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NEW YORK STATE DEPARTMENT OF HEALTH
HEAL NY - PHASE 12
APPLICANTS CONFERENCE

Friday, May 22, 2009
1:00 p.m.
Empire State Plaza
Meeting Room 6
Albany, New York

PANEL: CHRIS DELKER
MARK KISSINGER
NEIL BENJAMIN
GUY WARNER
JOE MELOVECK
CRAIG SCHREIVOGEL
MARYBETH HEFNER
MARTIN BIENSTOCK
DAVID HOLUPKO
DOUG REILLY
PAUL PFLIEGER

1 MR. WARNER: Good afternoon and
2 welcome to the HEAL 12 bidder's conference. My
3 name is Guy Warner. I'm the director of the
4 Bureau of Licensure and Certification.

5 Before I begin, I'd like to start
6 with a few ground rules. But first, I'd like to
7 have our panel members identify themselves real
8 quickly. I'll start with my immediate left.

9 MR. DELKER: Chris Delker,
10 Division of Health Facilities Planning.

11 MR. KISSINGER: Mark Kissinger,
12 Office of Long Term Care.

13 MR. BENJAMIN: Neil Benjamin,
14 Health Facilities Planning.

15 MR. MELOVECK: Joe Meloveck, Long
16 Term Care.

17 MR. SCHREIVOGEL: Craig
18 Schreivogl, Dormitory Authority.

19 MR. HOLUPKO: Dave Holupko, Long
20 Term Care.

21 MR. REILLY: Doug Reilly, Long
22 Term Care.

23 MR. PFLIEGER: Paul Pflieger,
24 Long Term Care.

25 MR. WARNER: Okay. Thank you.

1 First, I would ask that anyone
2 who has a question during the presentation to
3 please hold them and do not ask questions during
4 the presentation. We'll do the presentation on
5 the HEAL 12 initiative and we will have a
6 question and answer session after that.

7 Secondly, HEAL protocol requires
8 that the conference begin precisely at one
9 o'clock - that's why I had to move things along -
10 and end at three o'clock. Therefore, we're going
11 to try to keep the presentation short to allow
12 for the maximum amount of questions.

13 And before I hand the
14 presentation off to the deputy commissioner, I'd
15 like to make a couple of acknowledgements.
16 First, to the entire Bureau of Licensure and
17 Certification, particularly Nancy Nokowski, who
18 couldn't be here today. She did an absolutely
19 fantastic job of organizing today's event.
20 Second, I'd like to acknowledge the HEAL unit and
21 all of their systems that they've provided us in
22 helping us get the presentation together today.
23 And third, Tiffany Lee in the Office of Long Term
24 Care, who gave us quite a bit of assistance in
25 getting a lot of the paperwork together. So I'd

1 like to thank her, as well.

2 So just to move right along,
3 we'll begin the part of our formal presentation.
4 I introduce to you the deputy commissioner of
5 long term care, Mr. Mark Kissinger.

6 MR. KISSINGER: Thanks, Guy.
7 And, first, I want to apologize for taking
8 everyone's time on a Friday, a beautiful Friday
9 before Memorial Day. And I want to do a couple
10 thank you's, as well. Thank you to Carla
11 Williams in my office and Laura LaFave in the
12 Office of Health Insurance for their technical
13 expertise in putting this together.

14 So, I think there's a guy I'm
15 supposed to point to for moving the slides.
16 There he is. Okay. So I'm just going -- we're
17 just going to go.

18 HEAL New York. You all know a
19 little -- probably a little about HEAL New York,
20 but it was a law created a couple of years ago to
21 really try to move the system forward, and the
22 RFA delineates exactly how -- the principles of
23 HEAL New York. This is the twelfth competitive
24 round for HEAL New York funds and we're refining
25 it all the time, trying to get it right. So

1 HEAL New York.

2 Next slide. So this is the
3 competitive procurement. There have been other
4 HEAL rounds which have been non-competitive, but
5 this is competitive. Competitive means there is
6 a number of rules, very strict rules, in the
7 State finance law and in the Department of
8 Health. That doesn't mean that people shouldn't
9 try to be creative with these applications, and
10 we tried to in this RFA be as flexible as we
11 could on a number of different approaches within
12 a competitive environment. Those two concepts of
13 flexibility and competition sometimes collide,
14 and so we will be as flexible as we can in review
15 and also in projects that come forward to us.
16 And I would urge people to really think about --
17 read the RGA very carefully, but think about
18 projects that will move the long term care system
19 forward, like we all know. It talks about the
20 general principles of that.

21 So the purpose of this
22 procurement is to develop the alternative long
23 term care initiatives with demonstrated
24 reductions in RHCF beds. We are looking for a
25 reduction in nursing home capacity, as well. The

1 budget that was enacted called for the reduction
2 of 6,000 beds over a five-year period, and as
3 everyone knows, if you know a little bit about
4 long term care, clearly the nursing homes, people
5 -- people are looking for alternatives to nursing
6 homes.

7 Questions regarding the process
8 you should put through the e-mail process so that
9 everyone has the benefit of the question and the
10 answer. And we will post questions and answers
11 on or about June 12. So that's not far away, so
12 that should give people plenty of time.

13 The goal of HEAL 12 is to assist
14 communities to identify, finance and develop
15 alternatives for care through coordination of a
16 variety of licensed residential programs and
17 development of other residential options and
18 reductions in nursing home capacity. So as I
19 said before, we're trying to move this system
20 from a nursing home based system to an
21 alternative to nursing home based system and that
22 is the overall goal. We also are trying to have
23 communities work together to try to move that
24 goal forward.

25 So if you look at the eligible

1 applicants, there is a wide variety of eligible
2 applicants for HEAL 12: nursing homes, CHHAs,
3 ALP, ALR, adult homes, enriched housing, active
4 parents or co-operator of a hospital, nursing
5 home or CHHAs, local governments, CCRCs or
6 fee-for-service CCRCs, not-for-profit senior
7 housing - this is a new entity to the eligible
8 applicant field - a not-for-profit consortium
9 comprised of any of the above - and consortiums
10 would be great, we're looking for them - or a
11 corporation specifically established to develop
12 alternative long term care -- community-based
13 long term care initiatives. So people should
14 look at that list very carefully and see if they
15 can fit as a eligible applicant and if they are
16 within that list.

17 The project timeframes. These
18 are very aggressive timeframes. They are
19 aggressive because we want to use this RFP to be
20 able to draw down that money. That means awards
21 have to be out by September 30th of this fiscal
22 year. The project will begin on or about
23 October 1st of this year; that's very aggressive.
24 We have this ability to do no cost extensions for
25 the awards, but don't -- people should not rely

1 on that ability. It's by exception only. We are
2 trying to move this money fast through the
3 process. So if you see -- when we say in rare
4 instances, we mean in rare instances, up to one
5 year no cost extension with prior approval of
6 DOH, DASNY and Office of Comptroller.

7 All reimbursable costs must be
8 incurred within the time period in the Grant
9 Disbursement Agreement. So it's a very
10 aggressive timeline, but we are serious about
11 trying to use this money for the F Sharp match.

12 Eligible costs. People should
13 look very carefully at this definition of what's
14 an eligible cost. I'm not going to read the
15 slide to you. Those are available, but people
16 should look very carefully at what an eligible
17 cost is. And if you look at the bottom of the
18 slide towards the -- so if you go back one for a
19 second. Where it says "or other housing
20 configurations with coordinated medical services
21 that support long term care populations in the
22 community." So people should look at that very
23 carefully.

24 Okay. This also is an eligible
25 cost. Again, acquisition, construction,

1 reconstruction, IT equipment or equipment to
2 develop affordable fee-for-service or continuing
3 care retirement communities is under 46 or 46-A.

4 This one is -- gives you a little
5 more definitions of what eligible costs are and
6 they are in the RGA. The basis for these awards
7 are responses to goals and objectives in the RGA.
8 You should read the RGA a number of times and be
9 very clear what the goals and objectives of this
10 RGA are and then whether the activities are
11 reasonable, cost-effective and financially
12 feasible.

13 Since it is a competitive RGA,
14 the awards will be based on a numerical score
15 based on the following: scope of work, the need
16 for the project in the community, the degree to
17 which the project meets the goals and priorities
18 of the HEAL New York, the appropriateness of
19 expenses to the project, whether the project is
20 appropriate use of bonded funds, where
21 applicable.

22 It is kind of the standard
23 numerical scoring, seventy-five percent
24 technical, twenty-five percent financial. We
25 have a minimum score of sixty-five derived

1 through uniform scoring criteria that will be
2 used for the basis of the awards.

