

RFA Number # 0912291142

**New York State, Department of Health
Office of Long Term Care
Division of Home and Community Based Services
Bureau of Medicaid Waivers**

**Combined Request for Applications
Regional Resource Development Centers
Nursing Home Transition and Diversion
and
Individuals with a Traumatic Brain Injury
Home and Community Based Medicaid Waivers**

Significant Dates:

| | |
|---------------------|------------------|
| RFA Release Date: | February 9, 2010 |
| Questions Due: | March 2, 2010 |
| RFA Updates Posted: | March 9, 2010 |
| Applications Due: | March 23, 2010 |

Contact Name & Address:

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New York State Department of Health
Bureau of Medicaid Waivers
Division of Home and Community Based Services
Office of Long Term Care
99 Washington Avenue, Suite 826
Albany, New York 12260**

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I. Introduction

A. Description of Program

The New York State Department of Health (DOH) operates several Home and Community-Based Services (HCBS) Medicaid (MA) 1915c waiver programs. The Nursing Home Transition and Diversion (NHTD) and the Traumatic Brain Injury (TBI) 1915c waivers provide a community-based alternative for eligible adults who require an institutional level of care but prefer to remain in their homes. The two waivers enroll individuals eighteen years of age or older, who, considered as an aggregate group, can be served appropriately and at less cost in a community setting.

The NHTD and TBI waiver programs are designed and implemented to reduce the incidence of unnecessary institutionalization through three targeted approaches:

- Transition: Assisting eligible individuals currently living in nursing homes to move to appropriate community-based settings.
- Diversion: Preventing in-state and out-of-state facility placements through development of community based services and supports for waiver eligible individuals.
- Repatriation: Assisting individuals who have been residing in out-of-state facilities to return home to New York State (NYS) and receive care in community based settings.

The purpose of this Request for Application (RFA) is to identify and contract with a qualified not-for-profit agency as the Regional Resource Development Center (RRDC)¹ to assist DOH with the administration of the NHTD and TBI waiver programs in the Buffalo region. The RRDC contract will be for an initial eighteen (18) month period, expected to begin July 1, 2010, renewable for three (3) additional one-year periods, ending December 31, 2014—dependent upon continued funding availability and satisfactory contractor performance. [Note that the dates may be subject to change.]

B. Background / Intent

The NHTD and TBI waivers are distinct HCBS 1915c programs yet share a similar philosophy, participant eligibility standards, provider requirements, range of community based services, contractor roles and responsibilities, and the need to meet federal requirements for aggregate budgeting cost neutrality. These parallel components and related contractual activities, explained below and throughout this RFA, offer an

¹ Enacting statute, S7073 and S7715, Chapters 615 and 627 of the Laws of 2004 respectively, amended NYS Social Services Law to direct DOH, for the purposes of the NHTD waiver, to contract with “Regional Resource Development Specialists” defined as “not-for-profit agencies having experience with providing community-based services to individuals with disabilities.” For the purpose of the NHTD waiver, and consistent with other similar activities, these entities will be referred to as “Regional Resource Development Centers” (RRDC); “Regional Resource Development Specialists” (RRDS) will refer to the employees who carry out certain RRDC responsibilities.

opportunity for beneficial integrated implementation and related administrative efficiencies. On-line information regarding the NYS community based health care services, including waiver programs, is available on the Department of Health website at: http://nyhealth.gov/facilities/long_term_care.

Nursing Home Transition and Diversion (NHTD)

Chapters 615 and 627 of the Laws of 2004 amended NYS Social Services Law to authorize the State's NHTD waiver program. The MA waiver, approved by the federal Centers for Medicare and Medicaid Services (CMS) in 2007,² is based on service concepts proven effective in longer standing community based waivers, and reflects the State's commitment to provide New York's seniors and other individuals living with disabilities a wide array of health and supportive services in the least restrictive, most appropriate available setting.

Specifically:

- Eligible applicants must be: between eighteen (18) and sixty-four (64) years of age with a physical disability, or a senior sixty-five (65) years of age or older; eligible and authorized for MA coverage for Community Based Long Term Care; assessed to require nursing home level of care and capable of living in the community with the assistance of MA State Plan and waiver services; considered part of an aggregate group that can be cared for at less cost in the community than they would have otherwise been cared for in a nursing facility; and meet other criteria as determined by the DOH Commissioner.
- Approved waiver services include: service coordination; assistive technology; community integration counseling; community transition services; congregate and home delivered meals; environmental modifications; home and community support services; home visits by medical personnel; independent living skills training; moving assistance; nutritional counseling and education services; peer mentoring; positive behavioral interventions/supports; respiratory therapy; respite care services; structured day program; and wellness counseling.
- The waiver is approved to serve at least 5,000 individuals statewide during the initial CMS waiver approval period from September 2007 through August 2010.

Traumatic Brain Injury (TBI)

Chapter 196 of the Laws of 1994, Article 27-CC, amended NYS Social Services Law to establish the NYS TBI Program within DOH.³ This legislation charged the Department, "to develop a comprehensive statewide program ... with primary emphasis on community based services and to develop outreach services and to utilize existing

2 The CMS approved NHTD waiver application can be viewed at:
http://nyhealth.gov/facilities/long_term_care/waiver/docs/application_2005-12-12.pdf

3 The CMS approved TBI MA waiver application and other information can be viewed at:
http://www.nyhealth.gov/facilities/long_term_care/docs/ny_0269_tbi_waiver_renewal.pdf

organizations with demonstrated interest and expertise in serving persons with traumatic brain injuries and, within funds available, enter into contracts with such organizations.” Since NYS Fiscal Year 1995-96, the enacted budget has appropriated funding in support of this program; the first participants were enrolled that year. While the initial thrust of the TBI program was to help people return to New York State who, for lack of service alternatives, had been residing in out-of-state nursing homes, the program continues to provide a wide range of services to support all eligible individuals who prefer to receive care in their home communities.

Specifically:

- Eligible applicants must have a diagnosis of a TBI or related diagnosis and must be: between eighteen (18) and sixty-four (64) years of age; eligible and authorized for MA coverage for Community Based Long Term Care; assessed to require nursing home level of care and capable of living in the community with the assistance of MA State Plan and waiver services; considered part of an aggregate group that can be cared for at less cost in the community than they would have otherwise been cared for in a nursing facility; and meet other criteria as determined by the DOH Commissioner.
- Approved waiver services include: service coordination; assistive technology; community integration counseling; community transition services; environmental modifications; home and community support services; independent living skills training; intensive behavior program; respite care services; structured day program; substance abuse services and transportation.
- The TBI waiver currently provides services to over 2,400 individuals, and is expected to serve up to an additional 200 participants annually.

C. Problem / Issue Resolution

The NHTD and TBI waivers provide a necessary community-based alternative to institutional care for seniors and individuals with a physical disability who require a nursing home level of care. Even though the State has been successfully serving people for many years through various MA waiver programs, changing participant demographics, the downturn in the national and State economy, and the increasing need for enhanced quality assurance measures, requires DOH to address certain challenges to effective NHTD/TBI waiver administration.

Accordingly, the NYS DOH Office of Long Term Care (OLTC) will contract with qualified not-for-profit RRDC agencies to identify and support appropriate individuals for participation in the NHTD and TBI waivers, develop a sufficient provider network capacity, and maintain cost neutrality compared to the cost of institutional care for the waiver participants considered as a group.

Successful NHTD/TBI waiver management requires ongoing effort toward sufficient provider network development, participant enrollment strategies, and administrative cost effectiveness.

Specifically:

- Provider Network Development and Participant Enrollment: While the TBI waiver is a well established program, the NHTD waiver is still moving through the initial stages of implementation. To continue maximal use of the TBI program and fully implement the new NHTD waiver requires continuous development and maintenance of a qualified waiver service provider network, and constituent awareness and referral to the program as an available alternative to institutional care.
- Administrative Cost Effectiveness and Quality Assurance: Current federal and NYS fiscal constraints require that all government functions, including MA waiver programs, consider measures by which to achieve administrative efficiencies and enhance quality assurance and improvement.

II. Who May Apply

A. Minimum Eligibility Requirements for the RRDC Applicant

- Applications will be accepted only from not-for-profit organizations or agencies other than governmental entities.⁴
- Applicants must provide, and their staff must be able to use, computer software compatible with the Microsoft Office products used by DOH to organize, analyze and store waiver participant data and information. Applicants must have the ability to electronically transfer information and reports using compatible encryption software to the DOH Bureau of Medicaid Home and Community Based Services via e-mail. [Attachment 3 **must** be completed (check boxes), signed, and submitted with the application to attest to compliance with this requirement.]

B. Preferred Qualifications for the RRDC Applicant

Applicants should have:

- Expertise in working with individuals with a brain injury, seniors and people of all ages with physical disabilities;
- Extensive knowledge of providers of community-based long term care services in the geographic area they choose to serve;
- Knowledge of and ability to establish effective collaborative relationships with community-based long term care (LTC) entities, including local departments of social services (LDSS), NY Connects point of entry offices, Area Agencies on Aging (AAA), Community Alternative Services Agencies (CASA), HCBS waiver

⁴ Pursuant to authorizing statute, DOH may **not** enter into a RRDC contract with for-profit or government agencies for the purposes of this NHTD waiver.

programs including the Long Term Home Health Care Program (LTHHCP), and other pertinent community resources;

- Understanding of the issues concerning individuals with disabilities of all ages and seniors regarding their Long Term Care (LTC) needs;
- Knowledge of the resources for obtaining affordable, accessible and integrated housing;
- Ability to use data management and record sharing technologies to reduce redundancy in participant assessment, service planning, record keeping, and Medicaid reports; and
- Understanding of person centered planning and choice, and the ability to provide culturally competent services.

Collaborative applicants should demonstrate, through a formal agreement with other institution(s) that they can provide adequate services to the entire region. The formal agreement between institutions should be submitted with the principal institution's application.

C. General RRDC Applicant Requirements

RRDC applications must be **received not later than 4:00 PM March 23, 2010** at the following address. **Late applications will not be accepted.***

Charlotte M. Mason
New York State Department of Health
Bureau of Medicaid Waivers
Division of Home and Community Based Services
Office of Long Term Care
99 Washington Avenue, Suite 826
Albany, NY 12260

Applicant qualifications will be examined, and only applications from those entities meeting minimum eligibility requirements shall be evaluated further.

*** Note: It is the applicant's responsibility to see that applications are delivered to the address above prior to the date and time specified. Late applications due to a documentable delay by the carrier may be considered at the Department of Health's discretion.**

One entity will be selected to serve as both the NHTD and TBI RRDC contractor. However, separate budgets and work plans must be submitted for the NHTD and TBI RRDC application.

Regional Consortium Applications: In the event that organizations or entities are applying as a consortium for a regional contract, the application must identify a lead agency which meets the minimum eligibility requirements from among consortium members that is willing and able to act as the contractor to the State. All entities applying as part of the consortium must meet the minimum qualifications.

The lead applicant must be indicated on the Grant Application Summary Form (Attachment 2).

Organizations or entities can be members of more than one regional consortium in a region and/or in multiple regions. The lead agency will be legally responsible for the fulfillment of the contractual responsibilities assumed by the consortium. Any subcontract shall be consistent with the terms of the DOH contract with the lead agency. Such subcontracts shall be subject to DOH review and prior written approval before execution of the subcontracts.

Provider of Waiver Service Applications:

Current providers of waiver services, as well as any sub-corporation, foundation or any other legal entity under the control of the waiver service provider agencies, may apply; however, such entities must document to DOH satisfaction how any potential conflict of interest will be avoided by completing, signing, and submitting Attachment 3 attesting to such processes. In documenting how a potential conflict of interest will be avoided, it is expected that such bidders will show how the systems of each entity will be kept separate and apart and how policies ensuring the RRDC can function with independence and autonomy will be enforced. Whether a potential applicant is such a legal entity under the control of a waiver service provider is determined by DOH.

III. Project Narrative / Work Plan Outcomes

A. Goals of the Proposed Project

The goal of the RRDC project is to assist eligible individuals currently living in nursing homes transition to appropriate community-based settings through the provision of necessary waiver services. The RRDC will also assist eligible individuals, currently living in the community, who wish to avoid institutionalization, by assessing their need and eligibility for waiver services. The RRDC is responsible for developing a provider network sufficient to offer a full array and sufficient capacity of waiver services to meet the needs of participants and assure their right to have choice in the provider of their care.

B. Problems and Issues To Be Solved Through This RFA

Many people living in nursing homes would choose to live in a community setting if they had access to appropriate care and services. Likewise, there are many people currently living in the community who are at significant risk of needing to enter a nursing home. The NHTD and TBI waivers were developed to expand the opportunities for these

people to receive needed community-based care and supportive services.

Achievement of this goal requires regionally dedicated RRDC administrators to work closely with DOH staff to assure optimal and consistent statewide implementation of the waiver programs. The primary goals for RRDC contractors will be to facilitate the development of a comprehensive network of skilled waiver service providers and to maximize enrollment of participants.

C. Roles and Responsibilities of the RRDC Include:

- Reducing the incidence of unnecessary institutionalization by assisting eligible individuals to transition from nursing homes or remain in their homes through improved access to care in community-based settings;
- Assisting individuals, who have been residing in out-of-state facilities, to return home to New York State and access care in community-based settings;
- Employing, either directly or by contract, qualified individuals, with the education, training and experience specified in this RFA to fulfill the appropriate functions and activities of the Regional Resource Development Specialist (RRDS) and the Nurse Evaluator (NE)⁵;

One RRDS will be dedicated full-time to the NHTD program, and one RRDS dedicated full-time to the TBI program. One NE will be employed to meet RRDC quality assurance activities for both waivers. Additional staff will be assigned proportionally as required to meet the enrollment needs of each waiver program in each region;

- Functioning as an initial point-of-contact for potential applicants, their families, legal guardians, and/or authorized representatives;
- Maximizing waiver participant enrollment and participation;
- Maximizing waiver service provider enrollment and regional networks;
- Providing technical support to service providers with regard to waiver policies and procedures;
- Developing collaborative relationships with regionally based stakeholders including LDSS and other local government entities, providers, advocacy organizations, and others necessary to assure a comprehensive coordinated approach to the care of the targeted population;
- Ensure and maintain that all appropriate professional staff will comply with all requirements of New York State's Medicaid Agency Data Use Agreement (DUA - 15407), with the Centers for Medicare and Medicaid Services;
- Maintaining participant Application Packets, Service Plans, reports and other

⁵ See APPENDIX A-2 - Program Specific Clauses

required documentation as specified by the waiver contractual agreements, and in a manner consistent with DOH standards for e-file transfers and information sharing;

- Maintaining a database, in accordance with DOH developed formats, for participant referral, intake process, Service Plan review, provider enrollment and training, and other information as determined by DOH to ensure efficient program management, compliance with regional service plan budgeting limitations, and meet quality assurance measures;
- Cooperating with New York State and federal audits; and
- Providing direct oversight and supervision of the RRDS and Nurse Evaluator staff and functions, and managing other roles and responsibilities defined by DOH in the RRDC contract and program manuals.

