

**CONTRACT FACE PAGE**

<p><b>STATE AGENCY:</b>                  NYS Department of State                  41 State Street                  Albany, NY 12231 - 0001</p> <p><b>ORIG. AGENCY CODE:</b>                  19000</p>	<p><b><u>NYS COMPTROLLER'S #:</u></b></p>
<p><b><u>CONTRACTOR (name and address):</u></b></p>	<p><b><u>TYPE OF PROGRAM(S):</u></b>                  Community Services Block Grant (CSBG)</p> <p><b><u>CFDA #:</u></b>                  93 - 569</p>
<p><b><u>FEDERAL TAX IDENTIFICATION #:</u></b></p>	<p><b><u>MULTI - YEAR TERM:</u></b>  <b>FROM:</b> 10/01/2005      <b>TO:</b> 09/30/2010</p>
<p><b><u>CHARITIES REGISTRATION #:</u></b></p>	<p><b><u>CONTRACT AMOUNT:</u></b>                  \$</p>
<p style="text-align: center;"><b><u>STATUS:</u></b></p> <p>Contractor HAS <input type="checkbox"/> HAS NOT <input type="checkbox"/> timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> <p>Contractor IS <input type="checkbox"/> IS NOT <input type="checkbox"/> a sectarian entity.</p> <p>Contractor IS <input type="checkbox"/> IS NOT <input type="checkbox"/> a not-for-profit organization.</p>	
<p style="text-align: center;"><b>APPENDICES ATTACHED TO AND PART OF THIS AGREEMENT:</b></p>	
<p>APPENDIX A: Standard clauses as required by the Attorney General for all state contracts</p>	
<p>APPENDIX A1: Agency-specific clauses</p>	
<p>APPENDIX B: Budget</p>	
<p>APPENDIX C: Payment and Reporting Schedule</p>	
<p>APPENDIX D: Program Work Plan</p>	
<p>APPENDIX X: State of New York Modification Agreement Form</p>	

**SIGNATURE PAGE**

IN WITNESS THEREOF, the parties hereto have executed and approved this AGREEMENT on the dates below their signatures.

Contract No. \_\_\_\_\_

CONTRACTOR

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE AGENCY:

New York State Department of State

By: \_\_\_\_\_  
\_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

State Agency Certification

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

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss.:

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that (s)he resides at \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described herein which executed the foregoing instrument; and that (s)he signed (her)his name thereto by order of the board of directors of said **corporation**.

\_\_\_\_\_  
NOTARY PUBLIC

APPROVED:  
ATTORNEY GENERAL

By: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED:  
ALAN G. HEVESI, COMPTROLLER

By: \_\_\_\_\_  
Date: \_\_\_\_\_

## STATE OF NEW YORK AGREEMENT

This AGREEMENT is made by and between the State of New York acting by and through the Department of State (“STATE”), and the public or private agency (“CONTRACTOR”) identified on the face page (“Face Page”).

WITNESSETH:

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

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

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

### **I. Conditions of Agreement**

- A. The term of this AGREEMENT shall be five years (the “Term”) unless otherwise specified on the Face Page. Within this Term the funding will be awarded on an annual basis (“Budget Period”).
- B. Funding for the entire contract Term shall not exceed the aggregate funding amount specified on the Face Page (“Contract Amount”). Funding for each Budget Period shall be set forth in Appendix X and include an annual budget (Appendix B) reflecting that amount. The STATE will notify the CONTRACTOR in writing and the CONTRACTOR will submit the required documents. In the event that the amount for the new annual period causes an increase in the Contract Amount, such Contract Amount will require the approval of the Office of the State Comptroller before it is deemed effective.
- C. This AGREEMENT incorporates the Face Page attached and all of the marked appendices identified on the Face Page. This AGREEMENT may be modified by a subsequent modification agreement (Appendix X).
- D. To modify this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (Appendix X). Any terms of this AGREEMENT not modified shall remain in effect for the Term of the AGREEMENT. Any change in the Contract Amount, or change in the Term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines or as stated in Appendix A1.
- E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Work Plan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

- F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.
- G. Appendix A (Standard Clauses as required by the Attorney General for all New York State contracts) takes precedence over all other parts of the AGREEMENT.

## **II. Payment and Reporting**

- A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by STATE fiscal guidelines, in a manner acceptable to the STATE.
- B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for the Term, a sum not to exceed the Contract Amount. Payments during any Budget Period shall not exceed the amount awarded or allocated for that Budget Period. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.
- C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

## **III. Terminations**

- A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.
- B. The STATE shall have the right to terminate this AGREEMENT early for: (i) unavailability of funds; (ii) cause; or (iii) convenience. The State may only invoke its right to terminate for convenience on the anniversary date of the AGREEMENT or the anniversary date of any Budget Period (except for the expiration date of the TERM), provided that the STATE has given written notice to the CONTRACTOR no later than 30 days or more prior to the date of termination, except with respect to contracts that give the STATE a general right to terminate at any time.
- C. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.
- D. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.
- E. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

- F. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.
- G. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

#### **IV. Indemnification**

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.
- B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

#### **V. Property**

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

#### **VI. Safeguards for Services and Confidentiality**

- A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
- B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.
- C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A1.

## APPENDIX A

### Standard Clauses for All New York State Contracts

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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, licensor, 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 previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment 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 \$15,000 (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 \$30,000 (State Finance Law Section 163.6a).

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 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.

7. **NON-COLLUSIVE BIDDING REQUIREMENT.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants 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 contractor'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, AESOB, Albany, New York 12236.

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

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

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

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

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (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 Street, 7<sup>th</sup> floor  
Albany, New York 12245  
518-292-5220

May 2003

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Minority and Women's Business Development Division  
30 South Pearl Street, 2<sup>nd</sup> floor  
Albany, New York 12245  
<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 amendments 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. **PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (I) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

APPENDIX A1  
AGENCY SPECIFIC CLAUSES

## I. Purposes, Goals, Assurances, and Limitations:

The Department of State is the officially designated State agency responsible for the implementation of the Community Services Block Grant (CSBG) programs pursuant to the CSBG Act.

1.00 This contract is governed by the provisions of the following:

- (a) Statutes, a) Title VI of Public Law 97-35 as amended; 42 U.S.C. sections 9901, et seq., (as amended) NYS Executive Law Article 6D (as amended)
- (b) Regulations, a) 45 C.F.R. Part 96; Title 19, New York Compilation of Codes, Rules and Regulations, Part 700 and Part 701.
- (c) Policies and Procedures, a) the "Community Services Block Grant Management Plan" as amended from time to time, b) the Informational Memoranda issued by the federal Office of Community Services, c) approved Budget and Budget Support Documentation, d) approved CSBG work plan, e) CSBG Program Instructions, Informational documents and f) Fiscal and Program Memoranda, as amended from time to time.