3 So in putting together an
4 application, I also want to say a simple
5 editorial item here. I've seen a number of
6 applications in my career with the State which
7 are great, but they fall down on some technical
8 aspects of the application, so they are unable to
9 be funded. So people should be very, very clear
10 and also very -- a stickler for the details on
11 the application. We will do the best that we
12 can, but competitive procurement rules are very
13 strict, so please review your applications before
14 you send them in, a number of times. Have other
15 people look at them if you have to, but make sure
16 you follow the rules. It is very important that
17 you follow the rules. And if you have questions
18 on the rules, e-mail them in or bring them today
19 but -- or both, because I want to make sure that
20 we have -- we're trying to get creative proposals
21 here, so I don't want to have something not be
22 able to be funded because of a technicality.

23 So the application should be a
24 brief summary of the proposed project and how it
25 will improve access to the care and support the

1 goals of the Commission.

2 Now, the Commission is the Berger
3 Commission. That's the spirit of the Berger
4 Commission. It is not necessarily the actual
5 Commission documents or the reports. So people
6 should look at the spirit of -- the whole report
7 of the Commission, which talks about -- which was
8 the right-sizing of the institutions, both in
9 hospitals and nursing homes. So you should be
10 clear with a brief summary of how you fit into
11 the spirit or the general theme of the
12 Commission. Don't give us more than fifteen
13 pages, plus attachments. Anything more than
14 fifteen pages is -- you're wasting your time.

15 Technical application. Please
16 make sure there's no cost information in the
17 technical application and make sure that
18 technical and financial applications are in
19 separate packages. Here is -- we're a stickler
20 for this, so please do not violate this. I'm
21 going to say it again. Technical and financial
22 applications in separate packages and no cost
23 information in the technical application.

24 So when we talk about community
25 need. What is community need? This is a long

1 term care focused application. So these things
2 all apply -- health status indicators,
3 demographics, status of population, look forward
4 on the population, availability of residential
5 options and services to maintain populations in
6 the community, not the nursing home, volume,
7 occupancy and discharges by existing providers.
8 Take a look at your whole healthcare and long
9 term care system and say, How we can document the
10 need for this proposal? Identify areas where
11 you're over capacity or under capacity. Know
12 your communities. Know your projects that you're
13 applying for. And please do not use generalized
14 statements and anecdotal information. You can
15 use them, but back them up with data because
16 saying that we think there's a problem or we
17 think there's an issue here is not going to get
18 you points on the scoring. So please document
19 community need.

20 Objectives and tasks. A
21 description of the objectives to be achieved in
22 progressing towards the project's goal. So be
23 very clear about what the objectives and tasks
24 are in your application and the dates of
25 completion for the milestones. So submit to us

1 an achievable application with milestones and
2 dates of completion.

3 Monitoring plan. It is merely a
4 methodology to track progress in the project. So
5 we realize there is a delay in times, but you
6 have to have a plan so that we can move your
7 proposal together with you on the path and then a
8 feedback mechanism to identify barriers and make
9 needed adjustments. Obviously, we know that just
10 because we say we're going to do one thing
11 doesn't mean that you've cleared all the hurdles,
12 both locally and statewide. But have a plan to
13 track progress and have a feedback mechanism to
14 identify those areas.

15 On the finance side, detailed
16 discussion of the reasonableness of each budget
17 item. Don't ask for things that aren't
18 reasonable. We've seen many applications where
19 you wouldn't believe what we've seen, people that
20 are asking for things that just aren't
21 reasonable. Look at that and discuss it in
22 detail. And then identify and describe other
23 sources of funding, if any. If you can get other
24 sources in the project for this funding, identify
25 those and describe those.

1 HEAL funds may not supplant other
2 funds. So -- and this is a lot of money in the
3 long term care sector. It's 175 million dollars.
4 Please don't supplant other funds with this.
5 HEAL funds are just supposed to be for moving
6 projects forward.

7 Okay. Now to the rules on
8 competitive procurement. We have a whole panel
9 of experts here. If I say something wrong,
10 please help me here because I'm not the expert on
11 competitive procurement. But what I do know is
12 that there is no negotiations or adjustments to a
13 project or budget once it's been submitted, and
14 if you have a question, if you're unclear about
15 something, get it in via e-mail because that's
16 the best way to do it, because everyone gets the
17 benefit of the question and the answer.
18 Questions are due quickly, May 29th, and we will
19 be posting the answers around June 12th. That
20 means by -- around June 12th, you'll have the
21 RGA, the question and answer, you'll have all
22 that in front of you to be able to do an
23 application by July 14. I'm trying to ruin every
24 State employee in the Health Department's summer
25 by scoring these things so -- and we pretty much

1 did, I think. So July 14th, and the reason it's
2 July 14th, it's very strict. Get them in on time
3 because we need to turn around and go through the
4 whole process and make the awards by September
5 30th. So May 29th -- these are the milestone
6 dates -- May 29th, June 12th, July 14th,
7 September 30th.

8 Application submission. This is
9 all in the RGA. Separate technical and
10 financial. Two originals signed, four hard
11 copies, six flash drives with files in a pdf
12 format -- Chris has something else -- and then
13 they are due by three o'clock on July 14, 2009.
14 Three o'clock, July 14, 2009. This is where they
15 go, and then I think there is one other detail I
16 forgot to mention so I'll defer to Chris on that.

17 MR. DELKER: Another thing about
18 competitive procurement is it's in the nature of
19 these gatherings that everything we say here
20 today is preliminary until we publish the
21 transcript with any corrections or clarifications
22 we might want to add. Believe it or not,
23 sometimes we do make mistakes and need to clarify
24 some things. So if Mark decides he wants to
25 change something he just said, he can do that

1 between now and the time we put the transcript
2 up, and the same goes for any answers you might
3 get to your questions subsequent to this in the
4 session. If we need to clarify or qualify
5 anything we say, our things here are not final
6 until we publish the transcript.

7 MR. WARNER: And I'd like to make
8 one point of clarification regarding the
9 application. We had mentioned the application
10 was in two pieces, the financial and the
11 technical piece. Each one of those can have
12 fifteen pages plus attachments, so just to
13 clarify, it isn't fifteen total. I promise you,
14 a dissertation longer than fifteen pages is not
15 going to be looked favorably on.

16 We are now finished with the
17 official portion of our presentation. This is
18 how we're going to handle the question portion
19 and the HEAL people have done this in the past
20 and it's worked very well so we're going to do
21 the same thing. At the end of our presentation,
22 we're going to ask those persons interested in
23 asking a question to form a single line behind
24 the microphone that Chris is standing at. Each
25 person asking a question will state their name

1 and organization and will be allowed one
2 question, and if necessary, one followup
3 question. This will allow for the maximum number
4 of people to be able to ask questions. At the
5 end of the -- at the end of the questions and if
6 time allows, if no one else is left that --
7 everyone has asked their question and if we have
8 somebody who's interested in asking a second
9 question, we will then go through a second
10 question.

11 And then finally, before I turn
12 it over to the question and answer piece, I'd
13 like to remind everybody that after today's
14 presentation, after our questions and answers,
15 there will be no communications other than
16 through the e-mail that has been listed, and no
17 other questions can be e-mailed directly to staff
18 or asked after the meeting regarding HEAL 12. So
19 I will ask you to try not to corner staff after
20 the meeting and start asking questions about HEAL
21 12, because they're not going to be able to
22 answer it.

23 So at this point, I'm going to be
24 looking for the first question of the day. For a
25 brief moment there, I thought we were leaving

1 early.

2 MR. GORMLEY: Bill Gormley --

3 COURT REPORTER: I'm sorry. I
4 can't hear you.

5 MR. GORMLEY: I'm sorry. Bill
6 Gormley, G-O-R-M-L-E-Y, consultant. If a
7 facility was a Berger facility and they applied
8 for HEAL whatever -- 4, 7, 8 and didn't get
9 enough money to implement their recommendation,
10 can they -- do they have the right -- option to
11 come back in under HEAL 12?

12 MR. WARNER: I would say no. I
13 don't know what Chris wants to add to that.

14 MR. DELKER: No. If you were
15 successful in getting a HEAL grant under
16 7 or 8 --

17 MR. GORMLEY: Not successful.

18 MR. DELKER: If you're not
19 successful?

20 MR. GORMLEY: Not successful.

21 MR. DELKER: It would depend --
22 it would depend on what you proposed, if they
23 meet the specifics of this RGA. This RGA is not
24 exactly the same as the other ones.

25 MR. GORMLEY: If one of the

1 recommendations was to take nursing home beds and
2 make them into ALP beds, and that didn't get
3 funded through HEAL 4, 7 or 8, can you come back
4 in under 12?

