MEDICAL SCREENING and IMMUNIZATION CONTRACT

STATE OF NEW YORK
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

STATE OF NEW YORK
MULTI YEAR AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

I. Conditions of Agreement

A. The period of this AGREEMENT shall be as specified on the face page hereof. Should funding become unavailable, this AGREEMENT may be suspended until funding becomes available. In such event the STATE shall notify the CONTRACTOR immediately of learning of such unavailability of funds, however, any such suspension shall not be deemed to extend the term of this AGREEMENT beyond the end date specified on the face page hereof.

B. Funding for the entire contract period shall not exceed the amount specified as "Funding Amount for Initial Period" on the face page hereof.

C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.

D. To modify the AGREEMENT, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in the term, including any proposed budget modification which results in a change of greater than 10% to any budget item, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

H. The CONTRACTOR certifies that all information provided to OTDA with respect to the Procurement Lobbying Act is complete and accurate.

II. Statement of Work (Responsibilities of the CONTRACTOR)

A. Maintain clinical and other staffing capacity and institutional experience in providing medical screenings, in accordance with the protocols described in Refugee Medical Screening Protocol in Attachment A;

B. Make appointments when necessary and have a protocol for follow-up with refugees, entrants and asylees and other eligible persons who do not keep their appointments;

C. Prescribe or supply appropriate medications for infectious diseases and other conditions identified during the medical screening;

D. Provide immunizations indicated at the time of the medical screening visit, per current recommendations of the Advisory Committee on Immunization Practices (ACIP) of The Centers for Disease Control (CDC) and Prevention, and refer for continuation of the required immunization series (series may include DPT/Td, IPV, HBV, MMR, Varicella, Influenza, Pneumococcal immunizations);

E. Use a competent medical interpreter to overcome language or cultural barriers to care during the medical screening process. Linguistically and culturally competent trained medical interpreters must be used to assist with client interviews, health education and orientation to the US health care system, and to facilitate the referral process;

F. When possible, employ bi-lingual, bi-cultural health aides or other staff recruited from the predominant refugee, entrant or asylee ethnic groups;

G. Maintain linkage to appropriate primary care providers or specialists for necessary follow-up services not available on site, (including public health and inpatient facilities), psychological counselors, drug and alcohol treatment services and other community providers;

H. Assure that referrals are timely and, when possible, in proximity to the client's residence;

I. Maintain patient records in accordance with Section 406.10 of Title 10 of the New York State rules and regulations that govern record keeping in outpatient settings;

J. Send the accurately completed Refugee Medical Screening Forms to OTDA on a quarterly basis no later than 20 days following the quarter performed. The completed forms are to be addressed to:

New York State Office of Temporary and Disability Assistance
Attn: Thomas Keenan
Bureau of Refugee and Immigrant Assistance
40 North Pearl Street, 10C
Albany, NY 12243-0001

K. Participate in site visits conducted by OTDA and/or New York State Department of Health (DOH) staff, assuring prompt access to all program sites and all records and reports relating to the program. To do so, the CONTRACTOR must provide a disclosure form to its patients to have OTDA and/or DOH staff access their records for its monitoring purpose. Records are the property of the provider agency. However, information pertaining to Refugee Medical Screening Program surveillance requirements must be accessible to OTDA; and

L. Maintain adequate staffing and systems for fiscal accounting and program billing.

III. Responsibility of the State (OTDA)

The OTDA agrees to:

A. Provide direction, training, Refugee Medical Screening Forms and other materials as needed to the CONTRACTOR regarding the Refugee Medical Screening Program;

B. Reimburse the CONTRACTOR, subject to the availability of funds, in accordance with procedures outlined in Section V – "Reimbursement" and Section VI – "Payments and Reporting";

C. Oversee CONTRACTOR performance and conduct on-site visits to the CONTRACTOR to ensure compliance with the terms of the AGREEMENT; and

D. Notify the CONTRACTOR immediately when a problem arises regarding the performance of duties as specified in the AGREEEMENT.

IV. Eligibility Requirements

The CONTRACTOR will determine each individual's eligibility for medical screening and immunization services. In order to be eligible for reimbursement under this program the medical screening and immunization must be administered within 90 days of the eligible individual's arrival date in the United States or date that status was granted.

Prospective patients for medical screening and immunization must provide proof of immigration status, in the form of documentation issued by the United States Citizenship and Immigration Services (USCIS) or the Office of Refugee Resettlement (ORR) in the case of certain trafficking victims as defined below.

Persons in a status listed below are eligible for medical screenings:

A. A *refugee*, admitted under Section 207 of the Immigration Naturalization Act (INA), for the first ninety days from the date the person entered the United States (US) in such status;

B. An *asylee*, granted asylum status under Section 208 of the INA, for the first ninety days from the date such status was granted;

C. A Cuban or Haitian *entrant*, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 for a period of ninety days from the date such status was granted;

D. An alien admitted into the United States as an *Amerasian immigrant* as described in Section 402(a) 2 (A) (I) (V) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612 (a) 2 (A) for the period of ninety days from the date the person was admitted into the US in such status;

E. A *parolee* admitted under Section 212(d)(5)(a) of the INA for a period of ninety days from the date admitted in such status;

F. A citizen or national of Iraq granted *special immigrant status* described in Section 101(a)(27) of the INA for a period of ninety days from the date of entry to the US;

G. An citizen or national of Afghanistan granted *special immigrant status* described in Section 101 (a) (27) of the INA for a period of ninety days from the date of entry to the US;

H. *Family members* of Afghan and Iraqi citizens or nationals granted *special immigrant status* described in Section 101(a)(27) of the INA for a period of ninety days from date of entry to the US;

I. A *Certified Trafficking Victim* who has received a certification or eligibility letter from the federal Office of Refugee Resettlement (ORR) is eligible for a period of ninety days from the status date specified in the certification or eligibility letter; and

J. Certain *family members of a certified trafficking victim* as described in Section 101(A)(15)(T)(ii) of the INA are also eligible for a period of ninety days from the date specified in the certification or eligibility letter.

V. Reimbursement

Reimbursement Rates for New York City	
First Visit	$239.07
Second Visit	$107.32
All-Inclusive Screening	$346.39
Initial Adult Immunization	$180.63

To receive reimbursement, the CONTRACTOR must submit to OTDA, no later than 20 days following the end of the quarter performed, accurately completed Refugee Medical Screening Forms (provided in Attachment B) and a New York State Standard Voucher (AC-92).

