NEW YORK STATE DEPARTMENT OF HEALTH

American Recovery and Reinvestment Act of 2009 (ARRA)

A Request for Proposal for

Division of Family Health
Bureau of Early Intervention

RFP No. 1001251153

Clinical Program Initiatives to Improve the Quality and Consistency of Evaluations and Early Intervention Services for the New York State Early Intervention Program

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Schedule of Key Events

RFP Release Date	June 7, 2010
Written Questions Due	June 21, 2010
Letter of Interest Due (optional)	June 21, 2010
Response to Written Questions	July 14, 2010
Proposal Due Date	August 2, 2010

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DESIGNATED CONTACTS:
Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contacts to whom all communications attempting to influence this procurement must be made:

Jonathan Mahar
Grants & Procurement Unit
NYS Department of Health
ESP Corning Tower, Room 1325
Albany NY 12237
(518) 474-7896, fax (518) 474-8375
Email: jpm12@health.state.ny.us

Permissible Subject Matter Contacts:
Pursuant to State Finance Law § 139-j(3)(a), the Department of Health also identifies the following allowable contacts for communications related to the following subjects:

Submission of Proposals or Bids, via Surface Mail Only:
Submission of Questions, via Surface Mail or E-mail:

Terry Ayers
NYS Department of Health
Bureau of Early Intervention
ESP Corning Tower, Room 287
Albany, NY 12237
Phone: (518) 473-7016
E-mail: BEIARRA@health.state.ny.us

Debriefings:
Negotiation of Contract Terms after Award:

Brad Hutton
NYS Department of Health
Bureau of Early Intervention
ESP Corning Tower, Room 287
Albany, NY 12237
Phone: (518) 473-7016

For further information regarding these statutory provisions, see the Lobbying Statute Summary in Section E, 12 of this solicitation.

A. INTRODUCTION

The New York State Department of Health (Department), as the State lead agency for the Early Intervention Program (EIP) for infants and toddlers with disabilities, is issuing this Request For Proposals (RFP) to identify a contractor to support the Department's clinical program initiatives to improve the quality and consistency of evaluations and early intervention services delivered by the New York State EIP (NYSEIP) to:

1. Conduct a validation and review process of the complete set of six EIP clinical practice guidelines and report to the Department on the extent of revisions required for each guideline.

2. As indicated, revise, update, and publish up to four of the earliest issued guidelines as needed to reflect current scientific evidence.

3. Develop a list of preferred valid and reliable developmental and diagnostic assessment instruments and accompanying guidelines for use in multidisciplinary evaluations to determine children's initial and ongoing eligibility for the EIP. The list of preferred tools and accompanying guidelines must address considerations pertaining to culture and language diversity in the conduct of developmental and diagnostic assessments, including the unique needs of infants and toddlers whose primary language is other than English, who are bilingual, and who require special accommodations related to age, developmental status, or disability.

The contractor selected through this RFP will work to support Department staff and consensus panels comprised of topic experts, clinicians, and parent-consumers in completing these deliverables.

This initiative is to be funded with American Recovery and Reinvestment Act of 2009 (ARRA) funds. Special and timely reporting will be required as a condition of award. These reporting requirements are detailed in Section C of this document and in Section II-C of the final AGREEMENT. In addition, because of the nature of ARRA funding, a special contract appendix will be included in any award agreement. Bidders should read Appendix ARRA - Vendor (Attachment 17) and familiarize themselves with the special requirements of this opportunity.

B. BACKGROUND

The EIP is part of the national Early Intervention Program for Infants and Toddlers with Disabilities and their Families, created by Congress in 1986 under Part C of the Individuals with Disabilities Education Act (IDEA). IDEA is also the federal law that ensures all children and youth ages 3 to 21 years with disabilities have the right to free appropriate public education. In New York State, the EIP is established in Article 25 of the New York State Public Health Law (NYSPHL) and was implemented to provide services to all eligible infants and toddlers and their families July 1, 1993.

The EIP is the largest in the nation, providing services to over 74,000 eligible children and their families annually and with expenditures of approximately $700 million. The Department is designated in NYSPHL as the State's lead agency for the EIP and is responsible for administration and oversight of all aspects of the service delivery system. Locally, the EIP is administered by municipal public agencies designated by each of the 57 counties and New York City to administer the program (the vast majority of which are local health departments).

1. Preferred List of Evaluation Tools and Guideline Recommendations

   Under the EIP, each child thought to be an eligible child is entitled to a multidisciplinary evaluation (MDE), which must include a comprehensive developmental assessment addressing the child's status in cognition, communication, social-emotional, physical, and adaptive development. A family assessment to determine the family's resources, priorities, and concerns related to the child's development must be offered to the child's parent as part of the MDE, but participation in this assessment is voluntary. Requirements for the MDE are set forth in statute at Section 2544 of NYSPHL (Attachment 19) and in regulation at 10 NYCRR (Compilation of the Rules and Regulations of the State Of New York) 69-4.8 and the reimbursement methodology for the MDE at 10 NYCRR 69-4.30(c)(2) (Attachment 20).

   Primary referral sources (e.g., physicians, early childhood service providers, child care providers, etc.) are required to refer infants and toddlers with suspected developmental delays or disabilities to the local early intervention official in the child's county of residence for a MDE. Parents may also refer their children directly when a concern about development arises. Following a referral to the EIP, an initial service coordinator is designated by the early intervention official to assist the family in obtaining a MDE to determine the child's eligibility for the EIP. Parents select an evaluator from a list of approved evaluators available to conduct evaluations on behalf of the municipal agency responsible for local administration of the program.

   Evaluators are responsible for determining the appropriate developmental and/or diagnostic assessment(s) for use in conducting the MDE. To address the wide range in the quality and consistency of evaluations conducted under the EIP, the Department issued a notice of proposed rulemaking in January 2010 proposing to require evaluators to select evaluation tools from a list of preferred instruments issued by the Department. Under the proposed rule, evaluators will also be able to use instruments not included on the Department's list, with appropriate justification.

   The contractor will be responsible for convening a consensus panel of experts to review developmental and diagnostic assessment tools designed for use with infants and toddlers ages birth to three years of age, including scientific research on the validity and reliability of these tools, and developing a list of recommended tools for use by the Department in meeting the new regulatory requirement. The

work will build upon the assessment and diagnostic tools identified in the existing clinical practice guidelines. The contractor, with input from the panel, will also be charged with developing accompanying guidelines on the appropriate use of these recommended evaluation tools, including a complete description of data on reliability, validity, sensitivity, and specificity; the population for whom the tool was designed; diagnostic properties where applicable; and, the appropriateness of the tool for use with children with respect to age, cultural and linguistic diversity, and accommodations for age, disability and developmental needs.

2. Validation and Review of NYSEIP Clinical Practice Guidelines

In 1996, a multiyear effort was initiated by the Department to develop a series of evidence-based clinical practice guidelines focused on the identification, assessment, and intervention for young children with developmental problems likely to require early intervention services. The overall goal of this effort was to improve the quality and consistency of care for young children with developmental disabilities by providing families, service providers, and public officials with recommendations about best practices based on scientific evidence and expert clinical opinion. To ensure the guidelines would have maximum credibility and impact, the Department used an established and well-accepted science-based methodology for guideline development, used by the US Department of Health and Human Services Agency for Health Care Policy and Research (later renamed AHRQ) which was selected for development of clinical practice guidelines for the EIP. The AHRQ clinical practice guideline methodology is considered to be the standard for developing evidence-based medical and health care clinical practice guidelines, and has been described in numerous publications (Eddy & Hasselblad, 1995; Holland, 1995; Schriger, 1995; Shekelle et. al, 2001; Wolf, 1991, 1995). The Department was the first to adapt the AHRQ methodology for use in development of clinical practice guidelines addressing assessment and intervention practices for children with disabilities (see Noyes-Grosser, D., Holland, J.P., Lyons, D., Holland, C., Romanczyk, R., and Gillis, J., for a detailed description of the rationale and methodology used to develop the six EIP clinical practice guidelines).

Six EIP clinical practice guidelines on assessment and interventions for young children (0-3 years of age) were completed by the Department using the AHRQ methodology: autism/pervasive developmental disorders (1999), communication disorders (1999), Down Syndrome (2001), motor disorders (2001), vision impairment (2002), and, hearing loss (2002). A defining feature of the AHRQ methodology is the use of a multidisciplinary panel, including clinicians, researchers, and consumers, to review all available scientific evidence on the guideline topic and develop consensus recommendations based on the evidence. Each EIP guideline was developed by a separate consensus panel comprised of topic experts, clinicians, parents, and pediatric practitioners, supported by a methodologist and research team. The methodologist and research team conducted a systematic literature search for each topic area; identified studies which met established criteria for quality and clinical applicability; abstracted these studies into evidence tables; and, conducted 5-6

meetings for each panel as needed to develop the guideline product.