1.01 The Statutes, Regulations and the Policies and Procedures are incorporated by reference as if fully set out in this Agreement;

The following are limitations on use of funds:

1.02 Construction of Facilities.--

- (a) Limitations.--Except as provided in paragraph (b), grants made under this subtitle (other than amounts reserved under P.L. 105-285, section 674 (b) (3)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.
- (b) Waiver.--The Secretary may waive the limitation contained in paragraph (a) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

1.03 Political Activities.--

- (a) Treatment as a State or local agency.--For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under this subtitle and receives assistance under this subtitle shall be deemed to be a State or local agency. For purposes of paragraphs (1) and (2) of section 1502(a) of such title, any entity receiving assistance under this subtitle shall be deemed to be a State or local agency.

- (b) Prohibitions.--Programs assisted under this subtitle shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with--
- i. any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;
  - ii. any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or
  - iii. any voter registration activity.
- (c) Rules and regulations.--The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this subsection, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

#### 1.04 Nondiscrimination.--

- (a) In general.--No person shall, on the basis of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall also apply to any such program or activity.
- (b) Action of Secretary.--Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with paragraph (a) or an applicable regulation, the Secretary shall notify the chief executive officer of the State and shall request that the officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to--
- i. refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;
  - ii. exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), as may be applicable; or
  - iii. take such other action as may be provided by law.
- (c) Action of attorney general.--When a matter is referred to the Attorney General pursuant to paragraph (b), or whenever the Attorney General has reason to believe that the State is engaged in a pattern or practice of discrimination, in violation of the provisions of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

The Department is statutorily authorized to enter into a contract with the CONTRACTOR for the

performance of certain activities in consideration of certain funding.

## **II. Definitions:**

- 2.00 Board of Directors: The tripartite board, as fully described in and required by 42 U.S.C., section 676B.
- 2.01 Budget Amendment: Written request from the CONTRACTOR, on forms provided by the Department, to amend the Budget (Appendix B) previously approved by the Department.
- 2.02 CONTRACTOR: (a) An eligible entity as defined by Public Law (P.L.) 105-285, Section 673 (1) (a) including a migrant and seasonal farmworker organization; (b) Indian tribes or tribal organizations; and (c) the New York State Community Action Association.
- 2.03 Delegate Agency: A private not-for-profit corporation, including religious organizations, with whom the CONTRACTOR has entered into a contract for the performance of certain portions of the Work Plan (Appendix D).
- 2.04 Department: The New York State Department of State (DOS) whose office is located at 41 State Street, Albany, New York 12231-0001.
- 2.05 Management Plan: The Community Services Block Grant Management Plan prepared by the Department, submitted by the Governor, and accepted by the United States Department of Health and Human Services.
- 2.06 Poverty Line: The official poverty line issued by the U.S. Department of Health and Human Services.
- 2.07 Project: The services to be performed by the CONTRACTOR as set forth more specifically in Appendix D, entitled "Work Plan," consistent with the CSBG National Goals, local needs and the Federal purposes, goals, and assurances set forth in part I above.
- 2.08 Secretary: The Secretary of State, State of New York.
- 2.09 State: The State of New York.
- 2.10 Work Plan, Appendix D: The document prepared and submitted by each recipient as a condition for funding that includes the needs assessment, community partnerships, and the services and activities to be performed in order to implement the Federal purposes, goals, and assurances set forth in part I above.

## **III. Multi-Year Agreement and Program Year:**

- 3.00 The Term shall consist of five separate budget periods or federal fiscal years. Funds are allocated for each federal fiscal year (FFY).
- 3.01 The Contract Amount is an estimate of the funds that may be allocated during the Term. The Contract Amount may be modified if, upon the allocation of a new Federal Fiscal Year, the total allocations exceed the Contract Amount.
- 3.02 The approval, by DOS, of Appendix B shall establish each federal fiscal year allocation. Allowable Expenditures shall not exceed the federal fiscal year allocation.
- 3.03 The first FFY Allocation shall be set forth in Appendix B of this Agreement. Prior to the start of each subsequent federal fiscal year, DOS shall issue instructions for the completion of

Appendix B to budget the estimated allocation amount for that subsequent FFY.

- 3.04 During a Fiscal Year, DOS and the CONTRACTOR may agree to modify the annual allocation amount of the contract based on the actual federal grant award amount for that FFY. The CONTRACTOR shall submit for approval, by DOS, an amended Appendix B for that year, on forms provided by DOS.
- 3.05 The CONTRACTOR may request budget and/or work plan modifications within any federal fiscal year by submitting an amended Appendix B or Appendix D, in accordance with the forms provided by DOS.
- 3.06 The CONTRACTOR will be allowed to carry over unexpended funds to the next FFY, in accordance with federal statutory requirements of the applicable appropriation legislation.

#### **IV. The Project and Substantial Relations:**

- 4.00 The Project consists of the services to be performed by the CONTRACTOR, as set forth more specifically in Appendix D, entitled "Work Plan," consistent with the CSBG National Goals, local needs and the Federal purposes, goals, and assurances.
- 4.01 The CONTRACTOR agrees, to the extent the Project is to be performed by the CONTRACTOR, to be bound to the Department by the terms of the Management Plan, all applicable laws, rules, regulations, program instructions and informationals, and to assume toward the Department all obligations and responsibilities which the Department has assumed toward the United States Department of Health and Human Services (HHS) in accordance with 42 U.S.C. 9901. et. seq, as amended, and 45 Code of Federal Regulations (CFR) Part 96 and Part 1040, as amended. Unless otherwise agreed to in writing, the Department shall require the CONTRACTOR to enter into similar agreements with its Delegate Agencies. The CONTRACTOR will make available to its Delegate Agencies, at the CONTRACTOR's offices, copies of the relevant Contract Documents to which each Delegate Agency shall be bound. Each Delegate Agency Agreement shall contain a Statement that the Delegate Agency is so bound.

#### **V. DOS Obligations:**

- 5.00 To implement the program in accordance with the Federal purposes, goals, and assurances set forth in part I above.
- 5.01 To require all eligible entities to comply with the tripartite board requirement pursuant to P.L. 105-285, section 676B, as amended.
- 5.02 To review and approve all contractually required submissions, Delegate Agency Agreements, if any, and other documentation evidencing the CONTRACTOR's performance of services as set forth in the Community Action Plan and the CSBG Work Plan (Appendix D), and determine the CONTRACTOR's compliance with the Agreement.
- 5.03 To conduct a comprehensive on-site review of each eligible entity at least once during a three year period.
- 5.04 To monitor performance and outcomes, as stated in the CSBG Work Plan (Appendix D), and take necessary action in accordance with the provisions of the Management Plan and applicable Federal and State laws, rules and regulations, program instructions and informationals.
- 5.05 To make payments in the amount and upon the terms and conditions set forth in this

Agreement and in accordance with State Finance Law, Article 11-A, as amended, (commonly referred to as the Prompt Payment Law).

