and property damage arising out of the work performed under the contract. The liability insurance shall be in an amount not less than \$1,000,000 and a certificate of insurance shall be furnished to the State before commencement of work. **Comment:** *Owner's Protective Liability Insurance should be utilized when a contractor's business involves work at multiple job sites (not necessarily all for the State) and it is unclear whether the contractor would have adequate insurance coverage in the event of multiple occurrences at different sites. For example, contracts with large construction companies should include such a clause.*

Professional liability insurance: Before commencing work on this contract and throughout the term of this contract, contractor shall procure and maintain professional liability insurance for any and all services performed under this contract, with minimum coverage of \$[insert amount] per occurrence. **Comment:** *Professionals with whom the State contracts, such as lawyers, architects, engineers, and health care providers, must be required to maintain professional liability insurance in sufficient amounts to protect the State's interest from the consequences of negligence. The Director of Risk Management will determine the minimum amount appropriate for different classes of professionals.*

Prior approval/review of releases: Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the contractor under this contract shall be approved/reviewed by the State prior to release. **Comment:** *All material published in connection with activities performed under State contract should be reviewed and approved by the appropriate official before release.*

When academic freedom becomes an issue, agency review but not agency approval may be appropriate.

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

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

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

**STATE OF VERMONT
CONTRACT FOR PERSONAL SERVICES**

**ATTACHMENT E
STANDARDS OF CONDUCT**

REGULATION 2001-01: STANDARDS OF CONDUCT

**STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT
VERMONT STATE RETIREMENT SYSTEM
VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM**

§1. STATEMENT OF PURPOSE

A. The Boards of Trustees of the State Teachers' Retirement System of Vermont, the Vermont State Retirement System, and the Vermont Municipal Employees' Retirement System are entrusted with the investment of public pension funds of the retirement Systems and are obligated to safeguard the funds for the benefit of members and beneficiaries. The Trustees are obligated to administer the Systems efficiently and effectively in the interests of the plans' members and beneficiaries so as to avoid waste, mismanagement, abuse, and misuse of influence. The Trustees of these public pension Systems have a duty to administer and provide benefits in a responsible manner without causing an undue burden on their members or Vermont taxpayers.

B. Trustees and employees of the Boards must maintain high ethical and moral standards both professionally and personally in order to maintain and promote public confidence in the integrity of the decisions of the Boards of Trustees relating to administration of the plans and investment of the Systems' assets. The ability to carry out these responsibilities may be impaired whenever a real or apparent conflict of interest exists between the private interest of a Trustee or Board employee and his or her official responsibilities.

C. In recognition and consideration of their responsibilities and obligations as Trustees and to further the goal of protection of the Systems' members, beneficiaries, Trustees and employees from the damage that could result from real or apparent conflicts of interest, the following Standards of Conduct are hereby adopted to assist and guide Trustees and Board employees in the exercise of professional and moral judgment.

D. This regulation is intended to implement the standards of conduct provisions of 3 V.S.A. §472(d); 16 V.S.A. §1943(d); and 24 V.S.A. §5063(e).

§2. AUTHORITY

This regulation is adopted pursuant to 3 V.S.A. §471(d) and §472(d); 16 V.S.A. §1942(f) and §1943(d); and 24 V.S.A. §5062(d).

§3. APPLICABILITY

A. These standards of conduct shall apply to the Trustees of the State Teachers' Retirement System of Vermont, the Vermont State Retirement System, and the Vermont Municipal Employees' Retirement System.

B. These standards shall apply to employees of the Boards of Trustees.

C. These Standards of Conduct are intended to supplement, and not to replace, other state and federal laws. Where this code is less restrictive than another law, executive order, or regulation that applies to the conduct and activities of Trustees and employees of the Boards, such other stricter terms shall apply. Where this code is more restrictive than any other applicable law, executive order or regulation, the stricter standards of this code shall apply.

§4. DEFINITIONS

For the purposes of these standards of conduct, the following words have the following meanings:

A. "Benefit" means any gain, favor, profit, reward, value, accommodation or other advantage, including a benefit to any other person in whose welfare the beneficiary is interested.

B. "Conflict of Interest" means any personal or financial interest of a Trustee, or such an interest, known to the Trustee, of a member of his or her immediate family, household

member, or business associate in the outcome of any particular matter pending before the Board. A conflict of interest includes, but is not limited to, those defined in subsection 5.

C. "Employee of the Boards" means a person employed by a Board or Boards of Trustees. Employees of the Vermont State Treasurer's Office shall not be considered employees of the Boards.

D. "Gift" means any form of compensation or anything of value, tangible or intangible, and includes, but is not limited to, meals, alcoholic beverages, travel fare, room and board, gratuities, entertainment, cash, goods or services.

E. "Interest" means any personal or financial interest except an interest that is incidental to the person's membership in the System or participation in a plan administered by the System that is no greater than that of other persons generally affected by the outcome of the matter.

F. "Potential Vendor" means any Vendor that has bid on a System contract and any Vendor that is in the business of providing goods or services of the type routinely purchased by the System, whether or not it has bid on a System contract, including but not limited to administrative, investment, financial, banking, and consulting services.

G. "Systems" means the State Teachers' Retirement System of Vermont, the Vermont State Retirement System, and the Vermont Municipal Employees' Retirement System.

H. "Trustee" means any person who serves as a Trustee or any person who serves as the designee of an ex-officio Trustee or as an alternate to a Trustee of any of the Systems.