NOTE: The NHTD and TBI Program Manuals describe the respective waiver eligibility, administrative process and procedures, qualifications, roles and responsibilities of the RRDC staff, and other aspects of waiver operation.

The manuals can be found on line at:

http://www.nyhealth.gov/facilities/long_term_care/waiver/nhtd_manual/index.htm

http://www.nyhealth.gov/health_care/medicaid/reference/tbi/

Applicants are encouraged to review the program manuals thoroughly to best respond to this RFA.

D. RRDC Regional Areas and Estimated Funding Levels

Applicants may apply to manage the Buffalo regional area as designated below. Amount indicated estimates available funding for the initial 18 month contract period.

| Region | RRDC Service Provision Area | Estimated NHTD 1 st 18 Month Funding Level (7) | Estimated TBI 1 st 18 Month Funding Level (7) |
|---------|---|--|---|
| Buffalo | Cattaraugus, Chautauqua, Erie, Niagara, Orleans, Wyoming | \$352,500 | \$352,500 |

Note:

(7) Amounts reflect estimated funding level available for the initial first 18 month contract period. Actual funding will vary according to negotiated contractual spending requirements. Funds available for RRDC activities will be distributed according to the size of the existing waivers' population, the size of the waiver eligible population residing in the contracted region adjusted for geographic, labor market, local cost of doing business and other regional considerations. Initial allocations will reflect one-time

startup and resource development costs. Funding is contingent upon federal approval of the waivers and available appropriations.

E. Contractual Rights and Responsibilities

- **Executive Direction:** The Applicant will identify by name and title an individual who will have authority to take action on issues and concerns communicated by the Department. DOH reserves the right to directly contact this person at any time during the contract term.

The Applicant, in the submitted application, will identify by name and title the individual the Contractor has authorized to provide executive direction of the Contractor's performance of the contract services, including response to issues and concerns communicated by DOH. The Applicant and successful Contractor will provide a telephone number that DOH can call at any time (i.e., 24 hours a day, 7 days a week) to directly contact the Contractor's designee. The Contractor agrees to immediately notify DOH of any changes to the contact information, including those that are temporary.

The Applicant and successful Contractor, agrees to immediately notify DOH of new affiliations with providers of waiver services or MA state plan services, including affiliations established through the health system of which it is a member. Affiliates of the contractor can provide waiver services and state plan services as long the Contractor has disclosed that information to DOH.

- **Project Leadership:** The lead RRDSs and Nurse Evaluator are key personnel positions and any individual assigned to these positions must satisfy the minimum qualifications for experience and education specified in Attachment 1 Appendix A-2. The decision to enter into an agreement with the Contractor is due in part to the specific individual assigned as the lead RRDS or Nurse Evaluator for the project. Accordingly:
 - If the Contractor reassigns the individual holding this position or changes the percentage of the individual's time allocated to the RRDC responsibilities, or if such individual leaves the position for any reason at any time during the term of the Contract, the Contractor shall:
 - Within two (2) business days of the occurrence provide written notice to DOH
 - Within five (5) business days of the occurrence of one of the above events the Contractor shall submit to DOH a written description of how the Contractor will continue to fulfill its responsibilities under this Agreement
 - Within two (2) business days of the selection of the new lead RRDS or Nurse Evaluator, the Contractor will provide to DOH documentation that the individual is qualified to be the lead RRDS or Nurse Evaluator. If in the opinion of DOH, the replacement candidate does not possess the minimum qualifications to fulfill its responsibilities under this Agreement, DOH will notify the Contractor of the need for correction and the

Contractor will replace the individual with a person who does meet the minimum qualifications.

The Department will have thirty days (30) from the date of such reassignment or departure to either approve a different individual chosen by the Contractor to fill such position or to terminate the Contract. The Contractor will not be paid for unfilled key personnel positions.

If the Contractor fails to provide notification of the reassignment or departure of such individual, DOH may, upon becoming aware of such event, immediately terminate the Contract. In the event the Department does not approve the Contractor's designee, the Contractor shall submit a replacement for the Department's approval within two (2) weeks.

- The Department, with reasonable notice and written justification, may require the Contractor or any consortium members to remove from the Contract any employee justified by DOH as being incompetent, otherwise unacceptable, or whose employment on the Contract is considered contrary to the best interests of the public or the State. In such event, the Contractor shall have thirty (30) calendar days in which to fill the vacancy with another employee of acceptable experience and skills subject to prior written approval of DOH.

If the Contractor fails to fill the vacancy with a qualified person acceptable to the Department, DOH may immediately terminate the Contract. In the event the Department does not approve the Contractor's designee, the Contractor shall submit a replacement for Department approval within two (2) weeks. The Contractor will not be paid for unfilled key personnel positions.

- o The awarded Contractor must provide full support and assistance in the transition of operations to a successor contractor or to DOH to assure an orderly and controlled transition and to minimize any disruption of services described herein.
- o The awarded Contractor must continue to provide services and notifications to waiver participants as directed by DOH.
- o The awarded Contractor must maintain staffing adequate to meet obligations under the contract during the transition period and must transfer all original copies of participant records to any responsible agency, entity, or location as determined by DOH within twenty (20) business days of the termination of the contract—at no cost to the Department or to the successor RRDC agency. Any copies of records for the purposes of the former contractor will be made at no expense to DOH.

IV. Administrative Requirements

A. Issuing Agency

This RFA is issued by the NYS DOH, Office of Long Term Care, Division of Home and Community Based Services, Bureau of Long Term Care Medicaid Waivers. DOH is responsible for the requirements specified herein and for the evaluation of all applications, and is the sole contact for information relating to the RFA. An e-file version of this document may be found on the DOH website at: <http://www.nyhealth.gov> [Click Long Term Care issue tab], and/or at <http://www.nyhealth.gov/funding>.

B. Question and Answer Phase

All substantive questions must be submitted in writing to:

Charlotte M. Mason
New York State Department of Health
Bureau of Medicaid Waivers
Division of Home and Community Based Services
Office of Long Term Care
99 Washington Avenue, Suite 826
Albany, NY 12260
Attn: Brenda Rossman

Questions via telephone will not be accepted. Each question should cite the particular RFA section and paragraph number to which it refers. Responses to questions will be posted on the DOH website at: <http://www.nyhealth.gov> [Click Long Term Care issue tab]. The closing date for receipt of questions will be **no later than 4:00 PM March 2, 2010**.

Questions of a technical nature can be submitted in writing to the address above or via telephone by calling Leah Sauer at 518-474-6580.

Note: Questions are of a technical nature if they are limited to how to prepare an application (e.g., formatting) rather than to the substance of the application.

Prospective applicants should note that all clarifications and exceptions, including those relating to the terms and conditions of the contract, are to be raised prior to the submission of an application. It is anticipated that written answers to all questions will be provided on or before March 9, 2010.

Note: An applicant conference was held when this RFA was previously released. Please review Attachment 10 for the questions and answers from this applicant conference.

C. Letters of Interest

Letters of Interest are not required for this project. However, a letter may be sent to the address in part B above to request all further correspondence or changes regarding this RFA be sent to the applicant. This information will also be posted as available on the DOH website at <http://www.nyhealth.gov>.

D. How to File an Application

Application packages should be sealed and clearly labeled, including the outside envelope, with: applicant name, phone number, RFA name and number, and region as listed on the RFA document cover.

Submit one original signed application and six (6) copies, including two Attachment 9-a, for each RRDC regional application. Proof of not-for-profit status **must** be attached to RRDC applications. [See Attachment 2 – Grant Application Summary Form]

Applications must be **received** at the address below **no later than** 4:00 PM, March 23, 2010.

Charlotte M. Mason
New York State Department of Health
Bureau of Medicaid Waivers
Division of Home and Community Based Services
Office of Medicaid Home and Community Based Services
99 Washington Avenue, Suite 826
Albany, NY 12260
Attn: Brenda Rossman

Note: It is the applicant's responsibility to see that applications are delivered to the address above prior to the date and time specified. Late applications due to a documentable delay by the carrier may be considered at the Department of Health's discretion.

E. The Department's Reserved Rights

The Department of Health reserves the right to:

1. Reject any or all applications received in response to this RFA.
2. Award more than one contract resulting from this RFA.
3. Waive or modify minor irregularities in applications received after prior notification to the applicant.
4. Adjust or correct cost figures with the concurrence of the applicant if errors exist and can be documented to the satisfaction of DOH and the State Comptroller.

5. Negotiate with applicants responding to this RFA within the requirements to serve the best interests of the State.
6. Eliminate mandatory requirements unmet by all applicants.
7. If DOH is not successful in negotiating a contract with the selected applicant within an acceptable time frame, DOH may begin contract negotiations with the next qualified applicant(s) to serve and realize the best interests of the State.
8. Award grants based on geographic or regional considerations to serve the best interests of the State.

F. Term of Contract

1. Any contract resulting from this RFA will be effective only upon approval by the New York State Office of the Comptroller.
2. It is expected that contracts resulting from this RFA will start on July 1, 2010, continue for an 18 month period and be renewable for three one-year periods ending December 31, 2014—dependent upon continued funding availability and satisfactory contractor performance. [Note that the dates may be subject to change.]
3. Each contract period will require submission and approval of renewal documents, which includes an annual work plan, budget, and any other documentation required by the Department. Renewals will be contingent upon successful completion of all program requirements, continued need of this project, and funding availability.

G. Payment and Reporting Requirements

1. The State (NYS DOH) may, at its discretion, make an advance payment to not-for-profit grant contractors subsequent to contract execution in an amount not to exceed twenty-five percent of the total contract amount.
2. The Contractor shall submit quarterly invoices and required expenditure reports to the State's designated payment office below or any other address or person as directed by the Department:

Nursing Home Transition and Diversion and Traumatic Brain Injury Waivers
New York State Department of Health
Bureau of Medicaid Waivers
Office of Long Term Care
99 Washington Avenue, Suite 826
Albany, NY 12260
Attn: Brenda Rossman

Payment of such invoices by the State shall be made in accordance with Article XI-A of the New York State Finance Law.

Payment will be made on a reimbursement basis pursuant to the negotiated RRDC contract. [See Appendix C]

Payment will be made for documented completed work plan elements set for the period. [See Appendix D and Attachment 8]

The grant contractor shall submit quarterly and annual reports using a standardized format provided by DOH. The report will be used as the basis for evaluation of completed work plan deliverables and justification for payment. [See Appendix C]

Failure to demonstrate reasonable fulfillment of contract deliverables may result in adjustment to the requested reimbursement. [See Appendix C]

Contractors are responsible for submitting correctly prepared vouchers for payment. The Department reserves the right to request additional documentation. [See Appendix C]

Adjustment in funds to reflect a change in workload associated with growth in the number of RRDC participants may be available in subsequent contract years contingent upon the available program funding and the continued need for this activity.

3. The grant contractor shall attend quarterly and other meetings at the request of DOH.
4. All applications that result in a contract award by the State will be required to undergo an annual comprehensive site visit as determined by DOH/OLTC staff. Contractor staff required to be in attendance will include the RRDC lead staff person identified as responsible for contracted activities, fiscal agent, and others to be named by DOH.

Note: All payment and reporting requirements will be detailed in Appendix C of the final grant contract.

H. Vendor Responsibility Questionnaire

New York State Procurement Law requires that State agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact DOH or the Office of the State Comptroller for a copy of the paper form. Applicants must also complete and submit the [See Attachment 5 Vendor Responsibility Attestation].

Vendor responsibility means that a vendor has the integrity to justify the award of public dollars and the capacity to fully perform the requirements of the contract. The requirement, under Section 163 (9) f of the State Finance Law (SFL), that a contracting agency determine that it has reasonable assurances that a vendor will be responsible for the awarded funds is an important part of the State's procurement process, promoting fairness in contracting and protecting a contracting agency and the State against failed contracts. The Office of the State Comptroller (OSC) must also be satisfied that a proposed contractor is responsible before approving a contract award under Section 112 of the SFL. [Additional related information may be found at the OSC website: <http://nyosc3.osc.state.ny.us>.]

The factors considered in making a vendor responsibility determination include: legal authority to do business in New York State; integrity, capacity (both organizational and financial); and previous contract performance. Detailed responses to frequently asked questions regarding vendor responsibility may be found at the OSC website: <http://www.osc.state.ny.us/vendrep/faqs.htm>.

I. General Specifications

1. By signing the "Applicant Attestation" (Attachment 3) each applicant attests to its express authority to sign on behalf of the applicant.
2. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
3. Submission of an application indicates the applicant's acceptance of all conditions and terms contained in this RFA, including the terms and conditions of the contract. Any exceptions allowed by the Department during the Question and Answer Phase (Section IV.B.) must be clearly noted in a cover letter attached to the application.
4. An applicant may be disqualified from receiving awards if such applicant or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
5. Provisions Upon Default
 - a. The services to be performed by the Applicant shall be at all times subject to the direction and control of the Department as to all matters arising in connection with or relating to the contract resulting from this RFA.
 - b. In the event that the Applicant, through any cause, fails to perform any of the terms, covenants or promises of any contract resulting from this RFA, the Department acting for and on behalf of the State, shall thereupon have

the right to terminate the contract by giving notice in writing of the fact and date of such termination to the Applicant.

- c. If, in the judgment of the Department of Health, the Applicant acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate any contract resulting from this RFA by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.