- 5.06 To perform the foregoing obligations with reasonable promptness in order to avoid delay in the orderly progress of the Work.
- 5.07 To comply with the Audit Resolution process set forth in Appendix C, 3.06.
- 5.08 To terminate or reduce funding when necessary in accordance with the process and procedures of P.L. 105-285, section 678C and 19 NYCRR, Part 700, as amended.

## **VI. CONTRACTOR Obligations:**

- 6.00 The Department is required to conduct a review of a prospective CONTRACTOR to provide reasonable assurance that the CONTRACTOR is responsible. To be considered responsible, a CONTRACTOR should have appropriate legal authority to do business in New York, a satisfactory record of integrity, appropriate financial, organizational and operational capacity and controls and acceptable performance on previous governmental contracts, if any. The state, and any of its agencies, may use information gathered, from whatever resources it deems appropriate, to assist in making a responsibility determination.
- 6.01 If this contract has a total value of \$100,000 or more in state provided funds, a CONTRACTOR Responsibility Questionnaire and Certification is included with the contract package. This Questionnaire is designed to provide information to assist, the contracting agency, in assessing a CONTRACTOR's responsibility, prior to entering into a contract, and must be completed and returned with the contract.
- 6.02 The CONTRACTOR hereby acknowledges that the CONTRACTOR Responsibility Questionnaire and certification, when applicable, is made a part of this contract by reference herein and that any misrepresentation of fact in the Questionnaire and attachments, or in any CONTRACTOR responsibility information that may be requested by the Department, may result in termination of this contract.
- 6.03 During the term of this Contract, any changes in the conditions for responsibility determination, cited in 6.02 above, shall be disclosed to the Department, in writing, on a timely basis. Failure to make such disclosure may result in a determination of non-responsibility and termination of the contract.
- 6.04 Should it be determined that a CONTRACTOR is not responsible, the Department will notify the CONTRACTOR in writing setting forth the basis for the determination and affording the CONTRACTOR reasonable time in which to refute the determination, justify why the basis for the determination is not relevant to this contract, or to take corrective action to eliminate the responsibility impediment. If the responsibility condition cannot be reconciled to the satisfaction of the Department and the State, the contract or contract offer will be terminated by written notification.
- 6.05 Unless otherwise required by specific terms and conditions of this Agreement:
  - (a) Non-Profit organizations shall administer this Agreement in accordance with OMB Circulars A-110 and A-122, as amended.
  - (b) Municipal organizations shall administer this Agreement in accordance with the Common Rule promulgated pursuant to OMB Circular A-102, as amended.
  - (c) In the event of a conflict between the terms of this Agreement and the terms of any of the OMB Circulars cited in (a) and (b) above, the terms of this Agreement shall control

unless specifically waived in writing by the Department.

- 6.06 The CONTRACTOR shall not be relieved from its obligations to perform the Project, in accordance with the Contract Documents, due to any acts or omissions of its Delegate Agencies, agents and employees or by reason of any monitoring or approvals required or performed by the Department.
- 6.07 The CONTRACTOR shall comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on performance of the Project and is responsible for obtaining any necessary permits or authorization for the performance of the Project.

## **VII. Delegation and Assignment:**

- 7.00 The CONTRACTOR's rights and obligations under this Agreement shall not be assigned or delegated without the prior written approval of the Department.
- 7.01 Any assignment or agreement entered into without the prior written consent of the Department shall be void and constitute an Event of Default as set forth in Part XI below.
- 7.02 No agreement, with a delegate agency or other entity, involving the use of funds under this Agreement shall be approved by the Department nor will any payment be made relating to such agreements, where officers, board members, and employees of such agency are involved in a situation which would result in a conflict of interest.
- 7.03 The CONTRACTOR shall specify in any contract that the delegate agency shall comply with all the terms and conditions of this Agreement and other requirements applicable to the CONTRACTOR in the conduct of the Project, and shall make available a copy of this Agreement and any approved amendments.

## **VIII. Delay:**

- 8.00 All time limits stated in the Contract Documents are of the essence in this Agreement. The CONTRACTOR shall begin the Project on the date of commencement of the Contract Period and carry the Project forward expeditiously with adequate personnel.
- 8.01 Excusable Delay is delay in progress of the Project caused by any act or neglect of the Department, or by conditions which cannot reasonably be anticipated, unavoidable casualties or causes beyond the CONTRACTOR's control. Excusable Delay is also any delay authorized in writing by the Department. In no event, however, may Excusable Delay extend the performance period beyond the Termination Date of this Agreement.
- 8.02 Inexcusable Delay is any delay in the progress of the Project not constituting an Excusable Delay pursuant to Section 8.01. Inexcusable Delay which continues uncorrected for a period of sixty days shall constitute an Event of Default.

## **IX. Extra Work:**

- 9.00 Extra work shall constitute work performed outside the scope of the Contract Documents. No claim for payment of extra work can be made.

## **X. CONTRACTOR Warranties:**

- 10.00 The CONTRACTOR warrants, to the Department, that the services to be performed, as set forth in the Community Action Plan and the CSBG Work Plan (Appendix D), under this

Agreement by the CONTRACTOR or its Delegate Agencies shall conform to and implement the Federal purposes, goals, and assurances as set forth in Part I above.

- 10.01 The CONTRACTOR warrants compliance with the restrictions and prohibitions regarding political activities set forth in P.L. 105-285, sections 678F (b) (1) and (2).
- 10.02 (a) The CONTRACTOR warrants that no person shall be excluded from, or be denied the benefits of, or be subject to discrimination, under any program or activity funded in whole or in part with funds made available under this subtitle on the grounds of race, color, national origin, and sex.
- (b) The CONTRACTOR warrants that it shall not engage in discrimination on the basis of age in accordance with the Age Discrimination Act of 1975, as amended, or with respect to otherwise qualified handicapped individuals as provided in § 504 of the Rehabilitation Act of 1973, as amended, with respect to any program or activity funded in whole or in part under this contract.
- 10.03 The CONTRACTOR warrants that it shall not engage in a conflict of interest as set forth in Part XIV below.
- 10.04 The CONTRACTOR warrants that payment received pursuant to this Agreement does not supplant other services or programs administered by the State.
- 10.05 The CONTRACTOR warrants to comply with the limitations, as set forth in P.L. 105-285, sections 678F (a) (1) and (2), that it shall not use funds made available under this agreement for the purchase or improvement of land, or the purchase of construction or permanent improvement of any building or other facility unless an approved waiver is obtained from the U.S. Department of Health and Human Services.
- 10.06 The CONTRACTOR warrants that it and its delegate agencies shall participate in the performance measurement system developed by the Office of Community Services.
- 10.07 The CONTRACTOR warrants that it shall inform custodial parents in single-parent families that participate in CSBG funded programs, services, and activities of the availability of child support services, and refer eligible parents to the child support office of the State and local governments.
- 10.08 The CONTRACTOR warrants that it and its delegate agencies shall submit to the Department an annual report including an accounting of the expenditure of funds for administration cost and direct delivery of services.
- 10.09 The CONTRACTOR warrants that it and its delegate agencies shall participate in the comprehensive onsite review and assessment implemented by the Department.
- 10.10 Breach of any of the foregoing warranties is an Event of Default, constituting substantial failure for purposes of Part XI below.

