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Chair

NEW YORK STATE
OCCUPATIONAL SAFETY AND HEALTH
HAZARD ABATEMENT BOARD

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January 11, 2012

Dear Grant Applicant:

The Hazard Abatement Board ("HAB" or "The Board") is pleased to announce the release of its 2012 Request for Proposals (RFP) for Occupational Safety and Health Training and Education Grants. This year, the RFP may be obtained free of charge from HAB's internet site, www.labor.ny.gov/hab/. You may also contact Program staff at 518-457-7629 to request a copy be mailed to your address. The 2012 RFP will be available on the internet, or for distribution by mail, as of today's date. Please note that under the 2012 RFP, grants will be awarded for a 12-month contract term running from August 1, 2012 through July 31, 2013.

As was the case last year, when reviewing the submitted Proposals the Board intends to place added emphasis on evidence that a risk assessment has been conducted to determine the need for training for which this funding is being requested. This does not require an elaborate submission, but should include how you determined the need (i.e. Safety Consultation, Workers Compensation data, Safety Committee input, etc.) This information should be clearly and concisely explained in the Project Narrative Section 1, questions 1-3.

At the request of the New York State Department of Labor, the HAB has included information relating to policy changes pertaining to the participation by minority group members and women with respect to State contracts. Details of this new policy position, and the resulting requirements, can be found in the *Managerial Summary*; on page 15 of the *Application Instructions*; and in the attached *Appendix C*. **Please note that this new policy affects only those applicants who seek more than \$25,000.**

All questions related to this policy, and the forms associated with it, should be directed to the Division of Equal Opportunity Development at (518) 457-1984.

As a result of this new Department of Labor policy, five copies of the application are required this year as opposed to the four requested in previous years.

We have established a listserv -- electronic mailing list -- for anyone interested in receiving notices of Board Meetings, pertinent information, and

notice when future RFP's are issued. To enroll on this list, please go to www.labor.ny.gov/hab/ and click on the "Subscribe to the HAB E-mail List".

Your response to the 2012 RFP must be received by HAB staff not later than 5:00 PM (New York Time) on **February 13, 2012**, or be postmarked by such date in accordance with the proposal submittal instructions set forth in the RFP. No consideration will be given to grant applications that fail to meet this submission deadline.

Thank you for your interest in Occupational Safety and Health.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine D. Schrier".

Katherine D. Schrier
Chair, Hazard Abatement Board

Managerial Summary

The Board has identified several areas where it believes clarification or emphasis is needed in applications for Occupational Safety and Health Training and Education (OSH T&E) Grants. The Board discussed these areas, which it identified during reviews of applications for the 2010-11 OSH T&E Program and at the Board meeting of August 19, 2010. The areas the Board would like to emphasize for those completing this application are summarized below.

Responsibility Questionnaire

A “yes” answer to any of the questions in this form requires the applicant to provide on company letterhead a description of the issue and the ultimate resolution of the issue. This must be provided even if the issue was addressed in prior years’ applications. This letter will need to be included in the *Responsibility Questionnaire* section of the application.

Small Class Sizes

The Board and staff need to evaluate the cost effectiveness of all programs, and need to know the reason for small class size. The Board and staff encourage class size of at least 12, but recognize there may be legitimate reasons for smaller classes. For classes planned for fewer than 12 attendees per session, per the Training and Grants Management Summary (TGMS), please identify the reason for the smaller class size (especially for multiple small classes on the same topic).

This does not require a detailed explanation. Common reasons for such may include:

- Small Company
- Training topic(s) require small class size
- Cannot have all employees attend at once
- Limited employees need topic of training
- Covering multiple shifts

These may be the most common reasons; however, if you have another reason, please provide a similar brief explanation. The reason should be provided in the Explanation box at the bottom of the Training and Grant Management Summary (TGMS).

Topics Duplicated from Prior Grant

The Board has seen topics duplicated in applications from some entities which are currently grant-funded and/or have had a grant in previous years. Often there is no justification as to why these entities seek a grant for repeated topics. Applicants need to be aware that if their training proposals appear to repeat topics for the same target group without justification, their application will most likely not receive favorable consideration from the Board for funding.

Applicants need to clearly explain in the Explanation box on the TGMS, if, in fact, the training proposal is for expected new hires or a different target group within the

organization. If the proposal course is the same overall topic but is set to build on prior training without duplicating, this also needs to be made clear in the application.

Contact Hours

A column for “Contact Hours” has been added to the Training and Grant Management Summary (TGMS). To calculate this for each topic line in the WORD version, multiply Total Direct Training hours X Trainees per session. This will give you the total contact hours for each proposed topic.

“Contact Hours” will be automatically calculated in the excel version of the TGMS. It is imperative that you do not type in the column titled “Contact Hours.” Doing so will delete the formula.

Always double-check all entries and totals in the TGMS before submitting it as part of your RFP.

Project Experience Results of Past Grants

The Board would like applicants who have had past HAB grants to provide examples which they believe illustrate positive outcomes from their prior grant(s). This information may be provided in the form of examples demonstrating that the workplace is now safer (e.g., changes in work practices, statistics demonstrating improvement, implementation or improvement in Safety Committee), highlighting changes that have been implemented as a result of grant training, or examples of positive individual achievements that the applicants attributes to prior grant work.

Providing these examples is optional. However, the Board strongly encourages applicants, especially grantees with a history of prior grants, to provide this information.

Additional State and Department of Labor Contracting Changes

Contractor Requirements and Procedures for Equal Employment and Business Participation Opportunities for Minority Group members and New York State Certified Minority- and Women-Owned Business Enterprises

Please note that your proposal must include form MWBE 100 -- MWBE Utilization Plan (attached), which should list the MWBEs the Contractor intends to use to perform the State contract.

POLICY STATEMENT

NYS Department of Labor (DOL), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority and women-owned business enterprises have opportunities for maximum feasible participation in the performance of DOL contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" (the "Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing, and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program.

Business Participation Opportunities for New York State Certified Minority-and Women-Owned Business Enterprises (MWBE)

For purposes of this procurement, DOL hereby establishes an overall goal of 20% for Minority and Women-Owned Business Enterprises (MWBE) participation, 11% for Minority-Owned Business Enterprises ("MBE") participation, and 9% for Women-Owned Business Enterprises ("WBE") participation. A Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this contract, and Contractor agrees that DOL may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/MWBE.html>. For guidance on how DOL will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Bidder/Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and DOL may withhold payment from the Contractor as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved its contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, Bidder/Contractor agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a Utilization Plan on Form #MWBE 100 with their bid or proposal. The Utilization Plan shall list the MWBEs the Contractor intends to use to perform the State contract, a description of the Contract scope of work that the Contractor intends to structure to meet the MWBE goals contained in the State contract, and the estimated or, if known, actual dollar amounts to be paid to, and performance dates of, each component of a State Contract that the Contractor intends to be performed by a NYS Certified minority- or woman-owned business. Any modifications or changes to the agreed participation by NYS Certified M/WBEs after the Contract Award, and during the term of the Contract, must be reported on a revised M/WBE Utilization Plan and submitted to DOL.

- B. DOL will review the submitted MWBE Utilization Plan and advise the Bidder of DOL's acceptance, or issue a notice of deficiency within 20 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to DOL (at the address/fax provided for submitting EEO 101 forms on the next page), a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DOL to be inadequate, DOL shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form MWBE 101. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. DOL may disqualify a Bidder as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit a MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If DOL determines that the Bidder has failed to document good faith efforts.

A Bidder who documents good faith efforts to meet the goal requirements may submit a request for a partial or total waiver on Form MWBE 101, at the same time it submits its MWBE Utilization Plan. If a request for waiver is submitted with the MWBE Utilization Plan, and is not accepted by DOL at that time, the provisions of clauses B-D above, will apply.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DOL, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's Quarterly Compliance & Payment Report on Form EEO 101 to:

Division of Equal Opportunity Development
MWBE Administrator
NYS Dept. of Labor
State Office Campus
Building 12, Room 540
Albany, NY 12240,
518-457-1984 or fax 518-485-2575
NYC: 212-352-6603

by the 10th day following the end of each quarter during the term of the Contract, documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including: Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the bid a staffing plan (Form #EEO 100) identifying the anticipated work force to be utilized on the Contract, and if awarded a contract, will, upon request, submit to the Authorized User, a Workforce Employment Utilization/Compliance Report (Form # EEO 101) identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility, and/or a breach of the Contract, leading to the withholding of funds, suspension, or termination of the contract or such other actions or enforcement proceedings as allowed by the Contract.



EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

SUBMIT WITH BID OR PROPOSAL or within a reasonable time thereafter as requested by DEOD, but prior to Contract Award.

Solicitation No.:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	Report includes Contractor's <input type="checkbox"/> Contractor's work force to be utilized on this contract <input type="checkbox"/> Contractor's total work force <input type="checkbox"/> Subcontractor's work force to be utilized on this contract <input type="checkbox"/> Subcontractor's total work force
Contractor/Subcontractor's Name:		
Contractor/Subcontractor's Address:		
FEIN:	Telephone #:	

Enter the total number of employees for each classification.

EEO Job Category	Total Work Force	Work force by Gender		Work force by Race/Ethnic Identification								Veteran			
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		American Indian or Alaskan Native (M) (F)		(M)	(F)
Executive/Senior level Officials & Managers															
First/Mid level officials & Managers															
Professionals															
Technicians															
Sales Workers															
Administrative Support Workers															
Craft Workers															
Operatives															
Laborers and Helpers															
Service Workers															
Totals															

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
	EMAIL ADDRESS:	

NAME AND TITLE OF PREPARER (Print or Type):	Submit completed form to: NYS Department of Labor Division of Equal Opportunity Development W. Averell Harriman State Office Building Campus – Room 540 Albany, NY 12240 (518) 457-1984 (phone) (518) 485-2575 (fax)
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General instructions: Contact the Designated Contact(s) for the solicitation if you have any questions. **All Offerors** must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's total work force, the Offeror shall complete this form for the contractor's total work force. Subcontractors awarded a subcontract over \$25,000 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 must complete this form upon request of DEOD.

Instructions for completing:

1. Enter the Solicitation Number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading "Work force by Gender."
6. Break down the total work force by race/ethnic background and enter under the heading "Work force by Race/Ethnic Identification." Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

WHITE - (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

BLACK - A person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.

HISPANIC - A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

ASIAN & PACIFIC ISLANDER - A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

AMERICANINDIAN OR ALASKAN NATIVE (Not of Hispanic Origin) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.



MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE (M/WBE) WORK FORCE EMPLOYMENT UTILIZATION/COMPLIANCE REPORT

Contract No.:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	Reporting Period: <input type="checkbox"/> January 1, 20__ - March 31, 20__ <input type="checkbox"/> April 1, 20__ - June 30, 20__ <input type="checkbox"/> July 1, 20__ - September 30, 20__ <input type="checkbox"/> October 1, 20__ - December 31, 20__
Contractor's Name:		Report includes: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force
Contractor's Address:		
FEIN:	Telephone #:	

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran				
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		(M)	(F)	(M)	(F)	
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary/Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):	EMAIL ADDRESS:	
<p style="text-align: center;">Submit completed form to: NYS Department of Labor Division of Equal Opportunity Development W. Averell Harriman State Office Building Campus – Room 540 Albany, NY 12240 (518) 457-1984 (phone) (518) 485-2575 (fax)</p>		

General Instructions: The work force utilization (EEO 101) is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report. Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30 and 12/31 and submitted to DEOD within 10 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated.

Instructions for completing:

7. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
8. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
9. Check off the box that corresponds to the reporting period for this report. Please indicate current year.
10. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
11. Enter the total work force by EEO job category.
12. Break down the total work force by gender and enter under the heading 'Work force by gender.'
13. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification.' Contact the DEOD Office of Minority/Women-Owned Business Enterprise at (518) 457-1984 if you have any questions.
14. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
15. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** - (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** - a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** - a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** - a person having origins in any of the Far East countries, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** - a person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VETERAN** - an individual who served in the military during time of war.
- **GENDER** - Indicate whether male or female.



MWBE UTILIZATION PLAN

Contract No.: _____

INSTRUCTIONS: This form must be submitted with any bid or proposal if required. Otherwise, form must be submitted at the time of execution of the contract. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) under the contract. Attach additional sheets if necessary.

Contractor's Name, Address and Telephone No.		Contract Description Location (Region)			MWBE Goals In Contract MBE _____ % WBE _____ %
Federal Identification No.					
Certified MWBE Subcontractors/Suppliers Name, Address, Telephone No, E-mail Address	Federal ID. No.	NYS ESD CERTIFIED		Detailed description of Work (Attach additional sheets if necessary)	Dollar Value of Subcontracts/ supplies/ services and intended performance dates of each component of the contract
		MBE	WBE		
Phone: () - E-mail:		<input type="checkbox"/>	<input type="checkbox"/>		\$
Phone: () - E-mail:		<input type="checkbox"/>	<input type="checkbox"/>		\$
Phone: () - E-mail:		<input type="checkbox"/>	<input type="checkbox"/>		\$

IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, CONTRACTOR MUST SUBMIT A REQUEST FOR WAIVER (Form MWBE 101/BDC 333)

Submission of this form constitutes the contractor's acknowledgement and agreement to comply with the M/WBE requirements set forth under NYS Executive Law, Article 15-A and 5 NYCRR Part 142. Failure to submit complete and accurate information may result in a finding of noncompliance or rejection of the bid/proposal and/or suspension or termination of the contract.