J. Appendices

The following appendices will be incorporated into any contract(s) resulting from this RFA:

APPENDIX A - Standard Clauses for All New York State Contracts

APPENDIX A-1 - Agency Specific Clauses

APPENDIX A-2 - Program Specific Clauses

APPENDIX C - Payment and Reporting Schedule

APPENDIX D - Work Plan

APPENDIX E - Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:

- **CE-200** - Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage is Not Required; OR
- **C-105.2** - Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
- **SI-12** - Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** - Certificate of Participation in Workers' Compensation Group Self-Insurance

Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:

- **CE-200** - Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State

Workers' Compensation And/Or Disability Benefits Insurance Coverage is Not Required; OR

- **DB-120.1** - Certificate of Disability Benefits Insurance OR
- **DB-155** - Certificate of Disability Benefits Self-Insurance

NOTE: Do not include the Workers' Compensation and Disability Benefits forms with your application. These documents will be requested as a part of the contracting process should you receive an award.

APPENDIX H - Federal Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement

APPENDIX X - Modification Agreement Form

V. Completing the Application

A. Application Content and Scoring System

RRDC contractors will be selected based on a submitted application demonstrating their ability to fully implement the waivers and assure effective oversight of all program functions. Please submit your application(s) according to the following pertinent contract-specific format:

A completed application consists of the following items, clearly labeled and presented in the order indicated below.

- **Grant Application Summary Form** (Use Attachment 2)
- **Table of Contents**
- **Narrative Section** (Includes Attachment 8)
- **Budget/Cost Sheets** (Use Attachment 9-a)
- **Applicant Attestation** (Use Attachment 3)
- **Vendor Responsibility Questionnaire** (Use Attachment 5)

Grant Application Summary Form (1 page)

A form is provided (Attachment 2) that will serve as the application cover sheet. This form may be recreated on the applicant's computer, provided the applicant strictly adheres to the given format.

This form should be completed and signed by an official in the applicant organization having the authority to agree to and ensure deliverables in the application, usually the Chief Executive Officer or the Chairperson of the Board of Directors. The Cover Sheet should provide the name of a person who should be contacted by those seeking information about your application. Needed contact information includes: a full mailing address, telephone number and extension, fax number and e-mail address. Please indicate the region in which you are applying on the cover sheet. See Attachment 7 for a map of the nine (9) RRDC regions of the State.

Table of Contents (1 page)

The Table of Contents should indicate by page number the location of all required components of your application including attachments.

Narrative Section

Not to exceed a maximum 20 pages excluding work plan and budget forms.
Maximum Total = 100 points; Passing Score = 60 Points. An applicant must score at least 50 points on the technical programmatic questions 1- 4.

Applicant must fully explain and justify each narrative response. Awarded points will be based on the evaluated quality of the response up to the total noted for each section. (See Chart Page 25)

The RRDC application should address the following scored areas:

The Applicant needs to address all components of each section below to receive full credit. [See Chart Page 25 for Section and Maximum Points]

1. Organizational Focus – 5 Points

- Discuss, as you understand them, the needs of those in the region you propose to serve, who require a nursing home level of care but prefer to reside in the community.

- Discuss existing barriers to fully integrated community-based services experienced by potential waiver participants.

- Discuss one profile of an individual known to your organization who would benefit from the TBI waiver services. [To assure confidentiality, please do not include any identifiable personal information regarding the case illustrations.]

- Discuss one profile of an individual known to your organization who would benefit from the NHTD waiver services. [To assure confidentiality, please do not include any identifiable personal information regarding the case illustrations.]

- Discuss the benefits to waiver participants from your efforts to implement the TBI and NHTD waivers.

2. Knowledge of NHTD/TBI – 10 Points

- Discuss, including dates and timeframes, your agency's experience serving individuals with a brain injury, physical disabilities, and seniors who prefer to live and receive care in their home community.

- Discuss what uniquely qualifies your agency to perform the responsibilities as described in this RFA.

- Articulate your agency's philosophy of participant choice, person-centered service planning, and commitment to assuring dignity and choice in care for seniors, individuals with a brain injury and other physical disabilities, and their families.

- Discuss how your agency will balance participant choice for care and providers with the need to assure the health and welfare of the individuals that you serve.

3. Organizational Structure – 25 Points

- Discuss how the RRDC will fit and function within the existing structure of your agency and provide an organizational chart that demonstrates how the RRDC will fit into your agency.

- Discuss and document your organization's history and success with initiating a new or expanding a program.
- Discuss your organization's ability to hire/train/retain sufficient qualified staff to effectively meet the objectives of each waiver, including ongoing training opportunities to ensure that contract staff will have sufficient skills to meet the electronic record keeping and data transmission needs of the program. Describe your current employees' level of computer literacy.
- If the information is available, applicants should identify specific individuals anticipated to fulfill the RRDC staffing roles (RRDS and NE). In the situation where the applicant can not yet identify the RRDS and/or NE, the applicant should describe the qualities, skills, and experience that will be required in filling these positions.

Identify the lead RRDS primarily responsible for each waiver as well as the Nurse Evaluator and discuss why they are the right persons for the job, including: descriptions of their knowledge of and experience with assisting individuals with a brain injury, physical disabilities and seniors to access community-based services, supervisory and management experience, and other experience pertinent to fulfilling the RRDC responsibilities for educational outreach, development of resources, budgeting, quality assurance, technical assistance and monitoring. Provide employee's name, function, current resume/curriculum vitae, licenses, and references. If applying in more than one region, you must submit different resumes for each region. [Please attach resumes; do not use internal agency references.]

- Discuss the ratio of RRDC staff to waiver participants and how it will be maintained as the number of participants increase over time. Please consider the RRDC requirements under Section III, C as you answer this question.

4. Work Plan Development – 40 Points (20 points per work plan)

Note: See Appendix D and Attachment 8

A separate work plan must be submitted for each waiver program. The following RRDC responsibilities must be addressed in the work plan (See Appendix D and Attachment 8)

- Provider Network Development

The contracted organization will be required to serve all eligible applicants in the designated waiver region. Discuss your agency's knowledge of the regional resources for NHTD/TBI participants and how you would develop and enhance the waivers' network of providers, community-based services and other supports for individuals eligible for the TBI and NHTD waiver services throughout the geographic region for which you are applying.

Include how you would address recruitment and retention of service

providers in hard to reach areas, as well as providers capable of serving individuals with complex or unusual medical conditions.

- **Participant Enrollment**

The contracted organization will be required to serve all eligible applicants in the designated waiver region. Discuss the activities and timeframes your agency would undertake to develop and enhance enrollment of individuals eligible for NHTD and TBI waiver services throughout the geographic region for which you are applying.

Specifically discuss activities your agency would undertake to identify individuals who wish to transition from nursing homes to community based settings.

Specifically discuss activities your agency would undertake to assist individuals who wish to transition from nursing homes to community based settings.

Specifically discuss activities your agency would undertake to identify individuals who prefer alternatives to nursing home care.

Specifically discuss activities your agency would undertake to assist individuals who prefer alternatives to nursing home care.

- **Stakeholder Collaboration**

Discuss how you would develop/enhance opportunities for collaboration among and between LDSS, other local government entities, administrators of other community based waivers and services, providers and consumer advocacy groups to ensure a seamless continuum of appropriate care, and services to waiver applicants/participants, avoid duplication of effort, and address service policy issues as they arise.

5. Budget – 20 points (10 points per budget)

- Assuming a start date of July 1, 2010, submit two (2) initial eighteen (18) month budgets, one for the NHTD waiver and one the TBI waiver, related to the provision of the contracted services in the region(s) for which you are applying. Indicate start-up expenses as distinct from annual/ongoing expenses. [Attachment 9; include Attachment 9-a.]

- Provide a narrative justification for each budgeted cost documented on Attachment 9-a. (Forms 1-5 for each budget) The proposed budget will be evaluated on the basis of thorough support and cost effective administration of the contracted activities, and reasonableness of cost within the context of the range of responsibilities of the contract, i.e. geographic area, local labor market factors and targeted population.

Funding received for this contract may only be used for expanded and/or new activities undertaken pursuant to this RFA, and may not supplant existing funds for current staff or activities.

Note: Should there be no application with a passing score the State reserves the option to reissue the RFA.

B. Application Format

All applications should be submitted on single-spaced typed pages (not including the cover page and attachments), using a 12-point font and one-inch margins. The narrative portion **should** not exceed 20 pages at the maximum.

Applications for the RRDC contract should include the Grant Application Summary Form that states: “Regional Resource Development Centers” and indicate the proposed region to be served.

The Grant Application Summary Form should state the contract name, address of the applicant, as well as the applicant’s contact name and phone number, fax number and e-mail address.

Applications should be clear and comprehensive, yet concise. The application should contain the information in each of the scored areas listed in Section V-A. Responses in each area should be completed on separate sheets of paper clearly labeled (e.g. V.A. 1, V.A. 2, etc). The value assigned to each scored area is an indication of the relative weight that will be given when scoring the application.

The NHTD and TBI waivers have separate and distinct funding sources; therefore applications must include separate budgets for each waiver.

| Question | Maximum Points |
|-----------------------------|-----------------------|
| 1. Organizational Focus | 5 |
| 2. NHTD/TBI Knowledge | 10 |
| 3. Organizational Structure | 25 |
| 4. Work Plan Development | 40 |
| 5. Budget | 20 |
| Total Points | 100 |

C. RRDC Application Review Process

Application review and evaluation will be conducted through the DOH Office of Long Term Care.

In the event of a tie, the applicant with the highest score on the work plan development section of the application will be selected.

D. Method of Contract Award

The Department will award a contract to the applicant who has the highest score among all responsive and responsible applicants.

If there are no passing applicants to provide RRDC functions in the region, the Department reserves the right to reissue the RFA for the specific function in that region.

No later than 60 days following the awarding of grants from this RFA, applicants may request a debriefing from the DOH Office of Long Term Care, limited to the positive and negative aspects of the subject application only.

VI. Attachments

- Attachment 1. Standard Grant Contract with Appendices
- Attachment 2. Grant Application Summary Form
- Attachment 3: Applicant Attestation
- Attachment 4: Applicant Affiliation Disclosure
- Attachment 5: Vendor Responsibility Attestation
- Attachment 6: List of Medicaid State Plan Services
- Attachment 7: RRDC Map
- Attachment 8: Work Plan
- Attachment 9: Instructions for Completing the Operating Budget and Funding Request
- Attachment 9-a: Initial Start-up and Annual Budget
- Attachment 10: Questions and Answers from Applicant Conference

Attachment 1

GRANT CONTRACT (STANDARD)

STATE AGENCY (Name and Address): _____ . NYS COMPTROLLER'S NUMBER: _____

_____ .

_____ . ORIGINATING AGENCY CODE: _____

CONTRACTOR (Name and Address): _____ . TYPE OF PROGRAM(S) _____

_____ .

_____ .

FEDERAL TAX IDENTIFICATION NUMBER: _____ . INITIAL CONTRACT PERIOD _____

_____ .

MUNICIPALITY NO. (if applicable): _____ . FROM: _____

_____ . TO: _____

_____ .

CHARITIES REGISTRATION NUMBER: _____ . FUNDING AMOUNT FOR INITIAL PERIOD: _____

____ - ____ - ____ or () EXEMPT: _____

(If EXEMPT, indicate basis for exemption): _____ .

_____ . MULTI-YEAR TERM (if applicable): _____

CONTRACTOR HAS() HAS NOT() TIMELY . FROM: _____

FILED WITH THE ATTORNEY GENERAL'S . TO: _____

CHARITIES BUREAU ALL REQUIRED PERIODIC .

OR ANNUAL WRITTEN REPORTS. .

_____ .

CONTRACTOR IS() IS NOT() A .

SECTARIAN ENTITY .

CONTRACTOR IS() IS NOT() A .

NOT-FOR-PROFIT ORGANIZATION .

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

| | | |
|-------|--------------|--|
| _____ | APPENDIX A | Standard clauses as required by the Attorney General for all State contracts. |
| _____ | APPENDIX A-1 | Agency-Specific Clauses (Rev 10/08) |
| _____ | APPENDIX B | Budget |
| _____ | APPENDIX C | Payment and Reporting Schedule |
| _____ | APPENDIX D | Program Workplan |
| _____ | APPENDIX X | Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods) |

OTHER APPENDICES

| | | |
|-------|----------------|---|
| _____ | APPENDIX A-2 | Program-Specific Clauses |
| _____ | APPENDIX E-1 | Proof of Workers' Compensation Coverage |
| _____ | APPENDIX E-2 | Proof of Disability Insurance Coverage |
| _____ | APPENDIX G | Notices |
| _____ | APPENDIX H | Federal Health Insurance Portability and Accountability Act Business Associate Agreement |
| _____ | APPENDIX _____ | _____ |
| _____ | APPENDIX _____ | _____ |

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

CONTRACTOR

By: _____
(Print Name)

Title: _____

Date: _____

Contract No. _____

STATE AGENCY

By: _____
(Print Name)

Title: _____

Date: _____

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

STATE OF NEW YORK)
) SS:
County of _____)

On the ___ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of the individual taking acknowledgement)

ATTORNEY GENERAL'S SIGNATURE

STATE COMPTROLLER'S SIGNATURE

Title: _____

Title: _____

Date: _____

Date: _____

STATE OF NEW YORK

AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

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

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

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

I. Conditions of Agreement

- A. This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X). Each additional or superseding PERIOD shall be on the forms specified by the particular State agency, and shall be incorporated into this AGREEMENT.
- B. Funding for the first PERIOD shall not exceed the funding amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix for that PERIOD.
- C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.
- D. For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (The attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT.

To modify the AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, or change in the term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.

- E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.
- F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and

omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

- G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

II. Payment and Reporting

- A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.
- B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.
- C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

III. Terminations

- A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.
- B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules and regulations, policies or procedures affecting this AGREEMENT.
- C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A-1.
- D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.
- E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.
- F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

IV. Indemnification

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

V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules and regulations, or as stated in Appendix A-2.

VI. Safeguards for Services and Confidentiality

- A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
- B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.
- C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A-1.