## **XI. Events of Default, Termination and Suspension for Eligible Entities including the Migrant or Seasonal Farmworker Organization:**

- 11.00 (a) An Event of Default constitutes a material breach of this Agreement and, unless cured within the period stated in the regulations referenced below, constitutes the basis for terminating or suspending the Agreement, in whole or in part, for cause, in accordance with 19 NYCRR Part 700, as amended.

- (b) For purposes of this agreement, a material breach constitutes one or more of the grounds for a notice of funding action for termination or suspension as set forth below.

11.01 (a) Termination: This Agreement may be permanently terminated, in whole or in part, for cause, when there has been substantial failure, or repeated or successive failure, by the CONTRACTOR to comply with a provision of law, rule, regulation or program instruction issued by the Department or a term or condition of this Agreement or a prior CSBG Contract with the Department. The ground for substantial failure under this subdivision (a) shall include the abandonment by the CONTRACTOR of the services to be performed under this Agreement, in whole or in part. Failure of the CONTRACTOR to resume performance of the services abandoned under this Agreement within 20 days after receipt of a notice of funding action in accordance with regulations, on the grounds of substantial failure by abandonment, shall be deemed refusal by such CONTRACTOR to take corrective action. In the absence of unusual circumstances, this Agreement shall not be permanently terminated, in whole or in part, for this cause, unless the Department has given the CONTRACTOR notice of such failure, as specified by regulation and reasonable opportunity to take effective corrective action.

- (b) Suspension: This Agreement may be suspended, in whole or in part, for cause when there has been substantial failure, or repeated or successive failure, by the CONTRACTOR to comply with a provision of law, rule, regulation or program instruction issued by the Department, or a term or condition of this Agreement or a prior CSBG Agreement with the Department. The ground for substantial failure under the subdivision (b), shall include the abandonment by the CONTRACTOR of the services to be performed under this Agreement, in whole or in part. Failure of the CONTRACTOR to resume performance of the services abandoned under this Agreement, within 20 days after receipt of a notice of funding action in accordance with regulations, on the ground of substantial failure or abandonment shall be deemed refusal by such CONTRACTOR to take effective corrective action. In the absence of unusual circumstances, this Agreement shall not be suspended, for this cause, in whole or in part, unless the Department has given the CONTRACTOR notice of such failure, as specified by regulations and reasonable opportunity to take effective corrective action.

11.02 In addition to those Events of Default, identified in other Sections of this Agreement, the Department may terminate or suspend this Agreement in accordance with 11.00 (a) or (b) above, for default by the CONTRACTOR, as provided below. The CONTRACTOR shall be considered in default of its obligations under this Agreement if:

- (a) The CONTRACTOR persistently disregards laws, rules, ordinances, regulations or orders of any public authority having jurisdiction;
- (b) Performance of the Work fails to substantially conform to the requirements of the Contract Documents;
- (c) The CONTRACTOR abandons or refuses to proceed with any or all of the Work;
- (d) The CONTRACTOR performs Work under this Agreement, in which officers, or employees of the CONTRACTOR have a direct or indirect interest that would result in a conflict of interest in accordance with Part XIV below.

11.03 Upon the occurrence and knowledge of any Event of Default, the Department shall notify

the CONTRACTOR in writing, as set forth in 19 NYCRR Part 700, as amended, of the nature of the default constituting a substantial failure and of the Department's preliminary determination of funding action to terminate or suspend this Agreement for default.

- 11.04 In the event of a confirmation by the Secretary of HHS of the Department's termination of the CONTRACTOR's present funding, in whole or in part, under this Agreement, all funds remaining allocated under this Agreement, shall accrue to the Department for reallocation, in accordance with Federal and State law and regulation, in furtherance of the performance of the Work Plan. Payments to the CONTRACTOR or approval by the Department of any New York State Aid Voucher, submitted by the CONTRACTOR, shall not affect the CONTRACTOR's obligations hereunder or the right of the Department to request or obtain a refund of any payment to the CONTRACTOR in excess of that to which the CONTRACTOR is lawfully entitled.

## **XII. Events of Default, Termination and Suspension for other Contractors:**

- 12.00 (a) For Fault. If the Department determines that the CONTRACTOR has failed to perform or will fail to perform all or any part of the CONTRACTOR's Services, obligations or duties required by the Agreement, the Department may terminate or suspend this Agreement in whole or in part or reduce the Project Goals and Priorities and the Total Grant Award of this Agreement upon written notice by certified mail, return receipt requested to the CONTRACTOR specifying the portions of this Agreement terminated, suspended or reduced. Such notice: (1) shall specify the violations of this Agreement; (2) and, in the case of termination, shall specify a reasonable period of not more than thirty (30) days nor less than fifteen (15) days from receipt of the notice, during which time the CONTRACTOR shall correct the violations during the period provided for in the notice, or this Agreement shall be terminated automatically upon the expiration of such time.
- (b) Not For Fault. Whenever the Department determines that termination of this Agreement in whole or in part is in the best interest of the State or in the event that termination is required by the Federal Agency, the Department may terminate this Agreement by written notice to the CONTRACTOR specifying the services terminated and the effective date of such termination. Upon termination, the CONTRACTOR shall be entitled to and the Department shall pay the costs incurred in compliance with this agreement until the date of such termination plus any cost the CONTRACTOR incurs directly resulting from such termination, provided, however, that the total amount to be paid to the CONTRACTOR shall not be more than the amount of Total Allocation specified in the Agreement.
- (c) The provision for termination shall not limit or modify any other right of the Department to proceed against the CONTRACTOR at law or under the terms of this Agreement.

## **XIII. Administrative Hearing Guidelines:**

- 13.00 Any CONTRACTOR may request an administrative hearing in accordance with the Administrative Hearing Guidelines, copies of which will be provided upon request.

## **XIV. Conflict of Interest:**

- 14.00 The CONTRACTOR warrants that its officers, board members, and employees do not have any interest, and will not acquire any interest, which would conflict in any manner or degree with the performance of this Agreement, provided that nothing in this Agreement shall be

construed to prohibit the provision of authorized services to any otherwise eligible household or individual.