Prepared By (Signature)	Email Address
Name and Title of Preparer (Print or Type)	Telephone No.: () - Date

FOR M/WBE USE ONLY

Reviewed By				Date
Utilization Plan Approved <input type="checkbox"/> Yes <input type="checkbox"/> No				Date
Contract No.	Project No. (If applicable)	Contract Award Date	Estimated Completion Date	Contract Amount Obligated
Notice of Deficiency Issued <input type="checkbox"/> Yes <input type="checkbox"/> No		Date	Description of Work	
Notice of Acceptance Issued <input type="checkbox"/> Yes <input type="checkbox"/> No		Date		



APPLICATION FOR WAIVER OF MWBE PARTICIPATION GOAL

(must be submitted before requesting final payment on the contract)

Section 1: Basic Information				
Contractor's Name:			Federal Identification Number:	
Street Address:			E-Mail Address:	
City, State, Zip Code: , ,			Telephone: () -	
Contract Number:		MWBE CONTRACT GOALS		
		MBE %	WBE %	
Section 2: Type of MWBE Waiver Requested				
MBE Waiver	Total	Partial	If partial waiver, please enter the revised MBE percentage:	
WBE Waiver	Total	Partial	If partial waiver, please enter the revised WBE percentage:	
Please explain the reason for the waiver request:				
Section 3: Supporting Documentation				
Provide the following documentation as evidence of your good faith efforts to meet the MWBE goals set forth in the contract and in support of your waiver application:				
<input type="checkbox"/> Attachment A. List of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.				
<input type="checkbox"/> Attachment B. List of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.				
<input type="checkbox"/> Attachment C. Descriptions of the contract documents/plans/specifications made available to certified MWBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.				
<input type="checkbox"/> Attachment D. Description of the negotiations between the contractor and certified MWBEs for the purposes of complying with the MWBE goals of this contract.				
<input type="checkbox"/> Attachment E. Identify dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by DEOD with certified MWBEs whom DEOD determined were capable of fulfilling the MWBE goals set in the contract				
<input type="checkbox"/> Attachment F. Other information deemed relevant to the request.				
Section 4: Signature and Contact Information				
By signing and submitting this form, the contractor certifies that a good faith effort has been made to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.				
Prepared By: (Signature)				Date:
Name and Title of Preparer (Print or Type)				

NEW YORK STATE

TRAINING AND EDUCATION PROGRAM

ON

OCCUPATIONAL SAFETY AND HEALTH

HAZARD

ABATEMENT

BOARD

2012

**REQUEST FOR PROPOSAL
(RFP)**

PROGRAM INFORMATION

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Article 29 of the New York State Labor Law established a *TRAINING AND EDUCATION PROGRAM ON OCCUPATIONAL SAFETY AND HEALTH* (“the Program”) and charged the New York State Occupational Safety and Health Hazard Abatement Board (“the Board”) with the responsibility for awarding funds to eligible grantees. Under subdivision (15) (f) of Section 27-a of the Labor Law, the New York State Department of Labor (“the Department,” “grantor,” or “staff”) provides staff services to the Board.

The goal of the Program is to promote safe and healthful conditions in the workplace through training, education, and other proven preventive programs designed to:

- Identify, evaluate, and control safety and health hazards in the workplace;
- Encourage voluntary compliance with occupational safety and health regulations;
- Foster activities by employers and employees intended to prevent workplace accidents, injuries and illnesses; and
- Make employers and employees more aware of the New York State Right-to-Know Law and other regulations which mandate training and education on toxic substances in the workplace.

A. CONTRACT AWARD PROCESS

A notice of Request for Proposals (RFP) is posted annually in the New York State Register. Interested parties may obtain RFP packages at www.labor.ny.gov/hab/ or by calling us at 518-457-7629. Completed applications must be returned to the Occupational Safety and Health Training and Education (OSH T&E) Office by the designated date and time. All qualified applications go through a two-level review process. The first-level review is done by staff; the second-level review is done by the Board. In first-level review, staff review and evaluate all timely submissions, following uniform criteria established by the Board and applicable regulations. Staff then forwards their evaluations and recommendations to the Board members for second level review and award. In second-level review, the Board members review the applications, as detailed in the “Second Level Review” portion of the “Evaluation” section of the RFP and make their awards. After the Board makes their awards, staff notifies applicants whether or not they received a grant. **PLEASE NOTE:** Grants awarded pursuant to this RFP will be provisional awards only. Such provisional awards are based strictly on the availability of funds appropriated to the Department of Labor for the OSH T & E Program.

Successful applicants will be contacted to begin contract negotiations and contract development once the award letters are issued. Once contracts are in place and programs underway, staff will monitor contractor performance to ensure compliance with all contract provisions. In addition, contractors are subject to fiscal audits and program monitoring by both OSH T&E staff and the Office of the State Comptroller.

B. APPLICATION INFORMATION

ELIGIBLE APPLICANTS

Article 29 identifies five categories of eligible applicants:

- * 1. Public and Private Employers;
- 2. Labor Organizations or their Federations;
- 3. Trade Associations;
- 4. Non-profit Organizations;
- 5. Educational Institutions.

*(Must employ one or more beyond self-employment)

The Board strongly encourages joint labor-management applications. Other joint applications will be considered.

A State agency will be considered for funding if the proposed project will train county, local, or private sector employees as well as the agency's own employees.

PROJECTS TO BE SUPPORTED

Typical Training and Education activities which can be funded under the grant program include, but are not limited to, the following:

- General or hazard-specific training on how to identify, evaluate, and control employee exposure to workplace hazards;
- Activities intended to improve the effectiveness of labor-management safety and health committees;
- Programs designed specifically to reduce workplace accidents by teaching lockout/tagout procedures, safe electrical work practices, methods of working safely in confined spaces, etc., where not readily available from NYSDOL;
- Programs addressing ergonomic and repetitive motion problems;
- Programs emphasizing disease prevention through control of carcinogens and other toxic chemicals, physical hazards such as noise, heat and vibration, or biological hazards such as hepatitis B virus and tuberculosis bacteria;

- Instruction of employees and employers on their rights and responsibilities under the New York State Right-to-Know Law and OSHA/Public Employees Safety and Health (PEOSH) standards on Hazard Communication, chemical hazards in laboratories, and specific substances such as lead, benzene, and asbestos, etc.; and
- Programs which help resolve unique and unusually difficult job safety and health problems, such as the threat of assault on the job.

PROJECTS NOT SUPPORTED

The Program will not fund the following activities:

- Development of academic curricula for the education of occupational safety and health professionals or support personnel;
- Activities which support degree programs, safety engineer certificate programs, or extended academic programs designed to provide professional level credentials; however, grantees are permitted to award certificates of completion to individuals who receive training or education funded by this Program;
- Scientific research;
- Activities involving driver training or truck CDL Training. Powered Industrial Truck (PIT) or forklift training is allowable;
- Activities which promote safety and health but are not related to occupational safety and health hazards, including, but not limited to, CPR or First Aid Training;
- Political activities or devices directed to a member of any State or local legislature or the United States Congress;
- Activities which incur costs before the starting date or after the ending date of a fully executed contract; **(NOTE: AN AWARD BY THE BOARD DOES NOT CONSTITUTE A FULLY EXECUTED CONTRACT. IT MUST BE APPROVED BY BOTH THE STATE ATTORNEY GENERAL AND THE OFFICE OF THE STATE COMPTROLLER);**
- Activities which are part of an ongoing program already funded by the applicant;
- The purchase of land (or any interest therein), and/or the acquisition/construction of buildings;
- Development costs for curriculum and/or materials that will not actually be utilized for training during the grant period;

- Development of curriculum or materials where adequate curriculum and materials are already available; or
- Newsletters, factsheets, or other publications which do not solely provide information directly related to improving workplace safety and health. Items related to labor vs. management issues and political disputes are not appropriate material to be covered in grant-funded publications. Items related to court actions may be appropriate if they address the impact of the decision on safety and health in the workplace within New York State. However, the publication of court decisions in jurisdictions whose laws do not apply in New York State would not be appropriate. Likewise, publications or other reporting on an entity's victory in a specific court action would not be appropriate.

EXPENSES NOT COVERED

Funds for the following expenditures will not be allowed:

- Wages paid to workers while in training. However, if an employer uses employees in a train-the-trainer approach, the wages of those employees (TRAINERS) who will be trained as trainers may be charged for the actual hours they are being trained to conduct formal training and for the hours they are actually conducting formal training for fellow employees. The hours charged must be reasonable and documented. Also, training by these trainers must take place during the grant period;
- Refreshments provided during training programs;
- Stipends paid to trainees;
- Indirect or overhead rates;
- Severance pay;
- Awards of cash, trophies or the like;
- Accrued leave time;
- Purchase, rental, or use of cellular telephones, pagers or beepers;
- Audit Services; or
- To a certain extent, fringe benefits. Fringe benefits are allowable in accordance with the organization's actual cost or approved rate, but grant funding can only be used to reimburse the Grantee's cost of benefits up to a maximum of 40% of staff salaries charged to the contract. Fringe benefits in excess of 40% of staff salaries are the responsibility of the applicant.

PROJECT DURATION

Projects are funded for 12 months through contracts which run from August 1, 2012 through July 31, 2013.

APPLICATION SUBMISSION

Please refer to the Application Forms and Instructions included in this Request for Proposals for copies of all required grant application forms and instructions on their completion and submission.

QUESTIONS CONCERNING THIS RFP

Frequently Asked Questions related to the program can be found at the Board's website www.labor.ny.gov/hab/. Bidders may submit typed questions via electronic mail to SHHAB@labor.ny.gov, or by mail to the address provided in the RFP Application.

Processing instructions: Questions regarding the RFP will be accepted until 5PM (New York Time) on January 18, 2012. Answers to all questions received by this date will be posted on the Board's website www.labor.ny.gov/hab/ no later than January 25, 2012. Prospective bidders may obtain a hard copy of the questions and answers upon request.

C. EVALUATION CRITERIA

All applications shall be subject to a two level review process as described below.

1. First Level (Staff) Review.

The staff evaluation (First Level Review) process will take into consideration the target group or high-risk population to be reached by the proposed project. Applicants must describe how the target group or high-risk population will be served. Examples of a target group or high-risk population include, but are not limited to, the following:

- industries, workplaces, or occupations in which employees are exposed to serious health hazards, such as toxic chemicals, high noise levels, or infectious disease agents;
- industries, occupations, or other specific groups of workers with elevated injury and illness rates;
- new or inexperienced workers such as teenagers.

Uniform criteria established by the Board are used to evaluate all grant applications. Careful consideration will be given to first time applicants and projects that directly impact the employees of small business. Since the process is competitive, applicants

must provide a clear and complete description of their proposed projects, addressing each of the listed elements.

The following are considered when assessing the effect the proposed project will have on preventing injuries and illnesses in a particular high-risk population or target group.

PROJECT IMPACT

Incidence of Injuries and Illnesses

- The numbers, types, and rates of injuries and illnesses which have been documented;
- The actual or potential exposure levels to health hazards which have been documented; and
- The specificity of the data to the target group.

Severity of Injuries and Illnesses

- The extent to which the project will prevent illness or injury, which threatens continued employment.

Number to Receive Training

- How many people will receive training under the grant (number of supervisors, non-supervisors).

Potential for Affecting Larger Groups

- How will information about workplace hazards gained from the training be disseminated to others in the organization; and
- The extent to which different forms of outreach will be used.

PROJECT DESIGN

Appropriateness of the Educational Strategy

- The clarity and specificity of observable objectives, learning activities and performance monitoring techniques (what will the trainees do, not do or do differently);
- The extent to which the educational strategy takes into account the relevant characteristics of the target group (educational level, language spoken, prior training and experience, etc.);

- The extent to which the project and course materials are tailored to the target group;
- The extent to which the combination of lectures, discussions, demonstrations, field exercises, etc., is appropriate to the material being taught and job responsibilities of the target group; and
- The technical and professional expertise of current or proposed staff, consultants, or other sub-contractor in relation to the services to be provided, as indicated by resumes, minimum qualifications for hiring and position descriptions.

Uniqueness of Project

- The extent to which the proposed project will address unique or unusually difficult problems.

Involvement of the Target Group

- The methods by which participant input was solicited in developing the application and by which participant feedback will continue to be incorporated into the project design.

Relevance to the Needs of the Target Group

- Efforts to identify and analyze the target group's safety and health training needs;
- Relevance of the proposed project to the target group's identified needs;
- The cause and effect relationship of accidents/health issues for the target group;
- The need for behavior modification that may be necessary; and
- Corrective measures to decrease the severity or incidence rate of injury

PROJECT EXPERIENCE AND ADMINISTRATIVE CAPABILITY

Evaluation Methodology to Measure Program Effectiveness

- The detail and specificity of the applicant's plan to evaluate project effectiveness; and
- The appropriateness of the methodology used to measure achievement of project objectives.

Ability to Plan and Implement Program/Expertise of Program Staff

- The extent to which the applicant has demonstrated effectiveness in planning, implementing, and operating occupational safety and health training and education projects or similar activities designed specifically for employees or employers.

