

**NYC BUSINESS SOLUTIONS TRAINING FUNDS  
BLENDED TRAINING  
AGREEMENT**

between

**NEW YORK CITY  
WORKFORCE DEVELOPMENT CORPORATION**

and

**[1: INSERT EMPLOYER NAME].**

Dated: As of **[2: DATE OF EXECUTION]**, 200**[ ]**.

**Comment [LR1]:** Employer will have one year from Date of Execution to complete the approved training project.

NUMBER OF TRAINEES: **[3: INSERT]**

AWARD AMOUNT: \$**[4: INSERT]**

CONTRACT NUMBER: **[5: INSERT (Round #), [0 + number in alphabetical list)]**.

**Comment [LR2]:** Don't delete this period.

**THIS AGREEMENT** (the “Agreement”), dated as of [6: RE-INSERT DATE OF EXECUTION FROM PG 1], 200\_\_\_, between the **WORKFORCE DEVELOPMENT CORPORATION** (“WDC”), a New York not-for-profit corporation affiliated with the New York City Department of Small Business Services (“SBS”) having an office at 110 William Street, 7<sup>th</sup> Floor, New York, New York 10038 and [7: INSERT EMPLOYER NAME] (“Employer”), a [8: SELECT for-profit corporation OR not-for-profit or non-profit organization] having an office at [9: INSERT EMPLOYER ADDRESS, CITY, New York, ZIP CODE]. For reference, WDC and the Employer are sometimes referred to collectively as the “Parties”.

The Workforce Development Corporation (WDC) via the New York City Department of Small Business Service (SBS) contributes to the economic vitality of the City by promoting workforce development and job creation through public/private partnerships. WDC funds support employment, training and educational services. The WDC works with NYC Business Solutions Hiring and Training to operate and administer SBS’ workforce development programs, including NYC Business Solutions Training Funds (“Training Funds”), which awards funds to businesses for employee training projects.

**WHEREAS**, the Employer agrees to provide training and other services in partnership with NYC Business Solutions Training Funds to [10: INSERT NUMBER OF TRAINEES] employees (“Trainees”) employed in its New York City offices to become proficient in [11: INSERT BRIEF OVERVIEW OF SKILLS GAINED OR COURSES TAKEN] as more fully described herein (the “Program”);

**WHEREAS**, the Employer represents that it will contribute at least the amount of \$\_\_\_ [12: INSERT EMPLOYER CONTRIBUTION AMOUNT FROM BUDGET, SECTION C] for the Program, as reflected in the budget in Exhibit B (“Employer Contribution”);

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, WDC and the Employer agree as follows;

## **ARTICLE 1** **TERM**

### **Section 1.01. Term.**

(a) The term (“Term”) of this Agreement shall be one (1) year commencing upon the execution of this contract and shall expire upon the earlier of either the one-year period or thirty (30) days after the date upon which the number of trainees indicated on the face page of this Agreement have completed the Program, unless the Term is extended or terminated at an earlier date pursuant to the terms of this Agreement.

(b) In addition to the Employer’s and any Subcontractor’s obligation to cooperate with WDC (or its designee) to facilitate the performance of the program, also required is follow-up, reporting, and other functions described in Section 2.06, for a period of one (1) year following the date on which the final trainee completes the Program. This provision shall survive the termination or expiration of this Agreement.

### **Section 1.02. Extension.**

The Agreement may be extended for an additional period or periods at the same terms and conditions and costs upon the mutual written consent of the Parties.

**ARTICLE 2**  
**BLENDED TRAINING PROGRAM**

**Section 2.01. Program.**

(a) The Employer shall administer the Program described in **Exhibit A**, “Program Description” attached hereto.

The Employer shall put forth its best efforts to cause each of the trainees to successfully complete the Program. In certain circumstances, an employer may request to replace a trainee with another employee in a training that is already under way. Such requests will be reviewed and approved on a case-by-case basis by WDC and SBS based on a number of considerations including, but not limited to, the type of training, model, and length of training.

(b) The Employer shall comply with the following terms and conditions of the Program:

- (i) Provide all necessary training, supervision, equipment and materials for the Program.
- (ii) Compensate trainees at the same rates, including periodic increases, as the Employer’s other employees or other trainees who are similarly situated to the trainees. Trainees’ wage rate shall meet or exceed the minimum rate established by any and all applicable Legal Requirements (as defined in Section 16 of Appendix A herein), including, without limitation, Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable Federal, New York State and New York City prevailing wage and minimum wage laws.
- (iii) Provide trainees with benefits and working conditions at the same level and to the same extent as the Employer’s other employees and trainees working a similar length of time and doing the same type of work.
- (iv) Apply to the Program and trainees all health and safety standards applicable to the Employer under all Legal Requirements.
- (v) Apply to the Program and trainees all registration requirements of the New York State Department of Labor’s worker’s compensation and disability benefits.
- (vi) No trainee shall be directly supervised by, or directly supervise, a member of the trainee’s immediate family. For purposes of this Agreement, “immediate family” means spouse, children, siblings, parents, parents-in-law, grandparents, grandchildren, aunts, uncles, nieces and nephews.

(c) No trainee may be terminated from the Program for poor performance without prior written notice to the trainee and the WDC, and a reasonable opportunity for improvement or corrective action by the Trainee.

(d) The Employer may not make any material modifications to the Program without the prior written consent of WDC.

(e) Trainees shall be provided notice of Employer's and Subcontractor's grievance process pursuant to Section 2.03 herein.

**Section 2.02. Trainee Qualifications.** No person ("Applicant") shall qualify to participate as a trainee in the Program unless:

(a) The WDC, or its designee, has certified that the Applicant is eligible to participate in the Program;

(b) The Applicant will be employed and substantially performing his/her work at an office or place of business located in New York City after training;

(c) The Applicant is greater than 18 years of age at the time of trainee registration;

(d) The Applicant has a W-2 on file with the Employer at the end of training;

(e) The Applicant does not earn more than \$61,830.00/year before training.

(f) The applicant works an average at least 30 hours per week after training.

**Section 2.03. Trainee Grievances.** The Employer warrants and represents that it shall comply, and shall require each Subcontractor to comply, with the 1998 Workforce Investment Act's ("WIA") grievance procedures as outlined in this Section 2.03. Specifically, WIA requires that the Employer and each Subcontractor provide each Employee covered by the Program with information regarding SBS' WIA grievance procedures. The WDC shall provide such information to the Employer, and the Employer represents and warrants that it shall, and shall require that each Subcontractor shall, provide such information to each of the Employees covered by the Program. Nothing required by this provision shall affect the at-will employment status of the Employer's employees or supersede any grievance procedures maintained by the Employer.

**Section 2.04. Program Reports.**

(a) Together with each reimbursement request (as defined in Section 3.03), the Employer shall provide WDC with the necessary documentation to monitor and oversee training (see Quarterly Progress Reports, **Exhibit K**).

(b) In addition to the Program Reports, the Employer shall promptly notify WDC of any change in any trainee's employment or terms of employment, including, without limitation, termination or withdrawal from employment.

**Section 2.05. Withdrawal from Program.** The Employer may apply to WDC to withdraw from all or any part of the Program by providing 30 days written notice. Failure to complete all outstanding obligations prior to effective date of withdrawal shall be considered sufficient grounds to withhold payment pursuant to Section 3.03(f) herein.

**Section 2.06. Cooperation with WDC or its Administrative Designee.** The Employer shall comply with, and agrees to require each Subcontractor to comply with, the following:

(a) The WDC or its designee (“WDC Designee”) shall perform certain case management, reporting, monitoring, compliance, and other functions with respect to the Program for the purposes of complying with eligibility requirements and administrative obligations under the 1998 Workforce Investment Act and other legal requirements. The Employer shall fully cooperate with the WDC and any WDC Designee to facilitate their performance of such functions, including making Trainees and Trainee information available upon reasonable notice and in a reasonable manner.

(b) A WDC representative will perform site visits pursuant to this Agreement, to ensure that the full complement of students is being served and that the curriculum is being delivered as set forth in this Agreement.