## **XV. Complaints:**

- 15.00 (a) Nothing contained in this Agreement shall create or give to delegate agencies, or other parties not signatories to this Agreement, any claim or right of action on their behalf by the Department.
- (b) The Department shall consider written complaints from delegate agencies only for alleged substantial non-compliance by the CONTRACTOR with (1) terms and conditions of this Agreement; (2) terms and conditions of the Delegate Agency agreement; or (3) the CONTRACTOR's established written and publicly disseminated policies and procedures established specifically for carrying out its obligation under this Agreement.

## **XVI. Program Income, Inventions, Patents, and Copyrights:**

- 16.00 Any product or service which the CONTRACTOR proposes to develop, produce or create as part of the performance of the Work Plan, including, but not limited to, any item, right, process or invention capable of being copyrighted or patented, shall be submitted as a Program Income Proposal to the Department, in writing, and shall include: (i) a proposed workscope which specifies the item, right, process or invention to be developed, created or produced; (ii) a detailed budget which includes the amount of funds, percentage and type of staff use which will be involved with the process or invention; and (iii) a reasonable estimate of program income to be generated by the CONTRACTOR under this proposal and the manner in which program income to be generated under the proposed program income workscope shall be used to increase the scope of the Project in accordance with the Federal purposes, goals, and assurances set forth in part I above.
- 16.01 Any product or service, including any item, right, process or invention which was developed, produced or created during the performance of this Work Plan, for which prior, written approval of the Department was not obtained for performance of the program income workscope, as set forth in subdivision (a) of 16.01 of this Part, shall be subject to the following:
- (a) Any patentable item, patent right, process, or invention produced in performing the Project shall be reported fully and promptly to the Department. Determination as to the ownership and disposition of rights to any such Intangible Property, 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 by the Department. With respect to any subject invention in which the Department retains title, the Department shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced, for or on behalf of the Department, the subject invention.
- (b) With prior written approval of the Department, the CONTRACTOR may copyright any books, publications, or other copyrightable materials developed in the course of the Project; provided, however, that the Department reserves a royalty-free, transferable, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, such materials for State purposes.

## **XVII. Miscellaneous Provisions:**

- 17.00 In all published or disseminated materials, written, visual or audio produced by the CONTRACTOR in connection with this Agreement, the CONTRACTOR shall identify the Department as a source of project funds, and state that the Department of Health and Human Services allocates these funds to the State of New York. Neither the Department nor Federal agencies shall be responsible for the accuracy of any material or conclusion

contained therein. The CONTRACTOR shall deliver to the Department at least one copy of any disseminated materials concerning the Project or the Work issued by or on behalf of the CONTRACTOR.

- 17.01 Notices or other communications are to be given or directed to either party at the addresses specified above or to such other addresses either party may, from time to time, designate by written notice to the other party.
- 17.02 This Agreement shall be deemed executory only to the extent of monies available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond monies available for the purpose thereof.
- 17.03 The rights and duties and remedies set forth in the Contract Documents shall be in addition to and not in limitation of rights and obligations otherwise available at law.

### **XVIII. Federal Statutory Provisions:**

- 18.00 The CONTRACTOR agrees to comply with the following Federal laws:
- 18.01 The CONTRACTOR shall not maintain information about any individual in a manner which would violate any provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended. Advance notice will be given to the Department in the event the CONTRACTOR anticipates that information will be retained in a "system of records" as defined by the Privacy Act of 5 U.S.C. 552a(a)(5), as amended. Notice must be sufficient to enable publication of a system description in the Federal Register in accordance with 5 U.S.C. 552a(4)(ii) and the submission of a Report on New Systems in accordance with 5 U.S.C.
- 18.02 The equal opportunity requirements of Section 202 of Executive Order 11246 (41 CFR 60-1.4), as amended.
- 18.03 Title 10 CFR 1040, as amended, "Non-discrimination in Federally Assisted Programs," providing that no person shall on the grounds of race, color, national origin, sex, handicap, or age be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where the main purpose of the program or activity is to provide employment or when the delivery of program services is affected by the CONTRACTOR's employment practices, in connection with any program or activity for which the CONTRACTOR herein receives financial assistance.
- 18.04 No person with responsibilities in the operation of any program funded under this contract will discriminate with respect to any employee, program participant, or any applicant for participation in such program, because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.
- 18.05 Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 (d)), as amended, providing that no person in the United States shall, on the grounds of race, color, sex, national origin, age, handicap, or political affiliation or belief, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the CONTRACTOR herein receives financial assistance, and the CONTRACTOR will immediately take any measures necessary to effectuate this requirement.
- 18.06 Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)), as amended, and Executive Orders 11246 and 11375, that no employee or applicant for employment will be discriminated against because of race, color, sex, religion, or national origin.

- 18.07 The Equal Pay Act of 1963 (29 U.S.C. 201 through 219), as amended, prohibiting wage differentiation in employment based on sex.
- 18.08 The Age Discrimination in Employment Act (29 U.S.C. 621 through 634), as amended, and Executive Order 11141, prohibiting the practice of discrimination against an employee or applicant for employment on the basis of age. The CONTRACTOR shall not discriminate in employment against any person because of his or her age or specify in solicitations or advertisements a maximum age limit except and unless it is based upon a bona fide occupational qualification, retirement plan, or statutory requirement.
- 18.09 The CONTRACTOR shall take Affirmative Action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, sex, religion, national origin, or condition of physical or mental handicaps, provided, however, in the instance of a handicapped person, that the person's handicap does not prevent that person from doing the job that person would be hired to perform. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates or pay or other forms of compensation, and selection for training, including apprenticeship. The CONTRACTOR also covenants to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department's EEO Officer setting forth the provisions of this non-discrimination clause.
- 18.10 Debarment and Suspension and Lobbying Certifications
- (a) In accordance with regulations of the United States Department of Health and Human Services found in 45 CFR Part 76, the CONTRACTOR shall complete, certify, and submit the attached "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions" to DOS.
- (b) In accordance with P.L. 101-121, Section 319, 31 U.S.C. 1352, and implementing Federal regulations, the CONTRACTOR:
- i. is prohibited from using appropriated funds received under this Agreement for lobbying;
  - ii. shall certify by completing and filing with the Department a "Certification for Contract, Grants, Loans and Cooperative Agreements;"
  - iii. shall disclose specified information on any agreement with lobbyists whom the CONTRACTOR will pay with other Federal appropriated funds by completion and submission to the Department on the attached Standard Form - LLL, "Disclosure Term to Report Lobbying," in accordance with its instructions;
  - iv. shall file quarterly updates on the attached form LLL about the use of lobbyists if material changes occur; and
  - v. shall require that the language of such certification shall be included in the award documents for all subawards exceeding \$100,000 made by the CONTRACTOR and that all subCONTRACTORS shall certify and disclose accordingly.
- (c) The above-referenced certifications shall be completed and filed with the Department at the time of submission of this signed agreement in accordance with Title 31 U.S.C. Section 1352.

18.11 Environmental Tobacco Smoke

The CONTRACTOR shall comply with Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by

Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

The CONTRACTOR further agrees and certifies that the above language will be included in any subawards which contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1000 per day.