I. "Vendor" means a natural person, a corporation, a partnership, an association, a joint-stock company, a trust, an unincorporated organization, a limited liability company, or a limited liability partnership that performs services for the Systems for direct or indirect compensation. The term includes affiliated entities and trade organizations.

§5. PROHIBITED CONDUCT: CONFLICTS OF INTEREST

The following conduct by a Trustee or an employee of the Boards creates either an actual or potential conflict of interest or the appearance of a conflict of interest and is prohibited:

A. Solicitation or acceptance of a gift or benefit from any Vendor or potential Vendor except in accordance with Section 9(A).

B. Solicitation or acceptance of a gift or benefit from any person or entity with a personal or financial interest in the outcome of a particular matter pending before the Board.

C. The purchase, sale, exchange, or lease of property to or from the System which he or she serves.

D. Acting upon or providing to any person any information relating to the investment of

the System's assets prior to that information becoming public record.

E. Acceptance of a fee, gift or other benefit for providing information relating to the System and its assets, obtained as a Trustee or employee of the Boards, whether insider or otherwise, to any other person.

F. Participation in any breach of fiduciary duty by another person subject to this code, participation in concealing such breach, or knowingly or negligently permitting such breach to occur.

G. Participation in a violation of these Standards of Conduct by another person subject to this code, participation in concealing such violation, or knowingly or negligently permitting such violation to occur.

H. Acceptance of money, gifts or benefits in connection with any campaign for public office from any Vendor or potential Vendor of the System which the Trustee or employee serves.

I. Any direct interest in the gains or profits of any investment made by the Board.

J. Direct or indirect use of the gains or profits of any investments made by the Board, for himself or as an agent, for any purpose except to make current and necessary payments as are authorized by the Board.

K. Becoming an endorser or surety, or in any manner an obligor, for money loaned to or borrowed from the Board.

§6. Disclosure

A. A Trustee shall disclose to the Board for the System which he or she serves all actual or potential conflicts of interest and appearances of a conflict of interest as soon as such actual or potential conflict or appearance of a conflict becomes known.

B. Employees of a Board shall disclose all actual and potential conflicts of interest and appearances of a conflict of interest to the Board as soon as such actual or potential conflict or appearance of a conflict becomes known.

§7. Recusal

No Trustee shall knowingly participate in a decision or action by the Board in which he or she has an actual or potential conflict of interest.

§8. TRAVEL, CONFERENCES AND MEETINGS

A. The reasonable and necessary expenses of travel, lodging, meals, and incidentals for a Trustee or employee of a Board traveling on behalf of a Board, or in his or her capacity as a Trustee or employee, or because of his or her position as a Trustee or employee, shall be paid by the System if approved prior to the travel by the Board which the Trustee or

employee serves. The agenda, written materials pertaining to the event, when available, an estimate of the cost of the trip and the names of all sponsors of the event to be attended shall be provided to the Board at the time approval is requested. If approval is granted, the Trustee or employee shall report to the Board, at the next scheduled meeting that he or she attends, on the content of the event and whether a Vendor or potential Vendor attempted to pay any expenses of the Trustee or employee or sponsored any function or event in which the Trustee or employee participated.

B. All expenses related to the travel of a spouse, family or household member, or other invitee of a Trustee, shall be paid by the Trustee or invitee.

C. Nothing in this policy is intended to limit or restrict travel to, and attendance at, an event by a Trustee or employee when attendance is in a capacity other than as a Trustee or employee and is related to his or her employment, position, membership or affiliation with another organization or entity. When traveling in a capacity other than as Trustee, a Trustee or employee shall not solicit or receive any gift including meals, alcoholic beverages, travel fare, room and board, or any other thing of value from a Vendor or potential Vendor of services to the System except in accordance with Section 9(A).

§9. GIFTS AND GRATUITIES

A. All Trustees and Employees of the Boards shall refuse to accept any gift that is received from or offered by a Vendor or potential Vendor except for the following:

1. Items or products of de minimis value of \$10.00 or less;
2. Items or products donated by a Vendor or potential Vendor and awarded at a conference attended by a Trustee as long as they are offered to participants on a random basis through a drawing, raffle or game of chance and have a value of \$100.00 or less. Any item accepted under this provision with a value of greater than \$25.00 shall be reported by the Trustee pursuant to section 9(B).
3. Food or refreshment offered during a conference that appears on the conference agenda, is an integral part of the conference agenda and is offered to all in attendance at the conference and taken in a group setting.

B. A Trustee or Employee of the Boards who receives any item or product from a Vendor or potential Vendor of more than de minimis value shall report the following to the State Treasurer's Office: a description of the product, the date of receipt, the identity of the sender or donor, the item's approximate value, and the disposition of the item by the Trustee or employee. If the item is not perishable, the item shall be promptly returned to the sender. All perishable items shall be donated to a suitable charity or placed in a publicly accessible area for general enjoyment.

C. The State Treasurer's Office shall record the information specified in section 9(B) for public inspection.

§10. INITIATION OR CONTINUATION OF CONTRACTUAL RELATIONSHIP

A. From the time a Board of Trustees has decided to obtain bids or proposals for goods or services, or from the time a Board has under consideration the decision to renew an existing contract, and until a final contract is approved:

1. No Trustee shall have any direct or indirect communication about the bid or proposal with any Vendor or potential Vendor seeking such new or continued contractual relationship with the System except at an open meeting of the Board or an authorized subcommittee of the Board.