**Section 2.07. Subcontractors.** The Employer agrees that it is responsible for any and all subcontractors engaged by it pursuant to this Agreement.

### **ARTICLE 3** **REIMBURSEMENT**

**Section 3.01. Reimbursement of Eligible Training Costs** As set forth in the Program Guidelines, employers are eligible to receive 50-60% of all Eligible Training Costs (as defined in Section 3.02 subsection (a) and (b)) plus 10% for the Administrative Payment as defined in subsection (a) below.

(a) Reimbursements. The Employer shall be reimbursed by WDC for up to [13: INDICATE \$Training Funds Requested amount including Administrative Payment] as requested by the Employer in the program budget in Exhibit B. This amount is determined by calculating the total Eligible Training Costs (as defined in Section 3.02 below), subtracting the Employer Contribution, and adding an administrative payment of up to 10% of Eligible Training Costs, as defined in the budget in Exhibit B (“Administrative Payment”). The total shall be referred to herein as “Training Funds Requested”.

(b) Notwithstanding anything to the contrary in the foregoing, if the WDC determines that the payments due pursuant to this Section 3.01 are likely to result in payments in excess of [14: INDICATE \$Training Funds Requested amount including Admin Payment], then the WDC shall have the right to modify the Payment Terms to avoid such result.

#### **Section 3.02. Eligible Training Costs.**

(a) For the portion of the Program that is ‘Customized’ training, as defined in the attached Program Guidelines, “Eligible Training Costs” shall mean the following types of costs actually and reasonably incurred by the Employer to operate the Program:

- (i) Tuition and other course fees;
- (ii) Costs of the instructor or trainer;

- (iii) Costs of books, manuals, and other training-related materials, as well as the costs of creating or developing any such materials;
- (iv) Costs for use of an external training facility;
- (v) Trainee wages for the hours spent in training;

(b) For the portion of the Program that is 'On-the-job' training, as defined in the attached Program Guidelines, "Eligible Training Costs" shall mean the following types of costs actually and reasonably incurred by The Employer to operate the Program:

- (i) Trainee wages for the hours spent in training;

(c) Notwithstanding anything to the contrary in the foregoing, the following types of costs, without limitation, shall not constitute Eligible Training Costs:

- (i) Costs to purchase equipment;
- (ii) Costs to renovate any facilities;
- (iii) Fringe Benefits;
- (iv) Travel Expenses;
- (v) Uniforms;
- (vi) Purchase of tools to facilitate tracking of outcomes;
- (vii) Costs related to hiring temporary workers to perform the duties of employees being trained.

(d) Notwithstanding anything to the contrary in the foregoing, training costs, including trainee wages, cannot be reimbursed above and beyond the amount requested in the line items in the Program Budgets.

(e) Both Training Funds Requested and the Employer Contribution must consist of Eligible Training Costs.

**Section 3.03. Payments.**

(a) Up to 80% of the Training Funds Requested shall be paid over the course of the project as described below ("WDC Contribution").

(b) WDC Contribution via Quarterly reimbursements (every 3 months).

- i) The Employer shall submit to WDC a requisition for the WDC Contribution through documentation evidencing that the Eligible Costs were incurred and paid.
- ii) All documentation shall be subject to the approval of WDC. Following such approval, WDC shall pay to the Employer the applicable WDC Contribution. For all documentation disapproved by the WDC, the WDC shall promptly notify the

Employer of its objections to the documentation, and the Employer shall have a reasonable opportunity to submit amended documentation.

iii) Reimbursement requests must be submitted within four (4) months of the contract's end date in order to be eligible for reimbursement.

(c) In addition to financial documentation, as a condition of reimbursement, the Employer shall be required to retain and submit WDC-prescribed records of training activity, payroll records, and any additional information WDC may reasonably require to monitor training, to the WDC. Such forms should set forth with sufficient detail the training activity and progress on a quarterly basis. **The Employer represents and warrants that all training records transmitted to the WDC are accurate. Any falsified or inaccurate information is grounds for denial of payment and/or contract termination.**

(d) The employer is required to keep sign-in sheets for each instance of training. These records should be retained for three years after the end of the program year in which costs were charged. The records may be requested for audit purposes.

(e) 20% of the total Training Funds award is available as a "Closeout" payment 3 months after training completion. The actual amount the Employer receives at Closeout is based upon the following formula:

(Percentage of trainees who received an increase) X (Expected close-out payment (within 3 months of training completion)) Divided by (Percentage of trainees projected to receive an increase).

(f) If the WDC shall have reasonable grounds for concluding that the Employer is not operating the Program in accordance with the terms and conditions of this Agreement, or if the Employer has breached any of the provisions of this Agreement, then WDC shall have the right to withhold payments of any amount otherwise due to the Employer.

(g) The WDC shall not be deemed to have released the Employer from any claim or liability, or to have waived any cause of action arising from any breach of this Agreement, by virtue of making payments to the Employer.

(h) The Employer shall submit a completed Customer Information Form (Exhibit J) for every trainee or WDC reserves the right to withhold payment until receipt of said forms.

(i) The Employer agrees to provide the WDC with key outcomes data, including but not limited to, training hours completed, wage information, and employee retention statistics. The WDC reserves the right to withhold final (i.e. close-out) payment until receipt of said data.

(j) The Employer agrees that its acceptance of the final payment from WDC shall be deemed to have fully released the WDC and SBS from any and all claims, demands and causes of action whatsoever which the Employer has or may have against the WDC and SBS in connection with this Agreement.

(k) All eligible costs due to any Subcontractor are to be paid by the Employer and shall be subject to the provisions of this Article. The Employer shall not be eligible to receive payments for costs or expenses pursuant to this Agreement except as otherwise set forth herein.

(l) This Agreement shall be subject to the availability and appropriation of funds for each City Fiscal Year during the Term or any renewal thereof.

**ARTICLE 4**  
**NOTICES**

Each written notice, demand, request, or other communication in connection with this Agreement shall be deemed given if either served in person, with delivery of service acknowledged in writing by the party receiving it, or deposited in the United States mail by certified mail, return receipt requested, postpaid, and addressed:  
to **WDC** at the following address:

Workforce Development Corporation  
c/o Small Business Services  
NYC Business Solutions Training Funds  
110 William Street, 7<sup>th</sup> Floor  
New York, New York 10038  
Attn: Cristina Shapiro

To the Employer at the following address:

[15: Insert Business Name]  
[16: Insert Business Address, City, State, and Zip Code]  
[17: Insert Contact Name]

or to such other address as may be specified by written notice sent in accordance herewith.

**ARTICLE 5**  
**EMPLOYER REPRESENTATIONS**

**Section 5.01.** The Employer makes the following representations:

(a) The information provided by the Employer in the Application is and remains true, correct, and complete and the Employer agrees to require each Subcontractor to adhere to the same.

(b) The Employer is, and shall be at all times during the Term, a [18: INDICATE for-profit corporation OR not-for-profit or non-profit organization] duly organized, validly existing and in good standing under the laws of the State of New York, and is authorized or licensed to do business in the State of New York, and has all requisite power and authority to execute, deliver and perform this Agreement.

(c) The Employer agrees to warrant that the hiring of Trainees shall not result in the displacement of any currently employed worker, as defined by federal law, including but not limited to the reduction of non-overtime work, wages, employment benefits or promotional opportunities, and that the Trainee was not hired into a position and/or will not remain working in any position when any other person not supported by the federal Workforce Investment Act is on lay-off from the same or a substantially equivalent job with the Employer.

(d) The Employer shall comply with, and agrees to require each Subcontractor to comply with, any fiscal or administrative policies established by the WDC and provided to the Employer and/or Subcontractor in connection with this Agreement.

**ARTICLE 6**  
**EMPLOYER FEDERAL EIN**

The Employer's federal Employer Identification Number is [19: INSERT EIN]. The Employer agrees to obtain and submit, each Subcontractor's federal Employer Identification Number.