The guidelines underwent an extensive peer review by between 50 and 60 experts. Reviewers were asked to comment on the final draft guidelines, rate them on usefulness and understandability, and identify any research that may have been missed by the panel that would lend support or provide evidence to modify or refute guideline recommendations. Comments received through the peer review process were reviewed by the panels at a final panel meeting. Final decisions regarding the recommendations were made by the panels on the basis of the strength of evidence provided by the reviewer and with the consensus of the full panel.

Consistent with the AHRQ methodology, each EIP guideline is published in three versions:

- *Guideline technical report*, which details the methodology used to develop the guideline, including the research and evidence tables reviewed by the panel, the panel deliberations, and final recommendations.
- *Guideline report of the recommendations,* which summarizes the research and includes the full text of guideline recommendations.
- *Quick Reference Guide*, which summarizes the research and the recommendations.

The EIP clinical practice guidelines are intended to help families, service providers, and local early intervention officials by offering recommendations based on scientific evidence and expert clinical opinion on effective practices for early identification of children at risk or suspected of having a disability, conducting evaluations and assessments that result in reliable information about children's developmental strengths and needs, and when possible, a diagnosis; and, determining effective intervention strategies and reaching agreement on the frequency, intensity, and duration of early intervention services that will result in positive outcomes for children and families. To be effective and useful to clinicians, families, and public officials, clinical practice guidelines need to be up-to-date. Given that the six EIP clinical practice guidelines are between eight and ten years old, it is important and timely to assess the scientific validity of the guidelines' recommendations; determine if the guideline is still valid or whether updates are necessary as the result of new scientific evidence, and based on the validity assessment, update up to four guidelines as needed to reflect current science. Shekelle et.al. (2001) describes the method for assessing guideline validity that is timely and cost-effective and which was found to be successful in validating the guidelines issued by the AHRQ.

The contractor will be responsible for convening a multidisciplinary panel of experts that will review the EIP clinical practice guidelines to assess their scientific validity, following the AHRQ methodology. The contractor will review research and literature in support of this effort and summarize the review for the panel. The contractor will revise, update and publish up to four guidelines as a result. The contractor will also develop training materials related to the revised guidelines.

C. DETAILED SPECIFICATIONS

1. Eligible Bidders

This RFP is open to both for-profit and not-for-profit entities which meet all of the following requirements:

a. Expertise in the review of scientific literature, the development of evidence tables and reports, and the analysis of issues involved in recommended interventions.

b. At least two years of demonstrated knowledge and expertise in the development of clinical practice guidelines addressing various medical and/or developmental conditions using well established methodology, preferably the method developed by the AHRQ.

c. Experience in managing the work of consensus panels of expert personnel.

d. Documentation of the organizational capacity, knowledge, and expertise to perform all tasks necessary to validate and update up to four clinical practice guidelines using a method such as the AHRQ methodology, as well as develop a guideline containing recommended evaluation tools. This must include documentation of the technology, staffing, and expertise required to perform research and literature review; develop evidence reports; manage, record, and facilitate consensus panel meetings; produce all necessary written materials and reports; and, develop, pilot and test, and evaluate clinical practice guidelines.

Subcontracting is allowed. However, the bidder must provide the full name and address of any organization with which the bidder will subcontract for any services provided in the contract resulting from this RFP and the mechanisms for assuring its effective administration of the subcontract. List responsible officers of each subcontractor, including those individuals authorized to negotiate for the subcontractor. List any financial interest the bidder has in the proposed subcontractors. **Evidence of a potential subcontractor's willingness to conduct the contract activities detailed in this RFP and enter into sub contractual arrangements to provide such services must be included.**

2. Performance Requirements

The Department will award a contract through this RFP to an organization qualified to perform the validation and development of clinical practice guidelines and a preferred list of evaluation tools for the EIP. The selected bidder will perform the following specific contract requirements to the satisfaction of the Department:

a. Assemble a multidisciplinary panel of experts to review developmental and diagnostic assessments designed for use with infants and toddlers ages birth to three years of age. Utilizing the input of the expert panel, identify appropriate evaluation tools within each of the domains and develop an additional guideline containing those evaluation tools that evaluators within the EIP would access when conducting evaluations as prescribed by regulation, including a complete

description of data on reliability, validity, sensitivity, and specificity; the population for whom the tool was designed; diagnostic properties; and the appropriateness of the tool across varying populations of children.

b. Perform in-depth analysis of the current clinical practice guidelines and utilize a well established and robust validation process to determine the extent of revisions necessary in each of the six guidelines.

c. Assemble an appropriately experienced panel of experts in the field who provide therapeutic and supportive services for eligible children with disabilities, ages birth to age three, and their families. A panel of experts is required for each guideline. At least one panel member must be a parent of a child who has received services administered under the EIP within the past five years. To the extent that former panelists are available, their recruitment and participation will be facilitated. The purpose of these panels will be to provide guidance to the contractor on the necessary updates to the four clinical practice guidelines. Panel members must be approved by the Department.

d. Develop recommendations to the Department as well as materials for promoting practices outlined in the guidelines, including updated training and education.

e. Complete or subcontract to complete the printing of the finalized clinical practice guidelines for provision to the Department.

Applicants must submit a detailed plan documenting all tasks required to update clinical program initiatives in two parts: 1) updating clinical practice guidelines and 2) developing a seventh guideline containing preferred evaluation tools for the EIP.

Part 1 will include the following activities related to evaluation tools:

- Facilitation of a multidisciplinary expert panel, comprised of experts in assessment and additional experts as needed to address developmental evaluation tools, to develop a preferred list of evaluation tools, and a guideline recommendation for use within the EIP **(due within six months of contract start date).**
- Preparation of guideline containing preferred evaluation tools for printing **(due within eight months of contract start date).**
- Delivery of printed evaluation tool guideline **(due by contract end date, 9/30/2011).**

Part 2 will include the following activities related to clinical guidelines:

- Contact previous panel members from the initial development of clinical practice guidelines and survey members to assess the current validity of clinical practice guidelines based on whether there are changes in available interventions or changes in the evidence on the benefits or harms of existing

interventions, using the methodology developed by Shekelle et. al. (2001) or comparable methodology **(due within four months of contract start date).**

- Conduct limited literature searches for significant new evidence that may have an effect on the validity of the guidance statements including: bibliographic search and literature retrieval, selection of studies using established criteria, analysis of scientific evidence, and development of evidence reports **(due within six months of contract start date).**
- Develop guideline recommendations by the panel including: convening up to three panel meetings of two to three days each for each guideline determined to require updating, subcontracting with up to 16 panel members for each guideline, including a stipend of $400.00 per day and travel/accommodation expenses (panel meetings will be convened in Albany; members will be selected from across the state), facilitation of panel agreement, interpretation of evidence, panel development, and writing of draft revisions of guidelines **(due within nine months of contract start date).**
- Conduct Peer Review process in collaboration with the Department and experts in topic area including researchers, academicians, providers, and parents, and recommend final revisions **(due within ten months of contract start date).**
- Develop guideline materials for distribution, update training and develop online training modules and self-study materials **(due within 11 months of contract start date).**
- Prepare revised guidelines for printing **(due within 11 months of contract start date).**
- Deliver printed revised guidelines for dissemination to stakeholders **(due by contract end date, 9/30/2011).**

3. Implementation and Administration

The contractor is expected to begin contract activities immediately upon contract Execution, and all work associated with this contract must be completed no later than September 30, 2011. Extensions to this contract will not be granted.

a. Reporting

The contractor will be required to file monthly progress reports to be submitted with monthly vouchers. The monthly progress reports will detail the contractor's progress with the contract performance requirements detailed in Section C.2.

Monthly progress reports will be due 15 days after the end of the month. The final printed guidelines, including the guideline surrounding preferred evaluation tools, are due by the end of the contract period and will be accepted in lieu of a final progress report.

b. Quality Assurance

The contractor must employ a review method that adheres to robust research standards and is defensible to outside inquiries. The contractor is responsible for reviewing and assuring the accuracy of all work conducted under this

contract. Specific quality assurance measures should be detailed in the proposal.

c. Staffing Requirements

The contractor must assign to the project a full-time contract manager who will act as the primary contact with the Department. The contract manager will have the background and expertise to oversee the requirements of the contract and be available to meet with Department staff in Albany and accompany Department staff in meetings at other major metropolitan areas within the State.

The contractor must employ (or subcontract) an expert panel whom the majority of members have five or more years of experience in the field of providing therapeutic and supportive services for eligible children with disabilities, ages birth to age three, and their families, under Part C of IDEA. At least one panel member must be a parent of a child who has received services administered under the EIP within the past five years. The purpose of this panel will be to provide guidance to the contractor on the necessary updates to the clinical practice guidelines and the development of a preferred list of evaluation tools. The panel must have the ability to communicate with the Department regarding their positions on activities conducted under this contract.