2. An Employee of the Board shall limit his or her direct or indirect communication about the bid or proposal with any Vendor or potential Vendor during this time period to that necessary for administration of existing contracts or in connection with administration of the bid or proposal process. All communications shall be documented by the Employee and maintained as a record of the Office of the State Treasurer.

3. A Trustee who receives any direct or indirect communication outside of a meeting of the Board or an authorized subcommittee of the Board with any Vendor or potential Vendor seeking a new or continued contractual relationship with the System shall notify the Board of the communication prior to the Board's final approval of a contract.

B. A Board of Trustees shall require that all Vendors or potential Vendors seeking a new or continued contractual relationship with the System give written disclosure to the Board of all communications or contacts with any Trustees or Employee in the preceding year and any expenditures relating to those communications or contacts. Disclosure will be required before final interviews by the Board or, if there are no final interviews, before approval of a final contract.

C. A Board of Trustees may disqualify a Vendor or potential Vendor from ongoing business or potential business for any communication contrary to the provisions of this section, for attempting to pay any expenses of a Trustee or employee contrary to section 8(A), or for any other conduct having the potential to create a conflict of interest or to cause a breach of fiduciary duty.

D. This regulation shall be included as an attachment to all requests for proposals, bidding documents and contracts of the Boards. The Boards shall require all consultants who conduct manager searches or other vendor searches on behalf of the Boards to provide a copy of this policy to all vendors or potential vendors during the search process.

§11. Sanctions

A. A Board of Trustees may take such actions it deems appropriate if a Trustee of the Board fails to comply with the provisions of this rule including, but not limited to:

1. A recommendation that a Trustee refrain from participation and voting in a matter or matters pending before the Board.
 2. A recommendation that a Trustee repay or return any gift or benefit received by a Trustee from a Vendor or potential Vendor.
 3. A recommendation that a Trustee refrain from particular actions that the Board determines constitute an actual or potential conflict and are detrimental to public confidence in the system's integrity.
- B. A Board of Trustees may take appropriate disciplinary action, up to and including dismissal, if an Employee of the Board fails to comply with the provisions of this rule.

Effective Date: July 18, 2001

ATTACHMENT B – CONFIDENTIALITY AGREEMENT

I, _____ (name), _____ (title), as legal representative of _____ (firm name) in order to submit a proposal for future services to the State of Vermont, do hereby acknowledge and agree to the following:

1. Certain information may be made available by the State to _____ (firm name) to enable the firm to perform services necessary to prepare a proposal in response to a request for proposal.
2. Vermont law provides that the contents of member records will not be disclosed without the prior written consent of the individual to whom the record pertains. Information provided to _____ (firm name) is confidential and shall not be made available to any individual or organization without the prior written approval of the State and member.
3. The confidentiality of any and all information that is provided by the State to the firm directly or indirectly will be upheld and protected. All such information will be handled and processed in a manner to preserve its confidentiality and it will not be revealed or divulged to any individual or firm.
4. All information submitted by the State will remain the property of the State and will be returned to the State upon completion or upon request by the State.

Signature: _____

Date: _____ day of _____, 20__.

ATTACHMENT C - V.S.A. 27, CHAPTER 14 UNCLAIMED PROPERTY

The Vermont Statutes Online

Title 27: Property

Chapter 14: UNCLAIMED PROPERTY

§ 1241. Definitions

As used in this chapter, unless the context otherwise requires:

- (1) "Apparent owner" means the person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder.
- (2) "Asset locator" means a person who enters into an agreement with an owner the primary purpose of which is to locate, deliver, recover, or assist for compensation in the recovery of property that is presumed abandoned.
- (3) "Business association" means any corporation, joint stock company, investment company, business trust, partnership, unincorporated association, joint venture, limited liability company, trust company, safe deposit company, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.
- (4) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.
- (5) "Financial organization" means any savings and loan association, savings bank, bank, banking organization, or credit union.
- (6) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this chapter.
- (7) "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, title, captive insurance and workers' compensation insurance.
- (8) "Mineral" means gas; oil; coal; other gaseous, liquid, and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance defined as a mineral by the laws of this state.

(9) "Mineral proceeds" means amounts payable for the extraction, production, or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:

(A) for the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;

(B) for the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and

(C) under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(10) "Money order" means an express money order or a personal money order, on which the remitter is the purchaser. The term does not mean a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

(11) "Owner" means a person, or the person's legal representative, who has a legal or equitable interest in property subject to this chapter. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property.

(12) "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Property" means tangible property described in section 1243 of this title or a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

(A) money, a check, draft, deposit, interest, or dividend;

(B) credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

(C) stock or other evidence of ownership of an interest in a business association or financial organization;

(D) a bond, debenture, note, or other evidence of indebtedness;

(E) money deposited to redeem stocks, bonds, coupons, or other securities or to make distributions;

(F) an amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and

(G) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "State" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States of America.

(16) "Treasurer" means the treasurer of the state of Vermont or a designee of the treasurer.

