**Appendix A - Standard Clauses For New York State Contracts**

**Non-Discrimination Requirements Clause**

***Here’s the first sentence of Appendix A, Paragraph 5:***

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status.

**The suggested change is captured in redline:**

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status.

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### “Gender Identity or Expression” is protected by court interpretations of the breadth of Title VII’s protection against discrimination based on sex. See *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), where the US Supreme Court held:

### …[W]e are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with their group, for,"'[i]n forbidding employers to discriminate against individuals because of their sex, Congress intended to strike at the entire spectrum of disparate treatment of men and women resulting from sex stereotypes.'" [citation omitted].

### See also: <http://www.nclrights.org/site/DocServer/Federal_Cases_Addressing_Whether_Discrimination_on_the_B.pdf?docID=3661>

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“Military Status” was added to Executive Law, Section 296 by Chapter 106 of the Laws of 2003

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“Genetic Predisposition or Carrier Status” was changed to “Predisposing Genetic Characteristics” by an amendment to Executive Law, Section 296 by Chapter 75 of the Laws of 2005

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“Domestic Violence Victim Status” was added to Executive Law, Section 296 by Chapter

80 of the Laws of 2009