5 MR. DELKER: That is an activity
6 that is eligible for funding under this RGA,
7 conversion to ALP beds.

8 MR. GORMLEY: Right.

9 MR. DELKER: The fact that you
10 wrote it before and failed, are you going to tell
11 your clients you're going to submit the same
12 thing? I'm joking. And Bill -- excuse me -- and
13 Bill is very good at what he does. Don't get the
14 wrong idea. We get far more applications than we
15 can fund.

16 MR. GORMLEY: Now you can keep
17 going. Thank you.

18 MR. WARNER: Yes, sir.

19 MR. POFIT: Hi. Joe Pofit,
20 consultant. I came in a little late, so it may
21 have been addressed. But I know the major
22 objective of this is to downsize the nursing home
23 industry beds statewide, and I think you have
24 some numerical goal that you're trying to reach.
25 Is -- does it need to be a one-for-one

1 replacement? Example, if a client wants to
2 develop a fifty-unit independent housing on their
3 campus and they already have a nursing home,
4 assisted living and, say, daycare, adding a
5 residential option on the site. So if we want to
6 develop a fifty or seventy-five bed independent
7 housing unit for lower income to middle income,
8 are you expecting to have a one-for-one reduction
9 in skilled nursing beds of that client or of a
10 public community?

11 MR. KISSINGER: No. There is no
12 expectation -- there is nothing in this document
13 that says it is a one-for-one. On that type of
14 proposal, I would look at the document very
15 carefully, take your project and crosswalk to the
16 goals and objectives in the document. But
17 there's no specification for one for one.

18 MR. POFIT: And your scoring --
19 can I ask another question?

20 MR. WARNER: As a followup, yes.

21 MR. POFIT: As a followup to
22 that, in your scoring of the actual application
23 -- I know this is probably an unfair question.
24 So if someone comes in and says --

25 MR. WARNER: We'll have an unfair

1 answer for you.

2 MR. POFIT: -- has five beds and
3 they want to substitute five beds for
4 seventy-five units of housing, is that some kind
5 of -- are you going to apply some kind of scoring
6 mechanism on -- well, now they're taking out five
7 beds but they're adding seventy-five independent
8 living. Is there going to be some kind of
9 formulary approach to this in your scoring?

10 MR. KISSINGER: I think the best
11 way to answer that question is submit that on an
12 e-mail and we'll get back to you, because I don't
13 believe -- we have not crystalized the actual
14 scoring criteria. So that will be an appropriate
15 question for the e-mail so we all have the
16 benefit of -- I can't guarantee you a direct
17 answer to that, but I think at this point, submit
18 that through the e-mail process.

19 MR. POFIT: Thank you.

20 MS. KORMOS: Good afternoon.

21 Liz Kormos from --

22 COURT REPORTER: Could you spell
23 your last name for me, please?

24 MS. KORMOS: K-O-R-M-O-S. If a
25 nursing home facility has previously applied for

1 a CON that was not accepted for replacement of
2 part of their beds, and now they wish to
3 potentially downsize and apply for HEAL 12 money
4 and use the old facility to transform it into low
5 income housing or construct a new facility, would
6 that qualify for HEAL 12?

7 MR. KISSINGER: Yes. You have to
8 look -- crosswalk that application with the
9 appropriate document -- the appropriate placement
10 in the RGA. But I would say on face value, yes,
11 that would be something that we would say met the
12 first task --

13 MS. KORMOS: I believe previously
14 -- if you had previously applied for a CON, you
15 couldn't apply for HEAL --

16 MR. WARNER: We're not talking
17 about an application that's currently in for a
18 CON, right?

19 MS. KORMOS: It's still there,
20 yes. Do we have to withdraw it?

21 MR. DELKER: If your application
22 -- if your application is in, you put in
23 documentation that demonstrates financial
24 feasibility, so the HEAL funding would be
25 replacing funding you've already secured one way

1 or another, whether it's borrowing or -- HEAL
2 cannot be used to supplant other funds, so it
3 would not be eligible.

4 MR. KISSINGER: But you could
5 withdraw your application -- the way I understand
6 it, you could withdraw the current CON and put in
7 an application. That's the way I interpret it.

8 MS. KORMOS: The budget for this
9 was 2003 and --

10 MR. KISSINGER: Fiscal is
11 different than 2003.

12 MS. KORMOS: As a followup, are
13 architectural site plans and schematics required
14 to have these available or can you, basically,
15 submit plans on a square foot basis?

16 MR. DELKER: You should at least
17 have some preliminary sketches, just to give us
18 an idea of floor planning or configuration. It
19 doesn't have to be final certified drawings or
20 anything like that, but you should give us an
21 idea. Frankly, it makes it easier for the
22 reviewers when they're evaluating your
23 application. It will work in your favor if you
24 have some sort of diagrams.

25 MS. KORMOS: Thank you.

1 MR. TOMAINO: I'm Joe Tomaino,
2 T-O-M-A-I-N-O, with RSM McGladrey Consulting.
3 The question --

4 COURT REPORTER: I'm sorry. Your
5 company? I didn't understand you.

6 MR. TOMAINO: RSM McGladrey,
7 M-C-G-L-A-D-R-E-Y. Would the HEAL money be
8 appropriate to be used for sponsors that could be
9 contribution financed? I know we can't replace
10 funds that are already there, but if McG doesn't
11 have the money for sponsors equity --

12 MR. WARNER: Maybe one of our
13 DASNY people here --

14 MR. KISSINGER: You have to be
15 more specific with your question.

16 MR. TOMAINO: Is there a
17 requirement with the financing of projects that
18 there be a contribution or sponsors equity of
19 twenty-five percent?

20 MR. KISSINGER: When you say
21 project, do you mean a nursing home?

22 MR. TOMAINO: Right.

23 MR. KISSINGER: The whole point
24 of the RGA is to drive alternatives to nursing
25 homes. So you can apply -- you should look at

1 the document and apply, but keep in mind that the
2 whole point is to drive alternatives -- and I
3 think frankly -- what I would say at this point
4 is I'm not sure we can answer that. You need to
5 submit that in writing.

6 MR. TOMAINO: Okay.

7 MR. KISSINGER: That's an easy
8 question with a very complicated answer.

9 MR. TOMAINO: Okay. Okay. Very
10 good.

11 MS. FINK: Hi. Lilly Fink, New
12 York City Hospital Association. I was just
13 wondering if there are matching funds required?

14 MR. WARNER: No, there are not.

15 MS. FINK: As a followup
16 question, would applications with matching funds
17 be more favorably evaluated?

18 MR. DELKER: Well, yes and no. I
19 think certainly if you have -- if you have
20 matching funds, it might attest to the viability
21 of your organization or long-term viability of
22 the project. On the other hand, part of the
23 purpose of this RGA is to assist in the
24 development of services that don't currently
25 exist and recognize that many organizations that

1 normally exist or are small would not have a lot
2 of assets. So it would not disadvantage you to
3 put in an application without matching funds.
4 They are not required and, certainly, how you
5 describe how your facility fits in and serves
6 your community would weigh heavily, more than
7 matching funds.

8 MS. FINK: Thank you very much.

9 MR. GLAUDE: Art Glaude,
10 G-L-A-U-D-E, Medical Care Facilities Financing
11 and Consulting. A followup to the previous
12 question on the equity and another question. If
13 you have a 350 bed nursing home, 80 million
14 dollar project and you're going to convert fifty
15 of those beds to assisted living ALP, would the
16 HEAL 12 be usable for the fifteen percent equity
17 contribution?

18 MR. KISSINGER: I have -- I think
19 that's a simple question with a complicated
20 answer that you should put it into the e-mail.
21 We'll put that on the Q and A.

22 MR. GLAUDE: Second question.
23 The project is going to take over, say, five
24 years of a phased construction project. Would a
25 phase construction project over five years be

1 eligible for HEAL 12?

2 MR. KISSINGER: No, probably not,
3 I would say. I mean, the grant disbursement
4 period is two years.

5 MR. GLAUDE: So the grant would
6 have to be allocated for, let's say, the first
7 phase of the project? Thank you.

8 MR. KOSKI: Andrew Koski,
9 K-O-S-K-I, with the Home Care Association of New
10 York State. Could the HEAL monies be used for
11 non-residential options, such as increasing slots
12 or increasing programs, long term healthcare,
13 adult day healthcare or to start new programs
14 such as those?

15 MR. KISSINGER: I don't think --
16 no, at this point. I mean, I'm not totally a no
17 on that, but my sense is that's not what's in the
18 RGA.

19 MR. KOSKI: Should I put that in
20 writing or --

21 MR. KISSINGER: You can. My
22 sense is that's probably -- we're talking about
23 moving the people -- moving the system to
24 non-nursing home but still residential.
25 Ultimately, we have shared goals on the whole

1 community-based home care side, as well. HEAL
2 New York is a capital project.