The CONTRACTOR will be reimbursed a First Visit rate for a client in eligible refugee status when an approved Refugee Medical Screening Form that reflects a first visit only and the Standard Voucher (AC-92) are submitted. A First Visit consists of core screening procedures 1 through 6 of the Refugee Medical Screening Protocol (Attachment A, pgs. 9 and 10). A Second Visit consists of core screening procedures 1 through 6 that may have been deferred at time of first visit, any related health education and counseling, and core screening procedure 7 (Attachment A, pgs. 10 and 11).

The CONTRACTOR will be reimbursed an All-Inclusive Screening rate for a client in eligible refugee status when an approved Refugee Medical Screening Form that reflects two visits and the Standard Voucher (AC-92) are submitted. An All-Inclusive Screening consists of all core procedures 1 through 7 of the Refugee Medical Screening Protocol.

The CONTRACTOR will be reimbursed an Initial Adult Immunization rate for each adult client in eligible refugee status, when the Refugee Medical Screening Form demonstrates that initial immunizations were administered and the Standard Voucher (AC-92) are submitted. Immunizations eligible for reimbursement are the initial administration of DPT/TD/Td, OPV/IPV, HIB, HBV, MMR, Varicella, Influenza, and Pneumococcal. A CONTRACTOR will not be reimbursed for completion of a series of required immunizations. A CONTRACTOR will not be reimbursed for immunization of children (see core screening procedure 5 of Attachment A, Refugee Medical Screening Protocol).

A. The CONTRACTOR shall submit to OTDA by the 20th day of the following quarter a completed Standard Voucher (AC-92) for the screenings and immunizations completed during the prior quarter(s). The Standard Voucher must be accompanied by accurately completed Refugee Medical Screening Forms and any supporting documents. OTDA shall review the Standard Voucher (AC-92), Refugee Medical Screening Forms, and any supporting documents and will notify the CONTRACTOR of any errors, which must be corrected prior to further processing of the voucher for payment.

B. Completed Standard Vouchers (AC-92), Refugee Medical Screening Forms, and any supporting documents are to be sent to the address stated above in Section II.

C. The Office of the State Comptroller will issue payment to the CONTRACTOR for approved Standard Vouchers (AC-92) within 30 days of processing by OTDA, in accordance with Article 11-A of the State Finance Law.

D. In the event OTDA develops procedures for electronic submission of refugee health data and vouchers to OTDA, the CONTRACTOR will be responsible for the data entry of refugee health screening information currently recorded on the Refugee Medical Screening Form (Attachment B) and quarterly Standard Voucher (AC-92).

VI. Payments and Reporting

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Section II – "Statement of Work (responsibilities of the CONTRACTOR))" any appropriate documentation as required by Section V – "Reimbursement" of this agreement, and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with Section V – "Reimbursement". The STATE shall pay the CONTRACTOR, in consideration of contract services, a sum not to exceed the amount noted on the face page hereof. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

D. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us or by telephone at 518-474-4032.

CONTRACTOR acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptrollers' electronic payment procedures, except where the OTDA has expressly authorized payment by paper check as set forth herein.

E. The CONTRACTOR acknowledges that payment for invoices submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the OTDA, in the OTDA's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with the ordinary State procedures and practices as established by the State Comptroller.

F. The CONTRACTOR shall also comply with the State Comptroller's requirement to file a Substitute Form W-9. The form and the instructions for completing the form, as well as the Electronic Payment Authorization Form are located at Electronic Payment and Substitute W-9.

VII. Terminations

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may terminate this AGREEMENT without cause by ninety (90) days prior written notice.

D. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.

E. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

F. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.

G. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses

and obligations arising from the program(s) in this AGREEMENT after the termination date.

H. OTDA reserves the right to terminate this agreement, as amended, in the event the certification filed by the CONTRACTOR in accordance with the Procurement Lobbying Act is found to be intentionally false or incomplete. Upon such findings, OTDA may exercise its termination right by providing written Notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

VIII. Indemnification

A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

IX. Property

A. Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A1.

X. Safeguards for Services and Confidentiality

A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A1.

XI. Public Officers' Law

A. The Contractor agrees not to engage in any conduct which the Contractor knows would violate or would assist an employee of OTDA in violating Section 73 or 74 of the Public Officers Law.

B. The Contractor further recognizes that an administrative or judicial finding that a Contractor has violated any of the statutes specified in the Contractor/Subcontractor Background Questionnaire completed prior to the award of this contract may entitle OTDA to terminate the contract, at its discretion, within thirty (30) days after the Contractor notifies OTDA of such findings or OTDA notifies the Contractor that it has become aware of such finding.

C. Any termination of the contract by OTDA under this subdivision (Article VII) shall be deemed to be a termination of the contract for cause. The remedies set forth in this section shall be in addition to any other remedy available to OTDA under this contract or under any other provisions of law.

Attachment A

Refugee Medical Screening Protocol:

Core Screening Procedures as Recommended by CDC, Approved by ORR, and required by OTDA

1. Obtain Personal and Demographic Information

- Name;
- Date of birth;
- Sex;
- Country of origin and length of time in the country of last residence;
- Date of arrival in US or date status was granted; and
- Alien registration number.

2. Review Overseas Medical Examination Information

- Review Overseas Medical Examination (DS-2053)
- Review DS-2053 for Class A health conditions:
  - ➢ active or infectious tuberculosis, untreated syphilis, untreated chancroid, untreated gonorrhea, untreated granuloma inguinale, untreated lymphogranuloma venereum, human immunodeficiency virus (HIV), Hansen's disease, and addiction or abuse of specific substance without harmful behavior and/or any physical or mental disorder with harmful behavior or history of such behavior, along with likelihood that behavior will recur.
- Review DS-2053 for Class B health conditions:
  - ➢ inactive or noninfectious tuberculosis, treated syphilis, other sexually transmitted diseases, pregnancy, treated tuberculoid, borderline or paucibacillary Hansen's disease, and sustained, full remission or abuse of specific substances* and/or any physical or mental disorder without harmful behavior or history of such behavior considered unlikely to recur (*amphetamines, cannabis, cocaine, hallucinogens, inhalants, opioids, phencyclidines, sedative-hypnotics and anxiolytics).
- Review any X-ray(s) taken overseas; and
- Review immunization records and other available medical records.

3. Interview for Personal and Family Medical History

- Personal and family medical history, medications, allergies;
- recent fever, cough, weight loss, night sweats, hemoptysis, diarrhea;
- other recent illness in self or family;
- history of drug use, including alcohol and tobacco; and
- social history (including immigration, refugee camp experience, etc.)

4. Conduct Physical Examination

- Vital signs, including height, weight, head circumference (less than 5 years old), blood pressure (5 years and older), temperature and pulse;
- general physical examination for review of systems, including heart, lungs, abdomen, ENT, neurological and skin evaluation;

- gross evaluation of vision and hearing;
- gross dental evaluation; and
- general assessment of mental status/developmental level.