The contractor shall ensure that all of the staff assigned to the project possess the required knowledge and experience to complete the specifications of the RFP.

d. Contractor Payment

Contractor payment will be done through submission of monthly vouchers to the Department's designated payment office. The voucher must follow the format provided by the Department. The amount allowed per voucher will be based on the Bid Detail Sheet submitted in response to this RFP. Monthly vouchers will be due 15 days after the end of the month and must be accompanied by a progress report. Vouchers that are submitted without a progress report will not be processed for payment. Failure of the contractor to meet the deliverables outlined in this contract may also result in vouchers not being processed until the deliverables are met.

e. Contract Period

The contract resulting from this RFP is expected to be for a period of approximately 13 months, with an anticipated contract start date on or around September 1, 2010. This is an ARRA funded project. All work related to this project must be completed by September 30, 2011.

f. Conflict of Interest

Bidders (or any subcontractor) must disclose all business relationships with or ownership interest in entities including, but not limited to, providers of early intervention services, organizations or trade associations representing such providers in New York State, or any other organization having an interest in the provision of New York State Early Intervention Services. In cases where such relationship(s) exist, bidders must describe how the potential conflict of interest

and/or disclosure of confidential information relating to this contract will be avoided.

The Department reserves the right to reject any or all bids, at its sole discretion, based on any potential conflict of interest.

D. PROPOSAL REQUIREMENTS

The requirements established by this RFP for proposal content and format will be used to evaluate the bidder's proposal. The bidder's compliance to the format prescribed herein, as well as the bidder's response to each specific requirement and question stated in the RFP, will be considered during the evaluation process. Proposal evaluators may not review any material that is submitted above the maximum page limit stated for each section of the proposal.

Proposals should provide a concise but complete description of the bidder's ability to meet the requirements of the RFP. Proposals must be submitted on paper (no electronic submissions) in two distinct parts, **Part 1 – Technical Proposal, and Part 2 – Financial Proposal,** separately sealed and identified with the name of the bidder. These must be packed into a third envelope and sealed and marked accordingly with proper vendor name and address. Proposal packages should be clearly labeled: Clinical Program Initiatives to Improve the Quality and Consistency of Evaluations and Early Intervention Services for the New York State Early Intervention Program RFP.

No financial bid or pricing information should be included in a bidder's Technical Proposal. Technical and Financial bids that fail to be submitted in separate and sealed envelopes will be rejected.

Each page of the proposal should be numbered consecutively from the beginning of the proposal through all appendices. The narrative should be double spaced, using a 12 point font or larger, with minimum one inch margins all around, and adhere to the maximum page limits.

1. Part 1 - Technical Proposal

The bidder's response must include a transmittal letter (Attachment 7) signed by an official authorized to bind the bidder to the provisions of the RFP. The transmittal letter response must attest that the bidder has a minimum of two years of successful experience in the development of clinical practice guidelines addressing various medical and/or developmental conditions using well established methodology, preferably the method developed by the AHRQ. The transmittal letter must also disclose any business relationships and / or ownership interests that may represent a conflict of interest for the bidder as described by the Conflict of Interest Specifications of Section C.3, or state that no conflict of interest relationship exists. In cases where such a relationship exists, the bidder must submit with the transmittal letter a description of how the potential conflict of interest and / or disclosure of confidential information relating to this contract will be avoided**.**

Responses must address all Technical Proposal requirements. The Technical Proposal consists of narrative descriptions of how the bidder will manage all aspects of the performance requirements of the contract as expressed in **Section C.2 Performance Requirements.** Bidders may provide additional information or recommendations relevant for consideration in the State's determination of award of this contract. Each bidder's Technical Proposal must include separate responses to the following requirements pertaining to format and content.

a. Cover Sheet
The bidder must submit a cover sheet for the Technical Proposal (Attachment 5), signed by an official authorized to bind the bidder to the provisions of the RFP and the bidder's response. All relevant fields should be completed legibly to assure that the evaluation committee can contact the bidder for clarification of bid contents.

b. Executive Summary (2 page limit)
Technical Proposals must contain an Executive Summary, which describes the bidder's understanding of the performance requirements outlined in Section C of the RFP and an overview of how the bidder will meet these requirements. Include affirmative statements that the bidder has a minimum of five years of successful work experience in the development of clinical practice guidelines addressing various medical and/or developmental conditions using well established methodology, preferably the method developed by the AHRQ.

c. Organizational Background and Experience (9 page limit)

1**.** Provide a description of the bidder's organization and its business mission, headquarters and branch office locations, parent and subsidiary organizations, and the relationship between the bidder's organization and any parent or subsidiary. The bidder must include the number of years the organization has been in business and describe its ability to meet the performance requirements of this RFP including the technologies, special techniques, skills or abilities of the organization necessary to accomplish the contract requirements.

2**.** Describe in detail the bidder's experience developing clinical practice guidelines using well established methodology. The experience referenced should substantiate the bidder's qualifications and capabilities to perform the RFP's specifications described in Section C.

The projects referenced in the descriptions above must be specifically identified and the name of the customer shown, including the name, address and telephone number of the responsible official of the customer, company, or agency who may be contacted by the State.

d. Staffing Background and Experience (6 page limit)
Describe the work experience and other relevant background of key individuals who will be assigned to work under the contract resulting from this RFP and provide references for verification that may be contacted by the Department.

e. Program Implementation and Administration (20 page limit)

The contractor will be responsible for conducting all work necessary to meet the contract performance requirements. **Provide a detailed description of the bidder's proposed plan to perform the contract requirements as specified in Section C.2 and C.3. of the RFP.**

The bidder's responses must also include, but are not limited to, the following information:

1. The process for validating current guideline contents and recommendations.

2. The process for recruitment of the expert panels. Detail how the panels will operate and the methods of communication that the panels will employ to provide input to the contractor and the Department.

3. The process of generating valid and accurate information for the guidelines, including the guideline recommendation containing a preferred list of evaluation tools for use in EIP multidisciplinary evaluations.

4. The process for training recommendations and materials.

5. The process for developing all guidelines including the printing and final publication of the guidelines.

6. Provide a timeline for completion of the deliverables specified in the RFP.

The Contractor will be allowed to submit sample reports to supplement the Technical Proposal. ***Sample reports are not subject to formatting restrictions, can be up to 15 pages total, and will not count towards the 20 page limit for this section***.

2. Part 2 - Financial Proposal

The bidder must submit a cover sheet for the Financial Proposal (Attachment 6), signed by an official authorized to bind the bidder to the provisions of the RFP and the bidder's response. The signed cover sheet includes an attestation that the bidder's Financial Proposal will remain valid for a minimum of 365 days from the RFP proposal due date. All relevant fields should be completed legibly to assure that the evaluation committee can contact the bidder for clarification of bid contents.

Vendors must provide evidence of their financial ability to perform the terms and conditions of the contract. Each vendor must include audited financial statements for the last three years of operations. If the vendor is not required to have independent audits performed, a statement to that effect must be included with the cost proposal. If independent audits are not required, other evidence of the vendor's financial ability to perform must be included. At a minimum, this must include an audited annual financial statement or report by a third-party service (e.g., Dunn and Bradstreet). Additionally, statements from a bank confirming the level of account balances or similar document must be included. If audited financial statements are available, they must be included, even if proprietary in nature. If they are proprietary, vendors should so indicate.

The Financial Proposal must include both a completed Bid Form (Attachment 2) and Bid Detail Sheet (Attachment 3). The Bid Detail Sheet must contain quarterly prices for contract activities listed. All costs associated with the contract activities should be included in prices listed on the Bid Detail Sheet including but not limited to travel, personnel costs (including fringe), overhead, supplies and miscellaneous costs. The Bid Detail Sheet will be used to develop the schedule for contractor payment over the course of the contract. The contractor will not be reimbursed for expenses incurred above what is listed on the Bid Form.

The Bid Detail Sheet is broken into categories for which the bidder should provide prices. The total of the contract activity prices on the Bid Detail Sheet should equal the total bid price listed on the Bid Form. The bidder should consider all costs related to that activity listed when determining a price. This includes but is not limited to:

a. Developing methodology, benchmarks, and performance measures
   Prices for this category should include all costs associated with the staffing costs for developing the methodology to be used in the project. This should include costs associated with obtaining approval from the Department on the methodology to be used.

b. Survey tools to solicit stakeholder input and research into related guidelines
   Prices for this category should include all costs associated with collecting data necessary for the project not provided by the Department. This will include the costs of any survey and data collection tools that will be developed by the contractor. It will also include the costs of all personnel used in the collection of data. Any costs relating to the protection and security of this data should also be included in this category.

c. Panels of program experts
   Prices for this category should include all costs relating to the recruitment and retention of the required panel of experts detailed in Section C.2.c of this RFP. This price should include any travel expenses that will be incurred by panel members. It should also include all costs in maintaining and supporting the work of the panel of experts.

d. Data synthesis, recommendation, and reports to the Department
   Prices for this category should include the costs for all contract performance requirements and reporting requirements listed in this RFP. It should also include the costs of any data analysis and/or synthesis and reports developed for the Department based on data collected during the project, regardless of the data source. Expenses for monthly progress reports, ARRA reports, and the development and presentation of the final comprehensive guidelines should be included in this category.