3 MR. KOSKI: I was thinking with
4 the right-sizing legislation --

5 MR. KISSINGER: Right. We still
6 have the ability of right-sizing, and HEAL is
7 authorized in the statute for the capital
8 portion. We'll bang that around here and get you
9 a better answer than that.

10 MR. WARNER: And it may be in the
11 question and answers and it also may show up in
12 the final transcript. Thank you.

13 MR. MARX: Hello. David Marx
14 from the Boulevard ALP. If we have access to
15 non-operational nursing home beds to which a
16 contract has been signed before the closing of
17 the nursing home, can we use this process, A, for
18 acquisition or equity, and would it be applicable
19 for the whole process -- would the
20 decertification of the nursing home into ALP beds
21 be something that you would consider?

22 MR. KISSINGER: So, are the beds
23 an ALP cert?

24 MR. MARX: Yes, I believe so.

25 MR. KISSINGER: Okay. So then

1 what I'm going to say is, we're going to get back
2 to you.

3 MR. MARX: And the second part of
4 that question, if I'm allowed, is -- if somebody
5 has decertified nursing home beds -- and this is
6 a question that's dear to our hearts -- and the
7 nursing home beds are now becoming ALP beds and
8 ALP beds do not have capital cost reimbursement,
9 would it be eligible for capital cost
10 reimbursement?

11 MR. KISSINGER: The issue of
12 capital cost reimbursement itself is one that we
13 spent a lot of time on, and there is current law
14 on that. So that's what we're doing. There was
15 a law that was passed in 2003 that allows capital
16 cost reimbursement for a certain subset of our
17 providers, but the general rule to that exception
18 is that whatever the capital of the regional rate
19 of 1992 is captured in this law. This RFA or RGA
20 does not modify the current statute of this law.
21 We've had that discussion along with many people,
22 as well as others, including the Legislature. So
23 it doesn't modify that.

24 MR. MARX: Thank you.

25 MR. BENJAMIN: Can I just ask you

1 -- I just want to followup on the first part of
2 your question. I just want to make sure. The
3 situation that you described, are those -- I
4 think Mark said ALP cert, but I want to be a
5 little more clear. Do you actually have those
6 beds now? Can you say that you own those beds?

7 MR. MARX: I have a handshake on
8 them, but I don't want to actually finalize the
9 deal until I know --

10 MR. BENJAMIN: Right, but I think
11 -- we'll talk more about it, but I think it would
12 be difficult for us to recognize beds that
13 haven't even been recognized or used through the
14 CON process.

15 MR. MARX: There was a contract
16 with the nursing home that was recognized by the
17 Department of Health.

18 MR. BENJAMIN: Right, but if you
19 don't have --

20 MR. MARX: I don't have --

21 MR. BENJAMIN: If you don't have
22 the requisite public health counsel approval for
23 these beds, I think it would be difficult for us
24 to recognize those beds within this process. It
25 would be very difficult, because you don't own

1 them in the eyes of Article 28 of the Public
2 Health law.

3 MR. MARX: But there is an
4 corporation that does.

5 MR. BENJAMIN: But that
6 corporation doesn't have Article 28 authority to
7 operate those beds. It doesn't really matter.
8 You have to have those beds licensed under
9 Article 28 for the organization that is applying
10 for the HEAL funds.

11 MR. KISSINGER: We'll put --
12 we'll ask that question -- and if you could
13 followup with e-mail, we'll put that in the Q and
14 A to be clear about it.

15 MR. MARX: Okay.

16 MR. GORMLEY: Jay Gormley,
17 Metropolitan Jewish. My question has to do with
18 the conversion of RCF beds to ALP beds. Will
19 there be a rightsizing application like there was
20 for HEAL 7 or 8, or is this application enough?

21 MR. WARNER: If you are
22 successful, there will be an initial application.

23 MR. GORMLEY: Okay. And then as
24 a followup question to that, how does that --
25 should we address the ALP need methodology in the

1 application? Is there an assumption that if
2 we're converting an RHCF bed into ALP beds then
3 that's okay on need, or does there need to be a
4 dealing with the ALP slots that are available,
5 etcetera, etcetera?

6 MR. KISSINGER: I would say you
7 should look at -- you should look at all the
8 factors in your community. So I would say yes,
9 you should address what's going on --

10 MR. GORMLEY: But if there is no
11 need, if there is a presumption on need that
12 converting RHCF beds to ALP beds --

13 MR. KISSINGER: No. You should
14 present your case on why you think there's a need
15 in the application.

16 MR. GORMLEY: Okay.

17 MR. FELDMAN: Lowell Feldman from
18 the -- in the Bronx. If a facility wanted to
19 open in the Bronx and convert some beds to
20 multi-use but under different jurisdictions like
21 OMH, OASIS, would it be a consideration under
22 HEAL 12 to do so? And if so, what about the
23 licensure process? Would it be --

24 MR. KISSINGER: My answer to that
25 would be if you don't apply, you have no shot at

1 doing that. So my sense would be -- my default
2 answer would be, we will get you an answer in the
3 Q and A, but I would anticipate that you should
4 apply. As far as the licensure processes of OMH,
5 OASIS or any other agency, we can work with you
6 on that, but nothing in here changes anything as
7 far as licensure.

8 MR. FELDMAN: Okay. Thank you.

9 MR. KISSINGER: Sure.

10 MR. MADEALONI: Tony Madealoni,
11 consultant, M-A-D-E-A-L-O-N-I. The question that
12 I have is if two parties collaborate in an effort
13 where the nursing home is going to forfeit a
14 certain number of beds to an ALP bed, can the
15 HEAL monies be used for the acquisition of those
16 beds by the ALP to the nursing home in order for
17 the ALP to use those beds for adding operating
18 beds?

19 MR. KISSINGER: I don't know. I
20 actually don't know the answer to that question,
21 so we will get you an answer to that question.

22 MS. HALLAM: Hi. I'm
23 Bernadette Hallam from Eddy SeniorCare.

24 COURT REPORTER: Could you spell
25 your last name?

1 MS. HALLAM: Sure. H-A-L-L-A-M.

2 I just had a followup question in regards to the
3 home care program. I represent a PACE program
4 and PACE programs do have capital investments to
5 expand their services. And I'm wondering if that
6 expansion is related to a reduction in nursing
7 home beds to expand the opportunities -- would
8 that capital be something that these funds could
9 be used for?

10 MR. KISSINGER: Yes. I think so,
11 that that would be an appropriate application to
12 submit.

13 MS. HALLAM: As a followup
14 question, I see a lot in regards to operating
15 expenses, meaning as programs phase down, nursing
16 home beds phase down. Are there any
17 considerations for operating expenses as programs
18 -- to again, offset -- if there is that
19 correlation?

20 MR. WARNER: The answer would be
21 yes.

22 MR. BENJAMIN: I think you just
23 asked a question that's, essentially, working
24 capital eligible?

25 MS. HALLAM: Right.

1 MR. BENJAMIN: Yes. The answer
2 would be yes.

3 MS. HALLAM: Thank you.

4 MR. BOESKIN: Brian Boeskin from
5 New York State Health Facilities Association.
6 Last name is spelled B-O-E-S-K-I-N. My question
7 is if a project is successfully awarded grants
8 under HEAL 12, and during the grant period, the
9 facility is sold to another owner or there is a
10 change in ownership during the grant term, would
11 those HEAL benefits survive over to the next
12 owner?

13 MR. KISSINGER: I would defer to
14 counsel on that.

15 MS. HEFNER: I think it really
16 would depend on when you make -- but,
17 essentially, when we make these awards, we would
18 have to consider whether the resulting
19 organization was as eligible. So if you know
20 that something like that is occurring when you
21 submit that application, you should disclose that
22 in your application and provide as much
23 information on the resulting entity as you can --

24 MR. BOESKIN: Thank you.

25 MR. HORMICK: Good afternoon. My

1 name is Dave Hormick. I'm a home care physician
2 and I practice in the capital region here.

3 COURT REPORTER: Could you spell
4 your last name, please? Excuse me. I didn't get
5 your name.

6 MR. HORMICK: H-O-R-M-I-C-K. The
7 nursing home diversion transition waiver program
8 was developed to prevent people from being
9 institutionalized as well as -- as its name would
10 suggest, but there seems to be a scarcity of
11 appropriate housing to permit people, really, to
12 be deinstitutionalized who want to remain in
13 non-institutionalized settings. I'm wondering
14 whether or not the HEAL 12 dollars could be used
15 to provide non-regulated housing for people who
16 would otherwise be in regulated institutional
17 care centers?