5. Provide:

- Evaluation, treatment, and/or referral for Class A and B health conditions reported on the DS-2053, including sexually transmitted disease follow-up, mental health follow-up, and initial assessment and determination of where TB evaluations and treatment will be provided;
- Required initial immunizations (DPT/TD/Td, OPV/IPV, HIB, HBV, MMR, Varicella, Influenza, Pneumococcal) if any are indicated at time of first visit and referral for continuation, as indicated. Providers are encouraged to use the New York City Department of Health and Mental Hygiene (NYCDOHMH), Vaccines for Children Program, http://www.nyc.gov/html/doh/html/imm/immvfc.shtml, to offset the cost of providing immunizations to children; and
- Health education and counseling.

6. Provide Screening as Indicated Below:

- Hematocrit for all;
- Blood Lead Level (BLL) screening for all refugee children age 6 months to 16 years of age;
- Hepatitis B screening (or Hepatitis B vaccine) for all;
- Stool for ova and parasites for all;
- PPD for 6 months and older;
- Chest X-ray and sputum smear and culture (provide at time of exam if symptoms suggestive of tuberculosis present or if overseas chest x-ray abnormal; if PPD positive only, may refer to NYCDOHMH Chest Centers for chest x-ray);
- VDRL (if indicated by history or exam);
- HIV test (if indicated by history or exam);
- Pap Smear for females, ages $\geq$ 21 years or at onset of sexual activity (if indicated by history or exam); and
- Pregnancy test (if indicated by history or exam).

7. Following the initial health assessment, refugees should be referred for indicated services as recommended by the Centers for Disease Control and Prevention (CDC), Division of Global Migration and Quarantine (DGMQ) refugee health guidelines, including but not limited to:

- Routine medical care, additional screening and follow up, based on age and results of physical exam and initial screening;
- Metabolic screening in newborn infants, according to state guidelines;
- Repeat Blood Lead Level (BLL) screening of all refugee children, ages 6 months to 6 years, 3 to 6 months after refugee children are placed in permanent residences and older children, if warranted, regardless of initial BLL screening results;
- Routine dental care;
- Urinalysis (if old enough to provide a clean-catch urine specimen);
- Chemistries;
- Cancer screening;

- Cardiovascular and lipid disorder screening;
- CBC or RBC indices, sickle cell prep, malaria smear (if hematocrit less than 30%);
- Testing for sickle cell, thalassemia or Tay Sachs (if indicated);
- Nutritional evaluation if height, weight <5th percentile (less than 16 years old);
- Further evaluation if weight >10% under, or >40% over normal range (16 years and older);
- Social services evaluation if vision, hearing, self care capability or mobility is significantly decreased and/or the ability of the family to provide care is questionable;
- Further mental health evaluation if indicated by mental health symptoms (e.g., depression, anxiety, or evidence of post-traumatic stress disorder or other conditions that may adversely impact on effective resettlement; and/or
- Completion of series of immunizations required for adjustment of status to obtain legal permanent residency and eventually become US Citizens. (A USCIS-designated Civil Surgeon must certify the record of immunizations; local health departments have been declared by USCIS to be Civil Surgeons for the limited purpose of certifying refugee immunizations for adjustment of status.)

Comments:

1. There may be exceptions to these screening guidelines based on country of origin (e.g., malaria smear if from endemic area), culture and family/social/medical history.
2. Age-specific recommendations may need to be adjusted based on patient history, prior laboratory results, cultural knowledge and professional judgment.
3. Reasons for not conducting core-screening procedures must be documented on the Refugee Medical Screening Form.
4. Screening results must be discussed at a second office/clinic visit, and all appropriate referrals made.
5. "Referred", as indicated in item 7 above, means setting up a specified appointment with a designated provider.

Attachment B

REFUGEE MEDICAL SCREENING FORM

Name:			Alien Registration #:		Volag/Sponsor:	
Address:	City:	State:	Zip Code:		Tel:	Sex: ☐ M ☐ F
County:	Date of Arrival in U.S.:		DOB:		Country of Origin:	
Primary Language:						
Overseas Medical Exam: DS-2053 Form Reviewed? ☐ Y ☐ N	Class A or B Condition's Identified: ☐ Y ☐ N If Yes, Please specify:					

Medical Exam:

Tuberculosis Screening	PPD Skin Test: mm Date:	Overseas Chest x-ray: ☐ Normal ☐ Abnormal ☐ N/A Chest x-ray taken in U.S.: ☐ Normal ☐ Abnormal ☐N/A
Hepatitis Screening	**HBsAG:** ☐ Negative ☐ Positive **Anti-HBs:** ☐ Negative ☐ Positive	Stool Ova / Parasites: ☐ Negative ☐ Positive If Positive, parasites identified: Treatment prescribed:

Screening:

Ht/Wt/HC: ☐ Normal ☐ Abnormal ☐ Not Done	Vision: ☐ Normal ☐ Abnormal ☐ Not Done	Hearing: ☐ Normal ☐ Abnormal ☐ Not Done
Dental: ☐ Normal ☐ Abnormal ☐ Not Done	Mental Development: ☐ Normal ☐ Abnormal ☐ Not Done	
HCT: ☐ Normal ☐ Abnormal ☐ Not Done	Pap Smear: ☐ Normal ☐ Abnormal ☐ Not Done	BP: ☐ Normal ☐ Abnormal ☐ Not Done
Lead: ☐ Normal ☐ Abnormal ☐ Not Done	Reasons/Comments:	

Are there any physical or mental conditions limiting employability? ☐ No ☐ Yes, If Yes, specify:

Were there any other physical or mental health conditions identified? ☐ No ☐ Yes, If Yes, specify:

Immunizations: Complete/Age/Adjustment

	#1	#2	#3	#4	Booster	Booster	Yes	No	N/A
DPT / TD / Td									
OPV / IPV									
HIB									
HBV									
MMR									
Varicella									
Influenza									
Pneumococcal									

Referrals Made:

Date: Visit #1: Visit #2: Address:

Provider Name: Phone #:

Provider Signature:

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. 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, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance

Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any

combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.
In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid

proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.
Information on the availability of New York State subcontractors and suppliers is available from:
NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
http://www.empire.state.ny.us
A directory of certified minority and women-owned business enterprises is available from:
NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
http://www.empire.state.ny.us

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:
(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY SECTION 139-D OF THE STATE FINANCE LAW

SECTION 139-D, Statement of Non-Collusion in bids to the State:

BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OFPERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day of _____, 20____ as the act and deed of said corporation of partnership.