**ARTICLE 7**  
**STANDARD TERMS AND CONDITIONS**

The Employer shall comply with and agrees to require each Subcontractor to comply with the standard terms and conditions for Training Funds contained in Appendix A attached hereto and made a part of this Agreement. In addition to the Standard Terms and Conditions, the Employer agrees to, and agrees to require each Subcontractor to, adhere to the Training Funds Program Guidelines appended as Exhibit I hereto.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**WORKFORCE DEVELOPMENT CORP.**

By: \_\_\_\_\_  
Cristina Shapiro  
Interim Executive Director

**[20: INSERT EMPLOYER NAME]**

By: \_\_\_\_\_  
[21: Insert Contact Name]  
[22: Insert Contact Title]

**ACKNOWLEDGMENTS**

**State of New York** )  
 ) SS.:  
**County of New York**)

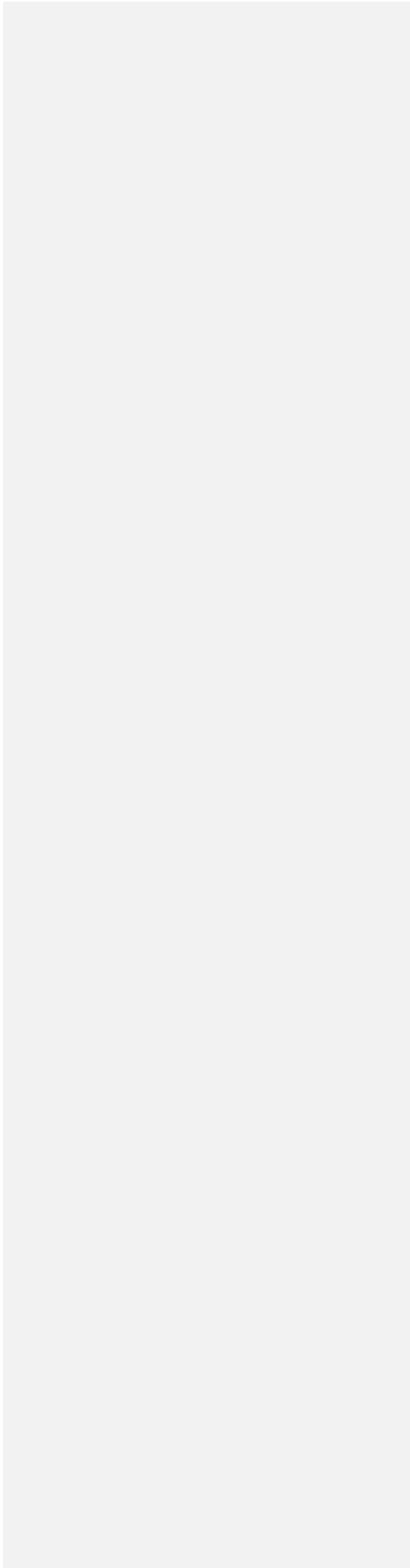
On this \_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally came \_\_\_\_\_, to me known, and known to me to be the \_\_\_\_\_ of the **New York City Workforce Development Corp.**, who executed the foregoing agreement and who acknowledged to me the execution thereof for the purposes therein mentioned.

\_\_\_\_\_  
Notary Public

**State of** )  
 ) SS.:  
**County of** )

On this \_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally came \_\_\_\_\_, to me known, and known to me to be the \_\_\_\_\_ of **[23: INSERT EMPLOYER NAME]**, who executed the foregoing agreement and who acknowledged to me the execution thereof for the purposes therein mentioned.

\_\_\_\_\_  
Notary Public



**APPENDIX A**  
**STANDARD TERMS AND CONDITIONS**

- 1. Employer as Independent Contractor.** Notwithstanding anything contained herein to the contrary, the Employer shall not be deemed to be acting as agents, servants or employees of the Workforce Development Corporation (“WDC”), the New York City Economic Development Corporation (“EDC”), New York City Business Solutions Training Funds (“Training Funds”), or the City of New York (the “City”) by virtue of this Agreement, but shall be deemed to be an independent contractor, and shall be deemed solely responsible for all acts taken by the Employer pursuant to the Agreement or in connection with the Program.
- 2. Indemnification.** Employer shall be solely responsible for all injuries to persons, including death, or damage to property, sustained during or in connection with the Program operated under this Agreement resulting from any negligence, fault or default of the Employer or its employees, authorized agents, independent contractors or subcontractors. The Employer shall indemnify and hold harmless WDC, EDC, Training Funds, and the City, from any and all claims, judgments or liabilities to which they may be subject because of any act or omission of the Employer, its agents, employees or subcontractors in connection with this Agreement.
- 3. Insurance.** During the term of this Agreement, the Employer, at its sole cost and expense, shall maintain the following insurance (See Exhibit H):

  - (a) Worker’s Compensation and Disability Insurance in statutory amounts on behalf of all employees and Trainees covered under this Agreement.
  - (b) Employers’ Liability Insurance, in the amount of not less than \$1,000,000.00 per accident, providing compensation for bodily injury by accident or disease sustained by any employee or Trainee of the insured arising out of, and in the course of, his/her employment by the Employer.
  - (c) Comprehensive General Liability Insurance in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate in the Employer’s name and naming WDC, EDC, Training Funds and the Department of Small Business Services as additional insured thereunder covering claims for property damage and/or bodily injury, including death.
- 4. Assignment.** The Employer may not assign its interests under this Agreement, or any part thereof, without the prior written consent of the WDC.
- 5. Severability.** If any provision of this Agreement shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 6. Modifications/Changes.** No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose unless in writing and duly executed by the party against whom same is asserted. Changes to increase or delete work may be made to this Contract only as duly authorized in writing by the WDC. All such changes, modifications and

amendments will become a part of the original Contract. Employers deviating from the requirements of the contract without a duly approved written contract modification or amendment, do so at their own risk. Notwithstanding the forgoing, changes to the Program Description (Exhibit A) or the Program Budget (Exhibit B) that do not change the total number of trainees or the award amount may be made by mutual agreement of the parties without a formal written amendment.

**7. Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist, or to bind any of the parties hereto, or to vary any of the terms contained herein.

**8. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, except where the Federal supremacy clause requires otherwise. The parties agree that any and all claims asserted by or against WDC arising under this Agreement or related hereto shall be heard and determined either in the courts of the United States ("Federal Courts") located in the City or in the courts of the State of New York ("New York State Courts") located in the City and County of New York.

**9. Provisions Required by Law.** Each and every provision of federal or state or local law, rule, regulation or order required to be inserted in this Agreement is deemed by this reference to be so inserted in its correct form, and upon the application of either party, this Agreement shall be amended by the express insertion of any such provision not so inserted or so inserted incorrectly so as to comply strictly with the law, without prejudice to the rights of either Party.

**10. No Release of Liability.** The termination of this Agreement shall not release the Employer from any liability to WDC arising out of any act or omission of the Employer in connection with this Agreement.

**11. Suspension or Termination.** WDC shall have the right to postpone, delay, suspend or terminate for convenience this Agreement immediately or upon a date specified in a written notice to the Employer for any reason in the best interest of WDC as determined by WDC in its sole discretion. Any such postponement, delay, suspension or termination shall not give rise to any cause of action for damages or any other claims or rights against WDC. In the event of termination for convenience by WDC prior to completion of all Training Programs in connection with this Agreement, the Employer may be entitled to receive payment for training conducted as of the date of termination, subject to WDC approval and submission of all required reports.

**12. Termination for Cause.** WDC shall have the right to terminate this Agreement, in whole or in part, for cause, for a material breach of this Agreement. WDC shall provide the Employer with a written notice of the cause and the date of such termination.

**13. Subcontracts.** The Employer may not enter into subcontracts for the performance of any of its obligations under this Agreement without the prior written consent of WDC.

**14. No Personal Liability.** No member, director, employee, servant, officer, or agent of WDC, EDC, Training Funds or the City shall have any personal liability in connection with this Agreement or any failure of WDC or the City to perform its obligations hereunder.

**15. Time For Employer Claims.** No cause of action against the WDC in connection with this Agreement or the Program shall lie or be maintained by the Employer, its successors or assigns, unless such action is commenced within six (6) months after (i) the termination of this Agreement, or (ii) the accrual of the cause of action, whichever is earlier.