3. Method of Award

This is a competitive procurement that will result in a contract to complete the contract deliverables and performance requirements as stated in Section C. At the discretion of the Department, any and all proposals may be rejected.

The bidder with the highest total combined Technical Proposal score and Financial Proposal score will be selected. There is a maximum achievable total combined score of 100 (Technical Proposal score 70 plus Financial Proposal score 30). Bidders will be ranked from high to low based on their total combined score. In order to award a contract, the Department will select the bidder that submits the proposal that offers the best value as determined by the combined Technical Proposal and Financial Proposal scores.

In the event of a tie, the determining factor(s) for award, in descending order of importance, will be:

- Lowest cost
- Minority/Women-owned Business Enterprise (MWBE) utilization
- Past experience
- References

<u>Evaluation Committees</u>

Two evaluation committees will be established to review the proposals. The Technical Evaluation Committee will consist of three program experts and one alternative. The alternative will be trained for the review but will not review the proposal unless one of the evaluators cannot complete their duties due to unforeseen circumstances. The Financial Evaluation Committee will consist of three reviewers who will verify the accuracy of the Bid Form and Bid Detail Sheet and conduct the mathematical formula required to determine the final Financial score. A member of the Financial Evaluation Committee may be required to contact the bidder to verify figures or resolve discrepancies in the Bid Form and / or Bid Detail Sheet.

<u>Selection Committee</u>

The Bureau of Early Intervention Administrative Services Unit will collect and tabulate all evaluation scores from the Technical and Financial Review Committees. Technical evaluation scores will be averaged into one Technical score for each proposal. The final Technical score (ranging from 0-70) and the final Financial score (ranging from 0-30) will be added together to establish the proposal's final overall score (ranging from 0-100). Proposals will be sorted in score order, with the highest score listed first. The proposal with the highest overall score will be selected for contract award.

a. Compliance Evaluation

   All responses to the RFP will be subject to a Compliance Evaluation. All responses that pass the Compliance Evaluation will be submitted to both the Technical Evaluation Committee and the Financial Evaluation Committee. Bidders that fail the Compliance Evaluation will be eliminated from the procurement process for this RFP.

In completing the Compliance Evaluation, the Department has the right to request clarifying information or request information that is necessary to satisfy the requirements of the Compliance Evaluation.

The Compliance Evaluation will have a pass/fail screening that includes the following requirements:

1. The eligible bidder has a minimum of two years of successful work experience performing related work on guidelines development.

2. The bidder and its subcontractors do not have a conflict of interest as determined through material submitted with the Transmittal Letter.

3. Responsiveness to RFP – meets delivery due date, contains signed transmittal letter, and contains signed cover sheets for Technical and Financial Proposals.

b. Technical Proposal Score (Total- 70 points)
The Department will evaluate and score proposals based on each bidder's ability to complete the performance requirements as described in this RFP. The evaluation will be based on the bidder's written Technical Proposal; any responses to clarifying questions; information obtained through reference checks; and the Department's and other State agencies' experience with the bidder or its proposed subcontractors. If deemed necessary by the evaluation committee, a bidder may be asked to make a presentation on all or part of their Technical Proposal.

The following formula will be used to determine each bidder's final Technical Proposal score:

t = (x / y) * 70 where:
x = technical score of proposal being scored,
y = technical score of highest technical scoring proposal,
70 = maximum technical points available, and
t = normalized technical score for bidder being scored

For example, the score of the three highest scoring Technical Proposals would be calculated as follows:

Technical Proposal Ranking	**Raw Technical Evaluation Score**	**% of Score to Highest Score**	**Score (x) / Highest Score (Y) x 70**	**Final Score (t)**
Highest score	65 (y)	65/65 =100%	1.000 x 70 = 70.0	**70.0**
Second highest score	55 (x)	55/65 = 84.6%	0.846 x 70 = 59.2	**59.2**
Third highest score	50 (x)	50/65 = 76.9%	0.769 x 70 = 53.8	**53.8**

c. Financial Proposal Score (Total – 30 points)
The Financial Proposal maximum score of 30 will be awarded to the bidder with the lowest total bid (price) for all contract activities for the entire 13 month contract period.

Scores ranging up to 30 will be awarded to bidders by calculating the percentage that the lowest total bid (price) is of the other bidders' total bid, and then multiplying that percentage times the maximum score of 30.

The following formula will be used to determine each bidder's final Financial Proposal score:

t = (x / y) * 30 where:
x = total bid price of proposal being scored,
y = total bid price of the lowest bid,
30 = maximum financial points available, and
t = normalized financial score for bidder being scored

For example, the score of the three highest scoring Financial Proposals would be calculated as follows:

Financial Proposal Ranking	**Total Bid Price**	**% of Lowest Total Bid Price (y/x)**	**% of Lowest Total Bid Price (y/x) x 30**	**Final Score (t)**
Lowest total bid price	$10 (y)	10/10 =100%	1.000 x 30 = 30.0	**30.0**
Second lowest total bid price	$20 (x)	10/20 = 50.0%	0.500 x 30 = 15.0	**15.0**
Third lowest total bid price	$30 (x)	10/30 = 33.3%	0.333 x 30 = 10.0	**10.0**

E. ADMINISTRATIVE

1. Issuing Agency

This RFP is a solicitation issued by the NYS Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all proposals.

2. Inquiries

All substantive questions should be submitted in writing, via mail or e-mail by the date listed in the Schedule of Key Events to:

Terry Ayers
NYS Department of Health
Bureau of Early Intervention
ESP Corning Tower, Room 287
Albany, NY 12237
E-mail: BEIARRA@health.state.ny.us

Questions of a technical nature can be addressed by mail or e-mail at the address above. Questions are of a technical nature if they are limited to how to prepare your proposal (e.g., formatting) rather than relating to the substance of the proposal.

Each inquiry should cite the RFP number, section, and paragraph to which it refers. Written questions will be accepted until the date posted on the Schedule of Key Events. Any questions submitted electronically to the BEIARRA mail log must enter the following in the subject line of the e-mail: BEI ARRA Clinical Program Initiatives RFP 1001251153.

Prospective bidders should note that all clarification and exceptions, including those relating to the terms and conditions of the contract, are to be raised during the Questions and Answers period.

Questions and Answers, as well as any RFP updates and/or modifications, will be posted on the Department of Health's website at http://www.nyhealth.gov/funding/ on or about the date listed in the Schedule of Key Events. Bidders wishing to receive these documents via mail must complete and send in the Non-Mandatory Letter of Intent to Bid (Attachment 1).

3. Non-Mandatory Letter of Intent to Bid

All potential bidders are strongly encouraged to complete and send in the Letter of Intent to Bid (Attachment 1) by the date listed in the Schedule of Key Events. Although the letter is not a requirement of the RFP, information obtained from the letters received will serve as a foundation for a comprehensive list of potential bidders so that all listed potential bidders can receive responses to all questions and other amendments to the RFP. Any and all objections to the requirements in this RFP must be raised and resolved in the Question and Answer phase. Bidders are instructed not to include any assumptions or proposed changes to RFP requirements in their proposal.

4. Submission of Proposals

Interested vendors should submit one original and three signed copies of their Bid Proposal not later than 4:00 p.m. on the date listed in the Schedule of Key Events. Originals and copies should not be bound or stapled; please use rubber bands or clips. Proposals may be submitted via mail service or hand delivered. It is the bidders' responsibility to see that a complete bid package is delivered to the address listed in this section prior to the date and time of the bid due date. Late bids due to delay by the carrier or not received in the Department's mail room by the due date and time will not be considered.

Responses should be clearly marked "Clinical Program Initiatives Early Intervention RFP 1001251153" and sent to:

Terry Ayers
NYS Department of Health
Bureau of Early Intervention
ESP Corning Tower, Room 287
Albany, NY 12237

A Checklist for Proposal Submission has been included as Attachment 8 to this RFP. Bidders should use the checklist to ensure a complete proposal is submitted. Failing to submit a complete proposal may result in the proposal being disqualified from the selection process.