18 MR. KISSINGER: There is a
19 housing subsidy that goes with the nursing homes
20 transition -- that was enacted by the Legislature
21 and Governor a couple years ago. And your
22 question -- I think I understand your question --
23 can you develop non-regulated housing, i.e.,
24 non-ALP or adult home housing with this money. I
25 would refer you to the actual application and

1 that could be part of the application that you
2 submit as long as you look at the goals and
3 objectives of HEAL New York. So yes, you can do
4 that, but it must fit in the larger application
5 as part of the objectives of the program.

6 MR. TENAN: Paul Tenan,
7 consultant. Can the HEAL 12 monies be used for a
8 project that may be described as a medical home
9 with complimentary home care and associated
10 services for a senior population so long as it's
11 also associative sponsored at the hospital or
12 nursing home's affiliations to access community
13 housing locations? So the whole purpose would be
14 the reduction in readmissions, inappropriate
15 admissions of acute care and long term care and
16 retain a population in the lowest level of our
17 institutional choices.

18 MR. KISSINGER: That's a loaded
19 question --

20 MR. TENAN: I'm trying to --

21 MR. KISSINGER: Well, what is the
22 direct question?

23 MR. TENAN: The direct question
24 is, the reading -- my reading of the HEAL 12
25 application focuses a great deal on facilities

1 and seems to suggest some transference of
2 facility capacity from one level to another. And
3 then there is -- and other ideas. So if the
4 notion is to reduce the use of those levels of
5 facility capacity by having a structured,
6 integrated community effort, it really -- we're
7 talking about solid home care, solid medical care
8 and providing coordination of services to reduce
9 the threat during an episode for hospital
10 readmission -- we all know that hospital
11 readmissions -- and the loss of the roots within
12 a community so a person can actually return to a
13 community. So that's the specific question. So
14 is it under the realm of what you're seeking a
15 possible --

16 MR. KISSINGER: I would say I
17 think so, if I understand you correctly.

18 MR. TENAN: Worth the gamble?

19 MR. KISSINGER: I think so,
20 because I agree that we're trying to encourage
21 creativity by moving to a competitive environment
22 which is -- but yes, I would say I think so. But
23 we would further illustrate and expand on that
24 answer in the Q and A.

25 MR. TENAN: So you may expand

1 upon it or suggest we also submit it?

2 MR. KISSINGER: I would say I
3 would watch the Q and A and -- but I would say
4 don't stop working on it.

5 COURT REPORTER: Can I get your
6 name? I didn't catch it.

7 MR. TENAN: Paul Tenan,
8 T-E-N-A-N.

9 MR. STEIF: Brian Steif, STEIF,
10 FRS Healthcare. My question is, does the
11 facility -- does the facility end up with a
12 reduction in beds in order to qualify for the
13 grant, or if they stop -- what if they want to
14 setup a new type of unit or to reconfigure the
15 space, because there's not as many new type of
16 patients, difficult to place patients, like
17 patients with dementia in those units, would that
18 qualify?

19 MR. KISSINGER: The goal of the
20 whole RFP is to result in the reduction of
21 nursing home beds. That's how we are going to
22 look at this RGA opportunity is the movement from
23 institutional long term care to non-institutional
24 but residential long term care. So I would say
25 that you should keep that in mind when you apply

1 for that opportunity. We'll answer in the Q and
2 A the direct question about, do these beds have
3 to result in the reduction of beds at the end of
4 the day. Overall guiding principle should be
5 that they reduce --

6 MR. STEIF: Just as a followup.
7 Even though this would reduce the
8 hospitalization, the goal of the Berger
9 Commission --

10 MR. KISSINGER: Yes. I think --
11 I think I understand what you're saying. I would
12 say that just the goal of the RFA is to do what I
13 said and to move the system to non-institutional.
14 Whether you have to have a reduction at the end
15 of the day, we'll answer further. I would say
16 it's better to do that --

17 MR. STEIF: Thank you.

18 MS. KANEB: Hi. Alisa Kaneb --

19 COURT REPORTER: Your last name
20 please?

21 MS. KANEB: Kaneb, K-A-N-E-B.
22 You mentioned that the funds could not replace
23 financing. Does that behoove one to seek
24 financing before you make an application?

25 MR. DELKER: What we mean by not

1 supplanting is that you -- it can't be used to
2 substitute for other funds that you already have.

3 MS. KANE: Okay. But if you
4 have --

5 MR. DELKER: Okay. But you don't
6 need matching funds or other types of financing
7 if you can propose a project that will stand on
8 what you would get from the HEAL 12 alone.

9 MS. KANE: Okay. And is there a
10 focused area, like you said, to meet the concept
11 of the Berger Commission -- but are you going to
12 give higher scores to Berger Commission
13 facilities, specifically, or is it just to --

14 MR. DELKER: No. We would not --
15 we would not favor a category of applicants in
16 the scoring.

17 MS. KANE: And one more. If you
18 did multiple apps -- in other words, this is the
19 dream --

20 MR. DELKER: Excuse me. You're
21 asking a third question. Maybe you should save
22 it for the next round. There are other people
23 waiting. Thank you.

24 MR. WARNER: That was
25 Chris Delker.

1 MR. DELKER: I did not mean to
2 pre-empt in this case. I couldn't think fast
3 enough to answer the third question. I did not
4 mean to be discourteous to the questioner. We
5 just have to be fair in this process.

6 MS. SOMMER: Francesca Sommer,
7 S-O-M-M-E-R, New York Coalition for Quality
8 Assisted Living. For the transcript, you can put
9 NYCQAL, N-Y-C-Q-A-L. A question that no one's
10 asked yet is concerning healthcare facilities.
11 Can healthcare facilities use the funds to either
12 convert healthcare facility beds or add new beds
13 -- convert ALP beds or add new beds to an
14 existing facility?

15 MR. KISSINGER: They are an
16 eligible applicant under the RGA.

17 MS. SOMMER: Thank you.

18 MR. COSSOCO: David Cossoco,
19 C-O-S-S-O-C-O. We're going back to the question
20 that was asked very early on regarding an
21 application, an application that would be for a
22 facility that has already put in its CON
23 application. I can think of many opportunities
24 where the HEAL grant could be for a completely
25 separate reason than the initial CON it's already

1 submitted for. If that is the finding, do you
2 see an issue with that?

3 MR. WARNER: No.

4 MR. COSSOCO: Okay. Thank you.

5 MR. MARX: My name is
6 Robert Marx, M-A-R-X. We have an approval for an
7 ALP, and when it was originally submitted, it was
8 submitted whereby we have two bedroom units --
9 and we learned about the possibilities that we
10 could possibly enlarge the building and
11 accommodate more people, individually, in the
12 community. Would the HEAL process be an
13 appropriate vehicle for this?

14 MR. KISSINGER: It -- since it's
15 a question on a very specific application, I
16 would prefer -- we'll get back to you on that.
17 I'm not sure on that answer, so I'd rather do
18 some research and get back to you on that.

19 MR. MARX: Thank you.

20 MR. KISSINGER: The other thing I
21 just want to say. We did mention on page ten of
22 the RGA there is no regional breakout for these
23 funds like other HEAL. The grant cannot exceed
24 25 million dollars, so I want to be sure people
25 saw that in the RGA.

1 MR. MARX: I'm not looking for
2 more than that.

3 MS. NEWCOMB: Hi. I'm
4 Lisa Newcomb from the Empire State Association,
5 N-E-W-C-O-M-B. A followup on Francesca's
6 question. While we were encouraged that RHCfs
7 are eligible applicants, it seems that there's an
8 insurmountable barrier for most of them that they
9 have to produce a closed nursing home bed -- a
10 closed nursing home bed in order to qualify. Is
11 that the case?

12 MR. KISSINGER: Like I said in
13 the earlier question, that is the spirit and goal
14 of the RGA. Obviously, we're looking at
15 reduction in capacity. The direct question on
16 whether, at the end of the day, you have to have
17 a closed nursing home bed, I think we're going to
18 defer an answer on that, because as I read the
19 RGA, that no, you do not, but I want to make
20 sure.

21 MS. NEWCOMB: Okay. And if I may
22 followup. There may be some closed nursing home
23 beds or beds that are in the process of being
24 closed that the community does not know about,
25 and I'm wondering if the public, you know, can be

1 told that now so that we are aware where there
2 may be opportunities in what communities under
3 HEAL?

4 MR. KISSINGER: Yeah. We can
5 provide that information. We haven't figured out
6 the timeline as far as how far back to count
7 closed beds. It has been the experience where
8 nursing home beds are closed sometimes in places
9 that we hadn't -- so we haven't said -- we'll
10 have to say by start date and tell you what
11 happened since then. We haven't fixed that date
12 yet, but we'll get you an answer on that in the
13 question and answer.