(17) "Utility" means a person who owns or operates for public use any plant, equipment, real property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1242. Presumptions of abandonment

(a) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(1) traveler's check, 15 years after issuance;

(2) money order, seven years after issuance;

(3) all forms of checks, or any similar instrument, three years after issuance;

(4) stock or other equity interest in a business association or financial organization, including a security entitlement under article 8 of Title 9A, three years after the earlier of:

(A) the date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;

(5) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, three years after the date of the most recent interest payment unclaimed by the apparent owner;

(6) a demand, savings, bank money order or time deposit, including a deposit that is automatically renewable, three years after the earlier of the maturity or the date of the last indication by the owner of interest in the property; however, a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity;

(7) money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued;

(8) amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon

proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(9) property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable;

(10) property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

(11) property held by a court, government, or governmental subdivision, agency, or instrumentality, one year after the property becomes distributable;

(12) wages or other compensation for personal services, one year after the compensation becomes payable;

(13) deposit or refund owed to a subscriber by a utility, three years after the deposit or refund becomes payable;

(14) property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the following dates:

(A) the date of the distribution or attempted distribution of the property;

(B) the date of the required distribution as stated in the plan or trust agreement governing the plan; or

(C) the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(15) all other property, three years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever occurs first.

(b) At the time that an interest is presumed abandoned under subsection (a) of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(c) Property is unclaimed if, for the applicable period set forth in subsection (a) of this section, the apparent owner has not communicated in writing, or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(d) An indication of an owner's interest in property includes:

(1) the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial

organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) owner-directed activity in the account in which the property is held, or in another account of the owner's held by the same business association or financial organization, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(3) the making of a deposit to or withdrawal from a bank account;

(4) the payment of a premium with respect to a property interest in an insurance policy; however, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions;

(5) in the case of any demand, savings, or matured time deposits with a banking or financial organization, including deposits that are automatically renewable, the holder has sent the owner by first class mail a statement of account or other associated mailing from the bank or financial institution, which has not been returned by the postal service as undeliverable. In the event the mailing was returned as undeliverable, the property shall be considered abandoned three years after the return, unless the owner during that three years takes any action described in subdivisions (1), (2), (3), or (4) of this subsection; and

(6) an electronic record of an internet account inquiry or action, when made via the use of the owner's unique personal identification information, may establish an indication of the owner's interest in the property, provided that the inquiry or action is traceable to the owner and not to a third party and was not caused by an event within the electronic system.

(e) Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1243. Contents of safe deposit box or other safekeeping depository

Tangible property held in a safe deposit box or other safekeeping depository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property remains unclaimed by the owner for more than five years after expiration of the lease or rental period on the box or other depository. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1244. Unclaimed demutualization proceeds

(a) Property distributable in the course of a demutualization, rehabilitation, or related reorganization of an insurance company is deemed abandoned two years after the date the property is first distributable if, at the time of the first distribution, the last known address of the owner on the books and records of the holder is known to be incorrect, or the distribution or statements are returned by the post office as undeliverable; and the owner has not:

(1) communicated in writing with the holder or its agent regarding the property; or

(2) otherwise communicated with the holder regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(b) Property distributable in the course of a demutualization, rehabilitation, or related reorganization of a mutual insurance company that is not subject to subsection (a) of this section shall be reportable as otherwise provided by this chapter.

(c) Property subject to subsection (a) of this section shall be reported and delivered pursuant to this chapter no later than May 1 of the calendar year following the calendar year that the property is deemed abandoned. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1245. Rules for taking custody

Except as otherwise provided in this chapter or by other statute of this state, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this state if:

(1) the last known address of the apparent owner, as shown on the records of the holder, is in this state;

(2) the records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this state;

(3) the records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(A) the last known address of the person entitled to the property is in this state; or

(B) the holder is domiciled in this state or is a government or governmental subdivision, agency, or instrumentality of this state and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

(4) the last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property, and the holder is domiciled in this state or is a government or governmental subdivision, agency, or instrumentality of this state;

(5) the last known address of the apparent owner, as shown on the records of the holder, is in a foreign country, and the holder is domiciled in this state or is a government or governmental subdivision, agency, or instrumentality of this state;

(6) the transaction out of which the property arose occurred in this state, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property, and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property; or

(7) the property is a traveler's check or money order purchased in this state or the issuer of the traveler's check or money order has its principal place of business in this state, and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1246. Burden of proof as to property evidenced by record of check or draft

A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the treasurer's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that shall be established by the holder. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1247. Report of unclaimed property

(a) A holder of property presumed abandoned shall make a report to the treasurer concerning the property.

(b) The report shall be verified and shall contain:

(1) a description of the property;

(2) except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the Social Security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of \$50.00 or more;

(3) an aggregated amount of items valued under \$25.00 each;

(4) in the case of an amount of \$50.00 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(5) in the case of property held in a safe deposit box or other safekeeping depository, an indication of the place where it is held and where it may be inspected by the treasurer, and any amounts owing to the holder;

(6) the date, if any, on which the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and

(7) other information that the treasurer prescribes as necessary by rule for the administration of this chapter.

(c) If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

(d) The report shall be filed before May 1 of each year and cover the preceding calendar year.

(e) The holder of property presumed abandoned shall send written notice to the apparent owner, at no cost to the apparent owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this chapter, if:

(1) the holder has in its records an address for the apparent owner that the holder's records do not reveal to be inaccurate;

(2) the claim of the apparent owner is not barred by a statute of limitations; and

(3) the value of the property is \$50.00 or more.

(f) Before the date for filing the report, the holder of property presumed abandoned may request the treasurer to extend the time for filing the report. The treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(g) The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with subsection (e) of this section.