**16. Compliance with Law.** The Employer agrees that it shall operate the Program, and perform all of its other obligations under this Agreement, in accordance with all applicable federal, New York State and New York City laws, rules and regulations, including, without limitation, the federal Workforce Investment Act, and applicable United States Office of Management and Budget Circulars, and applicable policies and procedures of the New York City Department of Small Business Services, the United States Department of Labor, and the New York State Department of Labor (collectively, "Legal Requirements").

**17. Record Retention.**

(a) The Employer shall maintain accurate, readily auditable books, records and accounts with supporting documentation (collectively, "Records") in accordance with generally accepted accounting principles of the Services performed by it, its employees, and its subcontractors under this Agreement and of all financial accounts and transactions maintained or undertaken in connection with this Agreement, including, but not limited to, Trainee time, training attendance, wage and employment records, bank statements, cancelled checks, bills and receipts, and deposit slips.

(b) The Employer shall retain all Records for a period of six years after final payment under or termination of this Agreement, whichever is later.

**18. Audit.**

(a) WDC, EDC, Training Funds, the Comptroller of the City of New York, the New York City Department of Investigation, the Inspectors General (or their equivalent) of New York State and the United States Department of Labor shall have the authority to examine, copy or remove any and all records concerning or related to this Agreement or the Program.

(b) The Employer shall conduct periodic audits in respect of this Agreement and the Services in accordance with any Legal Requirements as defined in Section 16 herein.

(c) The Employer shall provide WDC with a copy of the final audit report within thirty (30) days after the Employer's receipt thereof.

(d) The Employer shall cooperate and assist with all program and fiscal monitoring, evaluation and close-out activities and audits conducted by WDC or its designees or any other entity authorized or permitted to perform or undertake any of the foregoing.

**19. Investigations.** The provisions contained in Appendix C, entitled "Investigation Clause," are annexed hereto and made a part of this Agreement.

**20. Disclosure of Confidential Information.** The Employer agrees to maintain the confidentiality of all information regarding Trainees, Employees, and/or job applicants and their families that the Employer may obtain from any source including, without limitation, application forms, questionnaires, correspondence, interviews, tests and reports.

21. **No Unauthorized Publicity.** The Employer shall not release any Program-related information or publicity to the media or any other party requesting information without having first obtained the express written permission of WDC and/or Training Funds.

22. **Property of WDC.** The Employer shall neither take nor permit any action which may cause any work product of WDC in connection with the Program which may be protected by statutory or common law copyright or trademark protection in the United States to be in the public domain, nor shall the Employer in any way diminish the common law or statutory copyright or trademark protection of any of WDC's work product. The Employer shall not publish such materials without WDC's prior written consent. No report, document or other data **related to training** and produced in whole or in part pursuant to this Agreement shall be copyrighted by the Employer nor shall any notice of copyright be registered by the Employer in connection with any report, document or other data **related to training** produced pursuant to this Agreement unless it is copyrighted and/or registered at the direction of WDC and it is copyrighted and/or registered for the benefit of WDC and/or the City, as WDC shall determine.

23. **Infringement (Copyright, Trademark, Patent).** The Employer shall not make any unauthorized use of copyrighted, trademarked or patented materials and agrees to defend, indemnify and hold harmless WDC and the City and each officer, member, director, agent, and employee of WDC and the City against any damage or liability arising out of the Employer's infringement or unauthorized use of any such material.

24. **Dispute Resolutions.** Except as otherwise provided in this Agreement, any dispute arising under this Agreement that is not resolved by mutual agreement of the Employer and WDC shall be determined by WDC in its sole discretion. The Employer shall promptly notify WDC in writing of any such dispute and the facts underlying such dispute. The WDC Executive Director or his/her designee shall furnish the Employer with written notice of its decision. The Employer agrees that any decision by the WDC Executive Director or his/her designee may only be contested when a proven arbitrary and capricious standard has been applied.

25. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors, heirs, and assigns of the Employer and WDC.

26. **Required Clauses for Federal-Aid Contracts.** The Employer shall comply with the required clauses for federal-aid contracts attached hereto as Appendix B and made a part of this Agreement.

27. **Order of Priority of Appendices and Exhibits.** In the case of any express or implied conflicts among the appendices and exhibits to this Agreement, the appendices and exhibits shall control in the following order of priority: first, Appendices B and A and Exhibits C through K, then Appendix C, then Exhibits A and B.

**APPENDIX B**  
**REQUIRED CLAUSES FOR FEDERAL-AID CONTRACTS**

- (a) **Drug-Free Workplace.** The provisions of *Exhibit C* shall apply to this Agreement.
- (b) **Smoke Free Environment.** The Employer shall comply with all smoke-free environment Legal Requirements.
- (c) **Equal Opportunity and Non-Discrimination.** The provisions of *Exhibit D* shall apply to this Agreement.
- (d) **Confidentiality.** The Employer shall comply with all Legal Requirements concerning the confidentiality of customer data and other information and records.
- (e) **Debarment and Suspension.** The provisions of *Exhibit E* shall apply to this Agreement.
- (f) **Inventions, Patents, Copyright.** The Employer will comply with the requirements of the Workforce Investment Act pertaining to patent rights, copyrights and rights in data. This includes but is not limited to agreement that any **training curriculum** developed using Training Funds shall be available to the WDC and the United States Department of Labor royalty-free, with the irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.
- (g) **Lobbying Activities.** No funds provided under this Agreement may be used for publicity designed to support or defeat any proposed federal, State or local legislation. The anti-lobbying provisions attached hereto as *Exhibit F* shall apply to this Agreement.
- (h) **Clean Air, Clean Water, Energy Conservation.** The provisions in *Exhibit G* shall apply to this Agreement.
- (i) **Sectarian Activities.** No funds provided under this Agreement may be used in support of any religious or anti-religious activity.
- (j) **Union Activities.** No funds provided under this Agreement may be used to assist, promote, or deter union organizing.
- (k) **Political Activity.** No funds provided under this Agreement may be used for political activity or any activity to further the election or defeat of any candidate for public, political or party office.
- (l) **Conflicts of Interest.** The Employer represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided.
- (m) **Fraud Reporting.** Pursuant to 20 CFR 667.630, any information or complaints concerning criminal fraud, waste, abuse or other criminal activity discovered by or reported in connection with a Workforce Investment Act (WIA) or WIA-related program shall be immediately reported to: The United States Department of Labor, Office of the Inspector General, Office of Investigations, Room S-5514, 200 Constitution Avenue NW, Washington, D.C. 20210, Phone Number 1-800-347-3756.

**APPENDIX C**  
**INVESTIGATION CLAUSE**

- A.** The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction.
- B.** If any person who has been advised that his or her statement and any information from such statement will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract or license entered into with the City, the State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City or any public benefit corporation organized under the laws of the State of New York, or
- C.** If any person refuses to testify for a reason other than the assertion of his or her privilege against self incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then
- D.** The Commissioner or Agency Head whose agency is a party in interest to the transaction, shall convene a hearing, upon not less than five (5) days written notice to the parties involved, to determine if any penalties shall attach for the failure of a person to testify.
- E.** If any non-governmental party to the hearing requests an adjournment, the Commissioner or Agency Head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit or license pending the final determination pursuant to paragraph (G) below without the City incurring any penalty of damages for delay or otherwise.
- F.** The penalties which may attach after a final determination by the Commissioner or Agency Head may include but shall not exceed:

  - 1.** The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or

transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

2. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals or fees accrued prior to the cancellation or termination shall be paid by the City.

**G.** The Commissioner or Agency Head shall consider and address in reaching his/her determination and in assessing an appropriate penalty the factors in subparagraphs (G)(1) and (G)(2) below. He/She may also consider, if relevant and appropriate, the criteria established in paragraphs (G)(3) and (G)(4) below in addition to any other information which may be relevant and appropriate:

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.
2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
3. The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.
4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under (G) above, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in (D) above, gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

**H.** **Definitions:**

1. The term "*license*" or "*permit*" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

2. The term “*person*” as used herein shall be defined as any natural person doing business alone or associated with another person or entity as partner, director, officer, principal or employee.
3. The term “*entity*” as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases or permits from or through the City or otherwise transacts business with the City.
4. The term “*member*” as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

I. In addition to and notwithstanding any other provision of this Agreement, the Commissioner or Agency Head may in his/her sole discretion terminate this Agreement upon not less than three (3) days written notice in the event the non-City party or parties to this Agreement fail(s) to promptly report, in writing, to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of said non-City party or parties for any purpose which may be related to the procurement or obtaining of this Agreement by the non-City party or parties, or affecting the performance of this Agreement.