## **XIX. State Attorney General Charities Registration**

19.00 In accordance with the Estates, Powers and Trust Law § 8-1.4 (s), the recipient certifies that it is in compliance with the requirements of Estate, Powers and Trusts Law sections 8-1.4 (d), (f), and (g), regarding organizations which administer property for charitable purposes registering and filing periodic reports (together with the appropriate filing fees) with the New York State Attorney General's Charities Bureau. This certification is a material representation of fact upon which reliance was placed by the Department of State in entering into this contract with the CONTRACTOR.

The CONTRACTOR agrees that it will provide immediate written notice to the Department of State if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances.

## **XX. Article 15-A of the New York State Executive Law**

20.00 The Department of State administers a Minority and Women-owned Business Enterprises (MWBE) Program as mandated by Article 15-A of the New York State Executive Law. This law supersedes any other provision in State law authorizing or requiring an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises. Under this law, all State agencies must, subject to certain exceptions, establish goals for minority and women-owned business participation in certain State contracts and grants. Where MWBE goals are required, even in circumstances where this goal is zero, a *Quarterly Contractor Report* is required to be submitted to the Minority and Women-owned Business Program of the Department on forms provided by the Department.

Article 15-A requires that rules and regulations be established for contracts entered into by the Department. In accordance with Article 15-A, goals must be set for contracts entered into by the Department in excess of \$25,000 for labor, services, supplies, equipment, and materials, or any combination of the foregoing, and for contracts entered into by the Department in excess of \$100,000 for acquisition, construction, demolition, replacement, major repair, renovation or improvement of real property. In applying these rules and regulations, the Department must consider the availability of certified minority and women-owned businesses in the region in which the State contract will be performed, the total dollar value of the contract, the scope of work to be performed, and the project size and term.

The CONTRACTOR will, when required as a part of the bid or proposal, submit a *Staffing Plan* on the form provided by the Department. This *Plan* will detail the work force anticipated in the performance of the State contract, reported by ethnic background, gender, and Federal Occupational Categories.

After a bid opening and prior to the award of a State contract, the CONTRACTOR will submit an *Equal Employment Opportunity (EEO) Policy Statement* to the Department within the time frame established by the Department. The law requires that, as a precondition to entering into a valid and binding State contract, the CONTRACTOR will agree to the

following stipulations and will include them in the *EEO Policy Statement*:

- The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status.
- The CONTRACTOR will undertake or continue existing programs of affirmative action 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, affirmative action applies in areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- The CONTRACTOR will make active and conscientious efforts to employ and to utilize minority group members and women at all levels and in all segments of its work force on State contracts, and the CONTRACTOR will document these efforts.
- The CONTRACTOR will state in all solicitations and 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.
- The CONTRACTOR will, at the request of the Department, 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 because 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.
- The CONTRACTOR will include the provisions regarding the *EEO Policy Statement* and the *Staffing Plan* enumerated above in each and every subcontract of a State contract in such a manner that the subCONTRACTOR is bound by these requirements.
- Failure to provide an *EEO Policy Statement* and a *Staffing Plan* without reasonable written justification or commitment to provide these requirements by a specified date will result in rejection of the CONTRACTOR's bid or proposal.
- After the award of a State contract, the CONTRACTOR will submit to the Department a *Work Force Employment Utilization Report*, on the form supplied by the Department, detailing the work force actually utilized on the State contract, by ethnic background, gender and Federal Occupational Categories, as specified on the form. This *Report* will be submitted to the Department on a quarterly basis throughout the life of the contract.
- The CONTRACTOR, and any of its subCONTRACTORS, may be required to submit compliance reports relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State contract is executed.

Questions regarding this program should be directed to the Department's Minority and Women-owned Business Program by calling (518) 474-5741. Potential CONTRACTORS can access the *NYS Directory of Certified Minority and Women-owned Business Enterprises* on-line through the Empire State Development website at: <http://www.empire.state.ny.us>, double click (left column) on: NY♥BiZ (Doing Business in New York); put the cursor over: Small and Growing Business and, from that menu, click on: Minority and Women-Owned Business. From the center column, highlighted in blue, click on the bullet: "Search the Directory of Certified Minority - and Women-Owned Business Enterprises."

The Department makes no representation with respect to the availability or capability of any business listed in the *Directory*.

## **APPENDIX C**

### **PAYMENT AND REPORTING SCHEDULE**

#### **I. Financial and Program Reporting**

##### **1.00 Unaudited Financial Statement**

By not later than sixty (60) days following the end of the federal fiscal year, the Contractor shall have Unaudited Financial Statements of all funds received and expended for the respective federal fiscal year prepared in accordance with Fiscal Memorandum 98-1, as amended, and submitted to the Department's payment office for review and approval.

##### **1.01 Audits**

Pursuant to the Single Audit Act Amendments of 1996 (Public Law 104-156) funds received and expended pursuant to this Agreement are subject to the Audit Requirements of Office of Management and Budget (OMB) Circular A-133, as revised, "Audits of States, Local Governments, and Non-Profit Organizations" as follows:

- (a) Non-Federal entities that expend \$500,000 or more in Federal Awards in a fiscal year shall have a single Audit conducted in accordance with OMB Circular A-133 for that year.
  - (i) If the Audit contains findings or reports on prior Audit findings related to the Community Services Block Grant funds, the Contractor shall submit two (2) copies of the Reporting Package as set forth in A-133, Section 320(c) and any Management Letters issued by the auditor. Such Reporting Package must be submitted within nine (9) months following the end of the audited year or thirty (30) days following issuance by the auditor, whichever is earlier.
  - (ii) If the Audit does not contain any findings or reports on prior Audit findings related to the Community Services Block Grant funds, the Contractor shall comply with the pass-through entity notification requirement of A-133, Section 320 (e)(2) by submitting one (1) copy of the Reporting Package cited in (a) (i) above in accordance with the terms therein.
- (b) Non-Federal entities that expend less than \$500,000 in Federal Awards in a fiscal year are exempt from Federal Audit requirements for that year, but records must be available for review or Audit by appropriate officials of the Department of Health and Human Services, General Accounting Office and the State of New York.
  - (i) Whenever a Contractor determines that total federal award expenditures for a given fiscal year will be less than \$500,000 and an A-133 Audit is not required, the Contractor shall notify the Department's Contract Administration Unit, in writing, of this determination not later than sixty (60) days following the end of the affected fiscal year.
- (c) Contractor shall provide the Department with written notice of Audit entrance and exit conferences with its auditors at least fifteen (15) business days prior to the scheduled date of each conference. The Department reserves the right to attend and participate in these conferences.
- (d) Contractor shall be responsible for ensuring that the Audit reconciles with the Unaudited Financial Statements. Any discrepancies must be cited and explained in the Audit.