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:

NAMES OF PARTNERS OR PRINCIPALS	LEGAL RESIDENCE

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:

NAME	LEGAL RESIDENCE
President:	
Secretary:	
Treasurer:	
President:	
Secretary:	
Treasurer:	

Identifying Data

Potential
Contractor_____

Address_____
Street

_____
City, Town, etc.

Telephone_____ Title_____

If applicable, Responsible Corporate Officer

Name _____ Title_____

Signature_____

Joint or combined bids by companies or firms must be certified on behalf of each participant.

_____	_____
Legal name of person, firm or corporation	Legal name of person, firm or corporation
By _____	_____
Name	Name
_____	_____
Title	Title
Address_____	Address_____
Street	Street
_____	_____
City State	City State

NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with section 165 of the State Finance Law, the bidder, by submission of this bid certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the bidder, either: (answer yes or no to one or both of the following, as applicable),

(1) has business operations in Northern Ireland;
Yes____ or No____

if yes:

(2) shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes____ or No____

_____
Signature

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.

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).

APPENDIX D
PROGRAM WORK PLAN

A. Contractor Information

1. Incorporated Agency Name: _____

2. Street Address: _____
   City, State, Zip Code: _____
   County: _____

3. Agency Contact: _____ Title: _____
   Phone #: _____ FAX #: _____
   Email Address: _____
   Mailing Address: _____

   Program Contact: _____ Title: _____
   Phone #: _____ FAX #: _____
   Email Address: _____
   Mailing Address: _____

4. Federal Employer Identification #: _____
   State Registered Charitable Organization #: _____
   Municipality #: _____
   Community District(s): _____
   Federal Congressional District(s): _____
   State Senate District(s): _____
   State Assembly District(s): _____

5. Award Amount: _____

Organization Information

For statistical purposes, check yes or no for *each* of the following items as it relates to your organization. See the instructions for definitions. LEAVE NO BLANKS.

Non-Profit Organization	Yes ☐	No ☐	Women-Owned Business	Yes☐	No☐
Minority Business	Yes ☐	No☐	Municipality	Yes☐	No☐
Small Business	Yes ☐	No☐			

Non-Discrimination/Sectarian Organization Compliance Justification

	Yes	No
a. According to your Certificate of Incorporation, are your organization's purposes sectarian? (For example, are you a corporation organized under the religious corporation law or a corporation that has a corporate purpose to serve a particular religious group or promoting the doctrine of a particular religion in general?)		
b. Are any of the proposed services in your project sectarian in nature?		
c. Does your organization have as its goal the furthering of any sectarian purpose?		
d. Are the services to be provided by sectarian staff?		
e. Are services being delivered in a building owned by a sectarian organization?		
If no, proceed to letter (f.). If yes, are services educational in nature?		
f. Will the proposed services be provided on the basis of age, race, religion, color or national origin?		
g. If the contract is with a sectarian organization, is the amount and comprehensiveness of the surveillance necessary to ensure the contract does not foster or inhibit religion greater than the contract necessary to administer a similar contract with a non-sectarian agency?		

<u>If any of the above answers are Yes, please justify the request for funding below:</u>

LIST OF AUTHORIZED SIGNATORIES

List all individuals who are authorized by the Board of Directors to sign this contract and related documents on behalf of the organization. *Should any individual be added to or removed from the list, inform the Bureau in writing immediately.*

Name _____
(Printed)
Organization Title _____

Signature _____

Restrictions _____

Name _____
(Printed)
Organization Title _____

Signature _____

Restrictions _____

Name _____
(Printed)
Organization Title _____

Signature _____

Restrictions _____

The individuals listed above are authorized to sign on behalf of the Contractor in all matters regarding the Agreement with the NYS Office of Temporary and Disability Assistance except where restrictions are shown. The recipient certifies that to the best of his/her knowledge and belief the information in the contract is true and correct. The recipient certifies that he/she has reviewed the contract, understands the terms, and agrees to be bound by the same.

_____

(Signature of Official Authorized to Sign for Applicant) (Printed Name)
(Date)

B. Organization Description

Describe your organization, its background and purpose. Please be sure to explain all specialized medical services and other services that your agency may provide. Please include any relevant experience serving the target population. Please attach a detailed Organizational Chart that shows where the project would fit within your organization.

C. Program Description

Provide comprehensive, detailed information on the program and services you will be providing to the target population. Be sure that the following points have been addressed with specifics:

Who are the people to be served? (Target Population)

- Describe the Target Population for whom services will be provided.

What is the project and why is it needed?

- Describe the program and the services you will be providing.
- Describe why the program is needed and how it will meet the needs of the target population you indicated. For example: "The Refugee Health Screening Program is needed to ensure follow up of Class A & B health conditions identified during the overseas medical exam, to identify persons with communicable diseases of potential public health conditions and to identify personal health conditions that adversely impact an effective resettlement, such as job placement or school attendance".
- Indicate if licenses, permits or other approvals are necessary to program operation, and if so, include copies with this submission.

Where will the program operate?

- Describe the physical location(s) of the program. You should include how accessible the program site is by public transportation. If applicable, include a list of subcontractors, including agency name, contact person, address and phone number in this section.

When will the program operate?

- Specify the hours and/or days of operation.

Who will operate the project?

- Describe the responsibilities of the personnel who will provide services. For example: A social worker may do counseling and referrals, while an accountant may provide administrative support.
- Be sure to include all personnel who will be paid from this program or who are essential to service delivery, such as volunteers.

How will the program operate? (Work Plan)

- Provide additional specifics about the program. For example: How will your facility generate client referrals for this program? How will appointments be scheduled? How will you document the services performed? How will you provide interpreter services for clients that are Limited English Proficient (LEP) or Non-English speakers? What kinds of health counseling does your facility offer? Does your facility have health information available in other languages? Does your facility intend to provide primary care services on site to the target

population post screening? If not, what are the established linkages to primary care for clients that will need ancillary care?

You may require a start-up period to hire personnel, establish referral mechanisms, establish linkage to primary care, obtain bids for equipment, purchase equipment and/or supplies, or train personnel. Describe these tasks, as well as time frames for accomplishing them. Identify staff who will oversee these activities.

D. Key Personnel Profile

Demonstrate the staffing levels for the program as well as the amount of time the organization's key personnel will spend on the program. Attach a chart that depicts the personnel involved with the program. For each personnel member listed, include the person's name and job title, the responsibilities of the position, the required qualifications for the position, languages spoken, the name of the supervisor, and the percent of time spent on the program.