(h) Verification and affidavit, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer or his or her designee. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1248. Payment or delivery of unclaimed property

(a) Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by section 1247 of this title, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the treasurer the property described in the report as unclaimed. However, if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other safekeeping depository may not be delivered to the treasurer until 120 days after filing the report required by section 1247 of this title.

(b) If the property reported to the treasurer is a security or security entitlement under article 8 of Title 9A, the treasurer is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with article 8 of Title 9A.

(c) If the holder of property reported to the treasurer is the issuer of a certificated security, the treasurer has the right to obtain a replacement certificate pursuant to section 8-405 of Title 9A, but an indemnity bond is not required.

(d) An issuer, the holder, or a transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section shall not be liable to the apparent owner in accordance with section 1250 of this title.

(e) A holder may deduct from that property a charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly reversed or otherwise cancelled. The amount of the charge shall be limited to an amount that is not unconscionable.

(f) The treasurer may require holders of unclaimed mutual funds to liquidate the mutual fund shares and remit the cash proceeds of the sale. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1248a. Electric utility cooperatives

(a) Electric utility cooperatives organized under or otherwise subject to 30 V.S.A. chapter 81 shall report capital credits which have been retired and declared payable by the cooperative's board of directors, but which have not been claimed by the owner in accordance with the provisions of this chapter. Electric utility cooperatives shall not pay or deliver the unclaimed capital credits to the treasurer. For purposes of this section, capital credits shall mean those credits to a capital account of a member of an electric utility cooperative which the cooperative is obliged to pay after operating costs and expenses have been paid.

(b) The treasurer shall provide notice of unclaimed capital credit properties reported by electric utilities in accordance with the provisions of section 1249 of this title. In the event of a claim for a capital credit property, the treasurer shall refer the claimant to the appropriate electric utility cooperative who shall evaluate the claim and upon provision of satisfactory proof of ownership shall pay the claimant.

(c) The electric utility cooperative shall notify the treasurer of the resolution of all claims for unclaimed property. (Added 2007, No. 190 (Adj. Sess.), § 51, eff. June 6, 2008.)

§ 1249. Notice and publication of lists of unclaimed property

(a) The treasurer shall notify apparent owners of unclaimed property under this chapter in the manner and method set out in subsection (b) of this section. In deciding whether to use an additional method specified in subdivision (b)(2) of this section, and which of those methods to use, the treasurer shall employ the method he or she deems to be the most cost-effective method available within its appropriations, while also giving consideration to the effectiveness of the method.

(b) The treasurer:

(1) shall notify all apparent owners of unclaimed property in accordance with this section by means of posting on the treasurer's website on the internet;

(2) may use any of the following to provide additional notice to the apparent owners:

(A) publication in a newspaper of general circulation:

(i) in the area of the state in which the last known address of a person to be named in the notice is located;

(ii) in the area in which the holder has its principal place of business in the state; or

(iii) in the area the treasurer deems to provide the best opportunity to reach the apparent owner;

(B) individual contact by regular or electronic mail, or by telephone, if the treasurer has current contact information on file;

(C) any other manner and method that the treasurer considers effective for providing notice and publication.

(c) In the notice and publication under subsection (b) of this section, the treasurer shall provide the names of the apparent owners of the property and information regarding recovery of the unclaimed property.

(d) The treasurer is not required to publish in the notice an item of less than \$100.00 in value.

(e) The treasurer may establish a program to assist other state agencies holding property not presumed to be abandoned to locate the owners of the property. Under this program, the treasurer may publish the owners' names on the treasurer's website and in any other manner the treasurer deems appropriate without taking possession of the property. Owners contacting the treasurer's office under this program would be referred to the state agency possessing the property. Agencies participating in the program will remain obligated to report and remit the property to the treasurer's office after it is presumed abandoned. (Added 2005, No. 161 (Adj. Sess.), § 1; amended 2007, No. 40, § 8.)

§ 1250. Custody by state; recovery by holder; relief of holder from liability

(a) In this section, payment or delivery is made in "good faith" if:

(1) payment or delivery was made in a reasonable attempt to comply with this chapter;

(2) the holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(3) there is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

(b) Upon payment or delivery of property to the treasurer, the state assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the treasurer in good faith is relieved of all liability arising thereafter with respect to the property.

(c) A holder who has paid money to the treasurer pursuant to this chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the treasurer shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder shall be reimbursed upon filing proof that the instrument was duly presented, and that payment was made to a person who reasonably appeared to be entitled to payment. The holder shall be reimbursed for payment made even if the payment was made to a person whose claim was barred under subsection 1259(a) of this title. Once the holder is reimbursed, the holder shall reassume liability with respect to the property.

(d) A holder who has delivered property other than money to the treasurer pursuant to this chapter may reclaim the property if it is still in the possession of the treasurer, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder. Upon recovering the property, the holder shall reassume custody, responsibility for the safekeeping of the property, and liability with respect to the property.

(e) The treasurer may accept a holder's affidavit, sworn under oath, as sufficient proof of the holder's right to recover money and property under this section.

(f) If a holder pays or delivers property to the treasurer in good faith and, thereafter, another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, no lawsuit may be maintained against the holder.