## 1.02 Program Reports

In accordance with PL. 105-285, Section 678E, all eligible entities are required to participate in a performance measurement system. All CSBG Contractors and Delegate Agencies in New York State will participate in the Result-Oriented Management and Accountability (ROMA) system approved by the US Department of Health and Human Services, Office of Community Services.

- (a) Periodic Progress Reports (PPR): Each Contractor shall prepare and submit two PPRs documenting progress toward achieving the milestones as stated in the approved Work Plan. The PPRs are due January 30 for October through December, and April 30 for January through March. Where applicable, the PPRs must include reports of Delegate Agencies.
- (b) Annual Report: Each Contractor shall annually prepare and submit to the Department a comprehensive report. The report must include the following:
- comparison of planned uses of CSBG funds and the actual uses of the funds
  - accounting of the use of CSBG funds for administrative costs
  - accounting of CSBG funds used for direct delivery of services to low-income persons
  - the numbers, characteristics and demographics of all persons served
  - a summary of the outcomes and results achieved in accordance with the purposes, goals and assurances of CSBG and ROMA
  - National Performance Indicators
  - listing of all resources leveraged
- The Annual Report shall be prepared on forms provided by the Department in the format requested by the Department, and must be submitted by November 1, each year.**

1.03 Upon request by the Department, the Contractor shall provide other reports, surveys, or questionnaires as the Department determines to be necessary to carry out its responsibilities in administering the program.

## II. Funding Allocation; Payments and Reports - FFY 2006

- 2.00 (a) **Total Allocation of Federal Funds:** \$\_\_\_\_\_
- (b) Contractor's estimate of Unexpended Allocation from FFY 2005 \$\_\_\_\_\_.
- (c) Supplemental Allocation of Federal Funds \$\_\_\_\_\_.
- (d) Total Project Cost shall consist of the Total Allocation of Federal Funds, as set forth in Section 2.00 (a), a Local Share equivalent to at least twenty five percent (25%) of the Total Allocation, and any Unexpended Allocation from the previous year.
- (e) If the Actual Unexpended Allocation from the previous year, as determined by the Department's review of the Unaudited Financial Statements for the previous year, exceeds the estimated amount by the greater of 10% or \$1,000, the actual amount must be incorporated into the Total Project Cost of FFY 2006 by a budget amendment. All Unexpended Allocation from the previous year must be expended within the first six months of the FFY 2006 Budget Period.
- 2.01 (a) Subject to the availability of funds, submission of properly executed State Vouchers requesting payments and compliance by the Contractor with the Financial and Program reporting requirements of this and all prior year contracts/amendments, payments will be made not earlier than fifteen (15) days immediately preceding the first day of each calendar quarter in accordance with the following:

If federal funding is awarded to the State based on a continuing resolution, advance payments to grantees will be calculated based on the amount received under each continuing resolution. Adjustments will be made immediately upon receipt of notice of full year funding.

- i. **FIRST PAYMENT** - By no later than October 31, 2005, or within thirty (30) days following notification from the Program Analyst and fiscal representative citing compliance with the Refunding Requirements, whichever is later, a check will be issued in an amount equal to twenty five percent (25%) of the FFY 2006 federal funds, as set forth in Section 2.00 **(a)**.
  - ii. **SECOND PAYMENT** - Upon receipt and approval of the Unaudited Financial Statements for FFY 2005; receipt and acceptance of a Financial Report documenting expenditure of at least twenty percent (20%) of the Total Allocation for FFY 2006, as set forth in Section 2.00 **(a)**; receipt and acceptance of the CSBG Annual Program Report for FFY 2005; and notification from the CSBG Program Analyst citing program accomplishments, a check will be issued in an amount equal to twenty-five percent (25%) of the FFY 2006 federal funds, as set forth in Section 2.00 **(a)**.
  - iii. **THIRD PAYMENT** - Upon receipt and approval of a Financial Report documenting expenditure of at least forty percent (40%) of the Total Allocation for FFY 2006 and one hundred percent (100%) of the Actual Unexpended Allocation from FFY 2005, and notification from the CSBG Program Analyst that the Periodic Program Report for October through December was reviewed and accepted and there is measurable progress toward achieving the goals for FFY 2006, a check will be issued in an amount equal to twenty five percent (25%) of the FFY 2006 federal funds, as set forth in Section 2.00 **(a)**.
  - iv. **FOURTH PAYMENT** - Upon receipt and approval of a Financial Report documenting expenditure of at least sixty percent (60%) of the Total Allocation for FFY 2006 and sixty percent (60%) of the Local Share budgeted for FFY 2006, and notification from the CSBG Program Analyst that the Periodic Program Report for January through March was reviewed and accepted and there is measurable progress toward achieving the goals for FFY 2006, a check will be issued in an amount which when added to the previous payments will represent 100 percent of the FFY 2006 federal funds, as set forth in Section 2.00 **(a)**. If less than sixty percent (60%) is documented as expended upon termination of the FFY 2006 budget period, the balance due to the Contractor will be carried forward.
- (b) The Unaudited Financial Statements and Audit will be the final project budget documents from which preliminary and final determinations of allowable costs will be made.

### III. Fiscal, Audit Resolution and Procurement

- 3.00 The Department of State administers programs in compliance with Article 15-A of the Executive Law of New York State, including the Minority and Women-owned Business Enterprise (MWBE) Program and the Equal Employment Opportunity (EEO) component. Refer to Appendix A-1, Section XX of this document.
- 3.01 (a) The Contractor shall comply with and maintain written procedures for the procurement of all supplies, equipment and services, including bookkeeping, Audit and legal services, provided these procedures comply with the following terms and conditions:
- i. Purchases not exceeding \$5,000. The Contractor may purchase commodities and services from, or may contract directly with, a responsible vendor of its choice for aggregate purchases not exceeding \$5,000. While competitive bidding is not required, Contractors should document steps taken to ensure that prices are reasonable in light of terms and prices offered by competitors.

- ii. Purchases in excess of \$5,000 but not exceeding \$15,000. A Contractor may purchase commodities and services in accordance with i. above, with the added requirement that written confirmation by the successful vendor setting forth terms and conditions must be obtained and retained in the Contractor's file along with the basis for determining that the offered price is reasonable, or may contract by either of the following:

Alternate A - If the Contractor has identified a responsible minority and/or women-owned business source and has determined that the price offered is reasonable, the Contractor may purchase directly from the identified source. The Contractor shall document and keep on file the Contractor's basis for determining that the offered price is reasonable and obtain a written quotation from the vendor showing terms and conditions.

Alternate B - The Contractor may structure formal bidding using the procedure set forth in iii. below, which is required for all purchases in excess of \$15,000.