14 MS. NEWCOMB: Thank you.

15 MS. GOMLAK: Hi. Aimee Gomlak,
16 Catholic Health, G-O-M-L-A-K. The question I
17 have is if you have institutional nursing home
18 beds and you'd like to convert them to
19 patient-centered care or greenhouses, is that
20 actually considered a decrease? Do you actually
21 have to give up beds to do it? If you have a
22 120-bed facility and you're going to close it and
23 make it eighty greenhouses, is it enough that
24 you've reduced it by forty beds or is that a no?

25 MR. KISSINGER: No. The -- we're

1 looking for a reduction in the number of nursing
2 home beds. So if you go from 120 to 80, that's
3 fine. That's a reduction.

4 MS. GOMLAK: But would you pay
5 the capital, then, to rebuild the eighty to a
6 greenhouse?

7 MR. KISSINGER: That -- I think
8 that would be an eligible --

9 MS. GOMLAK: You think yes?

10 MR. KISSINGER: Yes.

11 MS. GOMLAK: Okay.

12 MR. KISSINGER: But whether --
13 obviously everyone -- there is an overriding push
14 for outside projects -- so we'd have to see in
15 the CON process whether that would be --

16 MS. GOMLAK: Right. There would
17 have to be a CON involved.

18 MR. KISSINGER: Another thing
19 that I want to make people aware. There is
20 nothing in here -- and I look to my partners on
21 this -- that waives anything as far as CON.
22 There is still a rigorous process to the
23 Certificate of Need through the county, if
24 applicable, or administratively. That -- we're
25 not waiving the CON anywhere in this document.

1 And then as far as the ALP spots,
2 this still gives you the opportunity to apply --
3 and we tried to be clear with that, but I just
4 want to make it on the record that there are
5 still processes in the Health Department that
6 people have to go through in order to achieve
7 their CON. And I look to Chris --

8 MR. DELKER: Yes, that's true.
9 But I'd like to add, also, that with projects --
10 if there is a CON required, how do we know that's
11 going to get approved by the time of the grant.
12 We are fast-tracking any CON applications when
13 they come in for the purpose of getting them
14 approved in a timely way so that they are
15 approved for the two-year grant period. We are
16 trying to integrate our databases more between
17 HEAL and CON -- so we are aware that CON may
18 sometimes need to be speeded up for the HEAL
19 applicants.

20 MS. GOMLAK: So the --

21 MR. WARNER: Now I have to be
22 Chris Delker. That's your third question, so
23 we'll have to wait on that one.

24 MR. DELKER: Hold that question.

25 MR. WARNER: Yes, hold that

1 question.

2 MS. PALMER: Hi. Mary Palmer,
3 Franklin County Nursing Home. I know nothing
4 about ALPs or CHHAs. Where might I find that
5 information quickly on those programs?

6 MR. KISSINGER: The DOH website.
7 The DOH website and then there is information
8 available on the -- through the statute, the law
9 that the Governor wrote --

10 MS. PALMER: Are there certain
11 people we can ask questions of?

12 MR. KISSINGER: On what is an
13 ALP?

14 MS. PALMER: You know, if we have
15 a specific question once we look at the
16 regulation, is there certain contacts?

17 MR. WARNER: Yes. You can reach
18 out and give me a call. Our main number is
19 518-408-1624. I'm not giving out my own number,
20 right? And Mary, my e-mail is
21 grw01@health.state.ny.us.

22 MR. ASH: Steve Ash from
23 affiliated nursing homes at Rochester General
24 Hospital, A-S-H. I have a question regarding
25 reducing 120 institutional beds to 80 greenhouse

1 beds. Given the current two-year grant
2 disbursement period, does the construction of
3 those eighty hospital beds have to be completed
4 within two years or is the start of that project
5 financing?

6 MR. DELKER: Your HEAL costs
7 would have to be incurred in the two-year period.
8 And generally, there is a sixty-day lapse in
9 incurred costs and -- so hopefully at the time of
10 construction --

11 MR. ASH: Okay. But the question
12 around the capital, that was speaking to the
13 equity portion of the financing or the whole
14 project, the eighty beds? I wasn't sure I
15 understood that question so I want to make sure I
16 understand the answer.

17 MR. KISSINGER: Well, I'm not
18 sure I understand your question. What's your
19 question?

20 MR. ASH: The eligible costs
21 would be the construction cost or a portion of
22 the financing of construction, the equity
23 contribution?

24 MR. KISSINGER: Yeah. The equity
25 contribution, we'll get back to you. We'll get

1 back to everyone on that one, that distinct
2 question. I think Chris said appropriately, your
3 HEAL costs must be incurred within that
4 timeframe. If there are things you want to do
5 using your HEAL award, you should make sure that
6 you can do them within the two-year period.

7 MS. HEFNER: That's the second
8 question we had about the project that might go
9 longer than the timeframe allowed through the
10 HEAL contract. And what's going to be important
11 is in your application, you describe some phase
12 of that project that's complete-able (sic) in
13 that timeframe. So don't just give us a five
14 year project and say we'll get it twenty percent
15 done. There has to be some completion, something
16 that we can look at and measure and say that has
17 value to us and that's equivalent to the funds --
18 but the first phase has to have a clear
19 beginning, middle and end to use HEAL funds. If
20 there are later phases to come, more sections to
21 do something with, that's fine, but we need a
22 clearly defined phase that would happen within
23 the two-year period.

24 MR. ASH: Thank you.

25 MS. BANTA: Good afternoon.

1 Pat Banta, B-A-N-T-A, Assisted Living. Given
2 this whole discussion around the one-to-one
3 nursing home closure of beds, as an assisted
4 living provider, would it be worth the time to
5 spend to write up this proposal and submit it
6 without having that direct link to the nursing
7 home? I guess my question to you is, are we
8 eligible for this or not?

9 MR. KISSINGER: Well, we're not
10 going to tell people whether they should or
11 should not apply.

12 MS. BANTA: That's not really my
13 question.

14 MR. KISSINGER: So when you say
15 "are we eligible," who do you mean?

16 MS. BANTA: An assisted living
17 residence.

18 MR. KISSINGER: A licensed ALR?

19 MS. BANTA: Yes.

20 MR. KISSINGER: And the expenses
21 that you want to get a grant for are what?

22 MS. BANTA: Well, we want to
23 provide an infrastructure change that will allow
24 for improved communication with our outside
25 providers and the acute setting, as well as other

1 long term care centers.

2 MR. KISSINGER: I would say look
3 at the RGA and see how that fits into the
4 community plan for the proposal for long term
5 care. How does that fit in with the overall plan
6 for movement of a system from an institutional
7 based to a non-institutional based facility.

8 MS. BANTA: So a followup then.
9 We don't have to show that contract closure of
10 beds in the nursing home, since I'm not a nursing
11 home?

12 MR. KISSINGER: That's a question
13 we're going to ask, as well, and we're going to
14 get back to you on as far as -- you have to show
15 at the end of that you have -- that somewhere in
16 that region that there's closed nursing home
17 beds. We'll get back to you on that question.
18 Clearly, the goal of the RGA, and we tried to be
19 clear, is to move the system from institutional
20 to non-institutional. So that's the goal of the
21 RGA and that's how we score the RGA and how we
22 are approaching this in the grant opportunity.
23 So again, should be spend the time submitting an
24 application? It is really your call and we will
25 get you an answer by June 12th on whether you

1 actually have to show a reduction in beds.

2 MS. BANTA: Thanks.

3 MR. WARNER: And that will be on
4 or about June 12th. Unless, of course, Mark can
5 tell us --

6 MR. ATTWELL: Hi. I'm
7 Mark Attwell, A-T-T-W-E-L-L. I represent the
8 National Institute for People with Disabilities.
9 And I was wondering whether the application or
10 the scoring process anticipated any specific site
11 control at the time of the application? Let's
12 say at the end of the day, you don't necessarily
13 need to have a one-to-one relationship with the
14 reduction of a nursing home bed, but otherwise
15 look for a viable alternative to long-term care.
16 What kind of site control do you need on that
17 type of application?

18 MR. DELKER: Well, you should
19 have some indication, if you don't actually have
20 a lease or anything or a commitment to a lease, a
21 letter of intent from the owner of the premises.
22 You don't actually have to have site control for
23 HEAL purposes, but some reasonable document
24 stating the reasonable expectation for these
25 purposes. Now in the CON process, if there is a

1 CON involved, then the site control has to be
2 more firm. But for the HEAL purposes, we'll
3 evaluate it if it's a reasonable service.