Financial Integrity/Reasonableness of Budget Components

- The applicant's managerial expertise and fiscal responsibility, as demonstrated by the variety and complexity of current or recent programs administered;
- The reasonableness and accuracy of each budget component in relation to the proposed project activities; and
- The reasonableness of cost in relation to proposed number of hours of training, numbers to be trained, complexity of training, etc.

2. Second Level (Board) Review.

In addition to the preceding criteria, the second level Board review considers the geographic distribution and coverage of groups at risk that will be addressed by the proposals approved for funding. To avoid duplication, the Board encourages local organizations which belong to regional or statewide bodies (i.e., trade associations, union districts or regions, etc.) to coordinate their applications with the larger unit so that efficient use of grant funds can be maximized.

The Board will give priority attention to the submission of grant proposals that are directly related to reducing the types of employee injuries that are most common in the workplace, and have been specifically designed based on the conduct of workplace safety and health risk assessments. The U.S. Bureau of Labor Statistics also publishes workplace accident and injury statistics for New York State, see <http://stats.bls.gov/> for details. The Board will make every attempt to distribute available grant funds to the maximum number of entities and strongly encourages "first time" applications, especially from small businesses.

The Board may also consider items such as:

- Prior Performance under HAB grants;
- High Risk Industries;
- Unskilled workers in high risk jobs;
- Small Businesses (less than 250 employees);
- Lack of availability of training without grant funding;
- Other resources available to provide the training;
- Availability to a geographic area that might not otherwise receive services;
- Cost reasonableness and effectiveness in relation to training proposed;
- Topic relevance to workers safety and health issues;

- Compliance with Worker Protection issues;
- First time applicants; and
- Completeness of the proposal.

METHOD OF AWARD

- Applications shall be evaluated on the basis of best value. Cost shall constitute 25% of the total staff score at the first level review.
- Two evaluation committees shall be comprised of staff. One committee shall evaluate cost and administrative criteria. A second committee which consists of Safety and Health Professional Staff shall evaluate the technical criteria.

At the second level review, the Board will consider the combined committees evaluation in determining the needs and appropriate allocation of resources for the award of grants. In addition, the Board will consider the criteria noted above in determining the final awards. In accordance with Labor Law Article 2 Section 27-a (15)(b), a majority vote of the Board is required for award.

RESERVATION CLAUSE

The Board reserves the right to exercise the following prerogatives:

- To not make any awards under this application;
- To waive or modify any minor irregularities or technicalities in the proposals. This will in no way modify the RFP documents or excuse the bidder from full compliance with its requirements; and
- To make reductions to proposals at any time before the award is made, if such action is in the best interest of the State.

**D. CONTRACT INFORMATION
REFER TO ATTACHED APPENDICES**

LEGAL REQUIREMENTS

The bidder will be bound by the provisions of the following attachments:

- Appendix A - Standard clauses for New York State Contracts
- Appendix C - General Terms and Conditions
- Appendix E - Terms and Conditions Applicable to Training and Education Programs

CONTRACT

- By submitting a proposal, the successful applicant agrees to incorporate the RFP, by reference, into the resulting contract. The applicant must complete all information required in the application.
- The Board may grant a contract for any or all parts of a proposal and may negotiate contract terms and conditions to meet agency program requirements consistent with the RFP.
- The grant award is subject to contract negotiation and approval of such contract by the Office of State Comptroller.

WORKERS COMPENSATION AND DISABILITY BENEFITS

Compliance with requirement for workers' compensation and disability benefits insurance coverage: After receipt of a grant award letter, each successful bidder must provide the Department with proof of compliance with New York State workers' compensation and disability insurance coverage requirements set forth in Sections 57(2) and 220(8) of the Workers' Compensation Law.

To comply with the coverage provisions of Section 57(2), businesses must be legally exempt from obtaining workers' compensation insurance coverage; obtain such coverage from insurance carriers; be self-insured, or participate in an authorized group self-insurance plan. All successful bidders must provide one of the following forms to the Department:

- A *WC/WB 100 Affidavit for New York entities and any out of state entities with no employees*, that New York State workers' compensation and/or disability benefits insurance coverage is not required (the affidavit must be notarized and stamped as received by the NYS Workers' Compensation Board (WCB));
- A *WC/WB 101 Affidavit* that an out-of-state or foreign employer working in New York State does not require specific New York State workers' compensation and/or disability benefits insurance coverage (the affidavit must be notarized and stamped as received by WCB);
- A *C-105.2 Certificate of workers' compensation insurance* (the business' insurance carrier should be able to provide this form to the Department);
- An *SI-12 Certificate of workers' compensation self-insurance* (the business should contact the WCB's self-insurance office at 518-402-0247) ; or
- A *GSI-105.2 Certificate of participation in workers' compensation group self-insurance* (the business' group self-insurance administrator should be able to provide this form to the Department).

To comply with the coverage provisions of Section 220(8) businesses may: be legally exempt from obtaining disability insurance coverage; obtain such coverage from insurance carriers; or be self-insured. All successful bidders must provide one of the following forms to the Department:

- A *WC/WB-100* (noted above);
- A *WC/WB-101* (noted above);
- A *DB-120.1 Certificate of disability benefits insurance*;
- A *DB-820/829 Certificate/Cancellation of insurance* (the business' insurance carrier should be able to provide these forms to the Department); or
- A *DB-155 Certificate of disability benefits self-insurance* (business contacts the WCB's self-insurance office at 518-402-0247).

Contracts will not be forwarded to the successful bidders until they have provided the Department with proof of compliance with the workers' compensation and disability insurance coverage requirements set forth above.

TERMS AND CONDITIONS

Occupational Safety and Health Training and Education contracts are subject to all standard New York State terms and conditions. Some of the most relevant provisions are summarized below.

REIMBURSEMENT

All contractors will be reimbursed on the basis of supporting documentation attached to vouchers which identify the costs incurred. Vouchers must be presented for payment quarterly, unless required monthly by a grant manager, during the contract's duration; the final voucher must be submitted within 60 days of the expiration of the contract. Supporting documentation includes, but is not limited to, invoices, receipts, canceled checks, and computer printouts of salaries and fringe benefits. The contractor's financial administration of the grant will be considered in evaluating subsequent grant applications.

Invoices from consultants must be on letterhead and must show the nature of the services rendered, dates of service, rates of pay and total payment.

For-profit contractors must have the fiscal ability and cash flow to incur program costs pending reimbursement.

The grantee may not turn a Profit from its use of the funds expended by the Hazard Abatement Board (HAB) in making this grant.

ADVANCES FOR NOT-FOR-PROFIT GRANTEES

In addition to the reimbursement process described above, not-for-profit contractors are eligible to apply for a 3-month advance of their award. The following items must be submitted in order to receive such an advance:

- A statement from a certified public accountant which certifies that the contractor's bookkeeping practices have been reviewed within the past twelve months and that they meet generally acceptable accounting principles;
- A copy of a fidelity bond which covers all persons who will handle funds granted by the State, such bond shall be at least equal to or greater than the maximum amount of the advance, and indicate that the NYS Dept of Labor is named as co-insured;
- A completed "Standard Voucher" (AC 92) with a letter requesting advance payment; and
- A statement signed by the Chairman of the Board of Directors, Chief Operating Officer, or other appropriate chief executive official, accepting responsibility for operation of this program. In addition, this statement must certify that all federal, State (including Unemployment Insurance) and local taxes resulting from operation of this program will be paid, and that no past taxes are due and owing.

EQUIPMENT PURCHASES

Any equipment purchased with project funds is the property of the NYS Department of Labor and shall be returned to the Department at the conclusion of the contract unless otherwise agreed to by the Department. In general, the purchase of equipment will not be approved unless it is demonstrated that the equipment is necessary for the direct provision of the training and is not reasonably available from other sources.

An equipment certification form must be filed for every piece of equipment purchased with project funds. Equipment purchased shall be labeled as property of the NYS Department of Labor.

If a grantee wishes to purchase an item that is available to the State as surplus, the staff will arrange to provide the item in lieu of its purchase by the grantee. All equipment must be purchased in compliance with the applicable State Laws, Rules, and Regulations, and the grantee must have documentation which shows that price information was solicited from several vendors.

DEVELOPMENT OF EDUCATIONAL MATERIAL

As program training materials are developed, one copy of each draft, etc., must be forwarded to the OSH T&E Unit for review. At the end of the contract period, the contractor will supply the OSH T&E Unit, at no cost, with one hard copy and one electronic copy (if

available) of all training materials produced. Ownership of the materials shall be in accordance with Appendix E.

All materials produced must bear the legend “Produced through a grant from the New York State Hazard Abatement Board, Occupational Safety and Health Training and Education Program (Contract Number)”.

Appropriate acknowledgement shall be given to the HAB in any publications, training announcement, meeting, or training session which is funded in whole or in part through the grant.

CONTRACT CHANGES

Any change to the program or budget, as described in the executed contract, will require **PRIOR APPROVAL** by the State. A formal contract modification may be necessary.

REPORTING REQUIREMENTS

The grantee will be required to file progress reports, at least quarterly, which outline activities, detail actual services delivered in comparison with services contractually required, and provide other pertinent information in a prescribed format on attainment of contract objectives. In all quarterly program reports to the grantor, the grantee shall detail the actual services delivered in comparison with the services contractually required under the grant. Late submission of reports may cause delays in processing vouchers for advance or reimbursement payments. A contractor’s compliance with applicable reporting requirements will be considered in evaluating subsequent award requests.

Training schedules citing training sessions to occur during the following month shall be submitted to the Department before the beginning of each month.

MONITORING

Staff will monitor compliance with contract provisions through on-site visits to verify fiscal data, program progress, and technical correctness of training.

Grantor shall be permitted unrestricted entry to the training and education sessions conducted by the grantee, and/or any subcontractor(s) of the grantee, for the purpose of monitoring same to determine satisfactory compliance with the purposes and objectives of the grant. Further, said entry may be without prior notification to the grantee and/or the grantee’s subcontractor.

In all quarterly program reports to the grantor, the grantee shall detail the actual services delivered, and compare same with the services contractually required under the grant.

The grantee acknowledges that a written assessment/evaluation of the grant program will be made by the grantor at the end of the contract period, and will be used in determining the rating of the grantee as an application for succeeding year grants.

AUDITING

Contractors and subcontractors are subject to fiscal audits by the Department's Independent Audit Bureau and the Office of the State Comptroller. The purpose of such audits is to assure that all costs incurred were necessary, reasonable, and in compliance with contract terms and conditions. The contractor and its subcontractor must maintain all documents, records, and accounts to support program activities and expenditures for six years following closeout of the contract.

As a condition of any subcontract, a proposed subcontractor or consultant of the grantee must expressly agree to be audited by the grantor to the extent of its performance under the grant, said audit being unrestricted as to policies and/or procedures other than those established by the grantor in its request for proposals. Further, all such policies and/or procedures shall be expressly accepted by the contractor or consultant as compliant with standards promulgated by the Comptroller of the State of New York.

The grantor expressly reserves the right to audit any and all funding sources of the grantee to ensure that payment requests will not duplicate the reimbursement of costs and services received from other sources.

MWBE CONTRACT REQUIREMENTS

Separate goals will be established for the participation of minority and of women-owned business enterprises, both for the Occupational Safety and Health Training and Education Program as a whole and for individual contracts. The program-wide goals will be expressed as a percentage of all grant funds available; the individual contract goals will be expressed as a percentage of all grant funds available; the individual contract goals may be higher or lower, depending on the specifics of each project.

Contractors will assure that certified Minority and Women-owner Business Enterprises (MWBEs) are given the opportunity for meaningful participation in contract performance. Prior to executing the contract, each grantee awarded more than \$25,000 will negotiate with Program staff to establish individual goals for employing MWBEs as subcontractors (i.e., consultants) or as providers of services, supplies, equipment, or materials. The contractor must make a good faith effort to fulfill these goals, and document such efforts. Such goals shall be at least 20.0 percent for MWBEs, 11.0 percent for MBEs and 9.0 percent for WBEs. .

Partial or total waivers of goal requirements may be granted with proper justification. However, even contractors who negotiate "zero" goals are expected to seek out and consider certified MWBEs as subcontractors.

EQUAL OPPORTUNITY REQUIREMENTS

Under Article 15-A of the Executive Law, contractors are prohibited from discriminating against any employee, or applicant for employment on the basis or race, creed, color, sex, national origin, age, disability, or marital status. Further, pursuant to Article 15 of the Executive Law (Human Rights Law) all other State and Federal statutory and

constitutional non-discrimination provisions, contractors and subcontractors are prohibited from discriminating against any employee, or applicant for employment on the basis of race, creed, religion, color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Contractors receiving grants of more than \$25,000 shall also:

- Undertake or continue existing programs of affirmative action;
- Obtain statements of non-discrimination and cooperation from each employment agency, labor union, or authorized worker representative with which there is an agreement, if requested; and,
- Include an equal employment opportunity clause in all advertisements and solicitations for employees hired to work under the contract.

ACCEPTANCE OF RFP TERMS AND COSTS OF PREPARATION

The State of New York shall not be responsible for any costs incurred by the applicant in the application preparation, or in activities related to the review of this application.

The act of filing an application indicates acceptance of the provision and conditions contained in this RFP by the applicant.

