State of California

M e m o r a n d u m

To: Panel Members

Date: November 20, 2003

From: Dolores Kendrick, Manager

Ref. No.: 04-0126

Analyst: J. Johnson

Subject: SMALL BUSINESS FAST TRACK AGREEMENT FOR EMPLOYERS WITH 100 OR FEWER EMPLOYEES

Contractor's Legal Name:	Apffels Gourmet Coffee
Agreement Term Dates:	12/01/03 – 06/30/04
Turnover Rate:	10 percent
County(ies) Served:	Los Angeles Rural: Yes _____ No X
Number of Full-Time Workers:	63 Number to be Trained: 59
Occupations to be Trained:	Accountant, Customer Service Staff, Salesperson, Distribution Manager, Accounts Receivable Staff, Accounting Manager, Line Operator, Driver, Mechanic, Quality Control Worker, Assistant Floor Supervisor
Range of Hourly Wages at Retention:	$13.89 - $45.45
Health Benefits:	N/A
Type of Industry:	Manufacturing
Nature of Business:	Company manufacturers gourmet coffees, teas, chocolate, and juices.
Training Project Profile:	Out-of-State Competition
Repeat Contractor:	No
Strategic Category/Legislative Priority:	Promotion of California's Manufacturing Workforce
Type of Training:	Continuous Improvement/Business Skills/Computer Skills
ETP Funding Amount:	$17,040
Employer Contribution:	$16,533 in wages paid to workers while in training.
Average Cost per Trainee:	$289
Union Representation:	Teamsters Local No. 78
(Union Support Letters Attached)	Teamsters Local No 848
	Teamsters Local No. 630
Referred By:	N/A
Subcontractors:	N/A
Comments:	Contractor agrees that during ETP-funded training hours, trainees will not produce products or provide services which will ultimately be sold.

EMPLOYMENT TRAINING PANEL TRAINING AGREEMENT
for Small Businesses with 100 or Fewer Employees

TERMS, CONDITIONS, AND TRAINING PLAN

1. Term: This Agreement is entered into between the Employment Training Panel (ETP) and Apffels Gourmet Coffee (Contractor). The term is 12/01/03 through 06/30/04.

2. Payments: ETP shall pay the Contractor no more than $17,040 computed on a fixed-fee reimbursement of $20.00 per training hour in accordance with the following Chart:

Job #	Number of Trainees to Retain	Required Class/Lab Training Hours	Trainee Will Receive One or More of the Following:	Cost Per Trainee	Payment Schedule		Hourly Health Benefits	Wage at Retention
					PP1 (Enrollment & 8 hours of training)	Final Payment (Training and Retention Completed)		
1	50	12	*Continuous Improvement Skills *Business Skills *Computer Skills	$240	$120	$120	-0-	$14.28-$45.45
2	4	18		$360	$180	$180	-0-	$19.88-$24.09
3	5	36		$720	$360	$360	-0-	$13.89-$40.86

*Business Skills: Customer Service, Transportation and Logistics, Product Knowledge
*Computer Skills: Microsoft Systems, Spectra Data
*Continuous Improvement: Team Building, Problem Solving, Decision-Making, Workflow Techniques, Production Scheduling

Contractor is responsible for providing 100 percent of the required number of training hours to each trainee in each Job.

3. Administration: Contractor is directly responsible for the administration and all training delivered under the term of the Agreement.

4. Performance: Earnings are contingent upon the completion of all performance requirements. Contractor shall ensure that ETP or its representative, including the Bureau of State Audits, has the right during normal business hours, to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents, or other evidence directly related to the performance of this Agreement by the Contractor and available for review at the Contractor's place of business, within the State of California. This right will terminate no sooner than four (4) years from the date of termination of the Agreement or three (3) years from the date of the last payment by ETP to the Contractor, or the date of resolution of appeals, audits, claims, exceptions, or litigation, whichever is later.

   ETP may audit this Agreement at anytime up to four (4) years following the end of the term of this Agreement. Audits will be performed in accordance with Government Auditing Standards, which include sampling of available records.

   ETP shall inform Contractor in writing if performance by the Contractor is not satisfactory and may, at its discretion, suspend any payment and/or performance, including training, under the Agreement or terminate the Agreement as provided herein.

   Contractor agrees that during ETP-funded training hours, trainees will not produce products or provide services which will ultimately be sold.

Contractor agrees that during ETP-funded training, the trainer to trainee ratio will not exceed 1:20.

No senior level managers or executive staff who set company policy are included in ETP-funded training under this Agreement with the exception of the owner.