APPENDIX X

Agency Code: 27000 Contract No.: _____

Period: **Funding Amt. for Period:**

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the **New York State Office of Temporary & Disability Assistance**, having its principal office at 40 N. Pearl Street, Albany, New York 12243 (hereinafter referred to as the STATE), and (hereinafter referred to as the CONTRACTOR).

Whereas, the State and the Contractor wish to amend said agreement (C00000); and the purpose of which is to modify the contract term and/or contract amount as referenced above and as amended in the attached Appendix (ices) -.

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, The parties hereto have executed this AGREEMENT on the dates below their signatures.

CONTRACTOR SIGNATURE

By: _____

_____
Printed Name

Title: _____

Date: _____

STATE AGENCY SIGNATURE

By: _____

_____
Printed Name

Title: _____

Date: _____

State Agency Certification

"In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

STATE OF NEW YORK
SS:
County of ( )

On the ____day of _____, 200_, before me personally appeared _____, to me known, who being by me duly sworn, did depose and say that he/she resides at _____, that he/she is the _____ of the _____, the corporation described herein which executed the forgoing instrument, and that he/she signed his/her name thereto by order of the board of directors of said corporation.

_____
(Notary)

Attorney General's Signature

By: _____

Date: _____

Approved By: Thomas P. DiNapoli
Comptroller

By: _____
Date: _____

APPENDIX Z

Minority and Women-Owned Business Enterprise (M/WBE) and Equal Employment Opportunity (EEO) Participation Requirements For All NYS Office of Temporary and Disability Assistance Contracts and Grants

(Authority: Federal and State statutes specifically Article 15-A of the Executive Law, 5 NYCRR parts 140-144, and Appendix A: Standard Clauses for All New York State Contracts)

I. Introduction

1. New York State Executive Law §§ 310–318, (Article 15-A: Participation by Minority Group Members and Women with Respect To State Contracts -- hereinafter "the Statute"), was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The New York State Office of Temporary and Disability Assistance (OTDA) fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons, and to promote equality of economic opportunity for minority group members and women who own business enterprises.

2. OTDA has developed compliance requirements, forms and procedures to ensure that (i) all contractors as defined under § 310 (3) (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State Contracts, as defined in § 310 (13) **[hereinafter "Contractors"]**, as well as proposed or actual "Subcontractors", as defined in § 310 (14) shall comply with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, and, (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (M/WBEs) in the OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for M/WBEs, including but not limited to the Statute and its implementing regulations as promulgated by the Division of Minority and Women's Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144).

3. Copies of the required OTDA Forms are identified in this Appendix and available on OTDA's Internet site at http://www.otda.state.ny.us/main/. These forms are to be submitted without change to goals specified in the RFP or contract.

4. Further information regarding Article 15-A of the New York State Executive Law and the New York State Minority and Women's Business Enterprises Program is available on the New York State Division of Minority and Women-Owned Business Development Internet site at http://www.nylovesmwbe.ny.gov.

II. M/WBE Utilization Goal Requirements For NYS OTDA Contracts

Pursuant to Article 15-A of the New York State Executive Law and Regulations adopted pursuant thereto, NYS OTDA has established separate goals for participation of New York State Certified minority and women-owned business enterprises for all State Contracts. NYS OTDA is required to implement the provisions of Article 15-A and 5 NYCRR Part 143 for all State contracts (1) in excess of $25,000 for labor, services, supplies, equipment, materials, or any combination of the foregoing; (2) in excess of $100,000 for the acquisition, construction, demolition, replacement, major repair of real property renovations and construction; and (3) in excess of $100,000 whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project. As a condition of the State contract, the Contractor and NYS OTDA agree to be bound by the provisions of §316 of Article 15-A of the New York State Executive Law regarding enforcement.

Successful Contractors must document "good faith efforts" to provide meaningful participation by New York State Certified M/WBE subcontractors or suppliers in the performance of this contract. For guidance on how NYS OTDA will determine a Contractor's "good faith effort," refer to 5 NYCRR §143.8.

ESTABLISHED OTDA GOALS FOR CONTRACTS ARE AS FOLLOWS:

MINORITY OWNED BUSINESS PARTICIPATION	5%
WOMEN OWNED BUSINESS PARTICIPATION	5.50%
EQUAL EMPLOYMENT OPPORTUNITY PARTICIPATION	7 to 10%

ESTABLISHED GOALS FOR THIS PROCUREMENT/CONTRACT ARE AS FOLLOWS:

MINORITY OWNED BUSINESS PARTICIPATION	____%
WOMEN OWNED BUSINESS PARTICIPATION	____%
EQUAL EMPLOYMENT OPPORTUNITY PARTICIPATION	7 to 10%

III. EEO Requirements

A. **Prior to the Award of a State Contract**

1. In addition to the requirements stated in Appendix A, Clause 12 (Equal Employment Opportunities for Minorities and Women), as a precondition to being selected for contract award and entering into a State Contract, the Contractor shall provide the following with its procurement submission:

   a. An EEO Policy Statement, as described in Appendix A, Clause 12. The OTDA EEO Policy Statement form (OTDA Form 4970) can be used to satisfy this requirement.

   b. Except for construction contracts, an EEO Staffing Plan of anticipated workforce, which should document:

      i. The workforce proposed to be utilized on the State Contract; or

      ii. Where the work force to be utilized in the performance of this State Contract cannot be separated out from the Contractor's and/or proposed Subcontractor's total work force (for example, certain commodities contracts), the Contractor's and/or proposed Subcontractor's total workforce including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by OTDA.

2. Failure to submit an EEO Policy Statement and EEO Staffing Plan of anticipated workforce may result in the rejection of the Contractor's procurement submission, unless the Contractor provides OTDA with a reasonable justification in writing for such failure (e.g., the failure to submit a staffing plan where a Contractor has a work force of 10 or fewer employees), or makes a commitment to submit an EEO Policy Statement and an EEO Staffing Plan of anticipated workforce within the time frame specified in writing by OTDA.

3. If, after scoring, a Contractor is selected for award, before that award is completed (e.g., during contract negotiations), OTDA will conduct a review of the substance of the EEO Policy Statement and EEO Staffing Plan of anticipated workforce to determine whether the Contractor appears to be in compliance with Appendix A, Clause 12 and Executive Law

Article 15-A, i.e., whether such documents demonstrate that the Contractor is committed to EEO. If, upon review, OTDA comes to the conclusion that such commitment to EEO principles is lacking, OTDA shall contact the Contractor and make every effort to resolve the deficiencies identified in the policy statement and staffing plan and to bring the substance of the policy statement and staffing plan into compliance with such requirements. Failure to correct such deficiency within a timeframe specified by OTDA shall result in noncompliance.