NEW YORK STATE

TRAINING AND EDUCATION PROGRAM

ON

OCCUPATIONAL SAFETY AND HEALTH

**HAZARD
ABATEMENT
BOARD**

APPLICATION FORMS AND INSTRUCTIONS

**PROPOSALS MUST BE SUBMITTED IN A SEALED
ENVELOPE LABELED "HAB OSH T&E APPLICATION"**

Grant applications must be received at the OSH T&E Office by 5 P.M. (New York Time) on February 13, 2012 or be postmarked by such date in accordance with the proposal submittal instructions.

APPLICATION PROCESSING

SUBMITTAL INFORMATION

A completed grant application using the 2012-13 forms consists of **FIVE SETS** of the forms which must be submitted in the order shown below. The forms in an application packet are as follows:

Grant Application Cover Sheet*	HAB TE – 100
Project Summary	HAB TE – 101
Potential Conflict of Interest Disclosure	HAB TE – 101.3
State Certifications	
Responsibility Questionnaire	
Training Grant Management Summary	
Project Narrative	HAB TE – 102.1 & 102.2
Budget Summary	HAB TE – 110
Detailed Budget (Eight Pages)	HAB TE – 110.1 – 110.8
Budget Narrative (Pages 1-4)	HAB TE – 144

* At least one copy of the “Grant Application Cover Sheet” must be signed by the Chief Executive Officer of the applicant organization in **BLUE INK**. The remaining signature pages may be photocopies.

NOTE: WHEN COMPLETING THE BUDGET FORMS, PLEASE ROUND AMOUNTS OFF TO THE NEAREST DOLLAR.

An application can be sent via the U.S. Postal Service, express mail delivery service, or hand delivered. **TELEFAXED AND E-MAILED DOCUMENTS WILL NOT BE ACCEPTED.** Any postage or delivery costs are the applicant’s responsibility. The Board takes no responsibility for any third party error in the delivery of applications (e.g. U.S. Post Office, Federal Express, UPS, courier, etc).

A completed application packet should be sent to the:

Hazard Abatement Board
Occupational Safety and Health Training and Education Program
HAB OSH T&E APPLICATION
State Office Campus, Building 12 – Room 166
Albany, New York 12240

Application packets **must be received** at the address shown by 5 p.m. (New York Time) on **February 13, 2012, or be postmarked by such date in accordance with the proposal submittal instructions.**

NOTE: Application packets sent via the U.S. Postal Service or by DHL Express (DHL), Federal Express (FedEx), or United Parcel Service (UPS) will be considered timely filed if postmarked on or before the February 13, 2012 due date and properly addressed to the address shown above.

Rules for determining postmark date

U.S. Postal Service

The U.S. Postal Service postmark **must be legible**. It is the grant applicant's responsibility to ensure that the postmark is legible. Applications received after the due date by U.S. Postal Service mailing which do not contain a legible postmark will be rejected as untimely.

DHL, FedEx, and UPS

DOL will follow the rules set forth in the New York State Department of Taxation and Finance, Publication 55 (*Designated Private Delivery Services*) to determine the postmark date of application packets delivered by DHL, FedEx, or UPS. Grant applicants may find these rules at

www.tax.state.ny.us/pdf/publications/general/pub55.pdf - 2009-02-19

REVIEW PROCESS

Since the review process begins immediately, any revisions, addenda, or support letters which arrive after the deadline will not be considered. Therefore, applicants are advised to append all letters of support to their proposals at the time of submission.

NOTE: All applicant organizations are screened for violations of the New York Labor Law and non-payment of New York State Unemployment Insurance tax.

When all applications have been reviewed, recommendations are forwarded to the Board for a vote. Each applicant will be formally notified of the Board's determination.

Attached you will find copies of all required grant application forms for the Occupational Safety and Health Training and Education Program.

**STATE OF NEW YORK
HAZARD ABATEMENT BOARD
OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM**

GRANT APPLICATION COVER SHEET

1. Applicant Organization:		2. Federal Employer Identification Number:									
Mailing Address of Applicant Organization:											
_____ City, State, Zip:											
Telephone: ()	Fax: ()	E-Mail Address:									
3. Physical address of Applicant Organization: (If different from mailing address)											
4. NYS Employer Registration Number:											
5. If Not-for-Profit, Charities Registration Number: _ _ - _ _ - _ _											
<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">6. CATEGORY OF APPLICANT</td> <td><input type="checkbox"/> Public Employer</td> </tr> <tr> <td><input type="checkbox"/> Private Employer</td> <td><input type="checkbox"/> Joint Labor /Management</td> </tr> <tr> <td><input type="checkbox"/> Labor Organization or Federation</td> <td><input type="checkbox"/> Educational Institution</td> </tr> <tr> <td><input type="checkbox"/> Trade Association</td> <td><input type="checkbox"/> Non-Profit Organization Not In Any Other Category</td> </tr> </table>				6. CATEGORY OF APPLICANT	<input type="checkbox"/> Public Employer	<input type="checkbox"/> Private Employer	<input type="checkbox"/> Joint Labor /Management	<input type="checkbox"/> Labor Organization or Federation	<input type="checkbox"/> Educational Institution	<input type="checkbox"/> Trade Association	<input type="checkbox"/> Non-Profit Organization Not In Any Other Category
6. CATEGORY OF APPLICANT	<input type="checkbox"/> Public Employer										
<input type="checkbox"/> Private Employer	<input type="checkbox"/> Joint Labor /Management										
<input type="checkbox"/> Labor Organization or Federation	<input type="checkbox"/> Educational Institution										
<input type="checkbox"/> Trade Association	<input type="checkbox"/> Non-Profit Organization Not In Any Other Category										
7. Total amount of funds requested: \$		8. Location Of Program Operations									
9. Name & Title of Project Director:		Telephone ()									
THE APPLICANT ATTESTS THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS ACCURATE, TRUE, AND COMPLETE TO THE BEST OF THE APPLICANT'S KNOWLEDGE											
10. Chief Executive Officer or Designee:		Title of Person with Signatory Authority:									
11. Signature:		12. Date									

SEE INSTRUCTIONS ON REVERSE

Instructions For Completing The
GRANT APPLICATION COVER SHEET

1. **NAME AND STREET:** enter the full name of the applicant organization and the complete street address including the zip code.
2. **FEDERAL EMPLOYER IDENTIFICATION:** enter the nine digit federal identification number assigned to the applicant organization, usually starts with 11 or 13.
3. **MAILING ADDRESS:** enter the mailing address of your organization, if different from the address entered in Item 1.
4. **NYS EMPLOYER REGISTRATION:** enter the number issued by the NY State Department of Taxation and Finance to each employer doing business in New York; if your organization has no employees in NY State, enter "N/A" in this item.
5. **CHARITIES REGISTRATION:** enter the number issued by the NY Department of State or number of exempt status. Private sector employers should enter "N/A" in this item.
6. **CATEGORY OF APPLICANT:** select the one category that best matches the kind of organization completing the application.

NOTE: A "Joint Labor/Management" proposal must have appropriate supporting documentation appended to the grant application; co-sponsors must be listed in the appropriate item on the "Project Summary" form.

"Non-profit" applies only to applicants which do not fit into any of the other categories for purposes of this grant application.

7. **TOTAL FUNDS REQUESTED:** the total amount requested in the grant application (round numbers are sufficient).
8. **LOCATION OF PROJECT OPERATIONS:** enter the city or town in which program administration and project director is centered.
9. **PROJECT DIRECTOR:** responsible for daily operations and liaison responsibilities with the Department of Labor.
10. **CHIEF EXECUTIVE OFFICER OR DESIGNEE:** person with designated authority to sign contract.
11. **SIGNATURE:** original form must have the signature of the Chief Executive Officer or the designee in BLUE INK; photocopies of the original form may be used for the other three copies.
12. **DATE:** month, date and year form is signed by the Chief Executive Officer or designee.

STATE OF NEW YORK
HAZARD ABATEMENT BOARD
OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM
PROJECT SUMMARY

1. Write a brief summary of your project goals and the strategies you will use to achieve them; indicate your specific target population(s) for each goal/objective.
(Please limit your response to the space provided; if additional space is needed, use plain white 8 1/2"x11" paper limiting your response to no more than 2 pages.)

2. PLEASE LIST THE COUNTY OR COUNTIES THAT PROGRAM WILL SERVE.

3. IS THIS PROJECT A JOINT VENTURE? IF SO, INDICATE CO-SPONSORS(S).

4. APPLICANT DESCRIPTION (*Please indicate total number of employees and web address if available.*)
(Please limit your response to the space provided; if additional space is needed, use plain white 8 1/2"x11" paper limiting your response to no more than 2 pages.)

SEE INSTRUCTIONS ON REVERSE

Instructions For Completing The

PROJECT SUMMARY

Statements should be as brief as possible to allow presentation of the entire summary on the single sheet form provided. If more space is required, you may use plain white 8 ½" x 11" paper. A more extensive presentation of goals and objectives, target population, and topics will be required on the "Project Narrative" form (HAB TE-102).

1. **GOALS** – State the overall aim of the project; if a project has more than one goal, list each as succinctly as possible; for example, "To protect maintenance workers from the harmful effects of occupational asbestos exposure".

OBJECTIVES – List the specific strategies for attaining project goals; for example, "To train workers to recognize work situations with potential asbestos exposure, and to follow accepted work practices using appropriate personal protective equipment."

2. **LOCATION** – County or counties that the program will serve.
3. **IS THIS PROJECT A JOINT VENTURE?** – Enter the complete name(s) and address(es) of the co-sponsor(s), including mailing address(es) if applicable.
4. **APPLICANT DESCRIPTION** – Provide a brief summary of your organization, describing the composition and number of employees, the trend in size over the past five (5) years, the length of its existence, and the geographic area and type of clientele served. Also, please provide your Company's website address.

**STATE OF NEW YORK
HAZARD ABATEMENT BOARD**

OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM

POTENTIAL CONFLICT OF INTEREST DISCLOSURE

Below is a list of the members of the New York State Occupational Safety and Health Hazard Abatement Board and their business affiliations. Indicate in the space below any past contacts or dealings you or your organization has had with these individuals which may give rise to an actual or potential conflict of interest, or the appearance of a conflict of interest, with respect to this grant application.

Chair
Katherine D. Schrier
Chair of the Board
Director, Actors Fund Work Program
729 7th Avenue
New York, NY 10019

Franklin E. Mirer, PhD
Professor, Environmental &
Occupational Health
Hunter College, CUNY
425 E. 25th Street
New York, NY 10010

Robert Gollnick
former Director
NYS Dept. of Labor
Division of Safety and Health
45 Levan Street
Kingston, NY 12401

Ann Marie Taliercio
President
Unite-HERE Local150
615 West Genesee Street
Syracuse, NY 13204

Gerald Skrzeczkowski
Vice President Emeritus
OPEIU
2175 William Street
Buffalo, NY 14206

Have you had contact with any member of the Board YES NO

If yes, please list any past contacts or dealings you have had with these individuals; you may use the front and back of this sheet and/or continue on a blank, 8 1/2" x 11" sheet of white paper.

Organization

Signature

Date

Print Name

Title

Prospective or current grantees may not engage in any oral, written, or electronic communication with an HAB member under circumstances where a reasonable person would infer that the communication was intended to influence the HAB member's vote on the grantee's application for funding. Grantees are advised that such communication will be reported in writing by such Board member to the Board Chair and the Commissioner of Labor. Prospective and current grantees who knowingly and willfully violate this provision may be disqualified from receiving an award under this RFP.

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose 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 to bid for the purpose of restricting competition.

I, the undersigned, attest under penalty of perjury that I am an authorized representative of the Bidder/Contractor and that the foregoing statements are true and accurate.

Signature of Authorized Representative

Title _____

Date _____

RESPONSIBILITY QUESTIONNAIRE

INSTRUCTIONS:

Please complete this form answering every question. A "Yes" answer to questions 1-23 requires a written explanation attached to the questionnaire and submitted on company letterhead signed by an officer of the company.

QUESTIONS:

Within the past five years, has your firm, any affiliate, any principal, owner or officer or major stockholder (10% or more shares) or any person involved in the bidding or contracting process been the subject of any of the following:

- (1) a judgment or conviction for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?
 Yes No
- (2) a criminal investigation or indictment for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?
 Yes No
- (3) an unsatisfied judgment, injunction or lien obtained by a government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any local, state or federal government agency?
 Yes No
- (4) an investigation for a civil violation for any business related conduct by any local, state or federal agency?
 Yes No

¹ "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

(5) a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including, but not limited to fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?

Yes No

(6) a local, state or federal suspension, debarment or termination from the contracting process?

Yes No

(7) a local, state or federal contract suspension or termination for cause prior to the completion of the term of a contract?

Yes No

(8) a local, state or federal denial of a lease or contract award for non-responsibility?

Yes No

(9) an agreement to voluntary exclusion from bidding/contracting?

Yes No

(10) an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal contract or lease?

Yes No

(11) a local, state or federal determination of a willful violation of any prevailing wage law or a violation of any other labor law or regulation?

Yes No

(12) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license?

Yes No

(13) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?