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the

performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term

specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

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

compensation;

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

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

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

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

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

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

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

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

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit

corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803

<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

APPENDIX A-1
(REV 10/08)

AGENCY SPECIFIC CLAUSES FOR ALL
DEPARTMENT OF HEALTH CONTRACTS

1. If the CONTRACTOR is a charitable organization required to be registered with the New York State Attorney General pursuant to Article 7-A of the New York State Executive Law, the CONTRACTOR shall furnish to the STATE such proof of registration (a copy of Receipt form) at the time of the execution of this AGREEMENT. The annual report form 497 is not required. If the CONTRACTOR is a business corporation or not-for-profit corporation, the CONTRACTOR shall also furnish a copy of its Certificate of Incorporation, as filed with the New York Department of State, to the Department of Health at the time of the execution of this AGREEMENT.
2. The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.
3. Administrative Rules and Audits:
 - a. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the following federal grant requirements regarding administration and allowable costs.
 - i. For a local or Indian tribal government, use the principles in the common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments".
 - ii. For a nonprofit organization other than
 - " an institution of higher education,
 - " a hospital, or
 - " an organization named in OMB Circular A-122, "Cost Principles for Non-profit Organizations", as not subject to that circular,

use the principles in OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations," and OMB Circular A-122.
 - iii. For an Educational Institution, use the principles in OMB Circular A-110 and OMB Circular A-21, "Cost Principles for Educational Institutions".

- iv. For a hospital, use the principles in OMB Circular A-110, Department of Health and Human Services, 45 CFR 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals" and, if not covered for audit purposes by OMB Circular A-133, "Audits of States Local Governments and Non-profit Organizations", then subject to program specific audit requirements following Government Auditing Standards for financial audits.
- b. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "a" above.
- c. The CONTRACTOR shall comply with the following grant requirements regarding audits.
 - i. If the contract is funded from federal funds, and the CONTRACTOR spends more than \$500,000 in federal funds in their fiscal year, an audit report must be submitted in accordance with OMB Circular A-133.
 - ii. If this contract is funded from other than federal funds or if the contract is funded from a combination of STATE and federal funds but federal funds are less than \$500,000, and if the CONTRACTOR receives \$300,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB Circular A-133. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.
- d. For audit reports due on or after April 1, 2003, that are not received by the dates due, the following steps shall be taken:
 - i. If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.

- ii. If the audit report is 91 or more days late, the STATE shall recover payments for all STATE funded contracts for periods for which compliant audit reports are not received.
 - iii. If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.
- 4. The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.
- 5. FEDERAL CERTIFICATIONS: This section shall be applicable to this AGREEMENT only if any of the funds made available to the CONTRACTOR under this AGREEMENT are federal funds.
 - a. LOBBYING CERTIFICATION
 - 1) If the CONTRACTOR is a tax-exempt organization under Section 501 (c)(4) of the Internal Revenue Code, the CONTRACTOR certifies that it will not engage in lobbying activities of any kind regardless of how funded.
 - 2) The CONTRACTOR acknowledges that as a recipient of federal appropriated funds, it is subject to the limitations on the use of such funds to influence certain Federal contracting and financial transactions, as specified in Public Law 101-121, section 319, and codified in section 1352 of Title 31 of the United States Code. In accordance with P.L. 101-121, section 319, 31 U.S.C. 1352 and implementing regulations, the CONTRACTOR affirmatively acknowledges and represents that it is prohibited and shall refrain from using Federal funds received under this AGREEMENT for the purposes of lobbying; provided, however, that such prohibition does not apply in the case of a payment of reasonable compensation made to an officer or employee of the CONTRACTOR to the extent that the payment is for agency and legislative liaison activities not directly related to the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. Nor does such prohibition prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of the CONTRACTOR if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application for a Federal contract,

grant, loan, or cooperative agreement, or an extension, continuation, renewal, amendment, or modification thereof, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan or cooperative agreement.

- 3) This section shall be applicable to this AGREEMENT only if federal funds allotted exceed \$100,000.
 - a. The CONTRACTOR certifies, to the best of his or her knowledge and belief, that:
 - No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment or modification of any federal contract, grant, loan, or cooperative agreement.
 - If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - b. The CONTRACTOR shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - c. The CONTRACTOR shall disclose specified information on any agreement with lobbyists whom the CONTRACTOR will pay with other Federal appropriated funds by completion and submission to the STATE of the Federal Standard Form-LLL, "Disclosure

Form to Report Lobbying", in accordance with its instructions. This form may be obtained by contacting either the Office of Management and Budget Fax Information Line at (202) 395-9068 or the Bureau of Accounts Management at (518) 474-1208. Completed forms should be submitted to the New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower Building, Room 1315, Albany, 12237-0016.

- d. The CONTRACTOR shall file quarterly updates on the use of lobbyists if material changes occur, using the same standard disclosure form identified in (c) above to report such updated information.
- 4) The reporting requirements enumerated in subsection (3) of this paragraph shall not apply to the CONTRACTOR with respect to:
- a. Payments of reasonable compensation made to its regularly employed officers or employees;
 - b. A request for or receipt of a contract (other than a contract referred to in clause (c) below), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (c) below), or subgrant that does not exceed \$100,000; and
 - c. A request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed \$150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.
- b. CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE:
- Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the

responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

c. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for nonprocurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other governmentwide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

1) APPENDIX B TO 45 CFR PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is

later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded From Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a

participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph "e" of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
6. The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.
 7. The CONTRACTOR will not discriminate in the terms, conditions and privileges of employment, against any employee, or against any applicant for employment because of race, creed, color, sex, national origin, age, disability, sexual orientation or marital status. The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on any of the factors listed above.
 8. The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT.
 9. The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

10. The STATE may cancel this AGREEMENT at any time by giving the CONTRACTOR not less than thirty (30) days written notice that on or after a date therein specified, this AGREEMENT shall be deemed terminated and cancelled.

11. Where the STATE does not provide notice to the NOT-FOR-PROFIT CONTRACTOR of its intent to not renew this contract by the date by which such notice is required by Section 179-t(1) of the State Finance Law, then this contract shall be deemed continued until the date that the agency provides the notice required by Section 179-t, and the expenses incurred during such extension shall be reimbursable under the terms of this contract.

12. Other Modifications

a. Modifications of this AGREEMENT as specified below may be made within an existing PERIOD by mutual written agreement of both parties:

- Appendix B - Budget line interchanges; Any proposed modification to the contract which results in a change of greater than 10 percent to any budget category, must be submitted to OSC for approval;
- Appendix C - Section 11, Progress and Final Reports;
- Appendix D - Program Workplan will require OSC approval.

b. To make any other modification of this AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s), and a Modification Agreement (Appendix X is the blank form to be used), which shall be effective only upon approval by the Office of the State Comptroller.

13. Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for

Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:

- **CE-200** - Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage is Not Required; OR

- **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR

- **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR GSI-

105.2 -- Certificate of Participation in Workers' Compensation Group Self-Insurance

Disability Benefits coverage, for which one of the following is incorporated into this contract as

Appendix E-2:

- **CE-200** - Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage is Not Required; OR

- **DB-120.1** -- Certificate of Disability Benefits Insurance OR

- **DB-155** -- Certificate of Disability Benefits Self-Insurance

14. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

15. All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

16. Additional clauses as may be required under this AGREEMENT are annexed hereto as appendices and are made a part hereof if so indicated on the face page of this AGREEMENT.

APPENDIX A-2 - Program Specific Clauses

Executive Direction

The Contractor will identify by name and title the individual the Contractor has authorized to provide executive direction of the Contractor's performance of the contract services, including response to issues and concerns communicated by DOH. The Contractor will provide a telephone number that DOH can call at any time (i.e., 24 hours a day, 7 days a week) to directly contact the Contractor's designee. The Contractor agrees to immediately notify DOH of any changes to the contact information, including those that are temporary.

The Contractor agrees to immediately notify DOH of new affiliations with providers of waiver services or MA state plan services, including affiliations established through the health system of which it is a member. Affiliates of the contractor can provide waiver services and state plan services as long the Contractor has disclosed that information to DOH.

Project Leadership

The lead RRDSs and Nurse Evaluator are key personnel positions and any individual assigned to these positions must satisfy the minimum qualifications for experience and education specified in this Appendix A-2. Accordingly:

- If the Contractor reassigns the individual holding this position or changes the percentage of the individual's time allocated to the RRDC responsibilities, or if such individual leaves the position for any reason at any time during the term of the Contract, including a temporary leave of absence anticipated to be for a period of five (5) or more business days, the Contractor shall:
 - o Within two (2) business days of the occurrence provide written notice to DOH
 - o Within five (5) business days of the occurrence of one of the above events the Contractor shall submit to DOH a written description of how the Contractor will continue to fulfill its responsibilities under this Agreement
 - o Within two (2) business days of the selection of the new lead RRDS or Nurse Evaluator, the Contractor will provide to DOH documentation that the individual is qualified to be the lead RRDS or Nurse Evaluator. If in the opinion of DOH, the replacement candidate does not possess the minimum qualifications to fulfill its responsibilities under this Agreement, DOH will notify the Contractor of the need for correction and the Contractor will replace the individual with a person who does meet the minimum qualifications.

The Department will have thirty days (30) from the date of such reassignment or departure to either approve a different individual chosen by the Contractor to fill such position or to terminate the Contract. The Contractor will not be paid for unfilled key personnel positions.

- If the Contractor fails to provide notification of the reassignment or departure of such individual, DOH may, upon becoming aware of such event, immediately terminate the Contract. In the event the Department does not approve the Contractor's designee, the Contractor shall submit a replacement for the Department's approval within two (2) weeks.

The Department, with reasonable notice and written justification, may require the Contractor or any consortium members to remove from the Contract any employee justified by DOH as being incompetent, otherwise unacceptable, or whose employment on the Contract is considered contrary to the best interests of the public or the State. In such event, the Contractor shall have thirty (30) calendar days in which to fill the vacancy with another employee of acceptable experience and skills subject to prior written approval of DOH.

- If the Contractor fails to fill the vacancy with a qualified person acceptable to the Department, DOH may immediately terminate the Contract. In the event the Department does not approve the Contractor's designee, the Contractor shall submit a replacement for Department approval within two (2) weeks. The Contractor will not be paid for unfilled key personnel positions.

Transition Requirements

The parties to this Agreement agree that the services provided by the Contractor are essential to the ability of the NHTD and TBI Waiver participants in the Contractor's service area to remain safely in the community. Therefore, Contractor agrees to take every action necessary to avoid disruption in the delivery of the contracted services to NHTD and TBI Waiver participants. Upon expiration or termination of this Agreement, Contractor agrees to provide full support and assistance in the transition of operations in order to provide for an orderly and controlled transition to either the DOH or a successor contractor selected by the DOH and will perform its contractual responsibilities during the transition period in a manner to minimize any disruption of NHTD and TBI Waiver services to NHTD and TBI Waiver participants.

Contractor shall submit, within thirty (30) calendar days from the date this Agreement was executed from the New York State Office of the State Comptroller (OSC), a written transition plan, subject to the DOH review and approval, to be implemented upon receipt of notice of termination or expiration of this Agreement.

Contractor agrees to continue to provide services and notifications to NHTD and TBI Waiver Participants as directed by the DOH and to participate in fair hearings related to actions taken during this Agreement.

Contractor must maintain staffing adequate to meet obligations under the contract

during the transition period and must transfer all complete and up to date original records of pending, active and inactive waiver participants and waiver service provider records to any responsible agency, entity, or location as determined by the DOH within twenty (20) business days of the termination of the contract—at no cost to the Department or to the successor RRDC agency. Any copies of records for the purposes of the former contractor will be made at no expense to the DOH. Contractor agrees to make available during this transition period to the DOH and/or the successor Contractor, Contractor's RRDC(s) and Nurse Evaluator, as applicable, for consultation regarding the providers participating in the NHTD and TBI Waiver in the service area and the current condition and needs (including, but not limited to, reevaluations, provider team meetings and pending fair hearings) of pending, active and inactive NHTD and TBI Waiver participants.

The provisions of this Agreement pertaining to Transition Requirements, including any added by amendment to this Agreement, shall survive the termination, including expiration, of this Agreement.

New York State's Medicaid Agency Data Use Agreement

The Contractor will comply with all requirements of New York State's Medicaid Agency Data Use Agreement (DUA), DUA Number 15407, with the Centers for Medicare and Medicaid Services (CMS). In addition, the Contractor agrees that all staff assigned to the project and/or having access to such data will sign an Addendum to New York State's DUA (DUA Number 15407), which signifies their understanding of and agreement to comply with the terms of the DUA.

Conflict of Interest

During the term of this Contract, the Contractor shall not engage in any business or personal activities or practices or maintain any relationships that conflict in any way with the Contractor fully performing its obligations under this Contract.

Additionally, the Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of the State. Thus, the Contractor agrees to refrain from any practices, activities, or relationships that could reasonably be considered to be in conflict with the Contractor's fully performing its obligations to the Department under the terms of this Contract.

In the event the Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, the Contractor shall submit to the Department a full disclosure statement setting forth the relevant details for the Department's consideration and direction. Failure to promptly submit a disclosure statement or to follow the Department's direction in regard to the apparent conflict shall be grounds for termination of the Contract.

At the time of commencement of a RRDC contract, the Contractor shall submit to DOH documentation disclosing any connections or affiliations it has with providers of MA services for which it may make referrals. For this purpose please refer to Attachment 4

and use the provided forms.

Minimum Experience and Qualifications Requirements for Lead Regional Resource Development Specialist (RRDS)

EDUCATION and/or EXPERIENCE:

To be qualified to be the Lead RRDS the individual **must**:

- possess a baccalaureate degree or higher in health or human services or a related field from an accredited college and four years of combined satisfactory professional experience in working with individuals with disabilities and/or seniors and in a managerial capacity; or
- Be a Registered Professional Nurse and have four years of combined satisfactory professional experience working with individuals with disabilities and/or seniors and in a managerial capacity; or
- Possess an Associate's degree from an accredited college and ten years of combined satisfactory experience working with individuals with disabilities and/or seniors and in a managerial capacity; or
- Possess an Associate's degree from an accredited college and four years of satisfactory experience as a Regional Resource Development Specialist; and

The individual must also have experience supervising professional staff, who work directly with seniors and individuals with disabilities.