**EXHIBIT A**  
**PROGRAM DESCRIPTION**

[24: COPY/PASTE APPLICATION AND ALL ATTACHMENTS EXCEPT FOR BUDGET]

**Comment [LR3]:** Copy item → right-click on this page → paste special → Microsoft Excel object

**EXHIBIT B**

**PROGRAM BUDGET**

**[25: COPY/PASTE BOTH THE CUSTOMIZED AND ON-THE-JOB BUDGETS]**

**EXHIBIT C**  
**DRUG-FREE WORKPLACE**

In order to maintain a drug-free workplace, the Employer shall:

- Publish statements notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Employer's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- Establish an on-going drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, including: the Employer's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance program; and the penalties that may be imposed upon the employee and participant for drug abuse violation occurring in the workplace.
- Require that each employee working under this Agreement be given a copy of the statement described above.
- Notify the employee in such statement that, as a condition of employment under this agreement, the employee will abide by the terms of the statement and notify the Employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
- Provide notice in writing within 10 calendar days after having received notice from an employee or otherwise receiving actual police notice of such conviction to the relevant City, State, and Federal entities. Notices shall include the identification number(s) of each affected grant.
- Take one of the following actions, within thirty (30) calendar days of receiving notice, with respect to any employee who is convicted:
  - appropriate personnel action against such employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
  - require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
- Make a good faith effort to continue to maintain a drug-free workplace through implementation of all of the foregoing.
- Provide written certification of the foregoing for each of its training sites.

**EXHIBIT D**  
**EQUAL OPPORTUNITY AND NON-DISCRIMINATION**

**PART 1**

As a condition of the Training Funds award, comprised in part from financial assistance from the Department of Labor under Title I of the Workforce Investment Act, the Employer assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I- financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color, and national origin;
- Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Americans with Disabilities Act of 1990 as set forth in 42 USC Section 12101, et seq., as amended;
- The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Employer also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the Employer's operation of the WIA Title I- financially assisted program or activity, and to all agreements the Employer makes to carry out the WIA Title I-financially assisted program or activity. The Employer understands that the United States has the right to seek judicial enforcement of this assurance.

**PART 2**

During the performance of the Agreement, the Employer agrees as follows:

1. The Employer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or disability. The Employer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, age or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or

transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Employer will, in all solicitations or advancements for employees placed by or on behalf of the Employer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, or disability.

3. The Employer will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Employer's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment

4. The Employer will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Employer will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Department of Small Business Services and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Employer's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Employer may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Employer will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order related to the Training Funds program unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Employer will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. In the event the Employer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Employer may request the United States to enter into such litigation to protect the interests of the United States.

## **EXHIBIT E**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

A. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Department of Small Business Services (DSBS) may pursue available remedies, including suspension and/or debarment.

B. The Employer shall provide immediate written notice to the Department of Small Business Services if at any time the Employer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

C. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 (49 CFR Part 29).

D. The Employer agrees that by entering into this Agreement, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Department of Small Business Services.

E. The Employer further agrees that by entering into the Agreement it will include the clause entitled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” without modification, in all subcontracts and in all solicitations for subcontracts.

F. The Department of Small Business Services may rely on the certification of the Employer that it is not debarred, suspended, ineligible, or voluntarily excluded from entering this Agreement, unless the Department of Small Business Services knows that the certification is erroneous. The Department of Small Business Services may decide the method and frequency by which it determines the eligibility of its principals.

G. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the Department of Small Business Services is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

H. Except for transactions authorized under paragraph D of this section, if the Employer knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the federal government, the Department of Small Business Services may pursue available remedies, including suspension and/or debarment.

1. The Employer certifies that by entering this Agreement, neither it nor its “principals,” as defined at 49 CFR § 29.105(p), is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. If the Employer is unable to certify to the statements in this certification, the Employer shall attach an explanation hereto.

[26: INSERT]

Name of Organization

[27: INSERT]

Name and Title of Authorized Representative

Signature

**EXHIBIT F**  
**ANTI-LOBBYING PROVISIONS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

**This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.**

[28: INSERT]

Name of Organization

[29: INSERT]

Name and Title of Authorized Representative

\_\_\_\_\_  
Signature

**EXHIBIT G**

**CLEAN AIR, CLEAN WATER, ENERGY POLICY AND CONSERVATION**

**1. Compliance With Clean Air Act**

A. The Employer shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Employer shall report each violation to the Department of Small Business Services, and understands and agrees that the Department of Small Business Services will, in turn, report each violation as required to assure notification to the US Department Of Labor and the appropriate Environmental Protection Agency Regional office.

B. The Employer shall include the requirements set forth in this section in each subcontract exceeding \$100,000 financed in whole or in part with Training Funds.

**2. Compliance With Clean Water Act**

A. The Employer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251 et seq. The Employer agrees to report each violation to the Department of Small Business Services, and understands and agrees that the Department of Small Business Services will, in turn, report each violation as required to assure notification to the US Department Of Labor and the appropriate Environmental Protection Agency Regional Office.

B. The Employer shall include the requirements set forth in this section in each subcontract exceeding \$100,000 financed in whole or in part with Training Funds.

**3. Compliance With Energy Policy And Conservation Act**

The Employer hereby recognizes the mandatory standards and policies relating to energy efficiency that are contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

**EXHIBIT H - SAMPLE INSURANCE  
DOCUMENTATION**

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURANCE LTS	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	4572424	05/11/07	05/11/08	EACH OCCURRENCE \$1,000,000
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROD <input type="checkbox"/> LOC				DAMAGE TO RENTED EQUIPMENT (Per occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - CON/PROP AGG \$2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$ EACH OCCURRENCE \$ AGGREGATE \$
EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE \$ RETENTION \$					AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$ EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OR FICER MEMBER IS EXCLUDED? If yes, describe any SPECIAL PROVISIONS below OTHER	WC9843964	01/28/07	01/28/08	<input checked="" type="checkbox"/> WC STAT - TOBY LIMITS <input type="checkbox"/> TOBY LIMITS EA EACH ACCIDENT \$1,000,000 EA DISEASE - EA EMPLOYEE \$1,000,000 EA DISEASE - POLICY LIMIT \$1,000,000

Dates must be valid for contract period

Dates must be valid for contract period

Per Occurrence minimum: \$1MM

General Aggregate minimum: \$2MM

Proof of WC statutory limits

Employer's Liability Limit Minimum: \$1MM

WDC named Certificate Holder

Additional Insureds required

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**ECONOMIC DEVELOPMENT CORPORATION (EDC), WORKFORCE DEVELOPMENT CORPORATION AND THE DEPARTMENT OF SMALL BUSINESS SERVICES ARE INCLUDED AS ADDITIONAL INSURED (EXCEPT WORKERS COMPENSATION) WHERE REQUIRED BY WRITTEN CONTRACT AND ALLOWED BY LAW.**

**CERTIFICATE HOLDER**  
**WORKFORCE DEVELOPMENT CORPORATION**  
**110 WILLIAM STREET**  
**New York, NY 10038**

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

## **EXHIBIT I - PROGRAM GUIDELINES**

### NYC Business Solutions Training Funds Program Guidelines



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NYC Business Solutions Training Funds provides funding to enable New York City employers to invest in their workforce. By offering financial support for training, the program provides benefits for both employers and their entry-level workers. Training Funds helps employers afford training programs that can reduce turnover and increase productivity, thereby lowering the cost of doing business in New York City. At the same time, trainees benefit from new skills, increased compensation, and a higher quality of life. Through both channels, Training Funds strengthens New York City's economy.