Yes No

- (14) a rejection of a low bid on a local, state or federal contract for failure to meet statutory affirmative action or MWBE requirements on a previously held contract?
- Yes No
- (15) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local government laws?
- Yes No
- (16) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful?
- Yes No
- (17) a rejection of a bid on a New York contract or lease for failure to comply with the MacBride Fair Employment Principles?
- Yes No
- (18) a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
- federal, state or local health laws, rules or regulations
 - unemployment insurance or workers' compensation coverage or claim requirements
 - ERISA (Employee Requirement Income Security Act)
 - federal, state or local human rights laws
 - federal or state security laws
 - federal INS and Alienage laws
 - Sherman Act or other federal anti-trust laws.
- Yes No
- (19) a finding of non-responsibility by an agency or authority due to the failure to comply with the requirements of Tax Law Section 5-a?
- Yes No

ADDITIONAL QUESTIONS

(20) Has the vendor been the subject of agency complaints or reports of contract deviation received within the past two years for contract performance issues arising out of a contract with any federal, state or local agency? If yes, provide details regarding the agency complaints or reports of contract deviation received for contract performance issues.

Yes No

(21) Does the vendor use, or has it used in the past five (5) years, an Employee Identification No., Social Security No., Name, DBA, trade name or abbreviation different from that listed on your mailing list application form? If yes, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

Yes No

(22) During the past three years, has the vendor failed to file returns or pay any applicable local, state, or federal government taxes?

Yes No

If yes, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability: _____

(23) During the past three years, has the vendor failed to file returns or pay New York State Unemployment Insurance?

Yes No

If yes, indicate the years the company failed to file/pay the insurance and the current status of the liability:

(24) Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates within the past seven years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates, regardless of the date of filing?

Yes No

If yes, indicate if this is applicable to the submitting vendor or one of its affiliates: _____

If it is an affiliate, include the affiliate's name and FEIN:

Provide the court name, address and docket number:

Indicate if the proceedings have been initiated, remain pending or have been closed: _____

If closed, provide the date closed: _____

CERTIFICATION:

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions to make a determination regarding the award of a contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- Has not altered the content of the questions in the questionnaire in any manner;
- Has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- Has supplied full and complete responses to each item therein to the best of his/her knowledge, information and belief;
- Is knowledgeable about the submitting vendor's business and operations;
- Understands that New York State will rely on the information supplied in this questionnaire when entering into a contract with the vendor; and
- Is under a duty to notify the procuring State Agency of any material changes to the vendor's responses herein prior to the State Comptroller's approval of the contract.

_____ Name of Business	_____ Signature of Officer
_____ Address	_____ Typed Copy of Signature
_____ City, State, Zip	_____ Title

Principal place of business if different from address listed above
(include complete address):

Training & Grant Management Summary (TGMS)

A. Training Charged to the Grant - (please list 1 topic per line listing additional topics on a plain sheet if needed)								
TRAINING TOPIC	(2) No. of Sessions	(3) Hrs. per Session	(4) No. of Instructors	(5) Total Direct Train. Hrs.	(6) Billable Train. Hrs.	(7) Trainees/ Session	(8) Total No. of Trainees	(9) Contact Hours
TOTALS								

B. Training Related Activity (i.e.: travel, scheduling, risk assessment) - (please list 1 topic per line listing additional topics on a plain sheet if needed)			
TYPE OF ACTIVITIES	(2) Hrs. per Activity/Wk	(3) Times Offered per Grant Yr.	(4) Total Hrs. of Activity
TOTALS			

C. Other Grant Activity - (please list 1 topic per line listing additional topics on a plain sheet if needed)			
LIST OTHER ACTIVITY	(2) Hrs. per Activity/Wk	(3) Times Offered per Grant Yr.	(4) Total Hrs. of Activity
TOTALS			

D,	TOTAL CONTRACT HOURS
-----------	-----------------------------

E. EXPLANATIONS (If any):

Instructions for Completing the TRAINING & GRANT MANAGEMENT SUMMARY (TGMS)

- A. **Training Sessions Charged to the Grant:** Provide the following information for each Course to be offered and charged to the Grant (one course per line listing additional topics on a plain sheet of paper):
1. Training Topic - Name of the Course to be offered.
 2. Number of Sessions - How many Training Sessions will be conducted?
 3. Number of Hours per Session - Length (in hours) for each session.
 4. Number of Instructors per Session.
 5. Total Direct Training Hours - No. of Sessions x Hours/ Session
(Column 2 x Column 3).*
 6. Billable Training Hours - Total Direct Training. Hours x No. of Instructors
(Column 4 x Column 5).*
 7. Number of Trainees per Session.
 8. Total Number of Trainees - (No. of Sessions x No. of Trainees per Session
(Column 2 x Column 7).*
 9. Contact Hours - (Total Direct Training hours x Trainees per session;
Column 5 X Column 8).*
 10. TOTALS: Be sure that all columns requiring a sum are correctly added.*
- B. **Training Related Activity:** (i.e.: travel, scheduling, risk assessment, program planning, etc.; one activity per line listing additional activities on a plain sheet of paper if needed.)
1. Type of Training Related Activity
 2. Hours per Activity per Week.
 3. Times Offered per Grant Year – How many weeks per year this will be performed?
 4. Total Hours of Training Related Activity – (Column 2 x Column 3).*
 5. TOTALS: Be sure that all columns requiring a sum are correctly added.*
- C. **Other Grant Activity:** (if applicable and charged to the contract): List each type of other Grant Activity to be conducted under the contract (one item per line adding lines if necessary):
1. Type of Other Grant Activity - Name the activity to be conducted
 2. Hours per Activity per Week.
 3. Times Offered per Grant Year- How many weeks per year this will be performed?
 4. Total Hours of Other Grant Activity - (Column 2 x Column 3).*
 5. TOTALS: Be sure that all columns requiring a sum are correctly added.*
- D. **TOTAL CONTRACT HOURS:** This number represents the sum of all totals from Sections A, B and C, including Total Direct Training Hours from Section A (Column 5), Total Hours of Activity from Section B (Column 3), and Total Hours of Activity from Section C (Column 3).*
- E. **Explanations (if any):** Provide any explanations you feel will better represent the training activities to be conducted under the Grant.

* To Assist you in the Completion of these Forms, an Excel version (with formulas) of this Form and Budget Forms are available on the HAB Web Site.

PROJECT NARRATIVE
Section I
PROJECT NEED AND DESIGN

Answer the following questions for each proposed activity/deliverable. When the answer to any question is applicable to all activities, just answer once and indicate it applies to all. Failure to complete and clearly answer the following specific questions will adversely affect your chances of receiving an award.

1. What is the activity, and which target groups and hazards are addressed?
2. How did you determine that the target group needs this activity?
3. How will you ensure adequate numbers of people are trained?
4. Please provide completed Training and Grant Management Summary. If needed, narrative may be provided for clarification.
5. What education, training, and communication techniques will be used, who will provide them, and where?
6. What specific attitudes, skills, and knowledge will each person get as a result of the activity?
7. How will you determine if each person got the intended attitudes, skills, and knowledge?
8. How will you determine whether the activity reduced the incidence/severity of occupational illnesses and injuries?
9. What are the estimated total and per person costs of the activity to be charged to this grant, and how did you determine whether the benefit of the activity is worth the cost?
10. How did you determine that the activity would not duplicate occupational safety and health resources that are already available?

Instructions For Completing The PROJECT NARRATIVE

Section I PROJECT NEED AND DESIGN

1. Examples of common activities are classroom or on the job training sessions, technical assistance, workplace evaluations, and newsletter/materials development and distribution etc.
2. Describe briefly how you identified your target group and training topics, common ways are through surveys, evaluations, etc.
3. Briefly describe how recruitment for sessions will be conducted and who will be responsible for recruitment and publicity.
4. If needed, provide narrative to support and/or clarify the numbers provided in the Training and Grant Management Summary. (Please do not simply restate numbers already appearing in the Summary.)
5. Detail the training techniques to be used including: lecture, videos, demonstrations, multi-media presentations, hands-on-exercises, interactive computer presentations, workplace observations, etc. Also, who will provide the training, staff or outside consultants? Provide resumes if trainers have been identified, or minimum specifications, if the trainers to be used have not yet been determined.
6. As a result of attending the activity, what impact will the activity have on the individual? What will they be able to **do, not do, or do differently** to improve workplace safety after having the training? Be specific and detail the observable goals or actions you expect to observe.
7. What evaluation methodologies will be used to test that desired outcomes have been achieved? These may include observation, interview, pre and post testing, competency testing, or a variety of other follow-up methods.
8. What methods will you use to evaluate the success of the project as a whole, with regards to its overall impact on your organization or target population?
9. Provide details or a description of how you arrived at your estimated cost and how you determined that the cost of the activity was reasonable.
10. What steps were taken to ensure that activities planned and materials to be developed do not duplicate existing resources that are already available?

PROJECT NARRATIVE

Section II

PROJECT EXPERIENCE AND ADMINISTRATIVE CAPABILITY

1. Describe your organization's fiscal management expertise, specifically referring to any experience administering government contracts.

2. Has your organization had prior HAB Grants? _____ yes _____ no

Please list any HAB grants since the 2007-08 Program Year.

<u>Year</u>	<u>Amount</u>	<u>Topics of Training</u>	<u>Measurable Outcome of Training</u>
-------------	---------------	---------------------------	---------------------------------------

3 The Board would like to see some examples, from applicants who have had past grants, of areas you believe illustrate positive outcomes from the grant. This may be in the form of examples demonstrating that the workplace is now safer (changes in work practices, statistics demonstrating improvement, implementation or improvements in Safety Committee) highlighting changes that have been implemented as a result of grant training, examples of positive individual achievements that you would attribute back to prior grant work. This information is strongly encouraged, especially from grantees with a history of prior grants, but we are not mandating it at this point.

Instructions For Completing The

PROJECT NARRATIVE

Section II

Project Experience

1. Describe your organization's fiscal management expertise, specifically referring to any experience administering government contracts.
2. Please list HAB grants your organization has received beginning with the 2007-08 Program Year to present.
3. Please provide examples of positive outcomes or successes as a result of prior HAB grant training, this is especially important for grantees with a history of prior grants.

**NEW YORK STATE HAZARD ABATEMENT BOARD
BUDGET SUMMARY**

CATEGORY OF EXPENSES	REQUESTED AMOUNTS
A. STAFF SALARIES	
B. STAFF FRINGE BENEFITS	
C. CONTRACTED SERVICES	
D. STAFF TRAVEL	
E. EQUIPMENT	
F. SPACE/UTILITIES	
G. OTHER OPERATING EXPENSES	
H. MISCELLANEOUS PARTICIPANT EXPENSES	
TOTAL BUDGET	

DETAIL BUDGET PAGE (2)

B. STAFF FRINGE BENEFITS

(1)	(2)
JOB TITLE	REQUESTED AMOUNT
TOTAL STAFF FRINGE BENEFITS	

DETAIL BUDGET PAGE (3)

C. CONTRACTED SERVICES

(1)	(2)
TYPE/DESCRIPTION OF SERVICE	REQUESTED AMOUNT
TOTAL CONTRACTED SERVICES	

DETAIL BUDGET PAGE (4)

D. STAFF TRAVEL

(1)	(2)
DESCRIBE	REQUESTED AMOUNT
TOTAL STAFF TRAVEL	

DETAIL BUDGET PAGE (5)

E. EQUIPMENT

(1)	(2)
TYPE/DESCRIPTION OF EQUIPMENT	REQUESTED AMOUNT
TOTAL EQUIPMENT	

DETAIL BUDGET PAGE (6)

F. SPACE/UTILITIES

(1)	(2)
DESCRIPTION OF EXPENSES	REQUESTED AMOUNT
TOTAL SPACE/UTILITIES	

DETAIL BUDGET PAGE (7)

G. OTHER OPERATING EXPENSES

(1)	(2)
TYPE DESCRIPTION OF OPERATING EXPENSES	REQUESTED AMOUNT
<u>TELEPHONE</u>	
<u>POSTAGE</u>	
<u>INSURANCE/BONDING</u>	
<u>PRINTING/PHOTOCOPYING</u>	
<u>ADVERTISING</u>	
<u>CONSUMABLE SUPPLIES</u>	
OTHER (please list):	
TOTAL OTHER OPERATING EXPENSES	

DETAIL BUDGET PAGE (8)

H. MISCELLANEOUS PARTICIPANT EXPENSES

(1)	(2)
TYPE/DESCRIPTION OF EDUCATIONAL MATERIAL	REQUESTED AMOUNT
<i><u>TRAINING MATERIALS</u></i>	
<i><u>TESTING MATERIALS</u></i>	
OTHER (please list):	
TOTAL MISCELLANEOUS PARTICIPANT EXPENSES	

CONTRACT BUDGET NARRATIVE/JUSTIFICATION

PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IN SUPPORT OF THE BUDGET. Explain how you calculated or estimated each item.

A. STAFF SALARIES:

For each Staff Member in the proposal, provide a breakdown (Direct Training Hours, Technical Assistance/Program Planning Hours, and Grant Administration Hours) of the activities performed and the number of hours spent weekly on each activity. Please provide resumes for trainers or minimum qualifications for position.

B. FRINGE BENEFITS:

Fringe Benefits should be budgeted in line with the Agency's Standard Fringe Benefit Policy and/or Negotiated Bargaining Agreements, however, hourly fringe benefits may not exceed 40% of proposed hourly staff wages. If budgeted fringe benefits represent an exception to standard policy, please explain basis. (Note: Severance pay cannot be supported with grant funds.)

C. CONTRACTED SERVICES:

For all subcontractors, relating to program activities, attach a copy of the subcontract. If subcontract is not available but the subcontractor has been determined, indicate the subcontract's name, provide Trainer Resumes, the anticipated outcomes, and the projected budget, (cost per hour, per course). When subcontracting details are not known, include a brief narrative of each service to be subcontracted, include minimum qualifications for trainers, and the affiliated organization for the trainers.