Given the scope of responsibilities, to be qualified for the position of Lead RRDS the individual must be an experienced professional with demonstrated skills and a dedicated commitment to working to support seniors and individuals with disabilities who wish to live in community based settings. The individual must also be knowledgeable about the operation of 1915 (c) waivers and community-based services.

QUALIFICATIONS:

To qualify for the appointment to the Lead RRDS position, the individual must be able to perform each duty specified in this Agreement satisfactorily and must have the following knowledge, skills, and/or abilities:

- Excellent supervisory, organizational and training skills
- Skill in program development and execution
- Skill in coordinating activities, evaluating data, and establishing priorities
- Excellent communication and presentation skills
- Professional experience working with people with disabilities and/or seniors

- Working knowledge of community-based resources for individuals with disabilities and/or seniors
- Excellent problem-solving skills and investigating skills
- Ability to multi-task
- Excellent assessment skills
- Excellent screening and interviewing skills
- Experience with developing relationships with institutional and/or community-based organizations
- Working knowledge of benefits provided by Medicaid, Medicare and/or other third party payers.

Minimum Experience and Qualifications Requirements for Nurse Evaluator (NE)

LICENSURE AND CERTIFICATIONS:

To be qualified to be the Nurse Evaluator the individual **must**:

- a) be a current New York State licensed registered professional nurse and have two years satisfactory professional experience in working with individuals with disabilities and/or seniors in a community setting; and
- b) be New York State certified to complete the Hospital and Community Patient Review Instrument (H/C-PRI) and SCREEN.

Given the scope of responsibilities, to be qualified for the position of the Nurse Evaluator an individual must be an experienced professional with demonstrated skills and a dedicated commitment to working to support seniors and individuals with disabilities who wish to live in community based settings.

QUALIFICATIONS:

To qualify for the appointment to the Nurse Evaluator position, the individual must be able to perform each duty specified in this Agreement satisfactorily and must have the following knowledge, skills, and/or abilities:

- Excellent clinical assessment skills
- Excellent organizational and training skills
- Recognized skill in coordinating activities, evaluating data, and establishing priorities
- Excellent skills in communication and resolving conflicts

- Professional experience working with people with disabilities and/or seniors
- Working knowledge of community-based resources for individuals with disabilities and/or seniors
- Excellent problem-solving skills
- Ability to multi-task
- Excellent screening and interviewing skills
- Successful experience with developing relationships with institutional and/or community-based organizations
- Working knowledge of services and supports available through Medicaid, Medicare and/or other third party payers.

APPENDIX B

APPENDIX B

BUDGET
(sample format)

OrganizationName: _____

Budget Period: Commencing on: _____ Ending on: _____

Personal Service

| Number | Title | Annual Salary | % Time Devoted to This Project | Total Amount Budgeted From NYS |
|--------|-------|---------------|--------------------------------|--------------------------------|
|--------|-------|---------------|--------------------------------|--------------------------------|

Total Salary _____
Fringe Benefits (specify rate) _____
TOTAL PERSONAL SERVICE: _____

Other Than Personal Service Amount

Category
Supplies
Travel
Telephone
Postage
Photocopy
Other Contractual Services (specify)
Equipment (Defray Cost of Defibrillator) _____

TOTAL OTHER THAN PERSONAL SERVICE _____

GRAND TOTAL _____

Federal funds are being used to support this contract. Code of Federal Domestic Assistance (CFDA) numbers for these funds are: (required)

APPENDIX C

PAYMENT AND REPORTING SCHEDULE

1. Payment and Reporting Terms and Conditions

A. The STATE may, at its discretion, make an advance payment to the CONTRACTOR, during the initial or any subsequent PERIOD, in an amount to be determined by the STATE but not to exceed twenty-five percent of the maximum amount indicated in the budget as set forth in the most recently approved Appendix B. If this payment is to be made, it will be due thirty calendar days, excluding legal holidays, after the later of either:

- ❶ the first day of the contract term specified in the Initial Contract Period identified on the face page of the AGREEMENT or if renewed, in the PERIOD identified in the Appendix X, OR
- ❷ if this contract is wholly or partially supported by Federal funds, availability of the federal funds;

provided, however, that a STATE has not determined otherwise in a written notification to the CONTRACTOR suspending a Written Directive associated with this AGREEMENT, and that a proper voucher for such advance has been received in the STATE's designated payment office. If no advance payment is to be made, the initial payment under this AGREEMENT shall be due thirty calendar days, excluding legal holidays, after the later of either:

- ❶ the end of the first monthly/quarterly period of this AGREEMENT; or
- ❷ if this contract is wholly or partially supported by federal funds, availability of the federal funds:

provided, however, that the proper voucher for this payment has been received in the STATE's designated payment office.

B. No payment under this AGREEMENT, other than advances as authorized herein, will be made by the STATE to the CONTRACTOR unless proof of performance of required services or accomplishments is provided. If the CONTRACTOR fails to perform the services required under this AGREEMENT the STATE shall, in addition to any remedies available by law or equity, recoup payments made but not earned, by set-off against any other public funds owed to CONTRACTOR.

C. Any optional advance payment(s) shall be applied by the STATE to future payments due to the CONTRACTOR for services provided during initial or subsequent PERIODS. Should funds for subsequent PERIODS not be

appropriated or budgeted by the STATE for the purpose herein specified, the STATE shall, in accordance with Section 41 of the State Finance Law, have no liability under this AGREEMENT to the CONTRACTOR, and this AGREEMENT shall be considered terminated and cancelled.

- D. The CONTRACTOR will be entitled to receive payments for work, projects, and services rendered as detailed and described in the program workplan, Appendix D. All payments shall be in conformance with the rules and regulations of the Office of the State Comptroller.
- E. The CONTRACTOR will provide the STATE with the reports of progress or other specific work products pursuant to this AGREEMENT as described in this Appendix below. In addition, a final report must be submitted by the CONTRACTOR no later than 30 days after the end of this AGREEMENT. All required reports or other work products developed under this AGREEMENT must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the STATE in order for the CONTRACTOR to be eligible for payment.
- F. The CONTRACTOR shall submit to the STATE monthly/quarterly voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located at:

Nursing Home Transition and Diversion/Traumatic Brain Injury Waivers
New York State Department of Health
Bureau of Medicaid Waivers
Division of Home and Community Based Services
Office of Long Term Care
99 Washington Avenue, Suite 826
Albany, New York 12260

Attn: Brenda Rossman

All vouchers submitted by the CONTRACTOR pursuant to this AGREEMENT shall be submitted to the STATE no later than 30 days after the end date of the period for which reimbursement is being claimed. In no event shall the amount received by the CONTRACTOR exceed the budget amount approved by the STATE, and, if actual expenditures by the CONTRACTOR are less than such sum, the amount payable by the STATE to the CONTRACTOR shall not exceed the amount of actual expenditures. All contract advances in excess of actual expenditures will be recouped by the STATE prior to the end of the applicable budget period.

- G. If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from

payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Appendix B of this AGREEMENT.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

II. Progress and Final Reports

Organization Name: _____

Report Type:

A. Narrative/Qualitative Report

_____ (Organization Name) will submit, on a quarterly basis, not later than 30 days from the end of the quarter, a report, in narrative form, summarizing the services rendered during the quarter. This report will detail how the _____ (Organization) _____ has progressed toward attaining the qualitative goals enumerated in the Program Workplan (Appendix D).

(Note: This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.)

B. Statistical/Quantitative Report

_____ (Organization Name) will submit, on a quarterly basis, not later than 30 days from the end of the quarter, a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

C. Expenditure Report

_____ (Organization Name) _____ will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, a detailed expenditure report, by object of expense. This report will accompany the voucher submitted for such period.

D. Final Report

_____ (Organization Name)
_____ will submit a final report, as required by the contract, reporting on all aspects of the program, detailing how the use of grant funds were utilized in achieving the goals set forth in the program Workplan.

APPENDIX D

Work Plan (Sample Format)

A concise work plan is required to ensure that the Department and the contractor are both clear about what the expectations under the contract are. The following are required elements of this RFA designed to ensure that the minimum necessary information is obtained. DOH Waiver Management Staff may require additional information if deemed necessary. The core activities that are outlined in this RFA and the program manuals will be part of the work plan and will be audited for payment.

1. Program Goals – this section includes, in an abbreviated format, the goals to be accomplished under the contract. Project goals will be quantifiable, thereby providing a useful measure with which to judge the contractor's performance.
2. Program Objectives – this section includes activities to address how to achieve the goals. The work plan contains SMART objectives for each goal. The objectives are **Specific, Measurable, Achievable, Relevant and Time-bound**.
3. Activities Planned to Achieve Objective – this section will include activities or specific tasks to meet the stated objectives and ultimately fulfill the goal. This section must be completed by the applicant.
4. Staff Responsible – this section will identify staff responsible for each specific task within each activity. This section must be completed by the applicant.
5. Completed by (month & year) – this section will include the dates for assessing progress. Timeframes should include regularly scheduled, periodic check-in points for assessing progress in addition to start and end dates. These established timeframes must be used to help organize activities. This section must be completed by the applicant.
6. Measures of Effectiveness – this section includes the standards that DOH and the contractor set for itself to measure progress in achieving goals through the program objectives.

The agreed upon work plan is to be used by the Contractor as a basis for the required quarterly reports and a standard for performance.

The contractor's quarterly reports detailing achievement of scheduled work plan benchmarks will form the basis by which submitted vouchers for contracted-services are evaluated for payment. [See Appendix C I. D., II A.B]

The work plan should include closeout procedures for the purposes of accounting and repayment of funds advanced, to be implemented at the time the Contract expires or is terminated.

NHTD/TBI Work Plan Instructions (See attachment 8)

1. **Separate** work plans must be completed for NHTD and TBI applications.
2. The work plan template on the following pages should be completed using a font size of at least 8 pt.
3. The work plan should cover the contract period of July 1, 2010– December 31, 2011. (Note that the dates may be subject to change).

Appendix G

NOTICES

All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- (a) via certified or registered United States mail, return receipt requested;
- (b) by facsimile transmission;
- (c) by personal delivery;
- (d) by expedited delivery service; or
- (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

State of New York Department of Health

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

[Insert Contractor Name]

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this AGREEMENT by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representative for the purposes of receiving notices under this AGREEMENT. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems, and/or for dispute resolution.

Agency Code 12000
APPENDIX X

Contract Number: _____ Contractor: _____

Amendment Number X-_____

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through NYS Department of Health, having its principal office at Albany, New York, (hereinafter referred to as the STATE), and _____ (hereinafter referred to as the CONTRACTOR), for amendment of this contract.

This amendment makes the following changes to the contract (check all that apply):

- _____ Modifies the contract period at no additional cost
- _____ Modifies the contract period at additional cost
- _____ Modifies the budget or payment terms
- _____ Modifies the work plan or deliverables
- _____ Replaces appendix(es) _____ with the attached appendix(es)
- _____ Adds the attached appendix(es) _____
- _____ Other: (describe) _____

This amendment *is* / *is not* a contract renewal as allowed for in the existing contract.

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

Prior to this amendment, the contract value and period were:

\$ _____ From ____/____/____ to ____/____/____.
(Value before amendment) (Initial start date)

This amendment provides the following addition (complete only items being modified):

\$ _____ From ____/____/____ to ____/____/____.

This will result in new contract terms of:

\$ _____ From ____/____/____ to ____/____/____.
(All years thus far combined) (Initial start date) (Amendment end date)

Signature Page for:

Contract Number: _____

Contractor: _____

Amendment Number: X- _____

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

CONTRACTOR SIGNATURE:

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

STATE OF NEW YORK)
) SS:
County of _____)

On the ___ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of the individual taking acknowledgement)

STATE AGENCY SIGNATURE

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

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

ATTORNEY GENERAL'S SIGNATURE

By: _____ Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____ Date: _____

Ver. 12/13/07

APPENDIX E-1

Proof of Workers' Compensation

APPENDIX E-2

Proof of Disability Coverage

APPENDIX H

Federal Health Insurance Portability and Accountability Act (HIPAA) Business Associate Appendix

I. Definitions:

- (a) A Business Associate shall mean the CONTRACTOR.
- (b) A Covered Program shall mean the STATE.
- (c) Other terms used, but not otherwise defined, in this agreement shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations, including those at 45 CFR Parts 160 and 164.

II. Obligations and Activities of the Business Associate:

- (a) The Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as required by law.
- (b) The Business Associate agrees to use the appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic Protected Health Information that it creates receives, maintains or transmits on behalf of the Covered Entity pursuant to this Agreement.
- (c) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Agreement.
- (d) The Business Associate agrees to report to the Covered Program, any use or disclosure of the Protected Health Information not provided for by this Agreement, as soon as reasonably practicable of which it becomes aware. The Business Associate also agrees to report to the Covered Entity any security incident of which it becomes aware.
- (e) The Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Program, agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
- (f) The Business Associate agrees to provide access, at the request of the Covered Program, and in the time and manner designated by the Covered Program, to Protected Health Information in a Designated Record Set, to the Covered Program or, as directed by the Covered Program, to an Individual in order to meet the requirements under 45 CFR 164.524, if the business associate has protected health information in a designated record set.

- (g) The Business Associate agrees to make amendment(s) to Protected Health Information in a designated record set that the Covered Program directs or agrees to pursuant to 45 CFR 164.526 at the request of the Covered Program or an Individual, and in the time and manner designated by Covered Program, if the business associate has protected health information in a designated record set.
- (h) The Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Program available to the Covered Program, or to the Secretary of Health and Human Services, in a time and manner designated by the Covered Program or the Secretary, for purposes of the Secretary determining the Covered Program's compliance with the Privacy Rule.
- (i) The Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. No such disclosures shall be made without the prior written permission of the New York State Department of Health, Office of Medicaid Management.
- (j) The Business Associate agrees to provide to the Covered Program or an Individual, in time and manner designated by Covered Program, information collected in accordance with this Agreement, to permit Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

III. Permitted Uses and Disclosures by Business Associate

(a) General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Program as specified in the Agreement to which this is an addendum, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Program.