4 MR. WARNER: Excuse me. If
5 you're going to be getting ALP beds, yes, you
6 would have to have something --

7 MR. ATTWELL: So just for
8 clarification, the grant funds are eligible for
9 both the actual acquisition of a piece of
10 property or for long term --

11 MR. DELKER: Both are eligible.

12 MR. ATTWELL: Thank you.

13 MR. HEIM: Dan Heim, H-E-I-M, New
14 York Association of Homes and Services for the
15 Aging. The question I have is if an applicant is
16 from a community or area where there has not been
17 a nursing home closure or decertification of
18 beds, and yet either the need methodology for
19 nursing home beds and/or prevailing occupancy in
20 area facilities would suggest that nursing home
21 beds are, in fact, needed and perhaps needed even
22 more than they exist, would that situation be
23 viewed similarly or as favorably as having
24 nursing home beds closed?

25 MR. KISSINGER: We'll get you a

1 specific answer on that, but my general answer
2 would be -- one of the elements is to prove
3 public need for the services. So if there is an
4 area of the State that is under-bedded -- then we
5 would look at that when we look at the
6 applications. Obviously, we're undergoing a
7 process to change the 709.3 planning for need
8 methodology nursing homes, so that's going on at
9 the same time, but that's not finalized at all.
10 I would say that you would have to, in the
11 application that has to be shown or demonstrated
12 and we'd look at it. I can't say if we'd look at
13 it more favorably or less favorably. We would
14 take that into consideration.

15 MR. HEIM: Okay. The followup
16 question to that would be for purposes of showing
17 a nexus between, say, a nursing home that's being
18 downsized and an application, is it going to be
19 the planning unit that's used for that purpose,
20 i.e. the county or the local community, or is
21 that really up to the applicant to draw the
22 appropriate regions?

23 MR. KISSINGER: I would say it's
24 up to the applicant. Obviously, there's a number
25 of different ways that -- that regions -- we have

1 Berger regions, we have counties. There is
2 different reimbursable regions. There are a
3 number of different things, and it's really up to
4 applicant to show how they'll define region.

5 MR. HEIM: Thank you.

6 MR. WARNER: Do we have anyone
7 else that would like to ask a first question?

8 MR. GLAUDE: Procedural question.
9 Can we -- how do we get the transcript? Can we
10 leave our business card in order to get today's
11 transcript?

12 MR. WARNER: You certainly can
13 leave your business card, but the transcript will
14 be posted on the website once we get it back and
15 once we do our review.

16 MS. HEFNER: And if you did speak
17 today, I would ask that you do leave your
18 business card on the table so that we can be sure
19 we have your name and entity correct in the
20 transcript.

21 MR. WARNER: Any other first
22 questions? Anyone that we cutoff that would like
23 to ask a second question, please stand up. We'd
24 be more than happy to answer that.

25 MS. KANEK: Alisa Kanek,

1 K-A-N-E-B. The question was that some of these
2 other grant rounds that we've been through,
3 sometimes you got a little bit and then we're
4 kicked out because you didn't qualify or
5 whatever. Would it behoove a person to do
6 multiple, not that we have the time or money to,
7 but different grant proposals that maybe this one
8 would be different scenarios that might work?

9 MR. DELKER: Are you talking
10 about submitting multiple applications?

11 MS. KANEB: Yes. Right.

12 MR. DELKER: Well, bear in mind,
13 this is a very competitive process, and in
14 capital restructuring projects and HEAL in the
15 past, we've gotten three to four times the number
16 of requests that we can actually fund, so you'd
17 be competing against yourself in a lot of ways.
18 So I don't know. It might be better to have --

19 MS. HEFNER: I think we'll have
20 to come to a conclusion as to whether you'd be
21 allowed to do that. But if we decide to allow
22 them, you'll have to decide whether you're
23 willing to win more than one. Because if you do
24 win more than one --

25 MS. KANEB: Well, that's the

1 question.

2 MS. HEFNER: -- you would have to
3 make it very clear in your application that if
4 there is an either/or for you, that you make it
5 clear so we don't give you both of them,
6 obviously.

7 MR. WARNER: And one thing as a
8 clarification, which I don't believe we
9 mentioned, that this is pretty much an all or
10 nothing. We're not going to be going through a
11 negotiation process or a partial awarding where
12 if you ask for 12 million, you'll end up getting
13 7 million. We're not doing that.

14 MR. POFIT: Joe Pofit,
15 consultant. I'm not sure you answered this
16 question. It has to do with eligible applicants.
17 If I have a business corporation, say an LLC
18 which is acquiring the assets of a nursing home
19 that has not been established by Public Health,
20 am I eligible for HEAL funding because I'm going
21 to acquire that nursing home and convert some of
22 those beds from long term care to alternative
23 levels of care? Is that an eligible pathway?

24 MR. KISSINGER: Well, I would
25 look at number twelve on page eighty, corporation

1 entity established specifically to develop long
2 term care initiatives. I would look at that one
3 and I would also look at number eleven -- twelve
4 would be the one you qualify for there.

5 Obviously, you're not a nursing home yet, so you
6 don't qualify for number one. But I think I
7 would guide you to number twelve.

8 MR. POFIT: Okay. And as you
9 know, some sponsors have multiple corporations
10 that sponsor existing nursing homes, although
11 they're setting up a new corporation to acquire
12 the assets of a nursing home to do the
13 conversion. If the sponsor also has a great deal
14 of experience through the other corporations, but
15 the other corporations are not applying, I'm
16 assuming you would look upon that very favorably
17 as an applicant?

18 MR. KISSINGER: Well, yeah. We
19 need to have a lead applicant, so be clear about
20 who the lead applicant is and that lead applicant
21 has to -- page eight. So, I mean, I'm amazed by
22 the creativity of the questions involved in this,
23 but we -- again, you need to apply under one
24 through twelve. And then if you're not one of
25 one through twelve, then you're not going to get

1 through the first screening. So if you can say
2 you're a corporation or entity specifically
3 established for long-term care, it may fit. If
4 not, you're not --

5 MR. POFIT: I need your name,
6 sir. Sir, I need your name.

7 MR. POFIT: Pofit, P-O-F-I-T.

8 MS. KORMON: Liz Kormon,
9 K-O-R-M-O-N. This is for another client. I just
10 want to clarify residential/non-residential
11 programs such as funding for facilities that
12 would be an inclusion model, adult daycare
13 program which would have a respite component for
14 an Alzheimer's population in order delay entry
15 into a nursing home in that community. Would
16 that qualify?

17 MR. KISSINGER: A facility that
18 applies for establishing a social model daycare
19 program?

20 MS. KORMON: Yes. It's actually
21 to be sponsored by a nursing home CCRC. They're
22 looking to add another level to provide care for
23 Alzheimer's patients in a community with a social
24 model that has an active as-needed respite
25 component to it and they want to build a facility

1 that is specific to this population.

2 MR. KISSINGER: So they want to
3 build -- I'm just trying to understand the
4 question.

5 MS. KORMON: Yes. There's a
6 capital component. They actually want to build
7 or acquire an assisted living facility to --

8 MR. KISSINGER: And at the end of
9 the process, it would be what?

10 MS. KORMON: It would be a social
11 model adult daycare or respite. So it would only
12 be -- it's very downsized. It's very small, so
13 it would only be maximum two people staying at
14 night on an as-needed basis.

15 MR. KISSINGER: I don't know.
16 Honestly, I can't give you an answer on that yet.
17 We'll have to look at that.

18 MS. KORMON: Should I write the
19 question in?

20 MR. KISSINGER: Yes.

21 MS. KORMON: Thank you.

22 MR. KISSINGER: Yes, sir.

23 MR. KILLIAN: Steve Killian with
24 Hearth Management. We're an assisting living
25 enriched housing adult home and we have an

1 Alzheimer's dementia wing in the facility. And
2 currently we're looking to try to get an ALR
3 license and there are some building modifications
4 that need to be made. And so are we eligible for
5 the HEAL program and do we have to show need,
6 because what I'm hearing is that we absolutely
7 have to have this ALP to run our Alzheimer's
8 dementia wing?

9 MR. WARNER: Do you have an ALR
10 application in?

11 MR. KILLIAN: Yes.

12 MR. WARNER: I think unless you
13 remove that application -- I would say no,
14 because you're talking about supplanting -- HEAL
15 funds are not allowed to use supplant funds.

16 MR. KILLIAN: Well, I guess we're
17 being forced to switch an existing Alzheimer's
18 dementia facility --

19 MR. KISSINGER: We're not forcing
20 you to do anything.

21 MR. KILLIAN: Well, I'd like to
22 run it the same way we have it now.

23 MR. KISSINGER: The law changed.
24 The law changed in 2004. We're not forcing you
25 to do anything or not do anything. We're telling

1 you, you need to comply with the laws and
2 regulations. That may require you to change. I
3 realize what you're asking for. And you put in a
4 license for an ALR that demonstrates financial
5 feasibility for that ALR?