D. STAFF TRAVEL EXPENSES:

Any exceptional staff travel costs must be justified below. In addition, no out of state travel costs are allowed unless specifically detailed and approved. Staff travel costs should be budgeted in line with the standard Agency travel policy or NYS Comptroller guidelines.

E. EQUIPMENT:

Please provide justification for any exceptional equipment purchase/rental costs as related to the program needs. Also, please: 1) provide a copy of your procurement procedures and considerations for purchasing versus renting and 2) attach an inventory list of any equipment previously purchased with HAB funds.

F. SPACE/UTILITIES

Please indicate whether the property is owned or rented.

Owned

Rented

G. OTHER OPERATING EXPENSES

Please provide an estimated budget by general type of expense. Any type of expense outside of those standard allowable categories listed on HAB TE 110.7 must be listed as extraordinary and fully explained/justified. In addition, any significant or exceptional dollar amounts included should be explained in line with programmatic requirements.

	Estimated Budget
Allowable categories: Telephones	_____
Postage	_____
Insurance/Bonding	_____
Printing/Photocopy	_____
Advertising	_____
Supplies	_____
Other Extraordinary Categories (List):	

H. MISCELLANEOUS PARTICIPANT EXPENSES:

Please provide an estimated budget by the general type of the expense. Any type of expense outside of those standard allowable categories listed on HAB TE 110.8 must be listed as extraordinary and fully explained/justified. In addition, any significant or exceptional dollar amounts included should be explained in line with programmatic requirements.

Allowable categories: Training Materials
Testing Materials

Estimated Budget

Other Extraordinary Categories (List):

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APPENDIX E

OCCUPATIONAL SAFETY AND HEALTH

Terms and Conditions Applicable to Training and Education Programs

Notwithstanding any term or condition to the contrary contained in **APPENDIX C**, the following terms and conditions shall apply to any contract with the New York State Department of Labor for training and education programs on occupational safety and health:

1. The intent of the grantee to utilize any subcontractor(s) must be disclosed to the grantor at the time of application. Further, the identify of any subcontractor(s) or consultant(s) so utilized must be provided to the grantor, together with all such further information required under Section X of APPENDIX C, prior to any disbursements are made under the grant to such subcontractor(s) or consultant(s).

The Board may authorize a grantee or subcontractor to accept services from another grantee or subcontractor if:

- It is fully disclosed in the RFP application as to what service(s) will be provided and by whom it will be provided;
- It is adequately documented that the use of this service will provide superior training services than could be provided by the applicants staff;
- The individual who will provide the service and the organization that they represent must ensure that reimbursement is only received from the State under one grant. If the grantee by whom the person is employed chooses to provide the service without charge to the other entity, reasonable and documented charges may be reimbursed under their grant. If the organization receiving the services pays for the services, only they may be reimbursed for the reasonable and documented cost under their grant;
- In any case of grantee accepting services from another grantee, both grantees must notify their respective NYSDOL Grant Manager in advance of the activities that will take place;
- Where a training session is conducted under these situations, only one grantee may count the participants as trained under their grant;
- This exemption may only be granted at the time of review of the original application. The Board will not consider requests during the program year and only the Board may grant this exemption.

Nothing herein shall prevent a grantee from utilizing the services provided by the OSHA certified training center for the New York Region solely to obtain OSHA certification for its agents, so that they may provide training under the grant. This exemption shall only apply where an OSHA certified course of instruction is required for the grantee's agent to conduct the required training as an essential element of the program being funded by the grant.

2. Pursuant to the direction of the grantor, the grantee shall maintain sign-in sheets to record attendance at any meeting relating to the grant, including training and education sessions, and submit same to the grantor.
3. The grantor shall be permitted unrestricted entry to training and education sessions conducted by the grantee and/or any subcontractor(s) of the grantee for the purpose of monitoring same, to determine satisfactory compliance with the purposes and objectives of the grant, and said entry may be without prior notification to the grantee and/or subcontractor.
4. No administrative costs incurred by the grantee in the preparation of the grant application shall be subject to reimbursement by the grantor, and no funds disbursed under the grant shall be utilized to defray such costs. Only the actual costs incurred by the grantee which are directly attributable to performance of the terms of the grant shall be eligible for reimbursement.
5. In all periodic (now quarterly) program reports to the grantor, the grantee shall detail the actual services delivered in comparison with the services contractually required under the grant.
6. Grantee acknowledges that a written assessment/evaluation of the grant program will be made by grantor at the end of the contract period and will be used in determining the rating of grantee as an application in the succeeding year.
7. Program Reporting Responsibilities

Contractor will provide a monthly progress report and a quarterly written report furnishing information on activities completed, numbers of persons trained, and technical assistance responses provided.

8. Additional Responsibilities

The contractor shall provide timely notice of training and other program events to the Department of Labor for monitoring purposes.

As program materials are developed, one copy of each shall be forwarded to the Department of Labor. By the end of the contract period, the contractor will have supplied the Department of Labor, at no cost, with one copy of all training materials produced. All such materials shall bear the legend, "Produced through a grant from the New York State Department of Labor Occupational Safety and Health Training and Education Program." This does not mean that the material is endorsed by the Department.

9. Copyrights

Grantor shall have the right to copy any training material developed under this grant, and is hereby granted a perpetual, non-transferable, royalty free license.

Grantee may charge no more than a nominal fee to users for the use of materials developed with grant funds, such fee to cover only the cost of reproduction and distribution of such materials.

1/5/12

APPENDIX C

NEW YORK STATE DEPARTMENT OF LABOR

General Terms and Conditions

Scope and Statement of Work

The Contractor shall perform the work of this Agreement within the period indicated on its Face Page and within any more stringent timeframes that may be provided in Appendix B; in strict accordance with the RFP, its Proposal and the Addendum to Proposal or any Appendix X(s) that may have been negotiated, if applicable; and in compliance with New York State and federal laws, rules and regulations including any requirements established by the Department, and, with the provisions of Office of Management and Budget (OMB) Circulars A-87 or A-122, or A-21 and A-133 as applicable, and the accounting requirement thereunder even where federal funds are not involved,.

Funding

Funding on this Agreement will be provided twelve months at a time unless expressly provided otherwise on the Face Page. Continuation of this Agreement at the end of each twelve month period will be contingent on the Department obtaining funds for the subsequent fiscal year, as well as, satisfactory performance by the Contractor as defined by the Department's performance standards.

For multiyear funding, to obtain an additional twelve months of funding, the Contractor must submit all documents stated in the Standard Agreement within 30 days of notification by the Department that the contract will be renewed for an additional twelve months. Such documents must reflect the amount of funding provided by the Department as indicated in the above mentioned notification from the Department. In addition, the Contractor must provide a complete budget summary with full details of all planned program expenditures and any other information required by the Department.

The Department shall not be liable for any obligation incurred by the Contractor which is in excess of the funding set forth on the Face Page of the Agreement or any subsequent Modification Agreement.

Contractor's General Responsibilities

The Contractor agrees to identify 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 the Department, to the degree that such change is within the reasonable control of the Contractor.

The Contractor agrees to strictly 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. If any specific event or conjunction of circumstances threatens the successful completion of this project or the contractor's ability to meet strict compliance with all the terms of this Agreement, its appendices, and amendments, in whole or in part, including where relevant, timely completion of milestones, the Contractor agrees to submit to the Department within five days of occurrence or perception of such problem, a written description thereof together with a recommended solution thereto.

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.

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.

The Contractor ensures that the grounds, structures, buildings and furnishings at the program site(s) used under this Agreement are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.

Initial Payment

1. Advance Payment

Not-for-Profit Organizations, Municipalities, School Districts or Boards of Cooperative Educational Services, and only these entities, may request an initial advance of funds for contract disbursements from the Department in an amount of up to twenty-five (25) percent of the **annual contract amount**, if deemed appropriate by the Department. The advance shall be offset by crediting the amount of the advance in the last quarter of the contract, or 33 1/3 percent of the advance in each of the last three months of the contract unless, in the Department's discretion, offset shall be recovered sooner. If the amount of the monthly voucher is not sufficient to cover the proportionate advance amount to be recovered, then subsequent vouchers will be reduced until the advance is fully recovered. Any unexpended advance balance at the end of the contract period will be refunded by the Contractor to the Department. In the event either party terminates the Agreement prior to its expiration, the Contractor agrees to refund to the Department immediately any advance balance then outstanding.

For performance based milestone contracts, if the reconciliation of the advance against payments earned by the Contractor indicates that the

Contractor has not attained sufficient level of milestone targets to support the full amount of the advance, then the Contractor shall return the balance of the unearned advance to the Department.

In year one the advance will only be paid when a fully executed Planning Grant or Agreement is in place.

Subcontract agreements (if applicable) that have not been received, reviewed, and approved by the Department may reduce the amount of the advance.

In subsequent years, an additional optional advance of up to 25% may be made available to continue the program. This optional advance will be contingent on the Department obtaining funds for the subsequent fiscal year, as well as satisfactory performance by the Contractor as defined by the Department's performance standards. In the event an Agreement is not renewed, the Contractor must return any monies advanced under this mechanism within 30 days of the Agreement termination date.

In order to receive an advance payment, in both the first year and subsequent years, any not-for-profit Contractor other than municipalities requesting an advance of funds must submit the following document(s) to the Department:

- a) A statement from a certified public accountant certifying that the Contractor's bookkeeping practices have been reviewed within the past 12 months and meet generally accepted accounting principles. (This document is required for the original and renewal contract.)
- b) A copy of a fidelity bond covering all persons who will handle funds granted by the State. This bond shall be at least equal to or greater than the maximum amount of any advance, and shall include the Department as co-insured; (This document is required for the original contract. A copy of the paid invoice is required for the renewal contract and should include coverage dates applicable to the expenses.)
- c) A statement of program responsibility and tax certification as outlined under Section E below.
- d) A complete voucher ("Form AC 92" or "Standard Voucher") requesting the allowable advance payment. (This voucher is required for the original and renewal contract.)

Advance payment will be made within 30 days after the renewal period start date, as appropriate, or 30 days after the receipt of the advance request and required documentation from the Contractor, as outlined above, whichever is later.

2. Reimbursement Voucher

If the Contractor does not qualify for an advance payment or does not provide the appropriate documentation to support the receipt of an advance payment, then the initial payment under the contract shall be in the form of a reimbursement payment not less than quarterly. In this case, the initial reimbursement payment will be processed within 30 days of the submission of an acceptable reimbursement voucher, in accordance with the format and time frames specified under Section E, Program Responsibility and Tax Certification, Section F, Voucher Documents, and Section G, Voucher Submittal outlined below.

E. Program Responsibility and Tax Certification

All Contractors Other than Municipalities

Prior to any payments being made, a statement must be submitted signed by the Chairman of the Board of Directors, Chief Operating Officer or other appropriate Chief Executive Official, accepting responsibility for operation of this program and certifying that all Federal, State (including Unemployment Insurance taxes), Local taxes, and fringe benefit payments resulting from operation of this program will be paid and that no past taxes are due and owing. (This statement is required for the original and renewal contract).

F. Voucher Documents

For contract expenses, the Contractor will be paid only after submission of a detailed reimbursement request form (GA 92) in the format and detail established by the Department. This request may be subject to a 15 day audit and inspection period. Reimbursement will only be made for actual expenses that have been documented. Supporting documentation must be submitted along with the detailed reimbursement request form (GA 92). This supporting documentation should be arranged in a format consistent with the Contract's budgetary categories and summarized in a format provided by the Department.

The Contractor's payment requests shall include a statement of expenses and charges by major budget category for work actually performed or expenses incurred in accordance with the terms of this Agreement during the period covered by the request.

For performance based milestone contracts, the Contractor will be paid after submission of a voucher (Form AC 92 or Standard Voucher) and all necessary supporting documentation, as required by the Department to determine that Contractor has achieved the Milestones set forth in this Agreement.

When costs to be vouchered are not 100 percent attributable to the instant Agreement, such costs must be allocated, apportioned or assigned to the Agreement through some kind of distributing methodology, the methodology must be clearly identified and approved by the Department or otherwise consistent with OMB Circulars A-87, A-122, or A-21. This methodology must be consistent with generally accepted accounting principles and appropriate for monitoring and auditing the Agreement. Costs assigned to the Agreement using this methodology must be supported by appropriate documentation in the Contractor's files. Contractors who have not been subject to an audit relative to the assignment of such costs, or who are at all unsure of how to allocate such costs, should request assistance in allocating such costs as this is an area where Contractors often run afoul of contract requirements.

G. Voucher Submittal

Vouchers reporting all expenses and unpaid bills, or milestones achieved where payment is based on performance, should be submitted within 15 days after the end of the month for monthly reimbursement, or 15 days after the end of the last month of the quarter for quarterly reimbursement. Vouchers not received within 30 days may result in the issuance of a warning letter via registered mail, advising the Contractor of this deficiency. The Contractor will then have 30 days from the receipt of this letter to submit a voucher or the Department may unilaterally deobligate contract funds.

Upon examination of the Contractor's payment requests and supporting material, the Department may, in its sole discretion, modify or adjust the amount requested to reflect actual contract funds expended, or should actual milestones achieved where payment is based on performance, as of the date of the request.