- iii. Purchases in excess of \$15,000. The Contractor shall structure formal competitive bidding. A minimum of five sealed bids shall be solicited from responsible bidders offering such commodities or services. Bidding requirements established by the Contractor shall enable all bidders to engage in bidding on a competitive basis.
- (b) The Contractor shall document the process followed in selection of the most responsible lowest bidder.
- (c) The Contractor shall make every reasonable effort to obtain competition before the purchase of commodities or services. The Contractor must document and retain for Audit any situation where reasonable competition is not available.

### 3.02 Interest

Any Interest Income generated from payments made under the terms of this Agreement shall be retained by the Contractor and used to provide services and activities to low-income persons.

### 3.03 Books and Records

- (a) The Contractor shall maintain separate books and records for funds received through the CSBG Program and maintain cash accountability for In-Kind Revenues.
- (b) The Contractor shall maintain books and records pertaining to performance of the Work Plan under this Agreement in a manner as to allow required reports to be submitted consistent with generally accepted accounting principles.
- (c) The Contractor shall retain such books and records for a period of six years after submission to and approval of the final Audit.
- (d) The Contractor shall make such books and records available to authorized representatives of State and federal governments for Audit, inspection and copying upon reasonable request during business hours.

### 3.04 Program Income, Inventions, Patents and Copyrights

Any Income, including royalties from copyrights and patents, earned by the Contractor during the term of this Agreement as a result of the performance of the services set forth in the Work Plan shall be used to increase the scope of the Project.

### 3.05 Preliminary Close-Out

- (a) Upon receipt of the Unaudited Financial Statements, the Department shall review the Statements and make a preliminary determination of any Unexpended Allocation or questioned cost.
- (b) The Contractor shall be notified in writing of the results of the review and the determination of any Unexpended Allocation.
- (c) If, as a result of the review, it is determined that there are disallowed costs, the Contractor will be instructed to reallocate and incorporate these amounts as Unexpended Allocation from the preceding Budget Period into the Total Project Cost of the Agreement currently in effect by submission of a budget amendment.

### 3.06 Audit Resolution

- (a) The Department shall issue an Audit Review Report including a management decision for Audit finding that relate to Federal Awards it makes to the Contractor within 6 months of receipt of the Audit report. The Contractor shall initiate corrective actions cited in the Management decision within 6 months of receipt of the report.
- (b) The Contractor shall have thirty (30) days after receipt of the Audit Review Report to object in writing to such Report. Any objection to such Report is waived unless received by the Department within thirty (30) days of the date such Report is received by the Contractor.
- (c) Written objections filed by the Contractor shall be reviewed by the Department. The Department shall respond in writing within thirty (30) days after receipt of the objections.
- (d) The Contractor will be allowed thirty (30) days after receipt of the Department's written response to request an Audit Resolution Conference. If a Conference is not requested within thirty (30) days of receipt by the Contractor of the Department's written response, the Audit Review Report, as may be amended, becomes final, and Contract shall initiate corrective actions within 6 months of receipt of the original report.

## **IV. Assessment, Review, Inspection and Monitoring**

P.L.105-285, Section 678B (a) states, "In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct . . . reviews . . ."

- 4.00 (a) In accordance with the above, the Department shall conduct a full onsite review and assessment of each eligible entity.
- (b) The Department will conduct an on-site assessment of each newly designated entity immediately after the completion of the first year in which such entity receives CSBG funds.
- (c) The Contractor will be required to develop and implement an action plan to address any findings resulting from monitoring or the assessment.
- (d) The Department will develop and implement a support plan to assist the Contractor in carrying out the action plan described above. The Department will conduct follow up reviews and visits as appropriate.
- (e) The Department will take prompt actions with any Contractor that fails to meet the goals, standards, and requirements established by the grantee and agreed to by the Department in response to any finding resulting from monitoring or on-site assessment.

- 4.01 (a) The Department will conduct periodic onsite program and fiscal monitoring to verify program accomplishments and adherence to applicable federal and State statutes, rules, and regulations; the CSBG management plan; this agreement; and, other applicable policies, procedures and memoranda.
- (b) Representatives of the Department will attend grantee board and committee meetings.
- (c) All visits, inspections, Audits, and other monitoring by the Department shall be done on reasonable notice to the Contractor or delegate agencies, if any, to the maximum extent possible. However, the Department reserves the right to make unannounced visits, site inspections to Contractors and delegate agencies, and to attend the Contractor's Audit entrance and exit conference.
- 4.02 Representatives of the Department shall have the authority to reject any Work, services, and activities performed by the Contractor which do not conform to the Contract Documents and were not conducted in accordance with applicable federal and State statutes, rules and regulations.
- 4.03 Representatives of the Department shall have the authority to conduct mandatory reviews, assessments, and inspections of services performed by the Contractor in accordance with State and federal laws and regulations; the CSBG Management Plan; the CSBG Refunding Application, including the approved budget and Work Plan; and, any memoranda issued by the Department, as they, in good faith, deem reasonable and necessary to ensure that the Work is being performed in compliance with the Contract Documents.
- 4.04 The Contractor agrees to cooperate with the Department and its representatives at all times and to promptly implement and comply with any and all corrective actions required by the Department in accordance with the Department's statutory monitoring and oversight responsibilities.
- 4.05 Representatives of the Contractor shall meet with representatives of the Department at such times as the Department shall request in order to advise and inform the Department on any and all matters related to the administration of the CSBG program.
- 4.06 The delegated duties, responsibilities, and limitations of authority of the Department's representatives shall not be modified or extended without written consent by the Secretary of State.

## **V. Payment Office**

- 5.00 (a) Vouchers, Audits, unaudited financial statements, and periodic financial reports shall be submitted only to the Contract Administration Unit (CAU), Department of State, 41 State Street, 10th floor, Albany, New York 12231. The Department shall notify the Contractor within 15 days if its voucher contains any claim for payment that is incomplete or contains any claim for payment that is not in compliance with this Agreement, and the Contractor shall take corrective action in a timely manner.
- (b) Refunding Applications, Contract Amendments, Budget Amendments, and Periodic Program Reports shall be submitted to the assigned Program Analyst or as directed by written correspondence.

APPENDIX X

Agency Code 19000  
Budget Period 10/01/05 TO 09/30/06

Contract No. \_\_\_\_\_  
Funding for Period \$ \_\_\_\_\_

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Department of State, having its principal office at 41 State Street, Albany, New York 12231 (hereinafter referred to as the STATE), and \_\_\_\_\_ (hereinafter referred to as the CONTRACTOR), for modification of Contract Number \_\_\_\_\_, as amended above and in attached Appendix(ices): B, C, and D.

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

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE

STATE AGENCY SIGNATURE

By: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

By: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that (s)he resides at \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described herein which executed the foregoing instrument; and that (s)he signed (her)his name thereto by order of the board of directors of said **corporation**.

\_\_\_\_\_  
NOTARY PUBLIC

APPROVED:

ALAN G. HEVESI, COMPTROLLER

By: \_\_\_\_\_

Date: \_\_\_\_\_