(g) Property removed from a safe deposit box or other safekeeping depository shall be received by the treasurer subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The treasurer shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the treasurer in selling the property. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1251. Income accruing after payment or delivery

If property other than money is delivered to the treasurer under this chapter, the owner is entitled to receive from the treasurer any income, gain, or other increments identifiable to the owner realized or accruing on the property at or before liquidation or conversion of the property into money, but the owner is not entitled to any income, gain, or other increments realized or accruing on the money after liquidation. When money is paid or delivered to the treasurer under this chapter, the owner is not entitled to receive income, gain, or other increments accruing thereafter. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1252. Public sale of unclaimed property

(a) The treasurer shall, within one year, sell abandoned property, other than securities, to the highest bidder at public sale at a location which in the judgment of the treasurer affords the most favorable market for the sale of the property. The treasurer may decline any bid as insufficient. The treasurer need not offer the property for sale if the treasurer considers that the probable cost of sale will exceed the proceeds of the sale, or if the treasurer considers the abandoned property to have little or no value. A sale held under this subsection shall be preceded by a single publication of notice, at least three weeks before the sale, in a newspaper of general circulation in the county in which the property is to be sold, or by such other methods as the treasurer determines will best advertise the sale.

(b) The treasurer shall, within one year after receipt, sell all abandoned securities. Securities listed on an established stock exchange shall be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the treasurer. A person making a claim under this chapter is entitled to the proceeds of the sale of the securities less any deduction for expenses of this sale. A person making a claim under this chapter before the securities are sold is entitled to receive the securities without additional cost.

(c) A purchaser of property at a sale conducted by the treasurer pursuant to this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The treasurer shall execute all documents necessary to complete the transfer of ownership.

(d) Notwithstanding the other provisions of this chapter, the treasurer is authorized to use discretion in selling abandoned property. The treasurer may delay a sale if, in his or her judgment, market conditions are unfavorable. The treasurer may determine that certain types of abandoned property are not appropriate for public sale and withhold those items from sale. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1253. Deposit of funds; information concerning owner

(a) All funds received under this chapter, including the proceeds from the sale of unclaimed property under section 1252 of this title, shall forthwith be received by the treasurer, except that the treasurer shall retain in a separate fund an amount not exceeding \$100,000.00 or 50 percent of the funds received during the previous year, whichever is greater, from which he or she shall make prompt payment of claims duly allowed by him or her as provided in this section. The treasurer shall record the name and last known address of each owner appearing on the holder's reports and the names and last known address of each insured person or annuitant and beneficiary, and with respect to each policy or annuity listed in the report of an insurance company its number, the name of the company, and the amount due. The record shall be available for public inspection at all reasonable hours.

(b) Before making a deposit to the credit of the general fund, the treasurer may deduct:

(1) expenses of a sale of unclaimed property;

(2) costs of mailing and publication in connection with unclaimed property;

(3) reasonable service charges;

(4) expenses incurred in examining records of holders of property and in collecting the property from those holders; and

(5) property valued at \$100.00 or less more than 10 years after the abandoned property was received from the holder under section 1248 of this title shall be paid by the treasurer into the higher education endowment trust fund created by section 2885 of Title 16 under authority of this subsection. For purposes of this subsection, the value of the abandoned property shall be that value as of the date the property was received from the holder by the treasurer.

(c) Notwithstanding any other provision of this chapter, or of subchapter 3 of chapter 5 of Title 1, the treasurer may withhold information concerning an individual, or specific abandoned property, when in the treasurer's judgment it is necessary to assure that abandoned property is returned to the rightful owner, or to otherwise protect the owner. In addition, the treasurer may withhold information concerning individuals and abandoned property until notice has been provided in accordance with section 1249 of this title, deny requests for lists of owners in any format for 24 months after the date the property is paid or delivered to the treasurer, and withhold information concerning uncashed checks and other similar payment information prior to the property being presumed abandoned as set forth in section 1242 of this title. (Amended 2005, No. 161 (Adj. Sess.), § 1; 2009, No. 13, § 1, eff. May 7, 2009.)

§ 1254. Claim of another state to recover property

(a) After property has been paid or delivered to the treasurer under this chapter, another state may recover the property if:

(1) the property was paid or delivered to the custody of this state because the records of the holder did not reflect a last known location of the apparent owner within the borders of the state, and the other state establishes that the apparent owner or other person entitled to the property was last known to be located

within the borders of that state and, under laws of that state, the property has escheated or become subject to a claim of abandonment by that state;

(2) the property was paid or delivered to the custody of this state because the laws of the other state did not provide for the escheat or custodial taking of the property, and, under the laws of that state, subsequently enacted, the property has escheated or become subject to a claim of abandonment by that state;

(3) the records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and, under the laws of that state, the property has escheated or become subject to a claim of abandonment by that state;

(4) the property was subjected to custody by this state under subdivision 1245(6) of this title, and under the laws of the state of domicile of the holder, the property has escheated or become subject to a claim of abandonment by that state; or

(5) the property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this state under subdivision 1245(7) of this title, and under the laws of the other state, the property has escheated or become subject to a claim of abandonment by that state.

(b) A claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the treasurer, who shall decide the claim within 90 days after it is presented. The treasurer shall allow the claim upon determining that the other state is entitled to the unclaimed property under subsection (a) of this section.

(c) The treasurer shall require another state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim to the property. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1255. Filing claim with treasurer; handling of claims by treasurer

(a) A person, excluding another state, claiming property paid or delivered to the treasurer may file a claim on a form prescribed by the treasurer and sworn under oath by the claimant.