H. Matching Requirement

If matching contributions are indicated on the budget summary of this Agreement, match must be reported in conjunction with requests for reimbursement and must be supported by a summary of costs by category of expense. All required match must be fully incurred and reported during the term of the Agreement. The appropriate support documentation must be

maintained on the Contractor's premises for audit purposes in accordance with the record retention schedules provided herein. If Contractor fails to provide match required under the Agreement, payment of contract funds may be withheld and contract payments may be reduced accordingly.

I. Deobligations/Sanctions

If the Department decides that the Contractor is not achieving the contract's goals, payments to the Contractor may be delayed or withheld. If this failure to meet goals is not corrected, the contract may be terminated or modified with 30 days notice from the Department to the Contractor. This decision to terminate or modify may be appealed in accordance with Provision Q (Disputes) of these Terms and Conditions.

J. Program Modification

The Contractor shall promptly request prior approval from the Department for modification of the Agreement whenever there is a change in the scope or objectives of the program, the funding level, and if it is deemed necessary, the length of the agreement to meet program objectives. Any such modification shall be subject to the approval of the State Comptroller. Modifications will be necessary for any of the following changes:

- 1) An increase or decrease in funding;
- 2) A transfer of funds among program activities or budget cost categories; with any proposed modification to the contract which results in a change of greater than 10 percent to any category must be submitted to OSC for approval.
- 3) Any change to any of the dates specified for any specific program activity which would take that program activity outside the contract time period;
- 4) A change in any of the participants specified to receive any specific program activity;
- 5) A change in any of the specific program activities which make up the program;
- 6) A decrease of 15 percent or more in the number of individuals to be served in planned enrollment for program activities, or in the number of individuals served within significant client groups; and
- 7) A change in the dates of the Agreement.

The Contractor shall prepare and submit modifications with complete justification in sufficient time to allow processing and approval prior to the effective date of the changes. Modifications

to extend the term of the Agreement are to be submitted at least 60 days prior to the original termination date.

The Contractor shall prepare and submit modifications in accordance with the requirements established by the Department.

If the initial Agreement with the Department is a Planning Grant, the Contractor agrees to submit a fully completed contract within 30 days of submission of the Planning Grant. A fully completed Agreement shall include a Program Narrative and budget in the detail and format required by the Department.

Furthermore, while it will not require an Agreement modification, any changes to the dates specified in the Agreement for a program activity, where such dates remain within the contract time period, requires that notification be given to the appropriate Department grant manager.

K. Disclosure of Unemployment Insurance Records

The Contractor hereby authorizes the Department to disclose to appropriate Department staff all records of delinquencies by the Contractor in making unemployment insurance (UI) contributions required by the unemployment insurance law. Please be aware that ANY Unemployment Insurance delinquencies may significantly delay the execution of this Agreement

L. Contract Closeout

Closeout Payments

This Agreement's funds are only available during the period in which a valid New York State appropriation is in effect. To ensure reimbursement for valid Agreement costs, the Contractor must submit a closeout voucher one month prior to the lapse date of the appropriation or within 60 days after the end of the contract funding year, whichever comes first. The voucher must account for all contract expenses - all paid expenses plus all unpaid liabilities by cost category. For performance based milestone contracts, or for any portion of the contract paid on a performance basis, a closeout voucher must include all remaining milestones achieved by the Contractor, and must be submitted no later than 60 days following the end of the contract period. The Department will deobligate all funds not accounted for in this closeout voucher. The funds that are not deobligated will be reserved for up to six months after the contract end date or the lapse date of the appropriation, whichever comes first.

2) Contractors with Insufficient Cash

At the time the closeout voucher (see Section "L.1" above) is submitted, the Contractor may, When applicable, request maintenance of an advance payment sufficient to allow payment of unpaid bills. In order to maintain this advance, copies of all unpaid bills on hand, clearly labeled "unpaid" must be submitted with the closeout voucher. The Department will advance sufficient cash to pay those bills. The Contractor will have an additional forty-five (45) days from the submittal of this close-out voucher to submit a final voucher, with appropriate documentation, accounting for this advance.

3) Contractors with Excess Cash

If at the time the closeout voucher (see Section "L.1" above) is submitted, the Contractor has received cash exceeding the amount of vouchered expenses plus unpaid bills in hand, the Contractor will immediately refund such excess to the Department. For the portion of the contract amount paid on a performance basis, if the Contractor has received cash in excess of the amount of the actual milestones achieved, the Contractor will immediately refund such excess to the Department.

4) Contractors with Outstanding Liabilities

Contractor may, when applicable, request an advance to pay for certain categories of allowable expenses for which the Contractor has not yet received bills at the time a closeout voucher is submitted. To receive an advance, the Contractor must submit a request for cash along with copies of the bills clearly marked unpaid in accordance with paragraph 2 above.

M. Income/Refunds

1) Program/Interest Income

The Contractor shall report in the manner prescribed by the Department all gross interest income or program income earned by activities supported under this Agreement. Such income earned during the grant period shall be transmitted at the termination of this Agreement to the Department, unless the Department directs otherwise in writing.

2) Refunds and Rebates

When applicable, if the Contractor receives a refund or rebate on an item of expense paid for with contract funds, the amount of the refund or rebate must be promptly refunded to the Department. This can be done either by a check to the Department or by a credit against contract expenses.

N. Offset Provision

All monies due or owed to the Department under this Agreement as a result of unspent advances, credits, returns, rebates, refunds or expenditure disallowances shall be returned to the Department within 60 days of the Agreement termination date. Any funds not returned by this date (as well as any unpaid unemployment insurance tax liabilities) may, upon written notification be recovered by offsetting the amount due against any other reimbursement request under any contract entered into with the Department to the extent provided for by law.

O. **Records and Accounts**

The Contractor shall provide for the maintenance of such documents, records and accounts as required by the Department to assure a proper accounting for program activities and funds. The proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. For performance based milestone contracts or for the portion of the contract amount paid on a performance basis, among other things, the Contractor must maintain documentation to prove that milestones were in fact achieved. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the Comptroller of the State of New York. The Contractor shall retain and make available any and all grant records to representatives of the Labor Department, the State Comptroller, the U.S. Department of Labor, and the Office of the Inspector General of the United States as appropriate, for inspection, audit, transcription or reproduction at all reasonable times during the course of the Agreement and for the period set forth as follows:

- a) For the period of six years after the submission of the final expenditure report, or for contracts paid on a performance basis, the final voucher by the Contractor. If the Agreement is terminated during the course of the operating period, for a period of six years from the date of the final settlement agreement.
- b) If, prior to the expiration of the six year retention period, any litigation or audit is begun or a claim is instituted involving the Agreement covered by the records beyond the six year period until one year after the litigation, audit findings, or claim involving the records has been resolved.
- c) When records subject to retention requirements are transferred to the Department, the U.S. Department of Labor, as appropriate, the six year retention period shall not apply. The Contractor need not retain duplicates of records transferred to or maintained by the Department or the U.S. Department of Labor.

d) Notwithstanding paragraphs a, b, and c, the Contractor shall maintain a record of each participant's participation in the program, including dates of entry and termination in each activity and shall retain such records for each participant for a period of five years from the date of enrollment into the program.

The Contractor is authorized to substitute microfilm or electronic copies in lieu of original records in accordance with the regulations of the Department.

P. Reporting

The Contractor will report participant and financial information to the Department on the forms designated and at the intervals specified by the Department. These reports must be submitted by the deadlines established by the Department. Failure to comply with these reporting requirements may be cause for termination of the contract, or for the delay or withholding of payment. For participant data, the Contractor will use the formats provided by the Department to report services to individuals as these services are provided. For fiscal data, the Contractor will use the formats provided by the Department to report contract cash and accrued expenditures, and match expenditures. This information is to be provided no less than quarterly unless the Department, in its sole discretion, requires monthly or bi-monthly reporting with reports submitted to the Contractor's Department account executive by the fifteenth of the month following the period of the report.

Q. Disputes

Except as otherwise provided in this Agreement, any dispute concerning a question of fact which is not disposed by agreement shall be decided by the Commissioner of Labor, who shall furnish a copy thereof to the Contractor. Appeal shall be handled in accordance with the Department 's procedural rules for hearings (12 NYCRR Part 701). A request for hearing must be submitted to Commissioner of Labor within 30 days of receipt. The decision of the Commissioner of Labor, shall be final and conclusive unless determined by a court or competent jurisdiction to have been fraudulent, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

R. Termination or Suspension of Grant

The Department may suspend or terminate this Agreement in whole, or in part, at any time before the completion date:

- 1) Whenever it has been determined that the Contractor has failed to comply with provisions of Federal and State Law, rules and regulations, the requirements of the Department, or the terms and conditions of the Agreement.

- 2) Whenever the Department determines that the Contractor is failing to achieve program goals and the Contractor fails to take corrective action prescribed by the Department.
- 3) When the Contractor fails to comply with the participant and fiscal reporting requirements established by the Department.
- 4) When the Department determines that the Contract was secured by the Contractor as the result of gratuities.
- 5) When Federal or State funds become unavailable as provided below.
- 6) Whenever, for any reason, the Commissioner of Labor shall determine that such termination is in the best interest of the State.
- 7) For grant contracts with Not-for-Profit Contractors only which provide for renewals: Pursuant to State Finance Law 179-t, the Department is required to notify Not-for-Profit Contractors of its intent not to renew a grant contract no later than 90 days prior to the end of the contract term. If the Department does not provide notice to the Not-for-Profit Contractor of its intent not to renew a grant contract as required under State Finance Law §179-t, the grant contract shall be deemed continued until the date the Department provides such 90-day notice to the Not-for-Profit Contractor in accordance with State Finance Law §179-t. Expenses incurred during such extension shall be reimbursable under the terms of the grant contract.

The Department shall send notice of suspension or termination to the Contractor which will specify the extent of suspension or termination, the reason for suspension or termination, and date such suspension or termination becomes effective. In lieu of suspension or termination, the Department may specify a cure (probationary) period during which time the Contractor will be required to correct any program deficiencies or contract breach.

Upon receipt of notice of suspension, the Contractor shall discontinue further commitments of grant funds to the extent that they relate to the suspended portion of the Agreement .

Upon receipt of notice of termination, the Contractor shall (1) discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the Agreement; (2) promptly cancel all subcontracts utilizing funds under this Agreement to the extent that they related to the termination portion of the Agreement; (3) settle, with the approval of the Department, all outstanding liabilities and claims arising from such terminations; (4) submit within a reasonable time period but not to exceed three (3) months after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement

of all unreimbursed costs related to the terminated portion of the Agreement, but such final statement will not include the cost of preparing a settlement proposal.

If the total amount of reimbursable costs for the terminated portion of the Agreement is less than the total payment theretofore made to the Contractor, the Contractor shall promptly repay the Department the excess amount.

To the extent permitted by law, this Agreement shall be deemed in the sole discretion of the Department 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 the Department to the Contractor.

Should the Department determine that Federal or State funds are limited or become unavailable for any reason, the Department may reduce the total amount of funds payable to the Contractor, reduce the contract period, suspend the Agreement or deem this Agreement terminated immediately. The Department agrees to give notice to the Contractor as soon as practicable, in the event of termination under this paragraph. If the initial notice is oral notification, the Department shall follow this up immediately with written notice.

S. Recoupment of Funds/ Program Audits

The Department shall have the right to audit or review the Contractor's performance and operations as related to this Agreement and/or to retain the services of qualified independent auditors or investigators to perform such audit and review on the Department's behalf. If the review indicates that the Contractor has violated or has not complied with the material terms of the Agreement or any other Agreement with the Department, or has abused or misused the funds paid to the Contractor, the Contractor agrees to pay to the Department any costs associated with the review. In addition, the rights of the Department shall include, but not be limited to:

- Recovery of any funds expended in violation of the Agreement;
- Suspension of Payments;
- Termination of the Agreement; and/or
- Employment of another entity to fulfill the requirements of the Agreement.

The Contractor will assist the Department in transferring the operation of the contracted services to any other entity selected by the Department in a manner that will enable the Department or clients to continue to receive services in an on-going basis, including, but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' records and all other records necessary to continue the provision of the transferred

services, and transferring any equipment purchased with funds provided under this Agreement.

Nothing herein shall preclude the Department from taking actions otherwise available to it under law including but not limited to the State's "Set-Off Rights" and "Records" provisions contained in Appendix A (Standard Clauses for all New York State Contracts).

The Contractor agrees to cooperate fully with any audit or investigation the Department or any agent of the Department may conduct and to provide access during normal business hours to any and all information necessary to perform its audit or investigation. If the Contractor fails to cooperate, the Attorney General, State Comptroller, the Department, and any representatives specifically directed by the State Comptroller or the Department shall take possession of all books, records and documents relating to this Agreement without prior notice to the Contractor. The Department will return all such books, records and documents to the Contractor upon completing the official purposes for which they were taken.

The Contractor agrees that all agreements between the Contractor and a subcontractor or consultants for the performance of any obligations under the Agreement will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Department.

At the termination of any program grant, the Department may recoup funds provided to Contractor if it is determined pursuant to an audit that the Contractor failed to meet its performance goals, failed to provide match, received payments for expenses that cannot be verified with the appropriate documentation, abused or misused funds or otherwise failed to comply with federal or State statutory requirements of the grant.