B. <u>After the Award of the State Contract</u>

1. The Contractor will designate a Minority/Women Business Enterprise Liaison/Contact person to coordinate implementation of the M/WBE-EEO program between the Contractor and the OTDA M/WBE Program Management Unit, pursuant to Article 15-A, and requirements in furtherance of the Statute that may be established by OTDA.

2. After approval of the award of a State Contract, and during the performance of the State Contract, the Contractor shall periodically submit to OTDA EEO Workforce Employment Utilization/Compliance Reports (OTDA Form 4971) which must document: The workforce actually utilized, on the State Contract, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by OTDA. All forms and reports will be submitted to the OTDA program manager for this contract award and forwarded for review to: Ms. Wilma BrownPhillips, M/WBE Director, NYS OTDA, M/WBE Program Management Unit, Harlem Center, 317 Lenox Avenue, NYC, NY 10027; (212) 961-8222; mail to: Wilma.BrownPhillips@OTDA.State.NY.US.

3. In addition to general compliance monitoring of State Contracts, including a contractor's compliance with the requirements of 5 NYCRR Part 142, OTDA shall conduct in-depth compliance reviews on selected State Contracts during the course of the year, in accord with 5 NYCRR § 142.3.

4. The EEO Workforce Employment Utilization/Compliance Reports shall be reviewed as part of OTDA's general compliance monitoring. If discrepancies exist between the EEO Staffing Plan of anticipated workforce submitted, where applicable, with procurement submission and the Contractor's EEO Workforce Employment Utilization/Compliance Reports, the Contractor/ Subcontractor may be subject to an in-depth EEO compliance review.

5. If deficiencies are identified with the Contractor during OTDA's general contract compliance monitoring or during in-depth compliance reviews, the Contractor and OTDA M/WBE Program Management Unit, and other OTDA staff, as appropriate, shall make every effort to resolve the deficiencies identified to bring the Contractor/Subcontractor into compliance with such requirements.

6. If the Contractor and the OTDA M/WBE Program Management Unit, and other OTDA staff, as may be appropriate, are unsuccessful in their efforts, and, upon review, the OTDA Commissioner or his/her designee agrees that the Contractor/Subcontractor is non-compliant, such Commissioner or his/her designee shall submit a written complaint to: New York State Empire State Development (ESD), Division of Minority and Women's Business Development ("DMWBD"), regarding the Contractor's or Subcontractor's noncompliance and shall recommend to DMWBD that it review and attempt to resolve the noncompliance matter. Such Commissioner or his/her designee shall serve a copy of the complaint upon the Contractor or Subcontractor by personal service or certified mail, return receipt requested.

7. DMWBD shall attempt to resolve a noncompliance dispute. If a resolution of the noncompliance dispute is satisfactory to the parties, the parties shall so indicate by signing a document indicating that the matter has been resolved and stating the terms of the resolution. If a resolution is not possible, DMWBD shall refer the matter, within thirty days of the receipt of the complaint, to the American Arbitration Association for proceeding thereon, pursuant to statute (Executive Law § 316) and regulation (5 NYCRR § 142.5).

IV. M/WBE Requirements

A. The Contractor acknowledges that it is the policy of the State of New York and of OTDA that M/WBEs shall be given the opportunity for meaningful participation in the performance of State Contracts. Therefore, Contractors agree to make good faith efforts to solicit active participation to meet established goals under this procurement by M/WBEs identified in the New York State Empire State Development ("ESD") directory of certified businesses[1], which can be viewed at: http://www.empire.state.ny.us/Small_and_Growing_Businesses/mwbe.asp.

B. For the purposes of this Appendix Z, the question of whether a Contractor has engaged in and documented "Good Faith Efforts" to solicit active participation to meet established goals under this procurement by M/WBEs in the performance of State Contracts shall be determined by the OTDA Commissioner or his/her designee, after a thorough consideration of the factors listed in 5 NYCRR § 143.8.

C. The separate MBE and WBE participation goals established by OTDA for this procurement are based on the overall availability of M/WBEs that have been certified to perform the specific scope of work identified under this procurement. For compliance purposes, these goals should not be construed as rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire Minority- and Women-owned Business Program work.

A. Prior to the Award of a State Contract

1. Contractors shall document and/or demonstrate in their procurement submissions every good faith effort to solicit active M/WBE participation, at least equal to the goals established by OTDA. The M/WBE utilization should be measured by comparing (in detail) the dollar value of the component services/deliverable/materials provided/supplied by M/WBEs to the total dollar value of the services/deliverables/materials available under the State Contract.

2. The Contractor shall provide with its procurement submission:

   a. A Certification of Good Faith Efforts, to achieve the overall prescribed M/WBE participation percentage (%) goals set forth in the procurement.

   b. A M/WBE Subcontractor Utilization Plan, which should document actions taken and/or to be taken to meet established goals and the time frames needed to achieve results which could reasonably be expected by putting forth every good faith effort to achieve the overall prescribed M/WBE participation percentage (%) goals set forth in the procurement.

   c. A M/WBE Subcontractor's and/or Suppliers' Letter of Intent to Participate, which should document the names and signatures of certified MBEs and/or WBEs which have agreed to participate as Subcontractors if the Contractor is awarded the State Contract.

3. When M/WBE goals higher than 0% (zero percent) are included in OTDA's procurement document, a Contractor's failure to submit a M/WBE Subcontractor Utilization Plan and a M/WBE Subcontractor's and/or Suppliers' Letter of Intent to Participate, where applicable, may result in noncompliance with submission requirements, unless the Contractor provides OTDA with a completed M/WBE Subcontractor Request for Waiver, within the timeframe specified in writing by OTDA.

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[1] All M/WBE firms are required to be certified by Empire State Development (ESD) or must be in the process of obtaining certification from ESD. Should the Contractor identify a minority-owned or woman-owned firm that is not currently certified as an M/WBE, the Contractor should request that the firm submit a certification application to ESD for an eligibility determination, with a copy to the OTDA M/WBE Program Management Unit. OTDA's M/WBE Program Management Unit will work with ESD to expedite the application; however, it is the responsibility of the Contractor to ensure that a sufficient number of certified M/WBE firms have been identified in response to this procurement, in order to facilitate full M/WBE participation.

4. If, after scoring, a Contractor is selected for award, before that award is completed (e.g., during contract negotiations), OTDA will review the substance of the Subcontractor Utilization Plan submitted by a Contractor and within twenty (20) days from the receipt thereof by the OTDA MWBE Unit, issue a written notice of acceptance or deficiency.