5. Unearned Funds: Contractor may receive unearned progress payments as indicated in the Chart on page 1 of the Agreement. Any funds invoiced and issued for a trainee who does not have an original signature and valid Social Security Number (SSN) on the ETP 104AUTH on file with ETP must be returned to ETP as unearned monies, with applicable interest.

   All unearned monies shall be returned to ETP with statutory interest computed from the first day of the month following the date the funds were received.

6. Indemnification: Contractor shall indemnify, defend, and hold harmless ETP, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all Contractors, subcontractors, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by Contractor during the term of this Agreement.

7. Governing Rules: This Agreement shall be governed by the laws of the State of California. Contractor shall comply with all applicable federal, state, and local laws, ordinances, and regulations.

8. National Labor Relations Board (NLRB): Pursuant to Public Contract Code Section 10296, by executing the Agreement, Contractor swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. ETP may rescind any contract in which the Contractor falsely swears to the truth of the statement required by this section.

9. Americans with Disabilities Act: Contractor assures that it shall comply with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 1201 *et seq.)*, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

10. Drug Free Workplace: Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 *et seq.*) and will provide a drug-free workplace by taking the following actions:

    a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations;

    b. Establish a Drug-Free Awareness Program to inform employees about all of the following:

        1. The dangers of drug abuse in the workplace;

        2. The person's or organization's policy of maintaining a drug-free workplace;

        3. Any available counseling, rehabilitation and employee assistance programs; and

        4. Penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the Agreement:

1. Will receive a copy of the company's drug–free policy statement; and

2. Will agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

11. Nondiscrimination: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 *et seq.)* and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 *et seq.*) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Contractor shall include the nondiscrimination and compliance provisions of this subparagraph in all subcontracts to perform work under this Agreement.

12. Use of ETP Funds: Pursuant to the provision of Government Code Sections 16645, et seq., Contractor certifies that it will not use ETP funds during the term of the Agreement to assist, promote, or deter union organizing. If Contractor does make expenditures to assist, promote, or deter union organizing, Contractor must keep records sufficient to show that no ETP funds were used to assist, promote, or deter union organizing. These records are to be made available to the California Attorney General upon request. Contractor assures that it will comply with the provision of Government Code Sections 16645, et seq., as applicable.

13. Full-Time Employment: Each trainee must be employed full-time, at least 35 hours per week, with the Contractor for a period of at least ninety (90) consecutive days immediately following the completion of training. Training and the retention period for each trainee must be completed within the term of the Agreement.

14. Entire Agreement: This Agreement shall not be transferred to any other party without the prior written approval of ETP. This is the entire Agreement between the parties and it supersedes any other understanding or writing made between them related to this matter.

15. Subcontractors: Contractor may subcontract for training or administrative services. All subcontracting under this Agreement shall comply in form and content with the requirements of ETP. No third party relationship is intended or created between any subcontractor and the ETP.

The Contractor certifies to the need for training; the training supplements rather than displaces the Contractor's on going investment in the training of its workers; and its in-kind contribution shall be the trainee's salaries while in training.

APPROVED FOR ETP			APPROVED FOR CONTRACTOR		
Peter McNamee, Executive Director			Darryl Blunk, Executive Vice President		
Type Name and Title			Type Name and Title		
Signature		Date	Signature		Date
1100 J Street, 4th Floor			2115 S. Grand Avenue		
Address			Address		
Sacramento,	CA	95814	Los Angeles,	CA	90007
City	State	Zip	City	State	Zip
(916) 327-5246	(916) 327-5270		(213) 765-5327	(213) 748-5947	
Telephone	FAX		Telephone	FAX	

Amount To Be Encumbered	Item	Chapter	Statute	Fiscal Year
$17,040	7100-001-0514	157	2003	2003-2004

Fund	Object & Code
Employment Training Panel	96874-03930-936

I hereby certify that budget funds are available for the period and purpose of the expenditure stated above.

Signature of Accounting Officer	Date

I hereby certify that the Agreement does not fall within the meaning of Section 10295 of Chapter 2 of Part 2 of Division 2 of the Public Contract Code of the State of California and pursuant to 58 OPS. CALL ATTY. GEN. 586 is exempt from review or approval of the Department of General Services and the Department of Finance.

Signature on Behalf of the Agency	Date

SUBCONTRACTS

The following information must be included in any subagreement between the Contractor and its subcontractor(s) for any work performed under this Agreement:

(A) The name, title, address, and phone number of the signatory authority for the Contractor and subcontractor;

(B) The inclusive dates of the term of the subagreement contract; and

(C) A detailed explanation of the services to be provided under the subcontract and the negotiated amount of the subagreement contract. Administrative subagreement contracts that represent more than 40 percent of the primary contractor's total administrative budget shall be performance-based and final payments for services rendered under these subagreements contracts shall not be earned until trainees complete both the training and also the specified employment retention period.

