NYS OFFICE OF TEMPORARY & DISABILITY ASSISTANCE
APPENDIX A1

1. PERSONNEL

a. The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel, which shall be as shown in the APPENDICES. These functions shall be carried out in accordance with the provisions of this AGREEMENT, and all applicable Federal and State Laws and Regulations.

b. It is the policy of Office of Temporary & Disability Assistance **(**OTDA) to encourage the employment of qualified applicants/recipients of public assistance by both public organizations and private enterprises that are under contractual agreement to OTDA for the provision of goods and services. Contractors will be expected to make best efforts in this area. OTDA may require the Contractor to demonstrate how the Contractor has complied or will comply with the aforesaid policy.

c. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from OTDA, to the degree that such change is within the reasonable control of the Contractor.

2. OFFICE SERVICES

a. The Contractor shall be responsible for the provision of necessary equipment and services for Contractor's staff, pursuant to and described in the narratives and budgets contained in the APPENDICES.

b. Title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies provided under this AGREEMENT shall be determined between the Contractor and OTDA, in Federally funded contracts, pursuant to Federal regulations 45 CFR Part 74, Subpart O, unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this AGREEMENT under contracts which are not federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of OTDA. Upon expiration or termination of this AGREEMENT, all property purchased with funds under this AGREEMENT shall be returned to OTDA, unless OTDA has given direction for or approval of an alternative means of disposition in writing.

c. Upon written direction by OTDA the contractor shall maintain an inventory of those properties which are subject to the provisions of paragraph b.

3. GENERAL TERMS AND CONDITIONS

a. The Contractor agrees to comply in all respects with the provisions of this AGREEMENT and the attachments hereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the APPENDICES. Any modifications to the tasks or work plan contained in Appendix D must be mutually agreed to by both parties in writing before the additional or modified tasks or work plan shall commence.

b. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, (including where relevant, timely completion of milestones) the Contractor agrees to submit to OTDA within three days of occurrence (or perception) of such problem, a written description thereof together with a recommended solution thereto.

c. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize Federal financial participation to OTDA under the Federal Social Security Act.

d. OTDA will designate a Contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated thereunder. The Contract Manager and those

individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.

e. Except where OTDA otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts for the performance of the obligations contained herein until it has received the prior written approval of OTDA, which shall have the right to review and approve each and every subcontract prior to giving written approval to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by bona fide written contract. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, (2) that nothing contained in the subcontract shall impair the rights of OTDA under this AGREEMENT, and (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and OTDA. The Contractor specifically agrees that the Contractor shall be fully responsible to OTDA for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

f. If the Contractor intends to use materials, equipment or personnel paid for under this contract in a revenue generating activity, the Contractor shall report such intentions to OTDA forthwith and shall be subject to the direction of OTDA as to the disposition of such revenue.

g. An initial advance, if determined to be payable to the contractor, shall be payable thirty days from the start date of services within the contract period or thirty days from the submission of a properly executed State of New York Standard Voucher in a form acceptable to OTDA and to the Comptroller of the State of New York, whichever is later.

h. Any interest accrued on funds paid to the Contractor by OTDA shall be deemed to be the property of OTDA and shall either be credited to OTDA at the closeout of this Agreement or expended on additional services provided for under this Agreement.

i. Non-Discrimination, Equal Employment Opportunity (EEO) and Minority and Women-Owned Business Enterprise (M/WBE) All work conducted under this contract must be in compliance with the specifications set forth in the applicable Request for Proposal and OTDA's policies and procedures set forth in Appendix A, Standard Clauses for NYS Contracts, and as may be amended from time to time. By submission of its bid/proposal, the successful Contractor agrees that it will not discriminate against any employee or applicant for employment to the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, and as more fully set forth in paragraph five of Appendix A. By submission of its bid/proposal, the successful Contractor further agrees that it will comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for Minority and Women Business Enterprises, including but not limited to the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women's Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144), and as more fully set forth in paragraph twelve of Appendix A. The successful Contractor further agrees that it will comply with OTDA's Appendix Z, attached and incorporated herein, for the specific EEO/MWBE requirements and associated forms required for this procurement.

4. REPORTS AND DELIVERABLES

a. The Contractor shall prepare and submit all reports, documents and projects required, and especially those reports, documents and products contained in the APPENDICES, to OTDA's Contract Manager for review and approval. These reports shall be in such substance, form and frequency as required by OTDA in order to meet State and Federal requirements.

b. Should the Contractor fail to submit, to the extent required by the Office, any reports or documents as required in the above paragraph (a), the Office reserves the right to suspend any payments due until such time as the reports or documents are submitted by the Contractor to the Office.

c. If the Contractor expends $500,000 or more in Federal funds during any one fiscal year, the Contractor will be subject to the Audit Requirements and provisions of OMB Circulars: A-110; A-122, A-133; and, all other audit requirements determined applicable by the OTDA. The audit shall be completed on an annual basis and the audit report submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless

a longer period is agreed to in advance by the OTDA. The audit shall be conducted in accordance with generally accepted government auditing standards by an independent auditor and submitted in a form determined by the OTDA. The OTDA will report it's finding and any recommendations to the Contractor and may impose any sanctions as determined appropriate. The cost of audits made in accordance with these provisions are allowable charges to the Contract, charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars.

5. CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

a. The Contractor agrees to safeguard the confidentiality of information relating to individuals who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such information with regard to services authorized by the Social Services Law in conformity with the provisions of applicable State and Federal laws and regulations (e.g. Sections 136 and 372 of the Social Services Law, 18NYCRR 357). Recipients of services other than those which are authorized by Social Services Law shall have their confidentiality protected as directed by OTDA. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this AGREEMENT.

b. The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 889-aa; State Technology Law Section 208). In the event of an information security breach, the Contractor must immediately notify the Office's Information Security Officer, and adhere to State and Office procedures regarding information security incident reporting and management. The Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

6. PUBLICATIONS AND COPYRIGHTS

a. The results of any activity supported under this AGREEMENT may not be published without prior written approval of OTDA, which results (1) shall acknowledge the support of OTDA and the State of New York and (2) shall state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretation or policy of OTDA or the State of New York.

b. OTDA and the State of New York expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this AGREEMENT or activity supported by this AGREEMENT. All publications by the Contractor covered by this AGREEMENT shall expressly acknowledge OTDA's right to such license.

c. All of the license rights so reserved to OTDA and the State of New York under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR Part 74, Subpart O.

7. PATENTS AND INVENTIONS

The Contractor agrees that any and all inventions, conceived or first actually reduced to practice in the course of, or under this AGREEMENT, or with monies supplied pursuant to this AGREEMENT, shall be promptly and fully reported to OTDA. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to 45 CFR Part 74.36 and any amendments thereto.

8. TERMINATION

a. This AGREEMENT may be terminated by OTDA, if OTDA deems that termination would be in the best interest of the State, provided that OTDA shall give written notice to the Contractor not less than thirty (30) days prior to the date upon which termination shall become effective. Such notice is to be made via registered or certified mail return receipt requested or hand delivered with receipt granted by the Contractor. The date of such notice shall be deemed to be the date the notice is received by the Contractor established by the receipt returned, if delivered by registered or certified mail, or by

the receipt granted by the Contractor, if the notice is delivered by hand. OTDA agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith.

b. If the Contractor fails to use any real property or equipment purchased pursuant to this AGREEMENT for the purposes set forth in this AGREEMENT, or if at any time during the term of this AGREEMENT the Contractor ceases to provide the services specified in the AGREEMENT for which the equipment was purchased, OTDA may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor, where the Contractor has failed to cure as set forth hereafter. Said notice of breach shall be sent via registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefor. Said notice shall specify the Contractor's breach and shall demand that such breach be cured. Upon failure of the Contractor to comply with such demand within thirty (30) days, or such longer period as may be specified therein, OTDA may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to OTDA. Upon such termination, OTDA may require a) the repayment to OTDA of any monies previously paid to the Contractor, or b) return of any real property or equipment purchased under the terms of this AGREEMENT or an appropriate combination of a) and b), at OTDA's option.

c. To the extent permitted by law, this AGREEMENT shall be deemed in the sole discretion of OTDA terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by OTDA to the Contractor.

d. Should OTDA determine that Federal or State funds are unavailable; OTDA shall deem this contract terminated immediately. OTDA agrees to give notice to the Contractor as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is oral notification, OTDA shall follow this up immediately with written notice. OTDA will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from OTDA. If State or federal funds become unavailable prior to completion of a performance-based contract, the contractor is entitled to receive reimbursement in an amount equal to the amount the contractor would otherwise have received for the payment points that have been completed at the time that the funds become unavailable.

9. ADDITIONAL ASSURANCES

a. The Contractor agrees to observe all applicable Federal Regulations, including those contained in 45 CFR Part 84 and 28 CFR Part 41.

b. OTDA and Contractor agree that Contractor is an independent Contractor, and not an employee of OTDA. Contractor agrees to indemnify the State of New York for any loss the State of New York may suffer when such losses result from claims of any person or organization (excepting only OTDA) injured by the negligent acts or omission of Contractor, its officers and/or employees or subcontractors. Furthermore, Contractor agrees to indemnify, defend, and save harmless the State of New York, and its officers, agents, and employees from any and all claims and losses occurring or resulting to any and all contractors, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of the contract, and from all claims and losses occurring or resulting to any person, firm, corporation who may be injured or damaged by Contractor in the performance of the contract, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under the contract or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this contract.

c. The Contractor agrees to comply with all applicable Federal, State and local Civil Rights and Human Rights Laws with reference to equal employment opportunities and the provision of services.

d. The Contractor agrees that Modifications and/or Budget Revisions which do not effect any change in the amount of consideration to be paid, or change the term, will be in accordance with Appendix C.

e. Upon request by a local social services district or its designated purchasing agent, the contractor shall enter into an agreement with such district or agent for the purchase of the goods and services which are the subject of this agreement. Such new agreement shall provide that the cost of such goods and services to the district / agent entering into such agreement shall be the same as charged to OTDA under this agreement except that the contractor shall be permitted to negotiate an increase in price to the extent it can show an increase in the cost of providing goods and services which can

be attributed to the act that the municipality constituting the social services district requires contractor to be obligated to standard contractual provisions in lieu of Appendix A of this agreement, which standard contractual provisions are more onerous than those contained in Appendix A.

f. The contractor understands that it must comply with federal Executive Order 11246, the Copeland "Anti-Kickback Act" (18 USC 874), Section 306 of the federal Clean Air Act, Section 306 of the federal Clean Water Act, and that it must certify that neither it nor its principals are debarred or suspended from federal financial assistance programs and activities and to complete and return in pursuit of such certification any appropriate form required by OTDA (see federal Executive Order 12549 and 7 CFR Part 3017).