(b) Specific Use and Disclosure Provisions:

(1) Except as otherwise limited in this Agreement, and only with the prior written permission of the Department the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(2) The Business Associate may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 45 CFR 164.502(j)(1).

IV. Obligations of Covered Program

Provisions for the Covered Program To Inform the Business Associate of Privacy Practices and Restrictions

- (a) The Covered Program shall notify the Business Associate of any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.
- (b) The Covered Program shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.
- (c) The Covered Program shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Program has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by Covered Program

The Covered Program shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Program. Such Medicaid Protected Health Data may not be in any way permanently combined with other information gained from other sources.

VI. Term and Termination

- (a) *Term.* Effective April 14, 2003 in the event of termination for any reason, all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in The Agreement.
- (b) *Termination for Cause.* Upon the Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for the Business Associate to cure the breach and end the violation or may terminate this Agreement and the master Agreement if the Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or the Covered Program may immediately terminate this Agreement and the master Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible.
- (c) *Effect of Termination.*
 - (1) Except as provided in paragraph (c)(2) below, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Program, or created or received by the Business Associate on behalf of the Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the

Protected Health Information.

- (2) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, the Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VII. Violations

- (a) It is further agreed that any violation of this agreement may cause irreparable harm to the State, therefore the State may seek any other remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.
- (b) The business associate shall indemnify and hold the State harmless against all claims and costs resulting from acts/omissions of the business associate in connection with the business associate's obligations under this agreement.

Miscellaneous

- (a) *Regulatory References.* A reference in this Agreement to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- (b) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Program to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- (c) *Survival.* The respective rights and obligations of the Business Associate under Section VI of this Agreement shall survive the termination of this Agreement.
- (d) *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Program to comply with the HIPAA Privacy Rule.
- (e) If anything in this agreement conflicts with a provision of any other agreement on this matter, this agreement is controlling.
- (f) *HIV/AIDS.* If HIV/AIDS information is to be disclosed under this agreement, the business associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.

Attachment 2

**NEW YORK STATE DEPARTMENT OF HEALTH
GRANT APPLICATION SUMMARY FORM**

(Please submit a separate form for each contract/regional application.)

| | |
|---|--|
| <p>PROGRAM</p> <p>Regional Resource Development Centers</p> | <p><u>Applicant Will provide:</u></p> <p>Waiver services Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Medicaid State Plan Services Yes <input type="checkbox"/> No <input type="checkbox"/></p> |
| <p>1. TITLE OF PROJECT (PROGRAM) / Region</p> | |
| <p>2. NAME AND ADDRESS OF APPLICANT</p> <p>_____</p> <p align="center">(Signature)</p> | <p><u>Internet Address(s):</u></p> <p>e-Mail _____</p> <p>Web-site _____</p> |
| <p>3. EMPLOYER IDENTIFICATION NUMBER (Fed EIN) _____</p> | <p>6. BUDGET PERIOD</p> |
| <p>4. NOT-FOR-PROFIT STATUS NYS Charity Registration Number _____</p> | <p>7. AMOUNT REQUESTED FOR BUDGET PERIOD</p> |
| <p>5. DIRECTOR OF PROJECT (Program or Center Director, Coordinator or Principal Investigator)</p> <p>NAME</p> <p>TITLE</p> <p>OFFICE TELEPHONE</p> <p>OFFICE FAX NUMBER</p> <p>e-Mail Address</p> | <p>8. FINANCIAL MANAGEMENT OFFICIAL</p> <p>NAME</p> <p>TITLE</p> <p>OFFICE TELEPHONE</p> <p>OFFICE FAX NUMBER</p> <p>e-Mail Address</p> |

Attachment 3

Applicant Attestation

(Must be completed (check boxes), signed, and attached to application packet)

I certify that the information provided is correct. I understand and agree that, at any time, the State may review all employer records and documentation necessary to ensure compliance with the requirements of the RFA and that any monies found to have been expended which are not in compliance with the terms and conditions of the grant may be recouped by the State. The applicant further agrees to comply with the requirements of the RFA including all appendices.

I certify that, if awarded a RRDC contract, my organization including our employees and/or subcontractors

- will or
- will not

provide NHTD/TBI waiver services.

I certify that, if awarded a RRDC contract, my organization including our employees and/or subcontractors

- will or
- will not

provide State Plan Medicaid services.

I certify that, if my organization currently or in the future directly or indirectly through one or more affiliates provides NHTD/TBI waiver services my organization, has or will have sufficient organizational mechanisms and policies in place to ensure the independence and autonomy of the RRDC and to preserve the waiver participants' right to freedom of choice in selection of service providers.

I certify that my organization will provide, and our staff able to use, computer software compatible with the products used by the Department to organize, analyze and store waiver participant data and information about available community resources and to transfer reports and other information to the DOH Bureau of Long Term Care via e-mail.

[Note: At least one copy of the submitted applications must contain original signatures.]

Signature of official from lead organization: _____

Print/type Name: _____

Title and Organization: _____

Correspondence Address: _____

E-mail Address: _____

Telephone: _____

Fax Number: _____

Date Signed: _____

Attachment 4

Applicant Affiliation Disclosure

Corporate Summary

Use the form provided in Attachment 5 to complete the following requirements:

1. Provide a brief description, including name and address, of the applicant. Include a chart describing the applicant's owners, members or other controlling relationships and identifying agencies or entities of which the applicant is an owner, or member or is some how related/affiliated. Complete the Contractor/Subcontractor Background Questionnaire for the applicant and any subcontractors that are to be used.
2. List the name, title and responsibilities of all officers, identifying those who are authorized to negotiate a contract with the Department and who will have ultimate responsibility and accountability for this contract.
3. Describe the role of Board members in governance and policy making.
4. Give the full name and address of any organization with which the applicant will subcontract for any services under the RFA, percentage of effort of such subcontractors, and mechanisms for assuring effective and efficient operations. List responsible officers of each subcontractor, including those individuals authorized to negotiate for subcontractors. List any financial interest the applicant has in proposed subcontractors. Applicants should submit a letter of interest from the subcontractor explicitly indicating the potential subcontractor's agreement to participate or enter into sub-contractual arrangements and willingness to fulfill the terms of the RFA.
5. Describe any litigation in which the Applicant is presently involved.

Waiver Service Provider Status

If the applicant is part of a legal entity that does or may provide NHTD/TBI waiver services through another part of the organization, the applicant must demonstrate that there are sufficient organizational mechanisms and policies in place to ensure that the RRDC can function with independence and autonomy as needed to guarantee the intended participant protections.

Current providers of waiver services, as well as any sub-corporation, foundation or any other legal entity under the control of the waiver service provider agencies, may apply; however, such entities must certify that the organization has processes in place to mitigate any potential conflict of interest and must complete, sign, and submit Attachment 3 attesting to such processes. In documenting how a potential conflict of interest will be avoided, it is expected that such bidders will show how the systems of each entity will be kept separate and apart and how policies ensuring the RRDC can function with independence and autonomy will be enforced. Whether a potential

applicant is such a legal entity under the control of a waiver service provider is determined by the DOH.

1. Current providers of waiver services as well as any sub-corporation, foundation or any other legal entity under the control of the waiver service provider agencies may apply; however, such entities must show to the Department's satisfaction how any potential conflict of interest will be avoided through the use of firewalls and other mechanisms, and must complete, sign, and submit attachment 3 attesting to such processes. Such processes, at a minimum, must include the establishment and maintenance of satisfactory firewalls and separate Federal Employer Identification Numbers for each entity. Whether a potential applicant is such a legal entity under the control of a waiver service provider is determined by Waiver program staff and NYS Department of Health Division of Legal Affairs.
2. Entities awarded a RRDC contract, including their employees and/or subcontractors **will not** be authorized to provide waiver services unless it is shown to the satisfaction of the Department that such entities possess the capabilities to ensure that no actual, potential or perceived conflict of interest will exist with respect to the provision of these services contemporaneously with the performance of this contract.
3. Such applicants must include an affirmative statement of this status and fully detail the steps that will be taken to avoid the appearance of a conflict of interest. [Attachment 3 **must** be signed, completed (check boxes) and attached to the application to so attest.]
4. A list of any members or subcontractors of your agency who are providers of waiver services **must** be attached to your application. Also, list any organizations or agencies of which you are a member that provide waiver services. Describe for each the nature of the relationship and any factors that preserve the autonomy of the applicant, and any procedures that you, if awarded a contract, will implement to prevent preferential treatment in making referrals for waiver services for your benefit or the benefit of your associated member organizations, agencies or subcontractors. If any of your members or subcontractors is a provider of waiver services, you **must** have firewalls in place, prior to the effective date of this contract, between the networks of each of these entities. Such firewalls are subject to Department of Health review and approval.

Medicaid State Plan Service Provider Status

1. To minimize the potential for conflicts of interest, it is preferred that entities selected for RRDC contracts not provide nor be affiliated with other entities that provide Medicaid State Plan services. Such applicants must include an affirmative statement of this status in lieu of the disclosure required below. [Attachment 3 **must** be completed (check boxes), signed, and attached to the application to so attest.]
2. Applicants that will provide or that will be affiliated with other entities that provide Medicaid State Plan services must state how they will avoid potential conflicts of

interest. [Attachment 3 **must** be completed (check boxes), signed, and attached to the application to so attest.]

A list of any members or subcontractors of your agency who are providers of Medicaid State Plan services, including services that they provide, **must** be attached to your application. Also, a list of any organizations or agencies of which you are a member that provide Medicaid State Plan services **must** be attached to your application. **Describe for each** the nature of the relationship and any factors that preserve the autonomy of the applicant. and procedures that you, if awarded a contract, will implement to prevent preferential treatment in making referrals for waiver services for your benefit or the benefit of your associated member organizations, agencies or subcontractors. If any of your members or subcontractors is a provider of State Plan Medicaid services, you **must** have firewalls in place, prior the effective date of this contract, between the networks of each of these entities. Such firewalls are subject to Department of Health review and approval.

Attachment 5

Vendor Responsibility Attestation

To comply with the Vendor Responsibility Requirements outlined in Section IV, Administrative Requirements, H. Vendor Responsibility Questionnaire, I hereby certify:

Choose one:

An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.

A hard copy Vendor Responsibility Questionnaire is included with this application and is dated within the last six months.

A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

Attachment 6

Applicable NYS Medicaid State Plan Services Including but Not Limited To:

Inpatient and outpatient hospital services, including emergency room services

Services of licensed medical professionals, specifically: physicians, dentists, Nurse practitioners, nurse-midwives, private duty nursing, clinical psychologists, physical/occupational/speech therapists and audiologists

Nursing facility services, including adult day health care

Certified home health agency services

Free-standing clinic services, including rural health centers and federally qualified health centers

Laboratory and radiology services

Services of chiropractors, podiatrists, portable x-ray providers and clinical social workers for the coinsurance and deductibles for qualified Medicare beneficiaries

Intermediate care facility services for individuals with developmental disabilities

Optometrist services, eyeglasses, prosthetic and orthotic devices; and hearing aids

Prescription and non-prescription drugs; durable medical equipment; and medical and surgical supplies

Personal emergency response services

Diagnostic, screening, preventive and rehabilitative services (such as Office of Mental Health rehabilitation services in community residences, Assertive Community Treatment, Teaching Family Homes, Family Based Treatment, Intensive Psychiatric Rehabilitative Treatment and Personalized Recovery Oriented Services)

Personal care services, including the Consumer Directed Personal Assistance Program and Assisted Living Programs

Transportation to Medicaid covered services

Hospice

Comprehensive Medicaid Case Management (such as the Office of Mental Retardation and Developmental Disabilities' Medicaid Service Coordination)

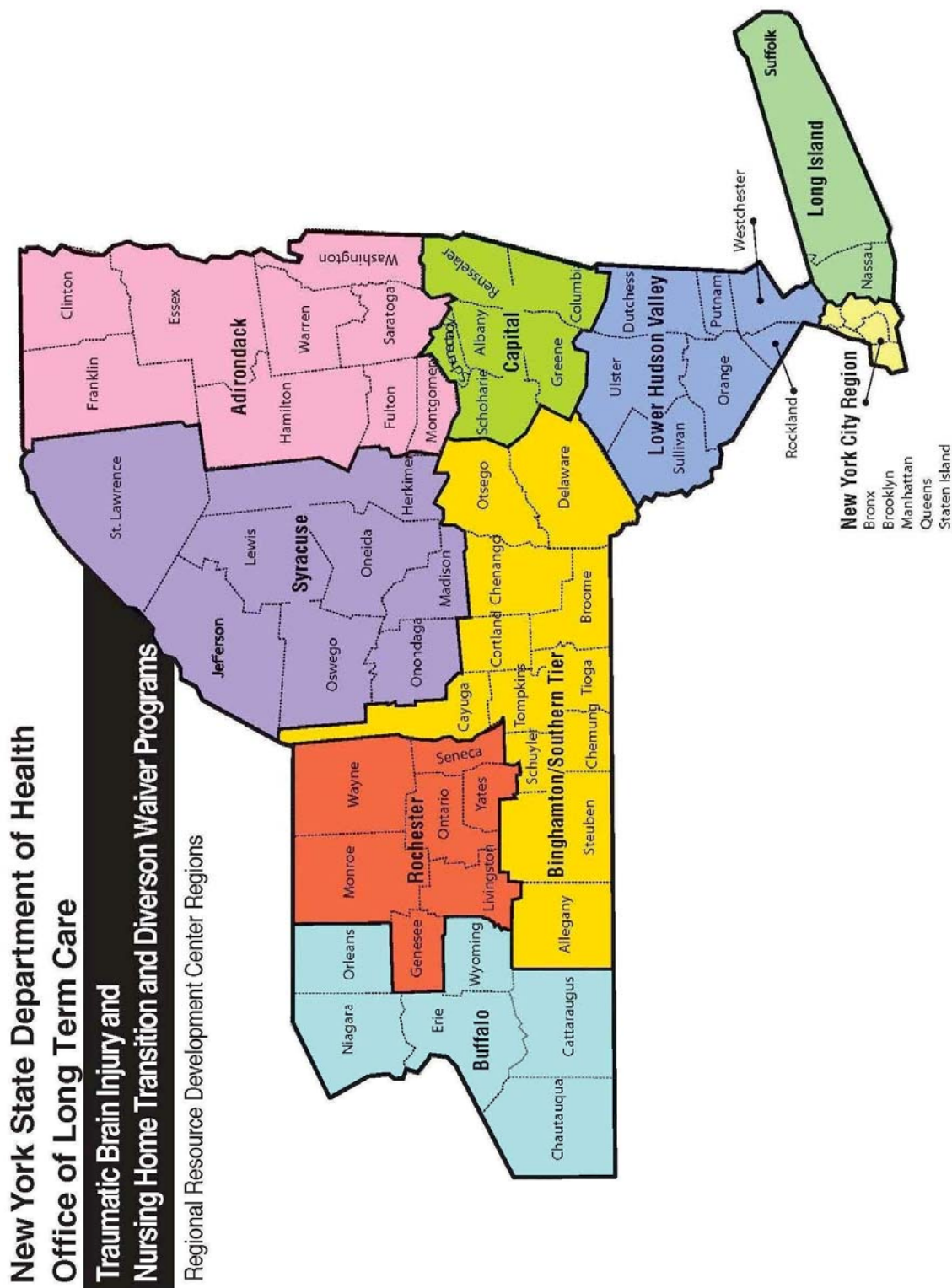
Inpatient psychiatric facility services for individuals under 21

Child (foster) Care Agencies

Free-standing inpatient alcoholism facilities

For more information see the DOH website:

http://www.health.state.ny.us/health_care/medicaid/index.htm#services



Attachment 8 – Work Plan

The work plan is available separately as a fill-in Word document

Attachment 9

Instructions for Completing the Operating Budget and Funding Request

(Tables A-1, A-2, A-3 and A-4)

IN COMPLETING TABLES A-1, A-2, A-3 AND A-4, LIST THE PERSONAL SERVICES (PS) AND NON-PERSONAL SERVICES (NPS) THAT SUPPORT THIS INITIATIVE, EVEN IF NO FUNDING IS BEING REQUESTED FROM NYS.