6 MR. KILLIAN: Yes.

7 MR. KISSINGER: Okay. Then you
8 can't use HEAL funds to supplant what you already
9 have demonstrated financial need for. So you
10 need to look at that application carefully and
11 then -- and I would say -- on its face, I would
12 say no, but we will clarify that. But I would
13 say no, that's not an eligible cost.

14 MR. KILLIAN: Okay.

15 SPEAKER: Could I followup on
16 that, because I think when some people originally
17 made their applications, they weren't necessarily
18 aware of all the standards that they were going
19 to be held to -- some things that were not
20 originally put forth, we don't believe. So in
21 that case, perhaps, they haven't demonstrated
22 financial feasibility and it wouldn't be
23 supplanting the funds?

24 MR. KISSINGER: Is that a
25 question or --

1 SPEAKER: It's a question.

2 MR. KISSINGER: I heard you raise
3 your voice at the end. So I think that the way I
4 would look -- and we'll look at that internally.
5 I would say that if that application is
6 withdrawn, then we would look at that in a
7 different way than if it was an active
8 application before us. Because going into the
9 ALR process, people applied -- and as long as
10 your application is in, it's in -- so I would say
11 no. On an individual basis -- we'll be as
12 flexible as we can within the current rules.

13 SPEAKER: Because I don't know if
14 you could withdraw if you had a dementia unit.

15 MR. KISSINGER: You can withdraw
16 if you -- yes, that's interesting. You're right.
17 That's an interesting question. We'll get you an
18 answer on that.

19 MR. WARNER: We'll have to
20 discuss it.

21 MR. KISSINGER: We'll discuss it
22 internally. Sir?

23 MR. MADEALONI: Tony Madealoni.
24 Do you need me to spell it again? It's just like
25 it sounds. Actually, I just wanted to do this

1 until it's Memorial Day. I have a followup
2 question, but I just want to defer that to the
3 second question. The first question is this: If
4 a nursing home and a ALP, which are related
5 parties, enter into an agreement with a nursing
6 home, and the ALP is going to build additional
7 beds, and part of the grant request is to allow
8 for the financing -- complete financing of the
9 ALP addition, would the entering of a contract
10 with a developer for that addition constitute the
11 incurring of grant expenses?

12 MS. HEFNER: Paying a contractor
13 would.

14 MR. MADEALONI: So if that
15 contract was both signed and there was an upfront
16 payment --

17 MS. HEFNER: Well, not an
18 advancement.

19 MR. MADEALONI: Just looking at
20 alternatives in a very short time period and
21 construction is not particularly --

22 MS. HEFNER: One thing to keep in
23 mind is when it comes to using F Sharp funds, F
24 Sharp funds cannot be used for the advancement on
25 our part or on your part.

1 MR. MADEALONI: So it would have
2 to be for a completed milestone?

3 MS. HEFNER: Correct.

4 MR. MADEALONI: My second
5 question is actually a followup. The question
6 that led to your answer about looking at item
7 twelve as far as the project, the original
8 question seemed to have a little bit of a broader
9 use, both broad and narrow. In his example, he
10 indicated a nursing home with an ALP, but then
11 also went on with alternatives. Now, for
12 alternative long term care services where you
13 clearly establish a corporation -- for certain
14 alternative long term care services -- but before
15 now, the only way you can establish as an ALP is
16 you'd have to go through a process beforehand.
17 So I just want to make sure I'm not
18 misinterpreting. If an ALP simply has an
19 application to become an ALP but has not been
20 established as one, then that's not an eligible
21 applicant, or is it?

22 MR. KISSINGER: I don't think it
23 is. The way page eight reads is an assisted
24 living program, not an assisted living program to
25 be. It doesn't say that, you know --

1 MR. MADEALONI: That's my
2 understanding, so I just wanted to clarify it.
3 That wouldn't be item twelve in that example, an
4 entity that is looking to become an ALP as
5 opposed to an active ALP.

6 MR. KISSINGER: We put in item
7 twelve to allow for flexibility in a competitive
8 process. Those two concepts collide, but item
9 twelve allows people, corporation or entity
10 that's specifically established to develop
11 long-term care. So whether an ALP-to-be
12 qualifies for that, I think we'd have to look at
13 that on a case-by-case basis. Clearly it's not
14 -- if an ALP is not established, it's not an ALP.
15 You can call it one all you want, but it's not.

16 MR. MADEALONI: I mean, you could
17 establish a corporation without the purposes of
18 an ALP -- but other alternative long-term care
19 services and get that through the Secretary of
20 State -- and attempting to add the purpose of an
21 ALP, you're not an ALP. So I just want to
22 understand that an ALP-to-be, as you just
23 mentioned, is not in and of itself an eligible
24 applicant.

25 MR. KISSINGER: We'll try to

1 clarify all this in the Q and A. But yeah, I
2 think you're right.

3 MR. MADEALONI: Thank you.

4 MR. WARNER: Any other second
5 questions? Do we have any third questions?

6 MS. HEFNER: I just want to
7 clarify one of the questions that was asked
8 earlier.

9 MR. WARNER: Sure.

10 MS. HEFNER: One of the questions
11 that was asked about whether or not they should
12 put matching funds in and whether putting
13 matching funds in would be an advantage or a
14 disadvantage. And we said that would not be.
15 However, I want to be clear that we can only fund
16 applications that we can afford. So the idea of
17 holding back your matching funds because you
18 don't care if they're there or they won't help
19 you actually could hurt you in that when we start
20 to make the awards, we award from the top scoring
21 down. And if we cannot afford an application, we
22 pass it by and we award to the next application
23 that we can afford. We don't take an application
24 if we have, you know, \$300,000 left and the
25 application is for \$350,000. We don't give that

1 last \$300,000 to them. We pass them over and go
2 to the next one that we can afford. So be
3 careful that you really do understand --

4 MR. WARNER: Thank you.

5 MR. TENAN: Paul Tenan. This is
6 a question triggered by the comments about
7 matching funds. Does the budget part of this RFA
8 seek or is there any special requirement to show
9 sustainability through revenue sources for a
10 project at the end of the two-year funding?

11 MR. DELKER: Well, when we look
12 at the financial factors, one of the things we
13 look at is what will be left after this HEAL
14 funding is gone? Will that capital improvement
15 result in services that sustain themselves
16 through revenues or whatever. So since we look
17 at viability -- we don't want to just pay for
18 reconfigured space that's a shell.

19 MR. TENAN: My question is
20 actually going in that direction at a technical
21 level. On what basis -- what is the averages
22 that you would like to see in order to
23 demonstrate that sufficient revenues would
24 support the advancement of the HEAL 12
25 application? Would you be looking for dollar for

1 dollar operating revenue services --

2 MR. DELKER: Yeah. I mean, what
3 kind of revenues will you generate from potential
4 slots? Will that be able to pay your -- costs
5 and your staffing costs? The State -- what is
6 the State going to get for return on its
7 investment of these HEAL dollars? What is going
8 to be left of it --

9 MR. TENAN: Now, I didn't
10 necessarily see -- maybe I overlooked something.
11 I didn't necessarily see a specific case that
12 required demonstration of revenues --

13 MR. DELKER: I think the
14 financial application asks for three-year
15 projections of revenue related to the project,
16 financial applications --

17 MR. TENAN: Related to the
18 project -- it's that component rather than --

19 MR. DELKER: Well, I mean, the
20 HEAL could be part of the larger project, but
21 overall, is whatever HEAL is paying for going to
22 be the same through the subsequent revenues --

23 MR. TENAN: We would rather be
24 able to demonstrate viability at the time of the
25 project rather than isolating this investment.

1 MR. DELKER: Yes. I mean, if
2 HEAL is an investment of a larger endeavor that's
3 a productive investment for the community, that
4 would be sufficient.

5 MR. TENAN: Okay. Thank you.

6 MS. HEFNER: There is a section
7 in that attachment eleven in regards to -- that
8 describes what we would be looking for.

9 MR. WARNER: Any additional
10 questions? Okay. At this time, I'd like to
11 point, again, to the screen. We are now done
12 with the question and answer period. We are
13 going to be unable to answer any questions other
14 than those that come to that particular website
15 healnyphase12@health.state.ny.us. Please, don't
16 put us in a position to have to tell you no.
17 Without any more questions, we are completed for
18 today. Thank you very much.

19 (Whereupon the conference
20 concluded at 2:25 p.m.)

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C E R T I F I C A T E

I, Nora B. Lamica, a Shorthand Reporter and
Notary Public in and for the State of New York,
do hereby certify that the foregoing record taken
by me is a true and accurate transcript of the
same, to the best of my ability and belief.

Nora B. Lamica

DATE: June 1, 2009

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