5. Reserved Rights

THE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO:

a. Reject any or all proposals received in response to the RFP;

b. Withdraw the RFP at any time, at the agency's sole discretion;

c. Make an award under the RFP in whole or in part;

d. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;

e. Seek clarifications and revisions of proposals;

f. Use proposal information obtained through site visits, management interviews, and the state's investigation of a bidder's qualifications, experience, ability, or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;

g. Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;

h. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;

i. Change any of the scheduled dates;

j. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;

k. Waive any requirements that are not material;

l. Negotiate with the successful bidder within the scope of the RFP in the best interests of the state;

m. Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;

n. Utilize any and all ideas submitted in the proposals received; and

o. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 60 days from the bid opening; and, can require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation.

6. Payment and Reporting

If awarded a contract, the contractor shall submit invoices to the State's designated payment office:

Bureau of Early Intervention
Administrative Services Unit—ARRA/CP
NYS Department of Health
ESP Corning Tower, Room 287
Albany, NY 12237

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

Contractor payment will be done through submission of monthly vouchers to the Department's designated payment office. The voucher must follow the format provided by the Department. The amount allowed per voucher will be based on the Bid Detail Sheet submitted in response to this RFP. Vouchers will be due 15 days after the end of the month and must be accompanied by a progress report. Vouchers that are submitted without a progress report will not be processed for payment. Failure of the contractor to meet the deliverables outlined in this contract may also result in vouchers not being processed until the deliverables are met.

This contract is funded by the American Recovery and Reinvestment Act of 2009 (ARRA). As such, special reporting requirements will be required before payments can be made. The special reports required are detailed in Attachment 18 of this document.

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us or by telephone at 518-474-4032. The CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at http://www.osc.state.ny.us/epay.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller
Bureau of Accounting Operations
Warrant & Payment Control Unit
110 State Street, 9th Floor
Albany, NY 12236

7. Term of Contract

This agreement shall be effective upon approval of the NYS Office of the State Comptroller (OSC).

The contract resulting from this RFP will for the period September 1, 2010 to September 30, 2011. Renewals or extension will not be granted.

This agreement may be canceled at any time by the Department of Health giving to the contractor not less than 30 days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

8. Debriefing

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than 10 business days from date of award or non-award announcement.

9. Protest Procedures

In the event unsuccessful bidders wish to protest the award resulting from this RFP, bidders should follow the protest procedures established by the OSC. These procedures can be found on the OSC website at: http://www.osc.state.ny.us/agencies/gbull/g_232.htm.

10. 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 the Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must also complete and submit the Vendor Responsibility Attestation (Attachment 15).

11. State Consultant Services Reporting

Chapter 10 of the Laws of 2006 amended certain sections of State Finance Law and Civil Service Law to require disclosure of information regarding contracts for consulting services in New York State.

The winning bidders for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" (Attachment 13) in order to be eligible for a contract.

Winning bidders must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" (Attachment 14) for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service.

Both of these forms are included as attachments to this document.

12. Lobbying Statute Summary

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, provides, among other things, the following as pertains to development of procurement contracts with governmental entities:

a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies, and local benefit corporations;

b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;

c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;

d. authorizes the New York State Commission on Public Integrity to impose fines and penalties against persons/organizations engaging in

impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;

e. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;

f. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;

g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;

h. modifies the governance of the New York State Commission on Public Integrity;

i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;

j. increases the monetary threshold which triggers a lobbyists obligations under the Lobbying Act from $2,000 to $5,000; and

k. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

13. Accessibility of State Agency Web-based Intranet and Internet Information and Applications

Any web-based intranet and internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with New York State Enterprise IT Policy NYS-P08-005, "Accessibility Web-based Information and Applications", and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and internet information and applications are accessible to persons with disabilities. Web content must conform to New York State Enterprise IT Standard NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing will be conducted by Department of Health, contractor or other, and the results of such testing must be satisfactory to the Department of Health before web content will be considered a qualified deliverable under the contract or procurement.

14. Information Security Breach and Notification Act

Section 208 of the State Technology Law (STL) and Section 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private information including an individual's unencrypted personal information plus one or more of the following: social security number, driver's license number or non-driver ID, account number, credit or debit card number plus security code, access code or password which permits access to an individual's financial account, must disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Notification of breach of that private information to all individuals affected or potentially affected must occur in the most expedient time possible without unreasonable delay, after measures are taken to determine the scope of the breach and to restore integrity; provided, however, that notification may be delayed if law enforcement determines that expedient notification would impede a criminal investigation. When notification is necessary, the State entity or person or business conducting business in New York must also notify the following New York State agencies: the Attorney General, the Office of Cyber Security & Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at: http://www.cscic.state.ny.us/security/securitybreach/

15. New York State Tax Law Section 5-a

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than $100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offerer meeting the registration requirements but who is not so registered in accordance with the law.

Contractor must complete and submit directly to the New York State Taxation and Finance, Contractor Certification Form ST-220-TD, attached hereto as Attachment 11. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new form (ST-220-TD) must be filed with DTF.

Contractor must complete and submit to the Department of Health the form ST-220-CA, attached hereto as Attachment 12, certifying that the contractor filed the ST-220-TD with DTF. Failure to make either of these filings may render an offerer non-responsive and non-responsible. Offerers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

16. Piggybacking

New York State Finance Law section 163(10)(e) (see also http://www.ogs.state.ny.us/procurecounc/pgbguidelines.asp) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

17. M/WBE Utilization Plan for Subcontracting and Purchasing

The Department of Health (DOH) encourages the use of Minority and/or Women Owned Business Enterprises (M/WBE's) for any subcontracting or purchasing related to this contract. Bidders who are not currently a New York State certified M/WBE must define the portion of all consumable products and personnel required for this proposal that will be sourced from a M/WBE. The amount must be stated in total dollars and as a percent of the total cost necessary to fulfill the RFP requirement. Supportive documentation must include a detail description of work that is required including products and services.

The goal for usage of M/WBE's is at least 10% of monies used for contract activities (Minority-owned – 5%; Women-owned – 5%). In order to assure a good-faith effort to attain this goal, the DOH requires that bidders complete the M/WBE Utilization Plan (Attachment 16) and submit this Plan with their bid documents.

Bidders that are New York State certified MBE's or WBE's are not required to complete this form. Instead, such bidders must simply provide evidence of their certified status.

Failure to submit the above referenced Plan (or evidence of certified M/WBE status) may result in disqualification of the vendor from consideration for award.

F. APPENDICES

The following will be incorporated as appendices into any contract resulting from this Request for Proposal. This Request for Proposal will, itself, be referenced as an appendix of the contract.

- APPENDIX A - Standard Clauses for All New York State Contracts

- APPENDIX B - Request for Proposal

- APPENDIX C - Proposal
  The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.

- APPENDIX D - General Specifications

- APPENDIX ARRA – Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act

- 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**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, 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,** Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

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

- Appendix G – Notices
- Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)
- Appendix X – Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

G. ATTACHMENTS

1. Letter of Intent to Bid
2. Bid Form
3. Bid Detail Sheet
4. No Bid Form
5. Technical Proposal Cover Sheet
6. Financial Proposal Cover Sheet
7. Transmittal Letter
8. Proposal Checklist
9. Contract Boiler Plate
10. Appendix A, Appendix D, Appendix G, Appendix H, and Appendix X
11. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD
12. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA
13. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
14. State Consultant Services Form B, Contractor's Annual Employment Report
15. Vendor Responsibility Attestation
16. M/WBE Utilization Plan
17. Appendix ARRA – Special Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act
18. Special ARRA Reports
19. New York State Public Health Law, Article 25, Sections 2540-2599
20. 10 NYCRR, Subpart 69-4, (Compilation of the Rules and Regulations of the State of New York)

Attachment 1

LETTER OF INTENT TO BID

This non-mandatory letter of Intent to Bid should be mailed to the address below or submitted via Fax to (518) 486-1090 and received by the date listed in the Schedule of Key Events.

Terry Ayers
Bureau of Early Intervention
NYS Department of Health
ESP Corning Tower, Room 287
Albany, NY 12237

Dear Ms. Ayers:

_____ has received the Request for Proposals, "Clinical Program Initiatives to Improve the Quality and Consistency of Evaluations and Early Intervention Services for the New York State Early Intervention."

____ We intend to submit a proposal to the New York State Department of Health Bureau of Early Intervention not later than 4:00 p.m. on the date listed in the Schedule of Key Events.

Sincerely,

Signature	*Date*	*Signature*	*Date*
Title		*Title*	
Name of Office Representative		*Name of Official Representative*	
Address		*Address*	
Telephone No.	*Fax No.*	*Telephone No.*	*Fax No.*

Attachment 2

NEW YORK STATE
DEPARTMENT OF HEALTH

BID FORM

NYS Early Intervention Clinical Program Initiatives Project
FAU #1001251153

Bidder Name:
Bidder Address:

Bidder Fed ID No:

A. _____bids a total price of $_____
(Name of Offerer/Bidder)

B. Affirmations & Disclosures related to State Finance Law §§ 139-j & 139-k:

Offerer/Bidder affirms that it understands and agrees to comply with the procedures of the Department of Health relative to permissible contacts (provided below) as required by State Finance Law §139-j (3) and §139-j (6) (b).