## 1. General Training Funds Information

### A. Funding

- Training Funds are awarded on a quarterly basis. Employers can find key dates for the application process by logging on to [www.nyc.gov/training](http://www.nyc.gov/training).
- The amount of available funding varies from year to year. This year \$4.5 million is available, with up to \$1.5 million allocated for the current round.
- The maximum award is \$400,000.
- The minimum award is \$10,000.
- Funding that is not awarded in one Request for Applications round is carried over to the next funding cycle.
- Training Funds cannot be used for:
  - Training that is mandated by the government and considered the responsibility of the employer (such as sexual harassment training, diversity training, and mandated safety training).
  - Ongoing training that is already being provided by the business.
  - Training that does not provide transferable skills (such as new employee orientation).
- Applying for multiple public grants:
  - A company can apply for NYC Business Solutions Training Funds if they are applying for other public grants. However, the company must disclose whether they have received other training grants within the past three years.
  - If a company is awarded another grant from the same funding source (e.g. NYC Business Solutions, New York State Department of Labor, Workforce Investment Act), the company can only accept funding from both grants if the funds are applied to administer programs with different types of training and/or different sets of trainees.
- All components of the training program must be completed within one year following the execution of a Training Funds award contract.

### B. Application process

- All applicants must have submitted a pre-application that was approved by NYC Business Solutions Training Funds. The pre-application is used to assess an applicant's eligibility based upon the criteria presented in Section 2 of this document. The pre-application is available on a quarterly basis at: [www.nyc.gov/training](http://www.nyc.gov/training).
- Applications may be submitted online, via email, mail, or in person.
- All applications must be received by 5:00 p.m. on the date of the deadline. There are no exceptions. Early submission is encouraged.
- All applications submitted after the deadline will not be considered.
- Turnaround time for funding award decisions is approximately 5-6 weeks.

### C. Application evaluation and rating

- Applications will be evaluated on the following criteria:
  - Statement of need and feasibility of program
  - Trainee wage gains

- New or upgraded skills for trainees
  - Budget and cost/benefit of proposal
  - Potential impact on economic activity in New York City
- NYC Business Solutions Training Funds strives to catalyze economic activity within New York City. For that reason, the evaluation process treats favorably those applicants whose success will bring new money into the City. This can happen in two ways:
- Selling products or services to customers outside the City
  - Attracting local customers who would otherwise purchase goods or services from outside the City
- The applicant's statement of need must address both the need for training and the need for Training Funds. Awards will not be made to fund programs that would exist without Training Funds support.
- Because of feasibility concerns, applicants who propose training programs with a majority of new hires will be rated less competitively than those who include a greater percentage of incumbent employees. New hires are defined as employees who have not yet been hired at the time of application.
- No preference is given for training special populations (i.e. minority groups, people with disabilities, etc.). However, employers who propose wage gains for low-income workers (those who currently make \$15/hr or less) will receive favorable consideration in the evaluation process.
- Reviewers may award Funds on the condition that one or more components of training be altered or eliminated from the proposal.
- For a more detailed list of the application evaluation criteria, go to the Application Evaluation section of our website at [www.nyc.gov/training](http://www.nyc.gov/training).

#### ***D. Re-application***

- There is no limit to the number of times a company can apply for Training Funds.
  - If previous application was unsuccessful and the business did not receive funding, a discussion with Training Funds staff is encouraged before reapplication to determine the reasons for rejection and which pieces of the application can be resubmitted.
  - If previous application resulted in a Training Funds award, the funded project must be complete and closed-out. The new proposal must either significantly expand on the original project or address a new training need.
- In some cases, consortium members participating in a live Training Funds project may apply independently for a new or unique training need. Consultation with the Account Manager is advised.

#### ***E. Post-award process and contracting***

- Training Funds recipients will be announced on the NYC Business Solutions website [www.nyc.gov/training](http://www.nyc.gov/training). In addition, all Training Funds applicants will be notified individually.
- In order to receive the funding, awardees must sign and execute a contract with the Department of Small Business Services. The contract process takes an average of 3-6 weeks to complete.
- If the award approved is \$100,000 or greater, or if the award plus the employer's contracts with the City in the last 12 months equals or exceeds \$100,000, the employer must submit a Vendor Questionnaire for evaluation by the City's Vendor Information Exchange System (VENDEX). This may lengthen the time necessary to process the contract. More information is available at [www.nyc.gov/vendex](http://www.nyc.gov/vendex).
- Employers must submit three original certificates of insurance, an updated project plan with individual trainee data, and payroll reports before the contract is signed.

#### ***F. Progress reports***

- NYC Business Solutions Training staff will monitor training progress by collecting information on a quarterly basis (every 3 months). The information collected will determine financial reimbursement for

the training that has taken place in that period. Below is a list of information NYC Business Solutions Training will collect for each progress report:

- Interview with employer, conducted by phone or email
- Update Quarterly Progress Report with trainee status and course hours
- Training site visit and observation
- Summary of training expenses with backup documentation\*

\* The chart below outlines the types of costs and allowable forms of backup documentation.

<b>Expenditure</b>	<b>Supporting Documentation</b>
External Instruction	Cancelled checks or general ledger report accompanied by invoice
Internal Instruction	Payroll or general ledger report accompanied by invoice (invoice must include: name, hours of training, hourly wage and total cost)
Tuition/Fees	Cancelled checks or general ledger report accompanied by invoice
Books or other training materials	Receipts, cancelled checks, or general ledger report accompanied by invoice
Trainee Wages	Payroll report or general ledger report
External Training Space	Invoice accompanied by cancelled check or general ledger report

■ The business is also required to keep trainee activity logs or sign-in sheets for each instance of training. The business is required to keep these logs on file and available for audit for at least three years after training completion.

**G. Payment and reimbursement**

- The business will receive reimbursement for the quarterly costs incurred once the documentation (detailed above) has been submitted for that quarter of training. If any documentation is missing or unclear, your reimbursement may be delayed or withheld.
- Reimbursements will be capped at the contracted award amount.
- Reimbursements will only be made on eligible and documented costs incurred and will be calculated based on the following:
  - An employer contribution will be subtracted from each reimbursement (50% for businesses with ≥ 125 employees and 40% for businesses with < 125 employees).
  - An administrative payment (10% of all training costs) will be added to each reimbursement to compensate your business for the time and resources it takes to manage a training program.
  - An additional 20% will be withheld from each reimbursement for a final close-out payment. This payment will be determined and paid out 90 days after training completion. The 20% close-out payment will be paid in full if your business meets the projected wage increases in your contract (i.e. if a business projects 75% of trainees will receive wage increases and 75% receive wage increases within 90 days of training completion, the 20% close-out payment will be paid in full). If your business provides wage increases to some trainees but falls below the projection, the payment will be pro-rated accordingly. If no wage increases are provided within 90 days, the close-out payment will be forfeited.

**H. Modifications to project scope**

- Modifications to project scope must be approved by Training Funds staff.

■ Awardees are expected to keep Training Funds staff apprised of the project's progress and to alert staff of any possible divergences from the approved original scope. Divergences could include, but are not limited to changes in:

- Cost
- Training providers
- Number of trainees
- Subject matter and/or length of classes
- Number of training hours
- Frequency of courses
- Number/proportion of trainees receiving wage gains and/or size of wage gain (% increase)

■ Employers have up to 90 days after the final contract execution date to propose modifications to their training plan. Modifications proposed after 90 days may result in a reduced or forfeited close-out payment at project completion or unconditional rescission of award.

■ Training Funds staff reserves the right to approve or deny these requests based on executive level review of modified application materials submitted by the business.

### ***I. Employer assistance***

■ Applicants can seek assistance by sending an e-mail to [training@sbs.nyc.gov](mailto:training@sbs.nyc.gov) or calling (212) 618-6765.

■ Application assistance: Once an applicant submits a pre-application, a Training Funds account manager will reach out to discuss eligibility, answer questions, and provide information regarding the application process. Applicants are encouraged to speak with their account manager to optimize the quality of their application.

■ Post-award assistance: Training Funds staff will work with companies to review the scope and budget of their project, execute a final contract, conduct site visits, monitor training progress, and evaluate final outcomes after project completion.