5. If a notice of deficiency is warranted, the notice shall include:

   i. The name of any M/WBE which is not acceptable for the purpose of complying with the M/WBE participation goals and the reasons why it is not acceptable;
   ii. Elements of the contract scope of work which OTDA has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the contract by M/WBEs; and

   iii. Other information which OTDA determines to be relevant to the M/WBE Subcontractor Utilization Plan.

6. A Contractor must provide OTDA with a written remedy in response to a written notice of deficiency within seven (7) business days of receipt or within a time frame as specified by OTDA to correct the specific deficiency. Failure to correct a deficiency and/or demonstrate compliance shall result in the necessity of the Contractor to submit to OTDA a M/WBE Subcontractor Request for a partial or total waiver of M/WBE participation goals on forms provided by the OTDA. Failure to submit the waiver form in a timely manner may be grounds for noncompliance.

B. <u>After the Award of the State Contract</u>

1. In accordance with regulations under 5 NYCRR Part 140, after the awarding of the Contract, and during the performance of the State Contract, except where OTDA has granted the Contractor a total waiver[2], the Contractor shall, as required by OTDA, periodically submit to OTDA: M/WBE Subcontractor Quarterly Compliance Reports.

2. Failure to timely submit a Contractor's M/WBE Subcontractor Quarterly Compliance Report and/or other reports or information as requested by OTDA may result in payments under the contract being delayed until such reports or other information have been received by OTDA.[3] OTDA may also deem other noncompliance with requirements under the Statute as a breach of contract and commence any other means of enforcement permitted under the contract and/or by law.

3. OTDA shall review the substance of the Contractor's M/WBE Subcontractor Quarterly Compliance Report and shall be responsible for evaluating and determining whether the Contractor has demonstrated compliance with its previously approved Contractor's M/WBE Subcontractor Utilization Plan. In making such determination, OTDA may review and investigate whether the goals are being achieved with certified minority- and women-owned business enterprises and whether information made available to OTDA through monitoring, on-site inspections, progress meetings regarding work required by the State Contract, review of payrolls or other OTDA action provides acceptable evidence of compliance.

4. Where it appears that a Contractor cannot, after a good faith effort, comply with the goals established in the contract, such Contractor may submit a completed M/WBE Subcontractor Request for Waiver, setting forth the reasons for such Contractor's inability to meet any or all of the participation goal requirements, together with an explanation and supporting documentation demonstrating the good faith efforts undertaken by such Contractor to obtain the required M/WBE subcontractor participation goal requirements.[4]

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[2] If OTDA has granted a partial waiver to the Successful Contractor, prior to award OTDA must have approved a Contractor's M/WBE Utilization Plan and a completed Contractor's M/WBE Subcontractor's Notice of Intent to Participate. Please note that after award the Contractor must still submit Contractor's M/WBE Compliance Reports.

[3] Contractors may be requested to provide additional Compliance Reports and information (i) to verify payments made to M/WBEs, (ii) to verify M/WBE utilization and/or, (iii) as needed to evaluate any other aspect of Contractor compliance with the requirements set forth herein.

[4] Requests for a partial or total waiver made subsequent to award of a State Contract may be made at any time during the term of the State Contract but prior to the submission of a request for final payment on that State Contract.

5. If OTDA determines that the Contractor has not demonstrated compliance with the goals established in the contract and has made no good faith effort to do so, OTDA and the Contractor shall make every effort to resolve the deficiencies identified and to bring the Contractor into compliance with such requirements.

6. OTDA will determine whether the Contractor is in non-compliance. The Contractor will be found to be not in compliance when it is non-responsive, in whole or in part, to the EEO and/or M/WBE program requirements or requests.

7. OTDA reserves the right to impose sanctions following a determination of non-compliance by a Contractor. Sanctions may be imposed upon the Contractor whenever EEO and/or M/WBE program requirements have not been met in a timely and effective manner. Any/all of the following sanctions may be imposed:

   - Disallowance of costs associated with such non-compliance;
   - Initiation of procedures to suspend or terminate the grant or contract;
   - Withholding of progress payments until such time as corrective actions have been undertaken by the Contractor to the satisfaction of OTDA;
   - Deleting Contractor's name from bid lists for a specified period of time to be determined in the sole discretion of OTDA;
   - Report Contractor as non-responsible to NYS OSC Vendor Responsibility System; and
   - Other sanctions of which a Contractor has notice in writing prior to or during the performance of a contract.

8. If OTDA is unsuccessful in its efforts, and, upon review, the OTDA Commissioner or his/her designee agrees that the Contractor is non-compliant, the Commissioner or his/her designee shall submit a written complaint to: The New York State Department of Economic Development, Division of Minority and Women's Business Development ("DMWBD"), regarding the Contractor's noncompliance and shall recommend to DMWBD that it review and attempt to resolve the noncompliance matter. The Commissioner or his/her designee shall serve a copy of the complaint upon the Contractor by personal service or certified mail, return receipt requested.

9. DMWBD shall attempt to resolve a noncompliance dispute. If a resolution of the noncompliance dispute is satisfactory to the parties, the parties shall so indicate by signing a document indicating that the matter has been resolved and stating the terms of the resolution. If a resolution is not possible, DMWBD shall refer the matter, within thirty days of the receipt of the complaint, to the American Arbitration Association for proceeding thereon, pursuant to statute (Executive Law § 316) and regulation (5 NYCRR § 142.5).

10. Nothing herein shall diminish or supersede OTDA's authority and responsibility to enforce the requirements of its contracts.

11. The Contractor agrees (i) to provide OTDA access to all documentation, records, reports, facilities, etc, which OTDA may deem necessary to determine Contractor compliance, and (ii) to be bound by the provisions of the Statute (Section 316) regarding possible fines, sanctions and penalties for violations of the Statute.

NOTE: Pursuant to Chapter 429 of the Laws of 2009, which amends Section 313 of the Statute, OTDA is required to post contractor utilization plans, and any applicable waivers on the agency website.

New York State
Office of Temporary and Disability Assistance
CONTRACTOR/SUBCONTRACTOR BACKGROUND QUESTIONNAIRE

General Information

Federal Identification Number: _____

Name of Firm: _____

Mailing Address: _____

Actual Location: _____

City: _____ **State:** _____ **Zip code:** _____

Fax Number: ( ) _____ **Telephone Number:** ( ) _____

Background Questionnaire

The following section must be fully completed by the Bidder or bid will be deemed non-responsive. Where appropriate, provide additional details using space provided or by inserting additional sheets following this part. Any proposed subcontractor must also complete this form if the value of that subcontract will be in excess of $10,000.