Pursuant to State Finance Law §§139-j and 139-k, this *Invitation for Bid or Request for Proposal* includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit *bids/proposals* through final award and approval of the Procurement Contract by the DOH and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is/are identified on the first page of this *Invitation for Bid, Request for Proposal, or other solicitation document.* DOH employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the Office of General Services Website at: http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):
   No Yes
   If yes, please answer the next questions:

   1a. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):
   No Yes

1b. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

1c. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity:_____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

_____
_____
_____
_____
_____
_____

(Add additional pages as necessary)

2a. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No Yes

2b. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

_____
_____
_____
_____
_____
_____

(Add additional pages as necessary)

C. Offerer/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.

D. Offerer/Bidder agrees to provide the following documentation either *with their submitted bid/proposal or upon award* as indicated below:

With Bid	Upon Award	
☐	☐	1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.
☐	☐	2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to $100,000)
☐	☐	3. A completed State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term

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_____ (Officer Signature)

_____ (Date)

_____ (Officer Title)

_____ (Telephone)

_____ (e-mail Address)

Attachment 3

NYS Early Intervention Utilization Review Project
Bid Detail Sheet*

Contract Activity	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Quarter 5	Quarter 6	Total
Processing of Department's utilization data							
Developing utilization review methodology, benchmarks and performance measures							
Survey tools to solicit stakeholder input, research into national utilization patterns							
Panel of 4 to 6 program expert							
Data analysis, recommendations, and reports to the Department							
Total							

* All costs associated with the contract activities should be included in prices listed on the bid detail sheet including but not limited to travel, personnel costs (including fringe), overhead, supplies and miscellaneous costs. The bid detail sheet will be used to develop the schedule for contractor payment over the course of the contract. The contractor will not be reimbursed for expenses incurred above what is listed on the bid form.

Attachment 4

NEW YORK STATE
DEPARTMENT OF HEALTH

NO-BID FORM

NYS Early Intervention Clinical Program Initiatives Project
FAU #1001251153

Bidders choosing not to bid are requested to complete the portion of the form below:

☐ We do not provide the requested services. Please remove our firm from your mailing list

☐ We are unable to bid at this time because:

_____

_____

_____

_____

☐ Please retain our firm on your mailing list.

_____
(Firm Name)

_____ _____
(Officer Signature) (Date)

_____ _____
(Officer Title) (Telephone)

_____
(e-mail Address)

FAILURE TO RESPOND TO BID INVITATIONS MAY RESULT IN YOUR FIRM BEING REMOVED FROM OUR MAILING LIST FOR THIS SERVICE.

Attachment 5

NYS Early Intervention Clinical Program Initiatives Project
Technical Proposal Cover Sheet

Name of Bidder *(Legal name as it would appear on a contract)*	
Mailing Address *(Street address, P.O. Box, City, State, ZIP Code)*	
Federal Employee Identification Number:	NYS Charity Registration Number:
Person authorized to act as the contact for this firm in matters regarding this proposal:	
Printed Name *(First, Last)*:	Title:
Telephone number:	Fax number:
E-mail:	
Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:	
Printed Name *(First, Last)*:	Title:
Telephone number:	Fax number:
E-mail:	
(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:	
Printed Name *(First, Last)*:	Title:
Signature of Bidder or Authorized Representative	Date:

Attachment 6

NYS Early Intervention Clinical Program Initiatives Project
Financial Proposal Cover Sheet

Name of Bidder *(Legal name as it would appear on a contract)*	
Mailing Address *(Street address, P.O. Box, City, State, ZIP Code)*	
Federal Employee Identification Number:	NYS Charity Registration Number:
Person authorized to act as the contact for this firm in matters regarding this proposal:	
Printed Name *(First, Last)*:	Title:
Telephone number:	Fax number:
E-mail:	
Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:	
Printed Name *(First, Last)*:	Title:
Telephone number:	Fax number:
E-mail:	
(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:	
Printed Name *(First, Last)*:	Title:
Signature of Bidder or Authorized Representative	Date:

By signing this form the above Bidder or Authorized Representative attests that the bid price submitted on the Bid Form (Attachment 2) will remain valid for a minimum of 365 days from the RFP Due Date

Attachment 7

NYS Early Intervention Clinical Program Initiatives Project
Transmittal Letter

Enclose this letter with the Technical Proposal

I attest to the following bid requirements:

The bidding entity has a minimum of five years of successful work experience developing clinical practice guidelines for programs offering disability services. Evidence of this experience is demonstrated in the enclosed proposal.

Circle one: Yes No

Does the bidding entity or its proposed subcontractors have a business relationship(s) and / or ownership interest that may represent a potential conflict of interest for the bidder as described by the Conflict of Interest specifications of Section C.3 of the RFP?

Circle one: Yes No

If yes, please attach to this transmittal letter a description of all such relationships with a brief narrative of how the potential conflict of interest and / or the disclosure of confidential information relating to this contract will be avoided.

**answering yes to the above question will not automatically disqualify the bidder. Each business relationship detailed will be reviewed to determine if a conflict of interest exists that would prohibit the Department from awarding the contract to the bidder.*

Name of Bidder *(Legal name as it would appear on a contract)*	
Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:	
Printed Name *(First, Last)*:	Title:
Telephone number:	Fax number:
E-mail:	
(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:	
Printed Name *(First, Last)*:	Title:
Signature of Bidder or Authorized Representative	Date:

Attachment 8

NYS Early Intervention Clinical Program Initiatives Project

Checklist for Proposal Submission (For bidder's use only; should not be included in the proposal.)

- ☐ The Technical Proposal and the Financial Proposal are packaged in separate, sealed marked envelopes.
- ☐ Signed original plus three (3) additional copies of the Technical and Financial proposals are enclosed.
- ☐ Technical Proposal Cover Sheet (Attachment 5) is completed, signed, dated and included with the Technical Proposal.
- ☐ Transmittal Letter (Attachment 7) is completed, signed, dated and included with the Technical Proposal.
    - o If a potential conflict of interest is noted, a description of the relationships that would cause the potential conflict of interest must be included with the Transmittal Letter with a narrative of how the potential conflict of interest and / or the disclosure of confidential information relating to the contract will be avoided.
- ☐ Financial Proposal Cover Sheet (Attachment 6) is completed, signed, dated and included with the Financial Proposal.
- ☐ The Bid Form (Attachment 2) is completed, signed, dated and included with the Financial Proposal.
- ☐ The Bid Detail Sheet (Attachment 3) is completed and included with the Financial Proposal.
- ☐ Completed M/WBE forms included in the financial proposal
- ☐ Completed Vendor Responsibly Attestation included

Attachment 9

MISCELLANEOUS / CONSULTANT SERVICES - ARRA

STATE AGENCY (Name and Address):

NYS COMPTROLLER'S NUMBER:

ORIGINATING AGENCY CODE:12000

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM
FROM:
TO:

CONTRACTOR HAS ( ) HAS NOT ( ) TIMELY. FILED WITH THE ATTORNEY GENERAL'S CHARITIES BUREAU ALL REQUIRED PERIODIC OR ANNUAL WRITTEN REPORTS

FUNDING AMOUNT FOR CONTRACT TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

MUNICIPALITY NO. (if applicable):

STATUS:
CONTRACTOR IS ( ) IS NOT ( ) A SECTARIAN ENTITY

CONTRACTOR IS ( ) IS NOT ( ) A NOT-FOR-PROFIT ORGANIZATION

CONTRACTOR IS ( ) IS NOT ( ) A N Y STATE BUSINESS ENTERPRISE

( ) IF MARKED HERE, THIS CONTRACT'S RENEWABLE FOR ___ ADDITIONAL ONE-YEAR PERIOD(S) AT THE SOLE OPTION OF THE STATE AND SUBJECT TO APPROVAL OF THE OFFICE OF THE STATE COMPTROLLER.

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT
Precedence shall be given to these documents in the order listed below.