## **2. Eligibility criteria**

### ***A. Eligible applicants***

Training Funds applications may be submitted by either: (a) a for-profit business OR (b) a consortium of at least two for-profit businesses that have a similar training need. Consortia applications can be submitted by any entity that is able to demonstrate commitment from each employer.

■ Examples of consortium administrators include:

- Training provider
- Union
- Business association (i.e., a chamber of commerce or industry advocacy group)
- Group of employers that independently created the consortium for the purpose of applying to Training Funds

■ Consortia applicants are encouraged to contact Training Funds staff by sending an email to [training@sbs.nyc.gov](mailto:training@sbs.nyc.gov) or calling (212) 618-6765 for assistance with their application before submission.

■ With rare exceptions, non-profits and publicly-funded organizations are ineligible to receive Training Funds. If you represent a non-profit or a publicly-funded organization, please contact Training Funds to discuss eligibility.

■ Applicants must propose training that is new, expanded, or enhanced and that could not happen without the support of Training Funds.

■ Applicants must have an office or place of business located in one of New York City's five boroughs (i.e., Bronx, Brooklyn, Manhattan, Queens, and/or Staten Island).

### **B. Length of time in business**

- There are no limitations or requirements regarding the length of time a company must be in business in order to apply for Training Funds. However, in order to be eligible, a company must already be doing business at the time of application.
- Start-ups that have not yet begun to operate are ineligible to receive Training Funds.

### **C. Eligible trainees**

- Both new and existing employees are eligible for training. New hires are defined as employees who have not yet been hired at the time of application. All new employees are expected to be hired on a full-time basis by the end of training. Because of feasibility concerns, applicants who propose training programs with a majority of new hires will be rated less competitively than those who include a greater percentage of incumbent employees.
- Projects must propose to train a minimum of 10 employees in order to achieve better economies of scale. If an organization wishes to train a smaller number of employees, it may apply as part of a larger consortium.
- There is no maximum number of employees that can be trained on a project.
- An employer can only receive funding to train individuals employed at an office or place of business located in one of New York City's five boroughs (Bronx, Brooklyn, Manhattan, Queens, or Staten Island) or employees who will be transferred to a NYC site after training. Employees are required to work, not reside, within New York City.
- Applicants do not have to provide the names of the employees to be trained when applying for funding. However, if a project is approved, the employer must provide this information before training begins. All trainees must be willing to be registered by NYC Business Solutions Training Funds and to have their training hours and wages tracked.
- In some cases, an employer can replace a trainee with another employee. The substitution depends on the type of training, model, and length of training. Substitution is approved on a case-by-case basis and the employer is expected to notify Training Funds staff as soon as possible should such a situation arise.
- All employees must receive a W-2 tax form by the end of training.
- For seasonal, part-time, or temporary employees to qualify for training, they must become full-time employees on the regular payroll by the end of training. To be considered full-time, a trainee must work a minimum of 30 hours per week.
- Unless otherwise specified, Training Funds staff will assume trainees work 2,080 hours per year if annual compensation calculations are needed during the evaluation process.

### **D. Wage requirements**

- All trainees must be paid during training. Compensation must meet Federal and State minimum wage standards.
- No trainees may earn more than \$63,694/year (\$30.62/hr) including tips, bonuses, or commissions prior to training. This salary limitation represents 450% of the federal Lower Level Standard Income Level (LLSIL) for an individual in New York City.
- Employers must project wage gains directly related to training for at least 50% of incumbent trainees. See section 3. B. for further detail.

### **E. Training formats**

- Applicants may apply for training that is on-the-job, customized, or a combination of the two.
  - On-the-job training refers to training provided to a paid participant who is engaged in productive work. On-the-job training must take place in the environment in which the trainee will carry out his day-to-day duties (not in a classroom). Trainees should acquire job-specific skills during the training that help them advance to a new position, take on new responsibilities, or perform a new type of work. Examples of on-the-job training include:

- Waiter-in-training at a restaurant accompanying a more experienced waiter as he services tables
- Machine operators learning to operate new equipment on the factory floor under the direction of a more experienced machine operator
- Air conditioner repairman learning to repair gas heaters by following workers already skilled at servicing heaters, and vice versa (i.e., cross training)
- Customized training is training that is comprised of activities outside of an employee's regular job responsibilities. Examples of customized training include but are not limited to: classroom training, online training, work-readiness training, or any training that engages the services of an external consultant or instructor.
- Customized training may provide employees with either occupational skills (i.e., those designed for a specific occupation) or work readiness. Work readiness can include the following:
  - Literacy (includes reading and English as a Second Language [ESL])
  - Numeracy (Math skills)
  - Work Behavior
  - Customer Service
  - Basic Microsoft Office
- Applicants may request funding for online or computer-based training.
- Applicants may request funding to train employees to provide instruction to other employees.
- Applicants may combine several types of training into a single application. For example, a glass factory may submit a single application that proposes one cohort being trained to become glass cutters and another cohort being trained to become glass blowers. Training programs need not begin and end on the same dates.
- Applicants may propose a project that provides multiple types of training to the same employees (i.e., Oracle software and customer service training for account executives).

#### ***F. Length of training***

- Training must be completed within one year from the execution of a Training Funds award contract.
- Extensions for training projects that take longer than anticipated will be given on a case-by-case basis. If a project will take longer than initially expected, the employer must notify Training Funds staff immediately.

#### ***G. Location and timing of training***

- Training sessions may be held outside of NYC (however, transportation costs are not eligible for Training Funds).
- The employer is expected to begin the project within one month of signing the contract.
- Training Funds can only be used for training that occurs after the applicant has been notified of an award being made.
- Start and end dates of training can be changed from those stated on the application as long as the change does not affect the total length of time in training or the training cost.

### **3. Outcomes**

#### ***A. General***

- Key outcomes that are measured include trainee wage gains, new or upgraded skills directly linked to the training program, and key business outcomes such as productivity gains.
- Any employer that receives funding is expected to track trainees' progress and wage increases.
- Training Funds staff will monitor projects regularly during training and after completion.

### **B. Wage gain**

- Wage gains are required for at least 50% of incumbent trainees.
- Wage gains are expected to be commensurate with industry standards and with the skill(s) attained.
- Wage gains must be directly tied to the training program.

### **C. New or upgraded skills**

- Training should help employees to perform current or new responsibilities more effectively and should strengthen skill sets that are applicable across one or several industries.
- Training should be designed to increase career growth opportunities for trainees.
- Wherever possible, employers should use industry-recognized standards, such as certifications and licenses, to measure work readiness or occupational skill acquisition.
- Employers wishing to develop in-house testing to measure skill upgrades are encouraged to do so and asked to provide a brief explanation in their application.

## **4. Budget**

### **A. General**

- An application's budget must include all applicable information requested. The organization may be asked to provide further clarification after submitting an application.
- For proposals that contain elements of both on-the-job and customized training, please contact your account manager to assist you in completing the application budget.
- To determine whether a project's costs are reasonable, a comparison to similar types of training may be performed.
- For consortia applying, each employer must contribute to the training program. The employer contribution cannot come from an organization applying on behalf of consortium members.

### **B. Eligible costs**

- On-the-Job Training: The only eligible costs are trainee wages for hours spent in training (tips, bonuses, and commission are not eligible for reimbursement) and administrative costs.
- Customized Training:
  - External instruction: The cost of off-site tuition or the salary of an external training provider.
  - Internal instruction: Wages paid to internal staff who provide training to trainees as part of the Training Funds project.
  - Training curriculum development: Time spent customizing curriculum to address the specific training need.
  - Additional space rented specifically for training
  - Trainee wages for hours spent in training (tips, bonuses, and commission are not eligible for reimbursement).
  - Training-related books, materials, supplies, and software:
    - Training Funds cannot be used for items that will be used to produce goods or services for sale or items used for normal business operations.
    - The employer is expected to demonstrate that training costs are reasonable.
    - Manufacturing supplies may qualify if necessary for training.
    - Software costs are eligible if training-related. For example, if an employer is training employees to become certified on specific software, the portion allocated to the training modules can be covered. Training Funds cannot pay for software used for the company's ongoing business operations.
    - Development of materials to facilitate training, such as a training video, may be eligible if the materials are customized to address the specific training proposed.