In addition, the language in subparagraphs (D) - (L) must be included *verbatim* in any subagreement for any work performed under this Agreement between the Contractor and its subcontractor(s), unless a modification is agreed to in writing by ETP:

(D) "ETP is not a party to this Agreement nor is subcontractor a beneficiary in any way under the Agreement between ETP and the Contractor. ETP shall not be obligated in any manner to the subcontractor for any liability to subcontractor that may arise out of this Agreement. No third party relationship is intended or created between any subcontractor and ETP."

(E) "ETP, or its authorized representative, upon reasonable notice, shall have the right, during normal business hours, to examine and audit any and all records, books, papers, and documents related to the conduct of the training or services provided to the Contractor by the subcontractor to the extent ETP believes necessary to assure compliance with the ETP Agreement. Contractor shall ensure that ETP has access to all subcontracts and other records that adequately identify the hours and types of training or services provided to the Contractor by the subcontractor and the number of subcontractor personnel involved in this work. Upon prior reasonable notice from ETP, Contractor shall provide ETP with copies of any subcontracts."

(F) "ETP, or its authorized representative, shall have the right, during normal business hours, to freely observe and monitor all performance under this Agreement, including interviews with trainees and employees without the presence of the subcontractor."

(G) "All finished or unfinished documents, data, studies, and reports prepared by the subcontractor for the Contractor shall be disposed of under the direction of the Contractor and ETP."

(H) "To the extent permitted by law, subcontractor agrees to indemnify, defend and hold harmless the Contractor and ETP and their respective officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of the Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation which may be injured or damaged by subcontractor during the Agreement term."

(I) "Records must be kept for a period of no less than four (4) years from the termination date of the ETP Agreement or three (3) years after final payment under the ETP Agreement, whichever is later."

(J) "During the performance of any subcontract, subcontractor and any of its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, and denial of family care leave. Contractor and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Contractor and its subcontractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as is set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement."

(K) "This Agreement shall be governed by the laws of the State of California. Subcontractor has reviewed the terms and conditions contained in the ETP Agreement and agrees to comply with applicable provisions."

(L) "This Agreement is effective only if the Agreement between the Panel and the Contractor is executed."

Wholesale Delivery Drivers, Salespersons
Industrial and Allied Workers
TEAMSTER LOCAL 848
AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JIM SANTANGELO
SECRETARY-TREASURER

October 29, 2003

Leslee Rohr
ATC Access To Capital, LLC
200 E. Del Mar Blvd., Ste. 350
Pasadena, CA 91105

Dear Ms. Rohr,

Local No. 848 is aware and concurs with this application for ETP funds for training.

Sincerely,

Ariene Praw
Business Representative
Teamsters Local 848

AP/ba

9960 BALDWIN PLACE EL MONTE, CALIFORNIA 91731-2288 PHONE (626) 448-0848 FAX (626) 448-3094

TEAMSTERS UNION LOCAL NO. 78

Affiliated with the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
and with
Teamsters Joint Executive Council No. 7
Western Conference Teamsters Automotive Trades Division

STEVE MACK
Secretary-Treasurer

JOHN KIKES
President

October 28, 2003

Employment Training Panel
1100 "J" Street 4th Floor
Sacramento, CA 94814

RE: APFELLS COFFEE

Gentlemen:

Please be advised that Teamsters Local 78 is aware and concurs with this application for ETP funds for training.

Sincerely,

Ron Paredes,
Business Representative

RP/cp

East Bay Office • 492 "C" Street • Hayward, California 94541 • Telephone: (510) 889-5911 • Fax: (510) 889-0866
South Bay Office • 1165 Park Avenue, Suite 201 • San Jose, California 95126 • Telephone: (408) 998-2296 • Fax: (408) 998-2299

Food, Industrial and Beverage Warehouse, Drivers and Clerical Employees Union

(213) 627-2178
Fax (213) 627-0846

Teamsters Local Union No. 630

750 So. Stanford Avenue / Los Angeles, California 90021-1468

J. L. "JERRY" VERCRUSE
Secretary-Treasurer

PAUL A. KENNY
President

October 28, 2003

(Faxed: (626) 585-1661)

Employment Training Panel
1100 "J" Street, 4th Floor
Sacramento, CA 94814

Re: Apfell Coffee Company

Gentlemen:

Please be advised that Teamsters Local Union No. 630 is aware and concur with the application for ETP funds for training.

Sincerely,

Jesus Gonzalez
Executive Coordinator