TABLE A-1 and A-3 (Personal Services):

List ALL personnel working on this grant, even if no funding is being requested from NYS. Failure to list ALL personnel expenses on Table A-1 and A-3 may result in the disapproval of future requests to revise the budget.

Column No.:

- (1) Personal Services: List ALL personnel working on the grant, even if no funding is being requested from NYS.
- (2) Full-Time Annualized Salary - enter the amount of funding needed to support this position for 12 months on a full-time basis, regardless of funding source.
- (3) Number of Months Funded - enter the number of months the position will be funded by this grant. Note: the number of months may be less than the contract period, but cannot exceed the number of months in the contract period, which is 18.
- (4) Percent (%) FTE - enter the % of time the incumbent will work on the grant on a full-time basis. One FTE is based on the number of hours worked in one week (e.g. 40 hour workweek). To determine a % FTE, divide the hours per week spent on the project, by the number of hours in the workweek. For example: given a 40 hour workweek, an individual working 10 hours per week on the project spends .25 percent of his/her time on the project (i.e. $10/40 = .25$) Please show in decimal form.
- (5) Total Expenses - To calculate, multiply the full-time annualized salary by the % FTE. Multiply the result by the number of months funded divided by 12 (i.e. salary X % FTE X # of months funded / 12).
- (6) Amount requested from NYS - enter the amount of total expenses (see Column 5) requested to be reimbursed by NYS.
- (7) Other Sources - include amounts expected to be received from all other sources, including in-kind contributions, revenue earned from items funded by this grant, etc. A separate amount should be indicated for each source of funding specified in column 8.

(8) Specify Other Sources - identify the source of funds for each amount shown in Column 8.

See Subtotal Salaries line - enter the subtotal of the salaries in Columns 5, 6, and 7.

See Fringe Benefits - show the percentage of Fringe Benefits derived on Fringe Benefit Rate Form 2. Multiply this rate by the sub-total of the salaries in Column 5 and enter the result on the Fringe Benefits line in Column 5. The sum of Columns 6 and 7 of this budget line must equal Column 5.

See Subtotal PS line - sum the "Sub-Total Salaries" amounts and "Fringe Benefits" amounts shown in Columns 5, 6, and 7.

TABLE A-2 and A-4 (Non-Personal Services)

List ALL non-personal expenses related to this grant even if no funding is being requested from NYS. Failure to list ALL non-personal expenses on Table A-2 and A-4 may result in the disapproval of future requests to revise the budget.

Column No.:

- (1) Non-Personal Services - List ALL expenses related to this grant even if no money will be reimbursed by NYS.
- (2) Total Expenses - The total expenses for all items should be indicated. This column must equal the sum total of the figures in columns 3 and 4.
- (3) Amount Requested from New York State - Funding requests to New York State will be indicated by the amounts in this column.
- (4) Other Sources of Funds - include amounts expected to be received from all other sources such as in-kind contributions, revenue earned from items funded by this grant, etc. A separate dollar amount should be indicated for each source of funding specified in column 5.
- (5) Specify Other Sources - Specify the source of funds for each amount shown in Column 4.

NOTE: THE OPERATING BUDGET AND FUNDING REQUEST MUST BE ACCOMPANIED BY THE BUDGET NARRATIVE/JUSTIFICATION FORMS.

Forms 1, 2, 3, 4, 5

Personal Services (PS): Form 1

Form 1 must include a job description for each position contained in Table A-1 and A-3. The percentage of time spent on various duties, where appropriate, must be included. Contracted, consultant or per-diem staff should not be included on Form 1. These expenses should be shown as contractual services or consultant services on Form 5.

Non-Personal Services (NPS): Forms 2, 3, 4, and 5

FORM 2:

Supplies and Materials (including software):

Definition: **Any item with a per unit cost of \$500 or less.** Software costs should be broken-out separately under supplies, regardless of cost. Provide a delineation of the items of expense and estimated cost of each along with a justification of their need.

Note: Some supplies may be consolidated under generic headings like Office Supplies, Medical Supplies, etc.

Equipment:

Definition: **Any item with a per unit cost of \$500 or more.** Provide a delineation of each piece of equipment that includes the estimated cost, the personnel on the budget for whom the equipment is earmarked, a justification of need, and a justification of the amount requested to be reimbursed by NYS. Explanations should be more detailed if the equipment is unique or if special features are included that constitute a higher cost. Additionally, each item, the cost of which is reimbursed with "Equipment" line funds, must be reported on the "Equipment Inventory Report" at the end of the contract year.

Other Expenses:

List any item of expense not included elsewhere in the budget. Items might include insurance, space occupancy, advertising, etc. Provide a justification and allocation methodology for EACH item listed.

Example: Insurance - The total policy for the agency is \$5,000. This contract constitutes 5% of the total agency budget, as such, the amount requested is \$250.
 $\$50,000 \text{ contract budget} / \$1,000,000 \text{ agency budget} = 5\%$

Example: Rent - There are alternate methods for determining the amount of rent that can be reimbursed under this contract. One method uses square footage, the other FTE information. Please choose the method that is most applicable:

Method A: Rent is \$8 per square foot. Staff listed on the budget utilize 300 square feet. As such, the amount requested from NYS is $300 \text{ sq. ft.} \times \$8.00/\text{sq. ft.} = \$2,400$.

Method B: Thirty (30) FTEs occupy space with an annual rent of \$10,000. Three (3) of the 30 FTEs work on this grant. Therefore, the percentage of FTEs working on the grant, as compared to FTEs in the space, equal $3/30$ or 10%.

Rent allocation: $\$10,000 \times 10\% = \$1,000$

Fringe Benefit Form (Form 3):

Complete Form 3 according to the instructions provided on the form and use the fringe benefit rate identified on this form on Table A-1 and A-3.

Travel (Form 4):

Complete Form 4 as appropriate and enter amount requested to be reimbursed by NYS as shown on Table A-2 and A-4. Provide a delineation of the funding requested in each of the following sub-categories, if applicable.

Subcontracts/Consultant Services (Form 5):

Provide a listing of all subcontracts, including consultant contracts which will support contract deliverables along with a description of the services to be provided. This should include all contracts that support the program even if funded by other sources. Include an estimate of the number of hours to be worked and the rate per hour, if applicable, for subcontracts supported in full or in part with requested funds.

If the subcontractor/consultant has not yet been selected, please indicate "**Not Selected**" under the Subcontractor/Consultant line and provide all other pertinent information.

Note: All proposed SUBCONTRACTS require the review and approval of the Department prior to the execution of an agreement between the Contractor and subcontractors. A copy of the executed agreement is required to be submitted before reimbursement on this line can be approved.

Attachment 9-a – Budget

NOTE: Excel documents will be attached. **Separate budgets for NHTD and TBI are required.**

Attachment 10 – Questions and Answers from Applicant Conference

**Questions and Answers
Regional Resource Development Centers
Nursing Home Transition and Diversion / Individuals with Traumatic Brain Injury
RFA # 0905010831**

July 29, 2009

1. Question:

What are the minimum staffing requirements for each waiver?

Department of Health (DOH) Response:

As stated in the Request for Applications (RFA) on page 9, Section III C, the Regional Resource Development Center (RRDC) is responsible for “Employing, either directly or by contract, qualified individuals, with the education, training and experience specified in this RFA to fulfill the appropriate functions and activities of the Regional Resource Development Specialist (RRDS) and the Nurse Evaluator (NE). One RRDS will be dedicated full-time to the Nursing Home Transition and Diversion (NHTD) program and, one RRDS dedicated full-time to the Traumatic Brain Injury (TBI) program.” It is understood that one NE may be employed to meet RRDC quality assurance activities for both waivers.

2. Question:

In reference to page 12 of the RFA, the RFA talks about someone with two contracts needing a Lead RRDS for each waiver. Is that correct? Can one hundred percent Lead RRDS be split to ninety percent and ten percent? Is there an oral or written concept of cross training a Lead RRDS for both waivers? Can a Lead RRDS from the other waiver cross cover?

DOH Response:

As stated in the RFA on page 9, Section III C, “One RRDS will be dedicated full-time to the NHTD program and, one RRDS dedicated full-time to the TBI program”. The nomenclature of the Lead RRDS refers to the dedicated full-time RRDS. Therefore, a Lead RRDS can not be split or cross cover on the basic staff plan and budget.

3. Question:

If we split a staff person’s time, do we need to indicate how we are splitting the percentages?

DOH Response:

Information regarding the percentages of time a person spends on a waiver program should be indicated on the waiver budget and in corresponding forms. If a contractor uses an allocation method it must be documented and can be subject to audit by the state.

4. Question:

The two waivers are separate and have a separate staff/contact person. Can the Executive Director be written into the contract with money allocated to that position?

DOH Response:

Yes, money can be allocated to the Executive Director as long as the budget supports this position, is auditable, and all contract deliverables are met.

5. Question:

Can the Executive Director or a non-RRDS step in and cover for vacations or other absences of the Lead RRDS?

DOH Response:

Yes, however anyone who covers for the Lead RRDS during vacations or other absences must meet the qualifications of the Lead RRDS.

6. Question:

Can the Assistant RRDS do intakes for both waiver programs in the same facility?

DOH Response:

Cross waiver work can be accommodated when the budget supports the position and staff are adequately trained in the program policies and criteria for each waiver.

7. Question:

Can staff that work on both waivers do provider recruiting and training for both waivers at the same time?

DOH Response:

Yes, staff funded by both waivers may recruit and train providers for both waivers at the same time.

8. Question:

Can the secretary also be split between the two waivers?

DOH Response:

Yes. Each agency determines how to effectively utilize its resources. This may be done through budget development, staff allocation and in-kind efforts.

9. Question:

Can there be a supervising RRDS that spends 50% of their time on each waiver along with a Lead RRDS for each program?

DOH Response:

Yes, there can be a supervising RRDS on each waiver as long as each budget supports this position and all contract deliverables are being met.

10. Question:

Can one person be the Nurse Evaluator (NE) in both waivers?

DOH Response:

Yes, one person can be the NE for both waivers.

11. Question:

Can the NE also be the RRDS?

DOH Response:

Yes, the NE can also be an RRDS as long as all contractual obligations are met. The NE cannot also be the Lead RRDS.

12. Question:

Does the NE need to see all of the medically complex cases on the TBI waiver?

DOH Response:

No, however DOH expects that the RRDC will establish mechanisms to assess medically complex cases, and ensure the provision of adequate services appropriate to the required level of care. Please see the NHTD Program Manual, Section IV, page 9, (http://www.nyhealth.gov/facilities/long_term_care/waiver/nhtd_manual/index.htm)

13. Question:

On page 9 of the RFA, it states a quality assurance component for the NE. Will the NE quality assurance component include Serious Reportable Incident (SRI) management under both the NHTD and TBI waivers?

DOH Response:

When the new RRDC contracts are in place, all RRDC staff will follow the SRI process currently used for the TBI Program; accordingly, all SRI reports will go to the RRDC. Please refer to the TBI Program Manual, Section X (available at http://www.nyhealth.gov/health_care/medicaid/reference/tbi/.) However, DOH will continue to explore quality improvements for all waiver administrative processes, including SRI responsibilities, to support cross waiver consistency and efficiencies.

14. Question:

What other responsibilities will the NE be taking over regarding quality assurance?

DOH Response:

The role of the NE is established in the NHTD Program Manual, Section IV page 9. Please refer to the NHTD Program Manual and Question 12 for the hyperlink to the manual.

15. Question:

Does the NE work for the Executive Director or the Lead RRDS? What about quality assurance, does that person have a separate monitoring responsibility?

DOH Response:

It is up to an agency to determine an organizational structure that will effectively utilize its staff and resources, while ensuring compliance with DOH standards for quality assurance. This will apply to both waivers. Please refer to the NHTD Program Manual and Question 14.

16. Question:

Can an Assistant RRDS review a Service Plan? I need clarification about the RRDS. Are they the only one that can sign off on all documents as opposed to the Assistant RRDS? Can an RRDS, but not the Lead RRDS, sign the Service Plan?

DOH Response:

Yes, the Assistant RRDS can review a Service Plan, but only an RRDS or Lead RRDS may approve and sign a Service Plan. This refers to both NHTD and TBI waivers. An RRDS, or Lead RRDS, signature is required on all documents.