T. Subrecipient Audits (Only applies to Agreements containing federal monies.)

All Contractors and subcontractors who are determined to be subrecipients pursuant to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and 29 CFR Part 99 are subject to the following:

All states, local governments and non-profit organizations that expend \$500,000 or more in Federal funds under more than one Federal program in any fiscal year must obtain an independent, organization-wide, single audit conducted in accordance with OMB Circular A-133.

In the alternative, any state, local government or non-profit organization, that expends \$500,000 or more under only one Federal program, and that Federal program's laws, regulations or grant agreements do not require a financial

statement audit of the auditee, may elect to have a program-specific financial and compliance audit.

For-profit organizations that expend \$500,000 or more in Federal funds in any fiscal year must have either an independent, organization-wide, single audit conducted in accordance with OMB Circular A-133 or a program-specific financial and compliance audit.

The audits for Contractors are to be submitted within one month after receipt of the auditor's report or no later than nine months after the end of the Contractor's fiscal year to the following address:

New York State Department of Labor
Division of Employment & Workforce Solutions
Office of Contract Review and Expenditure Control
Room 425
Albany, New York 12240

Contractors are responsible for collecting audits from subcontractors determined to be subrecipients pursuant to OMB Circular A-133 and 29 CFR Part 99 and must make the audits available for review or inspection.

Any Contractor that expends less than \$500,000 in Federal funds are exempt from Federal audit requirements for that fiscal year, but records must be made available for review or audit by appropriate officials of the U.S. Department of Labor, New York State Department of Labor, and U.S. General Accountability Office (GAO).

To determine when a Federal award has been expended, the Contractor should refer to OMB Circular A-133 and 29 CFR Part 99.205.

The Office of Contract Review and Expenditure Control shall evaluate any findings and recommendations in the Contractor's final audit report along with the related correspondence and Corrective Action Plan (CAP), which may include the expected auditee action to repay disallowed costs, make financial adjustments or to take other action, submitted by the auditee as part of the Department's audit resolution procedures. If the Office of Contract Review and Expenditure Control is in agreement with all aspects of the CAP, they will issue a management determination indicating the acceptance of the CAP. If the Contractor disputes the management determination of any finding, it has thirty (30) days from the date of this letter to request an independent hearing.

U. Publicity/Publications/Copyrights/Patents

Publicity includes, but is not limited to, news conferences, news releases, advertising, brochures, reports, discussions and/or presentations at conferences or meetings. The inclusion of the Department's materials, the Department's agency name, or other such reference to New York State and/or The Department of Labor in any document or forum is considered publicity. News releases, publicity or any other public announcements regarding this project may not be released without prior approval from the Department.

Any publication, training announcement, meeting or training session which is funded in whole or in part through any activity supported under this Agreement may not be published without prior approval of the Department, which results (1) shall acknowledge the support of the Department and the State of New York and, if funded with federal funds, the applicable federal funding agency, 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 the Department or the State of New York.

All materials developed and created by Contractor for the Department under this Agreement will be owned by the Department, will be considered to be "works made for hire" as defined in the U.S. Copyright Act, and are hereby assigned to the Department. Contractor agrees to execute all papers and perform all other acts reasonably necessary to assist the other to obtain and register copyrights and to effectuate the intention of this Agreement.

For all other pre-existing works, the Department 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 Department shall expressly acknowledge the Department's right to such license.

All of the license rights so reserved to the Department and the State of New York under this paragraph are equally reserved to the U.S. Department of Labor, as applicable, and subject to the provisions on copyrights contained in such federal agencies' regulations if the Agreement is federally funded.

The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this Agreement, it will provide to the Department, at no additional cost, a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis. The Contractor agrees and acknowledges the right of the Department to release the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

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 the

Department. 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 all applicable law and regulations.

V. Specific Prohibitions

Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, or breach or violation of this warranty. The Department shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the award, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

Non-Sectarian

The funds provided to the Contractor are for secular purposes and will be used to provide employment and/or training services as described in the Agreement to persons regardless of religious affiliation and shall be performed in a manner that does not discriminate on the bases of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs. No funds will be used for the advancement of a particular religion.

Political Activities

Funds provided pursuant to the 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.

W. Equipment/ Space

This section W. does not apply to performance based milestone contracts, which will be reimbursed in accordance with the milestone payment schedule as set forth in Appendix B.

In non-performance based milestone contracts, unless the cost is totally ascribable to the grant, these costs must be allocated according to an allocation plan which meets the requirements of OMB Circulars A-87 or A-122, or A-21.

Example 1: Contractor A uses its copier for both grant and non-grant business. In month 2 it makes 1000 copies, 100 of which are for the grant. Its total cost for the copier and supplies for that month is \$200.00. The cost allocation plan allocates copier costs according to the number of copies produced in a given month. Contractor A reports copier costs of \$20.00 for that month.

Example 2: Contractor B makes space in its office for work on the grant. Contractor B has one employee working on the grant for 50% of his/her time. The space used by the employee is 1/10th of the square footage of the office space. Contractor B pays \$2,000.00 a month in rent on the entire office. Contractor B's cost allocation plan allocates its lease payments according to the space used in a given month and the percentage of time that that space is used for grant purposes. Contractor B reports rent expense of \$100.00 for that month.

Equipment Procurement/Rental/Leases Equipment is tangible personal property having a useful life of more than one year and an acquisition cost of \$500 or more per unit.

If an item of equipment listed by the Contractor is available as surplus to the Department, the Department shall arrange to provide such equipment to the Contractor in lieu of purchase of such equipment. Title to all equipment purchased with funds under this Agreement shall be vested in the Department and disposition of all such equipment shall be part of the Contractor's final accounting under this Agreement. If the Department consents in writing, the contractor may retain possession of purchased equipment after the termination of this Agreement to use for similar purposes. The Contractor will return such equipment to the Department at the Contractor's cost and expense when it is no longer used for those purposes or upon the written request of the Department, whichever event happens first.

In addition, the Contractor agrees to permit Department representatives to inspect the equipment and to monitor its use at reasonable intervals during the Contractor's regular business hours. The Contractor shall be responsible for maintaining and repairing equipment purchased or procured under this contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the Department, naming the Department as an additional insured, covering the loss, theft or destruction of such equipment. The Contractor will be required to sign a certification form available from the Department, requesting custody of such equipment for continued use after termination of the contract.

As such, rental of equipment is encouraged where the total expenditure for rental will be significantly less than the purchase price. A rental charge to this Agreement for a piece of equipment owned by the Contractor will not be allowed.

Space

In situations where the Contractor is receiving reimbursement for Space Rental, it must be clearly indicated in the Budget Narrative section. In addition, the Budget Narrative must also indicate whether the Contractor rents or owns the space for which they are receiving reimbursement and the basis used in developing the rental charge.

X. State Travel Expenses

This section X. does not apply to performance based milestone contracts, which will be reimbursed in accordance with the milestone payment schedule as set forth in Appendix B.

Travel expenses may be reimbursed at [the lesser of] rates in line with the written standard travel policy of the entity or the NYS Comptroller's guidelines for Management Confidential employees. Such expenses must conform to the budget approved by the Department and be necessary for the performance of the work under this Agreement. In addition, no out-of-state travel costs are allowed unless specifically detailed and pre-approved by the Department.

Y. Provisions Governing Subcontracting

The Contractor may not assign, transfer, convey, sub-let or otherwise dispose of its right, title and interest in this Agreement, or its power to execute this Agreement to any other person, company or corporation without the previous written consent of the Department. In all cases where a Contractor with the Department subcontracts any portion of that agreement, the Contractor retains full liability and responsibility for assuring that all funds under that agreement, including those to any subcontractor(s) are expended in compliance with:

- The State and Federal laws, rules and regulations governing the expenditure of such funds; and
- The provisions of this contract including but not limited to budget specificity and reasonable cost allocation to line item.

The Contractor will be responsible for identifying in the Agreement its plan for subcontracting. When actual subcontracting details are not known, subcontract information - including a brief, but definitive, narrative description of each program or service to be subcontracted, with whom subcontracting will be implemented (if known), the anticipated outcomes and the projected budget - will be incorporated into the Agreement. The Agreement may then be conditionally approved.

When the actual subcontract is executed, the Contractor must provide detailed subcontract information (copy of subcontract will suffice) to the Department within

15 days after execution. If a copy of the subcontract is not provided, the details required will include:

- a) name of subcontractor;
- b) services to be performed;
- c) program design;
- d) anticipated outcomes; and
- e) line item budget - - with cost category explanations.

Failure to comply with the above may result in the withholding of funds, suspension and/or termination of the Agreement. Failure to resolve within 30 days any non-compliance issues identified by the Department's review of the subcontract information may result in the withholding of further funds until such time as the non-compliance issues are resolved.

Z. Training

All contracts and/or subcontracts must be approved by the Department and licensed or registered by the NYS Education Department where applicable.

AA. Non-Duplicative Reimbursement

Signature of this Agreement constitutes certification by the contractor that payment requests will not duplicate reimbursement of costs and services received from other sources.

AB. Minority and Women-Owned Business Enterprise and Equal Employment Opportunity Participation

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Department of Labor is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing, or (2) in excess of \$100,000 for real property renovations and construction.
- B. Contractor agrees, in addition to any other non-discrimination provision of the Contract and at no additional cost to the New York State Department of Labor ("NYS Department of Labor"), to fully comply and cooperate with the Department of Labor in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO"), and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These

provisions shall be deemed supplementary to, and not in lieu of, the non-discrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state, or local laws.

- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this procurement, the NYS Department of Labor hereby establishes an overall goal of 20% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 11% for Minority-Owned Business Enterprises ("MBE") participation and 9% for Women-Owned Business Enterprises ("WBE") participation.
- B. For purposes of providing meaningful participation by MWBEs on this Contract, and achieving the Contract Goals established in section III-A (above), Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<http://www.esd.ny.gov/MWBE.html>.
- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the NYS Department of Labor for liquidated or other appropriate damages, as set forth herein. A copy of the applicable regulations, 5 NYCRR Parts 140 through 145, is available at the following website: <http://www.esd.ny.gov/MWBE.html>.

III. Form MWBE 100 - MWBE Utilization Plan

- A. Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of this Contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on this Contract pursuant to the prescribed MWBE goals set forth in section III-A of this Appendix.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of this Contract. Upon the occurrence of such a material breach, NYS Department of Labor shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

IV. Waivers

- A. For Waiver Requests, Contractor should use Form MWBE 101 – Waiver Request.
- B. If Contractor, after making good faith efforts, is unable to comply with MWBE goals, Contractor may submit a Request for Waiver documenting the good faith efforts of the Contractor to meet such goals. If the documentation included with the waiver request is complete, the NYS Department of Labor shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the Department, upon review of the Utilization Plan and updated Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals, and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to Contractor. Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of the MWBE Contract Goals.

V. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form EEO 101) to the Department by the 10th day following the end of each quarter during the term of the Contract, documenting the progress made towards achievement of the MWBE goals of the Contract.

All reports must be submitted to the following address by the quarterly due dates outlined in the “M/WBE and Work Force Utilization Reporting Schedule” provided to the Contractor by the Department.

Division of Equal Opportunity Development
MWBE Administrator
NYS Dept. of Labor
State Office Campus
Building 12, Room 540
Albany, NY 12240
518-457-1984 Fax: 518-485-2575
NYC: 212-352-6603

VI. Liquidated Damages - MWBE Participation

- A. If the Department determines that Contractor is not in compliance with the requirements of this Contract, and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and,
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages, and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department, unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director pursuant to subdivision 8 of section 313 of the Executive Law, in which event the liquidated damages shall only be payable if Director renders a decision in favor of the Department.

VII. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. Contractor shall submit an EEO policy statement to the NYS Department of Labor within seventy two (72) hours after the date of the notice by NYS Department of Labor to award the Contract to the Contractor.
 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the NYS Department of Labor may provide the Contractor or Subcontractor with a model statement (see Minority and Women-Owned Business Enterprises Equal Employment opportunity Policy Statement).
 4. Contractor's EEO policy statement shall include the following language:
 - a. Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.

- c. 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.
- d. Contractor shall include the provisions of sections (a) through (c) of this subsection and paragraph "E" of this section, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Contract.

C. Form EEO 100 - Staffing Plan

To ensure compliance with this section, Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of this contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form, and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Form EEO 101 - Workforce Employment Utilization Report ("Workforce Report")

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the NYS Department of Labor of any changes to the previously submitted Staffing Plan. This information is to be submitted quarterly during the term of the contract in the Workforce Report. The Report shall detail the actual workforce utilized in the performance of the contract under the specified categories listed, including: ethnic background, gender, and Federal occupational categories.
2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the subject contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions, and applicable case law. Contractor and subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE

Contractor will and will cause its contractors and subcontractors to, take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations;
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly;
- (3) Ensure that plans, specifications, request for proposals, and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs;
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation;
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals; and
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived, or appropriate alternatives developed, to encourage M/WBE participation.

EEO

(a) Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) 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 disability, or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative 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 this organizations' obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) Contractor will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

_____ 20% Minority and Women's Business Enterprise Participation

_____ 11% Minority Business Enterprise Participation

_____ 9% Women's Business Enterprise Participation

EEO Contract Goals

_____ % Minority Labor Force Participation

_____ % Female Labor Force Participation

(Authorized Representative)

Title: _____

Date: _____

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 and 5 NYCRR 143, 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 the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(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, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts 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. 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 Department of Economic Development's Division 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.