1a. If you, the bidder, are a natural person, are you a New York State resident?	_____ NO _____ YES
1b. If you are a corporation, are you a New York State corporation?	_____ NO _____ YES
1c. Are you registered with the New York State Department of State (DOS) to do business in New York State?	_____ NO _____ YES
If no, you will be required to comply with the New York State Department of State guidelines for doing business in New York State before you will be eligible for a Contract award. Do you agree to these conditions?	_____ NO _____ YES
2. How many years has the bidder been in business?	_____ Years
3a. Are you a certified minority owned business enterprise, certified by the NYS Department of Economic Development? (Your company is eligible to be certified if it is at least 51% owned and controlled by minority group members (i.e. Black, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native)?	_____ NO _____ YES
3b. Are you a woman owned business enterprise, certified by the NYS Department of Economic Development? (Your company is eligible to be certified if it is at least 51% owned and controlled by women.)	_____ NO _____ YES
4. How many people are employed by the bidder?	_____ Employees
5. Total number of people employed by the bidder: * Within New York State? * Outside of New York State? * Outside of United States?	 _____ _____ _____
6. Is the bidder independently owned and operated?	_____ NO _____ YES (If no, provide details.)
7. List and describe any liquidated damages assessed, and/or liens or claims over $25,000 filed against the bidder and remaining undischarged or unsatisfied for more than 90 days, on any contracts within the past five years.	NO YES

8. Within the past five years has the bidder, any affiliate, any predecessor company or entity, any owner of 5.0% or more of the bidder's equity, or any director, officer, partner, or employee, or other agent of the bidder who either routinely or frequently acts for the bidder, or has acted for the bidder at any time in conjunction with the pending contract, or any similar contract with New York State, been the subject of:	Check any that apply. If "yes", describe using additional pages if necessary.
a) A judgment of conviction for any business-related conducts constituting a crime under state or federal law?	_____ NO _____ YES
b) A currently pending indictment for any business-related conducts constituting a crime under state or federal law?	_____ NO _____ YES
c) A grant of immunity for any business-related conducts constituting a crime under a state or federal law?	_____ NO _____ YES
d) A federal suspension or debarment, New York rejection of any bid or disapproval of any proposed subcontract for lack of responsibility, denial or revocation of pre-qualification in any state, or a voluntary exclusion agreement?	_____ NO _____ YES
e) A civil or criminal investigation of the New York State Ethics Commission involving a violation(s) of Section 73 and/or Section 74 of the Public Officer's Law?	_____ NO _____ YES
f) Any bankruptcy proceeding?	_____ NO _____ YES
g) Any suspension or revocation of any business or professional license?	_____ NO _____ YES
h) Anyone whose license to provide health care services under investigation, citation, suspension (including suspension stayed on compliance with compulsory terms) and/or conviction by any State licensing authority for reasons bearing on professional competence, professional conduct, or financial integrity?	_____ NO _____ YES
i) Any failure to notify the OTDA of any investigation, citation, suspension (including suspension stayed on compliance with compulsory terms) and/or conviction by a State agency of a matter within its jurisdiction?	_____ NO _____ YES
j) Any citations, Notices, violation orders, pending administrative hearings or proceedings or determinations for violations of: * federal, state or local health laws, rules or regulations; * unemployment insurance or workers compensation coverage or claim requirements; * ERISA (Employee Retirement Income Security Act); * federal, state or local human rights laws; or, * federal, state security laws?	_____ NO _____ YES
k) A grant of immunity for any business-related conducts constituting a crime under a state or federal law?	_____ NO _____ YES
l) Any federal determination of a violation of any labor law or regulation, or any OSHA serious violation?	_____ NO _____ YES
Was violation willful?	_____ NO _____ YES
m) Any state determination of a violation of any labor law or regulation?	_____ NO _____ YES
n) Any state determination of a Public work violation?	_____ NO _____ YES
Was violation deemed willful?	_____ NO _____ YES
o) A revocation of MBE or WBE certification?	_____ NO _____ YES
p) A rejection of a low bid on a state contract for failure to meet statutory affirmative action or MWBE requirements?	_____ NO _____ YES
q) A consent order with the NYS Department of Environmental Conservation, or a federal or state enforcement determination involving a construction-related violation of federal or state environmental laws?	_____ NO _____ YES
9. Does your company retain partnership or reciprocal agreements with hardware and/or software companies, or with associated manufacturers in this industry?	_____ NO _____ YES

10. Does the bidder hold any current contracts with the State of New York, its departments or political subdivisions, valued in excess of $100,000?	_____ NO _____ YES (If yes, provide details.)
11. Does the bidder hold any current contracts with governmental entities outside of New York State, valued in excess of $100,000?	_____ NO _____ YES (If yes, provide details.)
12. Your firm is responsible for providing worker's compensation insurance pursuant to State law. The State has the option to require proof of current worker's compensation insurance or proof of exemption if applicable. Do you comply with this requirement?	_____ NO _____ YES
13. Your firm is responsible for providing disability insurance pursuant to State law. The State has the option to require proof of current worker's compensation insurance or proof of exemption if applicable. Do you comply with this requirement?	_____ NO _____ YES
14. Does your firm employ any non-U.S. citizens or resident legal aliens?	_____ NO _____ YES
15. If yes, are the forms on file and available for inspection?	_____ NO _____ YES

CERTIFICATION

The undersigned: 1) recognizes that this questionnaire is submitted for the express purpose of inducing the New York State Office of Temporary of Disability Assistance to award a contract or approve a subcontract; 2) acknowledges that the Office may in its discretion, by means which it may choose, determine the truth and accuracy of all statements made herein; 3) acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law 210.40 or a misdemeanor under Penal Law 210.35 or 210.45, and may also be punishable by a fine of up to $10,000 or imprisonment of up to five years under 18 U.S.C. 1001; 4) states that the information submitted in this questionnaire and any attached pages is true, accurate and complete; and, 5) acknowledges that submission of false or misleading information will constitute grounds for the Office to terminate its contract (or revoke its approval of a subcontract) with the undersigned or the organization of which s/he is an officer.

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

Revised September 2005

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:

(a) via certified or registered United States mail, return receipt requested;
(b) by facsimile transmission;
(c) by personal delivery;
(d) by expedited delivery service; or
(e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

State of New York Office of Temporary and Disability Assistance
Name: Thomas Keenan
Title: Temporary Assistance Specialist 1 (RIS)

Address: 40 N Pearl St, 10C, Albany, NY 12243
Telephone Number: (518) 402-3022
Facsimile Number: (518) 402-3029
E-Mail Address: thomas.keenan@otda.state.ny.us

[Contractor Name]
Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.