(b) The treasurer shall review every abandoned property claim filed and determine whether to allow or deny the claim as promptly as possible, consistent with the need to determine the accuracy of the claim. The treasurer may request additional information from a claimant in order to make a determination of the claim. The treasurer shall give written notice of the decision to the claimant. If the claim is denied, the treasurer shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the treasurer or maintain an appeal under section 1256 of this title.

(c) The property or the net proceeds of a sale of the property shall be delivered or paid by the treasurer to the claimant as promptly as possible, provided that the treasurer has sufficient funds under section 1253 of this title.

(d) Any obligation to reimburse payment to the state treasurer under this chapter shall be the obligation of this state. Any amount payable pursuant to the reimbursement provisions of this chapter or payable under any judgment against the state pursuant to this chapter, shall be paid from the separate trust fund established by this chapter or, if the separate trust fund is insufficient, from state taxes levied upon all taxable property or income. If the judgment remains unsatisfied 90 days following the date of entry thereof and the conclusion of any appeal of the judgment, the amount of the judgment may be used as a credit against any taxes then due or thereafter becoming due to the state by the person in whose favor judgment was rendered. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1256. Appeal

A person aggrieved by a decision of the treasurer on a claim may appeal to the Washington superior court which may review the claim de novo. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1257. Election to take payment or delivery

(a) The treasurer may decline to receive property reported or delivered under this chapter.

(b) A holder, with the written consent of the treasurer and upon conditions and terms prescribed by the treasurer, may report and deliver property before the property is presumed abandoned. Property so delivered shall be held by the treasurer and is not presumed abandoned until it otherwise would be presumed abandoned under this chapter. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1258. Destruction or disposition of property having no substantial commercial value; immunity from liability

If the treasurer determines after investigation that property delivered under this chapter has no substantial commercial value, the treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the state or any officer or against the holder for or on account of an act of the treasurer under this section, except for intentional misconduct or malfeasance. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1259. Periods of limitation

(a) The expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order, shall not preclude the property from being presumed abandoned or affect a duty to file a report or to pay or deliver or transfer property to the treasurer as required by this chapter.

(b) An action or proceeding may not be maintained by the treasurer to enforce this chapter in regard to the reporting, delivery, or payment of property more than 10 years after the holder specifically identified the property in a report filed with the treasurer or gave notice to the treasurer of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation shall be tolled. The period of limitation shall also be tolled by the filing of a report that is fraudulent.

(c) [Repealed.] (Amended 2005, No. 161 (Adj. Sess.), § 1; 2009, No. 13, § 3, eff. May, 7, 2009.)

§ 1260. Requests for reports and examination of records

(a) The treasurer may require a person who has not filed a report, or a person who the treasurer believes has filed an inaccurate, an incomplete, or a false report, to file a report, sworn under oath, in a form specified by the treasurer. The report shall state whether the person is holding property reportable under this chapter, describe property not previously reported or as to which the treasurer has made inquiry, and specifically identify and state the amounts of property that may be at issue.

(b) The treasurer, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The treasurer may conduct the examination even if the person believes it is not in possession of any property that shall be reported, paid, or delivered under this chapter. The treasurer may contract with any other person to conduct the examination on behalf of the treasurer.

(c) The treasurer at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association or financial association that is the holder of property presumed abandoned if the treasurer has given the notice required by subsection (b) of this section to both the association or organization and the agent at least 90 days before the examination.

(d) Documents and working papers obtained or compiled by the treasurer, or the treasurer's agent, employee, or designated representative, in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

(1) used by the treasurer in the course of an action to collect unclaimed property or otherwise enforce this chapter;

(2) used in joint examinations conducted with or pursuant to an agreement with another state, the federal government, or any other governmental subdivision, agency, or instrumentality;

(3) produced pursuant to subpoena or court order; or

(4) disclosed to the unclaimed property office of another state for that state's use in circumstances equivalent to those described in this subdivision, if the other state is bound to keep the documents and papers confidential.

(e) If an examination of the records of a person results in the disclosure of property reportable under this chapter, the treasurer may assess the cost of the examination against the holder at the rate of \$200.00 per day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection (c) of this section may be assessed only against the business association or financial organization.

(f) If a holder does not maintain the records required by section 1261 of this title and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the treasurer may require the holder to report to and pay the treasurer the amount the treasurer reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been but was not reported. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1261. Retention of records

(a) Except as otherwise provided in subsection (b) of this section, a holder required to file a report under section 1247 of this title shall maintain the records containing the information required to be included in the report for 10 years after the holder files the report, unless a shorter period is provided by the treasurer by rule.

(b) A business association or financial organization that sells, issues, or provides to others for sale or issues in this state traveler's checks, money orders, or similar instruments other than third-party bank checks, for which the business association or financial organization is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue, for three years after the holder files the report. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1262. Enforcement

The treasurer may, through the attorney general, maintain an action in this or another state to enforce this chapter. The court may award reasonable attorney's fees to the prevailing party. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1263. Interstate agreements and cooperation; joint and reciprocal actions with other states

(a) The treasurer may enter into an agreement with another state to exchange information relating to unclaimed property or its possible existence. The agreement may permit the other state, or another person acting on behalf of that state, to examine records as authorized in section 1260 of this title. The treasurer by rule may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

(b) The treasurer may join with another state to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

(c) At the request of another state, the attorney general of this state may maintain an action on behalf of the other state to enforce, in this state, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in maintaining the action.