### C. Ineligible costs

The following costs are ineligible for reimbursement and will not be calculated as part of the employer's contribution:

- Fringe benefits: Only the employee's base salary can be factored in the cost of training.
- Equipment, including equipment leased such as copiers or laptop computers.
- Renovation of facilities.
- Travel expenses.
- Uniforms.
- Purchase of tools that will facilitate the tracking of outcomes. It is the employer's responsibility to track outcomes and produce the documentation to verify that the outcomes have been met.
- Costs related to hiring a temporary worker to perform the duties of the employee being trained. The wages of the temporary worker will not be covered. Only the wages of the employee being trained can be factored into the cost of the project.
- Certification fees are not eligible unless such fees are included in the instruction fee.
- Training Funds cannot be used to subsidize the costs of employee orientation programs.
- On-the-job training: Any costs outside of trainee wages, such as supervisory wages, etc.

### D. Administrative payment

- In acknowledgement of the time and resources required to participate in the program, Training Funds offers an administrative payment of up to 10% of the total training costs.
- Training Funds recipients are expected to use their administrative payment to provide the resources necessary to manage the program (i.e., report trainee wages and training activity, provide receipts and proof of payment to Training staff for reimbursement, etc.).
- At the employer's discretion, consortium organizers may receive some or all of the administrative payment given to Training Funds recipients.

### E. Maximum funding and employer contribution

- The following table outlines the maximum funds a business can receive:

Business Size	Base Training Funds Payment	Administrative Payment (associated with training)
Business with $\geq$ 125 employees	Up to 50% of total cost	Additional 10% of total training cost
Business with $<$ 125 employees	Up to 60% of total cost	Additional 10% of total training cost

- Employers must contribute at least 30%- 40% of program costs, based upon the chart above.
- For consortium applicants, the Training Funds payment will be based on the average size of the businesses. If the majority of businesses have 100 employees or more, Training Funds will cover up to 50% of the total cost. If the majority of businesses have fewer than 100 employees, Training Funds will cover up to 60% of the total cost.

## 5. Training providers

- Multiple internal and external training providers are permitted. The company may be asked to provide additional information about external training providers.
- To search for training providers, applicants can use the Training Provider Directory (<http://mtprawvwsbawtp.nyc.gov/Search/Search.aspx>). Please note that the Training Provider Directory is just one source among many and that training providers do not have to be in the Training Provider Directory to receive Training Funds.
- If a training provider offers certified instruction, it should be licensed through the NY State Department of Education, the Board of Proprietary Schools, or another industry oversight organization.

## 6. Past awards

The following are examples of recent NYC Business Solutions Training Funds projects:

### ■ Construction:

A full-service remodeling and construction firm trained their entry-level workers to more efficiently estimate and manage costs. Once promoted, these employees trained the new hires that filled their old positions.

### ■ Financial Services:

A Flushing, Queens-based accounting firm trained new and current staff in Quickbooks and basic and advanced accounting.

### ■ Food Services/Accommodation:

A Bronx-based company specializing in Latin-inspired catering and events trained their wait-staff to become Captains and Maitre 'Ds in a thirteen week program focusing on new catering software, event planning and preparation, and management skills.

### ■ Healthcare:

A healthcare union, working on behalf of hospital employers, trained Certified Nursing Assistants, Medical Transporters, and Patient Representatives for Operating Room Technician positions.

### ■ Information and Professional Services:

A business equipment company trained account executives, field service representatives and supervisors in Oracle software, A+, and N+ Networking.

### ■ Manufacturing/Industrial:

A seafood processing company at the New Fulton Fish Market provided training in fish cutting, handling and packaging techniques to prospective employees. Trainees were hired for new shifts that were added to the company's operations.

### ■ Retail:

A supermarket trained new employees on-the-job for sixteen weeks at its Manhattan stores to become assistant department managers at a new store in Red Hook, Brooklyn.

## 7. Reasons for rejection

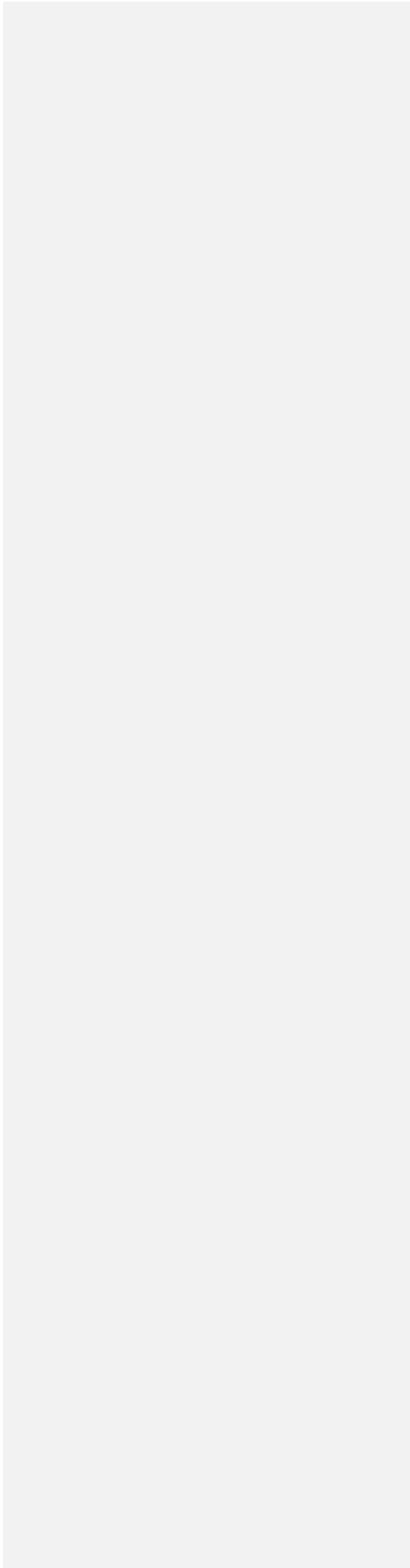
Common reasons why applications have not been funded in the past include:

- The application is incomplete.
- The project does not meet eligibility requirements.
- The project costs do not reflect the proposed activities.
- The project plan does not indicate clear outcomes for the training.
- The project does not address new or upgraded skill sets.
- The project scope is not timely or feasible.



**FOR OFFICE USE ONLY**

	Notes
<input type="checkbox"/> Verification of Birth Date	
<input type="checkbox"/> Pending	
<input type="checkbox"/> Birth Certificate	
<input type="checkbox"/> Driver's License	
<input type="checkbox"/> Passport	
<input type="checkbox"/> School Records / Identification Card	
<input type="checkbox"/> Federal, State or Local Government ID Card	
<input type="checkbox"/> Work Permit	
<input type="checkbox"/> DD-214: U.S. Military Report of Transfer or Discharge	
<input type="checkbox"/> Public Assistance / Social Services Records	
<input type="checkbox"/> Other _____	



**EXHIBIT K**  
**QUARTERLY PROGRESS REPORTS**



These worksheets will help you collect and report information that is needed for the Quarterly Progress Report and Reimbursement Request.

Please complete these forms and return them to your Training Funds Account Manager. Contact your Account Manager or call 212-618-6765 with questions.

**STEP 1: TRAINEE PROGRESS**

- Indicate the progress for each trainee for the appropriate quarter from the drop-down menu.
- "On-track" – attending enrolled courses this quarter; on pace to complete the required course-work
- "Off-track" – dropped one or more course and/or missed a substantial amount of training. You and your account manager will discuss the progress for each trainee marked "off-track".
- "Dropped" – no longer participating in the Training Funds project. Please be prepared to discuss why the trainee is being removed.

**[Click here for QPR Trainee Roster](#)**

**STEP 2: QUARTERLY COURSE HOURS**

- Indicate about the number of hours each course was offered in the quarter.
- A senior executive from your organization must review and sign-off on the information before it is submitted.

**[Click here for Course Hours](#)**

**Contract Start Date (NYC Business Solutions Training Funds Use Only)**