X	APPENDIX A	Standard Clauses as required by the Attorney General for all State Contracts.
___	APPENDIX X	Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
__	APPENDIX Q	Modification of Standard Department of Health Contract Language
X	STATE OF NEW YORK AGREEMENT	
X	APPENDIX ARRA (Vendor Version)	Special Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act of 2009 (ARRA)
X	APPENDIX D	General Specifications
X	APPENDIX B	Request For Proposal (RFP)
X	APPENDIX C	Proposal
X	APPENDIX E-1	Proof of Workers' Compensation Coverage
X	APPENDIX E-2	Proof of Disability Insurance Coverage
X	APPENDIX G	Notices
___	APPENDIX H	Federal Health Insurance Portability and Accountability Act Business Associate Agreement

CONTRACT NO.:

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

CONTRACTOR	STATE AGENCY
_____	_____
By:_____	By: _____
_____	_____
Printed Name	Printed Name
Title:_____	Title: _____
Date:_____	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 formally requested contractors to submit bid proposals for the project described in Appendix B for which bids were opened on the date noted on the face pages of this AGREEMENT; and

WHEREAS, the STATE has determined that the CONTRACTOR is the successful bidder, and the CONTRACTOR covenants that it is willing and able to undertake the services and provide the necessary materials, labor and equipment in connection therewith;

NOW THEREFORE, in consideration of the terms hereinafter mentioned and also the covenants and obligations moving to each party hereto from the other, the parties hereto do hereby agree as follows:

I. Conditions of Agreement

A. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.

B. The maximum compensation for the contract term of this AGREEMENT shall not exceed the amount specified on the face page hereof.

C. This AGREEMENT may be renewed for additional periods (PERIOD), as specified on the face page hereof.

D. To exercise any renewal option 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. The modification agreement is subject to the approval of the Office of the State Comptroller.

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

F. For the purposes of this AGREEMENT, the terms "Request For Proposal" and "RFP" include all Appendix B documents as marked on the face page hereof.

G. For the purposes of this AGREEMENT, the term "Proposal" includes all Appendix C documents as marked on the face page hereof.

II. Payment and Reporting

A. The CONTRACTOR shall submit complete and accurate invoices and/or vouchers, together with supporting documentation required by the contract, the State Agency and the State Comptroller, to the STATE's designated payment office in order to receive payment.

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B. Payment of such invoices and/or vouchers by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us or by telephone at 518-474-6019. CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9, must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at http://www.osc.state.ny.us/epay.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller
Bureau of Accounting Operations
Warrant & Payment Control Unit
110 State Street, 9th Floor
Albany, NY 12236

C. This AGREEMENT is to be funded with American Recovery and Reinvestment Act (ARRA) funds. Special and timely reporting is required as a condition of award and payment.

The CONTRACTOR shall submit ARRA reports to the STATE on a monthly basis containing the information and formatting as specified by the STATE.

In addition to the detailed reports required in this AGREEMENT, the STATE may request additional reports at its discretion.

The CONTRACTOR is responsible for holding all sub-contractors to these reporting requirements.

III. Term of Contract

A. Upon approval of the NYS Office of the State Comptroller, this AGREEMENT shall be effective for the term as specified on the cover page.

B. This Agreement may be terminated by mutual written agreement of the contracting parties.

C. This Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor's receipt therefor, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the Department. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.

D. This Agreement may be deemed terminated immediately at the option of the Department upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligations by the Department to the Contractor.

E. This agreement may be canceled at any time by the Department of Health giving to 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 canceled.

IV. Proof of Coverage

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:

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

1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

2. 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

3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.

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

1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

2. DB-120.1 – Certificate of Disability Benefits Insurance OR

3. DB-155 – Certificate of Disability Benefits Self-Insurance

Attachment 10

Appendix A,
Appendix D,
Appendix G,
Appendix H (HIPPA), and
Appendix X

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, licenser, 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.

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APPENDIX D
GENERAL SPECIFICATIONS

A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:

All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.

B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.

C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.

D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.

E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.

F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.

G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of

Health in strict accordance with the specifications and pursuant to a contract therefore.

H. 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.

I. Non-Collusive Bidding

By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;

c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTE: Chapter 675 of the Laws of New York for 1966 provides that every bid made to the state or any public department, agency or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the foregoing statement subscribed by the bidder and affirmed by such bidder as true under penalties of perjury.

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made or its designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

Any bid made to the State or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods, sold or to be sold, where competitive bidding is required by statute, rule or regulation and where such bid contains the certification set forth above shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.

K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.

L. Work for Hire Contract
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.

M. Technology Purchases Notification -- The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"

1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.

2. If this RFP results in procurement of software over $20,000, or of other technology over $50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.

3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.

4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

For purposes of this warranty, the following definitions shall apply:

a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.

b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.

c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Warranty Disclosure

At the time of bid, Product order or Product quote, Vendor is required to disclose the following information in writing to Authorized User:

a. For Vendor Product and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized User's Installed Product) which have been specified to perform as a system: Compliance or non-compliance of the Products individually or as a system with the Warranty Statement set forth below; and

b. For Third Party Product Not Specified as Part of a System: Third Party Manufacturer's statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developer's Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developer's Year 2000 Warranty, Vendor shall pass through said third party warranty from the third party manufacturer to the Authorized User but shall not be liable for the testing or verification of Third Party's compliance statement. .

An absence or failure to furnish the required written warranty disclosure shall be deemed a statement of compliance of the product(s) or system(s) in question with the year 2000 warranty statement set forth below.

3. Warranty Statement

Year 2000 warranty compliance shall be defined in accordance with the following warranty statement:

Vendor warrants that Product(s) furnished pursuant to this Agreement shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. Where a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and

expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

This warranty shall survive beyond termination or expiration of the Agreement.

Nothing in this warranty shall be construed to limit any rights or remedies otherwise available under this Agreement.

O. No Subcontracting
Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.

P. Superintendence by Contractor
The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.

Q. Sufficiency of Personnel and Equipment
If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.

R. Experience Requirements
The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.

S. Contract Amendments
This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

The contractor shall not make any changes in the scope of work as outlined herein at any time without prior authorization in writing from the Department of Health and without prior approval in writing of the amount of compensation for such changes.

T. Provisions Upon Default

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor

2. If, in the judgement of the Department of Health, the Contractor 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 this agreement 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 judgement 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.

U. Termination Provision

Upon termination of this agreement, the following shall occur:

1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and

2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.

V. Conflicts

If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

The New York State Department of Health recognizes the need to take

affirmative action to ensure that Minority and Women Owned Business Enterprises are given the opportunity to participate in the performance of the Department of Health's contracting program. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy.

It is the intention of the New York State Department of Health to fully execute the mandate of Executive Law, Article 15-A and provide Minority and Women Owned Business Enterprises with equal opportunity to bid on contracts awarded by this agency in accordance with the State Finance Law.

To implement this affirmative action policy statement, the contractor agrees to file with the Department of Health within 10 days of notice of award, a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Department. The form of the staffing plan shall be supplied by the Department.

After an award of this contract, the contractor agrees to submit to the Department a work force utilization report, in a form and manner required by the Department, of the work force actually utilized on this contract, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Department.

X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:

    a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the

contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).

b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than $500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than $1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than $500,000 for damages arising out of damage to or destruction or property during any single occurrence and not less than $1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.

i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.

ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. 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 non-procurement 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 non-financial 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 government-wide 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 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 5 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 exclude 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.

Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.

2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.

3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.

4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.

5. The CONTRACTOR , its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.

6. All subcontracts shall contain provisions specifying:

   a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and

   b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:

   a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and

b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and

c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

1. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

CC. Provisions Related to New York State Information Security Breach and Notification Act

1. 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.

DD. Lead Guidelines

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.

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 modification (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:_____

Attachments 11 and 12

N.Y.S Taxation and Finance
Contractor Certification Form ST-220TD

AND

N.Y.S Taxation and Finance
Contractor Certification Form ST-220CA

New York State Department of Taxation and Finance

Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD

(5/07)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a (see Need help?* below*).*

Contractor name			
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address *(if different than above)*			

Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	Contractor's telephone number ( )
Covered agency or state agency	Contract number or description	Estimated contract value over the full term of contract (but not including renewals) $
Covered agency address		Covered agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than $100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006),* available at *www.nystax.gov.* Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

Need help?

Internet access: *www.nystax.gov* (for information, forms, and publications)

Fax-on-demand forms: 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications:	1 800 462-8100
Sales Tax Information Center:	1 800 698-2909
From areas outside the U.S. and outside Canada:	(518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only):	1 800 634-2110

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make **only one** entry in each section.

Section 1 — Contractor registration status

☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.

☐ The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

☐ The contractor does not have any affiliates.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

☐ The contractor does not have any subcontractors.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this____ day of _____ , 20 _____

_____ _____
(sign before a notary public) *(title)*

Schedule A — Listing of each entity (contractor, affiliate, or subcontractor) exceeding $300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the $300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to Contractor	B Name	C Address	D Federal ID Number	E Sales Tax ID Number	F Registration in progress

Column A – Enter ***C*** in column A if the contractor; ***A*** if an affiliate of the contractor; or ***S*** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ____ day of _____ in the year 20__ , before me personally appeared _____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_ he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

[Mark an ***X*** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the _____

of _____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of _____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No. _____

New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name				*For covered agency use only* *Contract number or description*
Contractor's principal place of business	City	State	ZIP code	
Contractor's mailing address *(if different than above)*				*Estimated contract value over the full term of contract (but not including renewals)* $
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)			
Contractor's telephone number	Covered agency name			
Covered agency address				*Covered agency telephone number*

I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an **X** *in only one box)*

☐ The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 _____

_____ _____
(sign before a notary public) *(title)*

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency,* with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);

ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and

iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of $100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ____ day of _____ in the year 20___ , before me personally appeared_____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

[Mark an ***X*** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the_____

of_____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of_____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ , LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No.
_____

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?