(d) The treasurer may request that the attorney general or another attorney commence an action in the other state on behalf of the treasurer. With the approval of the attorney general of this state, the treasurer may retain any other attorney to commence an action in this state on behalf of the treasurer. This state shall pay all expenses, including attorney's fees, in maintaining an action under this subsection. With the treasurer's approval, the expenses and attorney's fees may be paid from money received under this chapter. The treasurer may agree to pay expenses and attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorney's fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1264. Interest and penalties

(a) In addition to any other penalty provided by law:

(1) A holder who fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the treasurer interest on the property or value thereof from the date the property should have been reported, paid, or delivered. Interest shall be assessed at the prime rate as reported in the Money Rates section of the Wall Street Journal on the day the invoice for interest is issued by the treasurer's office.

(2) Except as otherwise provided in subdivision (3) of this subsection, a holder who fails to report, pay, or deliver property within the time prescribed by this chapter, or fails to perform other duties imposed by this chapter, shall pay to the treasurer, in addition to interest as provided in this subsection, a civil penalty of \$200.00 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of \$5,000.00.

(3) A holder who willfully fails to report, pay, or deliver property within the time prescribed by this chapter, or willfully fails to perform other duties imposed by this chapter, shall pay to the treasurer, in addition to interest as provided in this subsection, a civil penalty of \$1,000.00 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of \$25,000.00, plus 25 percent of the value of any property that should have been but was not reported.

(4) A holder who knowingly makes a false representation shall pay to the treasurer, in addition to interest as provided in this subsection, a civil penalty of \$1,000.00 for each, false representation up to a maximum of \$25,000.00, plus 25 percent of the value of any property that should have been but was not reported.

(5) The treasurer for good cause may waive, in whole or in part, interest and penalties under this subsection, and shall waive penalties if the holder acted in good faith and without negligence.

(6) Civil penalties under this section may be imposed by a court of competent jurisdiction.

(b) The treasurer, through the attorney general, may seek and obtain an injunction from a court of competent jurisdiction to require compliance with any provision of this chapter. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1265. Agreement to locate property; asset locators

(a) All asset locators seeking to interact with the treasurer's office on behalf of owners shall first register with the office on forms prescribed by the treasurer. Registration information shall include, but not be limited to, an asset locator's previous business experience and whether the asset locator has a criminal record. In order to obtain and maintain registered status, all asset locators shall post a performance bond of not less than \$10,000.00 to insure the treasurer's office against any fraudulent or mistaken claims that may arise as a result of an heir finder's representation of an owner. A copy of any agreement, or contract, between an asset locator and an owner shall be filed with the treasurer's office, together with a signed by the owner and notarized "notice to claimant" form, as prescribed by the treasurer, describing the rights of the owner under this section.

(b) An agreement between an owner and an asset locator, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned, shall be void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the treasurer. This subsection shall not apply to an agreement between an owner and a Vermont licensed attorney to file a claim as to identified property or contest the treasurer's denial of a claim.

(c) An agreement between an owner and an asset locator, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned, shall be enforceable only if the agreement is in writing in a form acceptable to the treasurer, clearly sets forth the nature of the property and the services to be rendered, is signed by the apparent owner, and states the value of the property before and after the fee or other compensation has been deducted.

(d) If an agreement covered by this section applies to mineral proceeds, and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(e) An agreement between an owner and an asset locator, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned and that provides for compensation that exceeds 10 percent of the value of the unclaimed property, shall be unenforceable.

(f) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than excessive compensation.

(g) No claim form may be sent to an asset locator without the prior written permission of the owner, or the owner's legal representative. Payments of all claims made to an owner who has been assisted by an asset locator shall be made to the owner, and not to the asset locator.

(h) An owner may not assign his or her rights, or property interests, under this chapter to an asset locator. No power of attorney containing provisions contrary to this section shall be enforceable. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1266. Foreign transactions

This chapter shall not apply to property held, due, and owing in a foreign country and arising out of a foreign transaction. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1267. Rules

The treasurer may adopt, pursuant to chapter 25 of Title 3, rules necessary to carry out this chapter. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1268. Uniformity of application and construction

This chapter shall apply and be construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1269. Severability clause

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and, to this end, the provisions of this chapter are severable. (Added 2005, No. 161 (Adj. Sess.), § 1.)

§ 1270. Deceased owners; multiple claimants

(a) If the treasurer holds unclaimed property in the name of a deceased owner, the treasurer may deliver the property as follows:

(1) In the case of an open estate, to the administrator or executor.

(2) In the case of a closed estate and the unclaimed property is valued at less than \$5,000.00, in accordance with the probate court decree of distribution.

(3) In the absence of an open estate or probate court decree of distribution, and the unclaimed property is valued at less than \$5,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to section 551 of Title 14.

(4) In all other cases where the treasurer holds property in the name of a deceased owner, a probate estate shall be opened by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property. Where an estate is opened solely to distribute unclaimed property under this section, the probate court may waive any filing fees.

(b) If the treasurer holds unclaimed property valued at \$250.00 or less which more than one person owns, the treasurer may deliver the property as follows:

(1) If the property has been listed on the treasurer's website for less than one year, a proportionate share to each of the persons who owns the property and who files a claim.

(2) If the property has been listed on the treasurer's website for a year or more, to the first person who files a claim and who owns at least a share of the property. (Added 2005, No. 161 (Adj. Sess.), § 1; 2009, No. 13, § 2; No. 55, § 10, eff. June 1, 2009.)

~ End RFP ~