17. Question:

How many participants are currently being served in each waiver? How many participants are expected to be served in each waiver?

DOH Response:

As of July 1, 2009 there were 144 participants in the NHTD waiver, and 2,809 participants in the TBI waiver.

| Region | NHTD | TBI |
|--------------------------|-------------|------------|
| Long Island | 17 | 239 |
| New York City | 6 | 406 |
| Lower Hudson Valley | 14 | 210 |
| Capital | 10 | 437 |
| Adirondack | 34 | 218 |
| Syracuse | 4 | 284 |
| Binghamton/Southern Tier | 17 | 237 |
| Rochester | 35 | 495 |
| Buffalo | 7 | 283 |

As stated in the RFA on page 4, the NHTD waiver is approved to serve at least 5,000 individuals statewide through August 2010. As stated in the RFA on page 5, TBI is expected to serve up to an additional 200 participants annually. DOH can not guarantee the number of participants that will be enrolled for either waiver at the time contracts are executed. DOH expects that participant numbers will increase throughout the contract period as RRDC contractors meet the participant enrollment objectives described in their work plan.

18. Question:

Will a database be up and running when the waivers come to fruition?

DOH Response:

A database will be available at the beginning of the RRDC contract period.

19. Question:

What is the budgeting rationale for each region?

DOH Response:

The grant award amount for each region is based on historical data, current contract funding and activity levels, and available State appropriations. (Also see answer to Question 20 below)

20. Question:

What is the rationale for the NHTD and TBI budgeting differences?

DOH Response:

Budget differentiation between the two waivers is based on multiple factors: estimated and current number of participants served, current funding, and regional costs associated with implementing a program.

21. Question:

The RFA is silent on whether or not agency overhead is allowed in the contracts. In previous contracts, agency overhead has not been allowed. Is there any allowance for agency overhead?

DOH Response:

It is past program practice that Contractor agency overhead can be established at a rate of up to 10 percent of the total annual budgeted amount. These costs may include a pro-rated share of personal service, office supplies, and fiscal, accounting, and management expenses. It may also reflect costs of similar common services performed outside a particular program, but which support the program. For example, if the "house" attorney, accountant or personnel administrator spends time reviewing the grant contract before it is signed and notarized, the time these employees spend on the review would fall into the administrative overhead category. If the TBI program uses office equipment that is located in a common area of the contractor's facility, the cost of the equipment could be pro-rated and the TBI Program share of the cost for upkeep and maintenance, paper, etc. would fall into the administrative overhead category. For purposes of recovering the costs of operation, agencies should exercise their own judgment as to the extent to which a particular program should bear the administrative overhead costs.

22. Question:

In reference to the RFA page 17, 3rd paragraph that starts with "Failure to demonstrate...", I need a better understanding of how the Department of Health determines a contract deliverable. Do I have to meet an outcome; or if I do all of the activities in the work plan and still don't meet the outcome, do I still get funding?

DOH Response:

The RRDC should be in communication with DOH during the quarter to discuss problems they are encountering. If activities in the work plan are complete but the contract objectives are not achieved, DOH will discuss the situation and appropriate approach and payment with the RRDC.

23. Question:

In reference to page 53 of the RFA regarding quarterly reports, work plan, and benchmark, if there is a delay in payment will the RRDC receive in writing the problem and time frame for payment?

DOH Response:

In such a situation, notice will be issued, usually via email, identifying the problem(s) with the report and/or voucher. As soon as the issue is satisfactorily resolved, the payment will be processed.

24. Question:

If there is an issue with one contract, will the payment for the other contract still be provided?

DOH Response:

There will only be one contract per region. The contractor will be able to voucher separately for each program within that contract. This is the preferred approach because one voucher could be paid while the other is being corrected.

25. Question:

The start date of the RFA is October 1st, yet we have heard rumblings that it might now be until January 1st?

DOH Response:

Applicants should respond to the date in the RFA, which is October 1st, 2009, providing a one-year budget and workplan.

26. Question:

Understanding that October 1st is the start date of the contract, when do we expect a decision on contracts?

DOH Response:

It is expected that a decision on contract awards will be made by November 2009.

27. Question:

There is a provision that refers to the DOH authority to terminate the personnel of a contractor. What are the employment law ramifications of this? If the employees who work for the contractor take a course of action will it be against DOH or the contractor? If an existing employee no longer meets DOH qualifications do they have to be terminated before the new contract?

DOH Response:

DOH does not tell a contractor to terminate an employee. If a person does not meet the qualifications or has failed in such a way to equal a breach by the contractor, the contractor would need to remove that person from the contract work. A contractor must submit a plan of correction to meet contractual obligations. An employee that does not meet the qualifications may not work on the contract. Please refer to the RFA, Section E, page 12, entitled "Project Leadership".

28. Question:

Do we need to have policies and procedures in place to avoid conflict of interest at the time the application is submitted?

DOH Response:

No. As stated in the RFA, Attachment 4 on pages 65-67, an agency must describe in the application the organizational mechanisms and policies to ensure that the RRDC can function with independence and to prevent a conflict of interest. Once the agency has been selected as an awardee, these mechanisms and policies must be in place prior to the effective date of the contract. If a contract is awarded, these assurances will need to be provided to DOH as part of the contract documents, and will be approved by DOH prior to contract execution.

29. Question:

Will the RFA be scored and determined collectively or split and scored separately?

DOH Response:

Applications will be scored according to the RFA, Section V, pages 21-26.

| Question | Maximum Points |
|-----------------------------|-----------------------|
| 1. Organizational Focus | 5 |
| 2. NHTD/TBI Knowledge | 10 |
| 3. Organizational Structure | 25 |
| 4. Work Plan Development | 40 |
| 5. Budget | 20 |
| Total Points | 100 |

According to the RFA, page 23, Work Plan Development is worth a maximum of 40 points, 20 for NHTD and 20 for TBI. In addition, on page 24, the Budget is worth a maximum of 20 points, 10 for NHTD and 10 for TBI.

30. Question:

In reference to pages 8, 25, and 45 of the RFA, is the scoring different in this NHTD/TBI RFA than in the last NHTD RFA in terms of reduced points if the applicant bills Medicaid for any services (including waiver services), especially if disclosure can indicate separation and no conflict of interest?

DOH Response:

Yes. The 2006 RFA scoring criteria for applicants providing Medicaid State Plan services will not be used for this RFA. Refer to the RFA, pages 8, 45, and 64-67 regarding information on organizational mechanisms to avoid conflict of interest.

31. Question:

Do existing approved employees need new references, or need to be approved by the DOH again?

DOH Response:

Yes, according to the RFA, page 23, the applicant must include current references for the identified Lead RRDS for each wavier program and the Nurse Evaluator.

32. Question:

When developing a caseload for the RRDS, clarify what you are looking for?

DOH Response:

This question will not be answered as it is a required response in the RFA application.

33. Question:

Are there two different work plans for each waiver program?

DOH Response:

As stated in the RFA Section V, A, page 23, "A separate work plan must be submitted for each waiver program". See Appendix D, page 54 for instructions.

34. Question:

Are deliverables in this work plan exactly what the DOH is looking for?

DOH Response:

Yes, deliverables in the work plan are what the DOH is looking for. DOH is looking for measurable performance with RRDC contractors.

35. Question:

Does the DOH recognize in their review process of the work plan regional diversity? The work plan requires submission of three application packets for providers of each waiver service and two providers per county. I am concerned that in rural counties two providers may not exist.

DOH Response:

Yes, DOH recognizes that there are regional differences in regard to the availability of certain waiver providers, and that contractors in some areas may have difficulty meeting the specified number of provider applications. However, it is the applicant's responsibility to describe how they will meet the established objectives in the RFA work plan.

36. Question:

As an existing RRDC there are barriers related to the definition of services and who can be a provider. The RRDC can not overcome these barriers without working closely with the DOH. Can the RRDC work with the DOH to overcome these barriers?

DOH Response:

Yes, DOH will work with the RRDC to address barriers to implementing their work plan as they arise.

37. Question:

Regarding the work plan, what is a significant number of potential applicants at an out of state facility? One? Ten? Please clarify.

DOH Response:

The reference to a “significant” number of potential applicants refers to where there are a number of potential applicants residing in a particular out of state facility that would warrant a visit. DOH will assist with this identification process once the contract has been executed. Also refer to Question 45.

38. Question:

As an existing RRDC, is it feasible to be building upon outreach efforts that have already been conducted at nursing facilities?

DOH Response:

Yes, an existing RRDC may build upon outreach efforts that have already been completed.

39. Question:

Do we modify the work plan templates for a particular program? Would I delete the section that applies to seniors for the TBI work plan?

DOH Response:

It is up to the applicant to determine which sections of the work plan are relevant to each waiver program after reviewing the respective program manuals. Please do not alter the work plan; applicants should use N/A in places that they have determined not to be relevant to the respective waiver.

40. Question:

In the work plan, waiver providers must be trained within thirty days of enrollment. Is DOH finalizing a curriculum for the training? Does this training apply to only new providers, or do existing providers that may take on new services need the training also?

DOH Response:

DOH has three approved curricula for NHTD and is in the process of revising three additional curricula.

The TBI program anticipates that the curricula implemented by NHTD may be effectively used for TBI providers with minor modifications.

Training requirements apply to both new providers, as well as, existing providers that add a waiver service and are more specifically outlined in Section VIII of the NHTD Program Manual.

41. Question:

Quality Management Specialists (QMS) are not mentioned in this grant application. What is the role of the QMS in this grant cycle?

DOH Response:

All previously contracted QMS and Clinical Consultant activities have been assumed by DOH.

42. Question:

TBI and NHTD do not handle their incident reports in the same way. The DOH primarily handles these reports in the NHTD program. Which way are incident reports going to be handled? This is important because the time to track incidents is enormous and staffing and budgets should be accounted for in the work plan. Will the RRDCs be responsible for Serious Reportable Incidents? In developing a work plan for NHTD, are we going to be handling the Serious Reportable Incidents like TBI?

DOH Response:

When the new RRDC contracts are in place, all RRDC staff will follow the SRI process currently used for the TBI Program; accordingly, all SRI reports will go to the RRDC. Please refer to the TBI Program Manual, Section X (available at http://www.nyhealth.gov/health_care/medicaid/reference/tbi/.) However, DOH will continue to explore quality improvements for all waiver administrative processes, including SRI responsibilities, to support cross waiver consistency and efficiencies.

43. Question:

The aggregate budget for TBI is determined differently from the aggregate for NHTD. The aggregate for TBI is across state and the aggregate for NHTD is calculated across regions. What will happen when the waivers are combined?

DOH Response:

Each waiver must demonstrate aggregate cost neutrality on a statewide basis. In practice, as a quality assurance measure, participant cost factors are tracked on a regional level for both waiver programs.

44. Question:

Will the DOH assist the RRDC in identifying people in nursing homes who want to leave the facilities?

DOH Response:

As stated in the RFA Section V.A.4, Participant Enrollment, page 24, the applicant should “discuss activities its agency would undertake to identify individuals who wish to transition from nursing homes to community based settings”.

45. Question:

Will a list of out of state residents and their locations be provided to the RRDC by DOH? Can we have in writing a list of out of state residents so the RRDC can do a travel budget? Can this list be broken down by region? How many states are New York State residents residing in and what states are they? Is Texas one of them?

DOH Response:

No, a list of out of state residents cannot be shared at this time, as it is a violation of the Health Insurance Portability and Accountability Act (HIPAA). DOH will assist RRDC contractors in establishing contacts at the appropriate facilities and in identifying potential applicants.

46. Question:

If we are working collaboratively with another RRDC and go out of state to evaluate multiple people at a facility, and some of the people evaluated would be returning to the other RRDC region, how would we bill for the time spent evaluating for the other RRDC?

DOH Response:

RRDC staff do not bill for individual assessments. Collaboration between RRDC regions can be expected to be balanced during the contract period. Therefore, to ensure best practice and to meet performance standards for a statewide program such collaboration would not justify any additional billing. Any region that identifies a need to assess multiple potential applicants should make their own out of state visit.

47. Question:

Is the out of state time frame expectation the same as in state?

DOH Response:

DOH recognizes that the repatriation of out of state participants is individualized and presents special circumstances. Response to these cases must be reasonable and will be addressed on a case by case basis.

48. Question:

Under NHTD out of state travel has been limited, is that something that is going to be lifted?

DOH Response:

NHTD and TBI out of state travel requires prior approval from waiver management staff, and it is contingent on available RRDC funding and budget.

49. Question:

Will the PRI/SCREEN be the level of care determination for both waivers in the future?

DOH Response:

At this time, the PRI/SCREEN is an approved part of the level of care assessment process. Any future change in assessment will require a technical amendment to the waiver applications approved by the Centers for Medicare and Medicaid Services. Any changes would be made available to all RRDC contractors.

50. Question:

Will there be one Quarterly RRDS meeting or two?

DOH Response:

There will be one combined NHTD/TBI Quarterly RRDS meeting. DOH will examine alternative communication methods to reduce time and cost of travel.

51. Question:

If the Lead RRDS for NHTD goes to evaluate someone and that person picks TBI or is found to be more appropriate for TBI, how do you authorize travel past the

Comptroller? Do you then have to send the Lead RRDS out from the TBI program to enroll the person?

DOH Response:

Part of any assessment is to make appropriate referrals. Hence, if the assessed individual is determined to be more appropriate for the other waiver program the assessment would be completed and shared with the appropriate RRDS; another visit would not be necessary.

52. Question:

Will the DOH make a unilateral referral to providers or will it be a partnership? How does the provider referral process work? Is there a checklist of providers?

DOH Response:

DOH does not make referrals. Participants choose their service providers from a list of approved provider agencies maintained by the RRDC.

53. Question:

During the current contract period, paperwork has had very strict demands on TBI and how to track people in the community. Are you contemplating any changes? Will you be making any changes for processing provider applications? Are there any changes that would have an impact on the deliverables that need to go into the work plan?

DOH Response:

Although there are no anticipated changes in waiver protocols that would impact work plan deliverables at this time, DOH will continue to assess its policies and procedures in order to more effectively utilize available resources and promote cross waiver efficiencies. Notification of changes would be made to contractors.