Internet access: *www.nystax.gov* (for information, forms, and publications)

Fax-on-demand forms: 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

Attachments 13 and 14
(Including Instructions)

13) **State Consultant Services Form A, Contractor's Planned Employment from Contract Start Date through End of Contract Term**

14) **State Consultant Services Form B, Contractor's Annual Employment Report**

Instructions

State Consultant Services
Form A: Contractor's Planned Employment
And
Form B: Contractor's Annual Employment Report

Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15th of each year to the following three addresses:

1. the designated payment office (DPO) outlined in the consulting contract.

2. NYS Office of the State Comptroller
   Bureau of Contracts
   110 State Street, 11th Floor
   Albany, NY 12236
   Attn: Consultant Reporting
   or via fax to –
   (518) 474-8030 or (518) 473-8808

3. NYS Department of Civil Service
   Alfred E. Smith Office Building
   Albany, NY 12239
   Attn: Consultant Reporting

Completing the Reports:

Scope of Contract (Form B only): a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

Number of Employees: the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.

Number of hours (to be) worked: for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

State Consultant Services

FORM A

OSC Use Only
Reporting Code:
Category Code:
Date Contract Approved:

Contractor's Planned Employment
From Contract Start Date through End of Contract Term

New York State Department of Health
Contractor Name:

Agency Code 12000
Contract Number:

Contract Start Date: / /

Contract End Date: / /

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:	0	0	$ 0.00
Grand Total:	0	0	$ 0.00

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared: / /

Page of
(use additional pages if necessary)

State Consultant Services FORM B	OSC Use Only Reporting Code: Category Code:

Contractor's Annual Employment Report
Report Period: April 1, ____ to March 31, ____

New York State Department of Health Agency Code 12000
Contract Number:
Contract Start Date: / / Contract End Date: / /
Contractor Name:
Contractor Address:

Description of Services Being Provided:

Scope of Contract (Chose one that best fits):

Analysis	Evaluation	Research
Training	Data Processing	Computer Programming
Other IT Consulting	Engineering	Architect Services
Surveying	Environmental Services	Health Services
Mental Health Services	Accounting	Auditing
Paralegal	Legal	Other Consulting

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:	0	0	$ 0.00
Grand Total:	0	0	$ 0.00

Name of person who prepared this report:
Title: Phone #:

Preparer's signature:
Date Prepared: / / Page of
(use additional pages if necessary)

Attachment 15

Vendor Responsibility Attestation

To comply with the Vendor Responsibility Requirements outlined in Section E, Administrative, 9. Vendor Responsibility Questionnaire, I hereby certify:

Choose one:

☐ An on-line Vender 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 proposal/bid 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 16

M/WBE Utilization Plan

New York State Department of Health
M/WBE Procurement Forms

The following forms are required to maintain maximum participation in M/WBE procurement and contracting:

1. Bidders Proposed M/WBE Utilization Form
2. Minority Owned Business Enterprise Information
3. Women Owned Business Enterprise Information
4. M/WBE Utilization Plan
5 M/WBE Letter of Intent to Participate
6. M/WBE Staffing Plan

New York State Department of Health

BIDDERS PROPOSED M/WBE UTILIZATION PLAN

Bidder Name:	
RFP Title:	**RFP Number**

Description of Plan to Meet M/WBE Goals

PROJECTED M/WBE USAGE

	%	Amount
1. Total Dollar Value of Proposal Bid	**100**	**$**
2. MBE Goal Applied to the Contract		**$**
3. WBE Goal Applied to the Contract		**$**
4. M/WBE Combined Totals		**$**

New York State Department of Health

MINORITY OWNED BUSINESS ENTERPRISE (MBE) INFORMATION

In order to achieve the MBE Goals, bidder expects to subcontract with New York State certified MINORITY-OWNED entities as follows:

MBE Firm (Exactly as Registered)	Description of Work (Products/Services) [MBE]	Projected MBE Dollar Amount
Name **Address** **City, State, ZIP** **Employer I.D.** **Telephone Number** **( ) -**		**$ _____**
Name **Address** **City, State, ZIP** **Employer I.D.** **Telephone Number** **( ) -**		**$ _____**
Name **Address** **City, State, ZIP** **Employer I.D.** **Telephone Number** **( ) -**		**$ _____**

New York State Department of Health

WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION

In order to achieve the WBE Goals, bidder expects to subcontract with New York State certified WOMEN-OWNED entities as follows:

WBE Firm (Exactly as Registered)	Description of Work (Products/Services) [WBE]	Projected WBE Dollar Amount
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$ _____

New York State Department of Health
M/WBE UTILIZATION PLAN

Agency Contract:_____ Telephone:_____
Contract Number:_____ Dollar Value:_____
Date Bid:_____ Date Let:_____ Completion Date:_____

Contract Awardee/Recipient:_____
Name
_____
Address
_____
Telephone
Description of Contract/Project Location:_____

_____

_____
Subcontractors Purchase with Majority Vendors:

Participation Goals Anticipated:_____ % MBE _____% WBE
Participation Goals Achieved: _____ % MBE _____% WBE

Subcontractors/Suppliers:

Firm Name and City	Description of Work	Dollar Value	Date of Subcontract	Identify if MBE or WBE or NYS Certified

Contractor's Agreement: My firm proposes to use the MBEs listed on this form			
Prepared By: (Signature of Contractor)	Print Contractor's Name:	Telephone #:	Date:
Grant Recipient Affirmative Action Officer Signature (If applicable):			

FOR OFFICE USE ONLY	
Reviewed: By:	Date:
M/WBE Firms Certified:_____	Not Certified:_____
CBO:_____	MCBO:_____

New York State Department of Health

MWBE ONLY

MWBE SUBCONTRACTORS AND SUPPLIERS
LETTER OF INTENT TO PARTICIPATE

To: _____ Federal ID Number: _____
(Name of Contractor)

Proposal/ Contract Number: _____

Contract Scope of Work: _____

_____

The undersigned intends to perform services or provide material, supplies or equipment as:_____

_____

Name of MWBE: _____

Address: _____

Federal ID Number: _____

Telephone Number: _____

Designation:

☐ MBE - Subcontractor

☐ WBE - Subcontractor

☐ MBE - Supplier

☐ WBE - Supplier

Joint venture with:

Name: _____

Address: _____

_____

Fed ID Number: _____

MBE ☐

WBE ☐

Are you New York State Certified MWBE? _____Yes _____No

The undersigned is prepared to perform the following work or services or supply the following materials, supplies or equipment in connection with the above proposal/contract. (Specify in detail the particular items of work or services to be performed or the materials to be supplied): _____

_____

_____

at the following price: $ _____

The contractor proposes, and the undersigned agrees to, the following beginning and completion dates for such work.

Date Proposal/ Contract to be started: _____

Date Proposal/ Contract to be Completed: _____

Date Supplies ordered: _____ Delivery Date: _____

The above work will not further subcontracted without the express written permission of the contractor and notification of the Office. The undersigned will enter into a formal agreement for the above work with the contractor ONLY upon the Contractor's execution of a contract with the Office.

_____ _____

Date Signature of M/WBE Contractor

_____

Printed/Typed Name of M/WBE Contractor

INSTRUCTIONS FOR M/WBE SUBCONTRACTORS AND SUPPLIERS LETTER OF INTENT TO PARTICIPATE

This form is to be submitted with bid attached to the Subcontractor's Information Form in a sealed envelope for each certified Minority or Women-Owned Business enterprise the Bidder/Awardee/Contractor proposes to utilize as subcontractors, service providers or suppliers.

If the MBE or WBE proposed for portion of this proposal/contract is part of a joint or other temporarily-formed business entity of independent business entities, the name and address of the joint venture or temporarily-formed business should be indicated.

New York State Department of Health
M/WBE STAFFING PLAN

Check applicable categories: ☐ **Project Staff** ☐ **Consultants** ☐ **Subcontractors**

Contractor Name_____

Address

_____

_____

	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
STAFF							
Administrators							
Managers/Supervisors							
Professionals							
Technicians							
Clerical							
Craft/Maintenance							
Operatives							
Laborers							
Public Assistance Recipients							
TOTAL							

_____

(Name and Title)

_____

Date

Attachment 17

APPENDIX ARRA - VENDOR

Special Language for Contracts
Funded in Whole or in Part by the American Recovery and Reinvestment Act of 2009 (ARRA)*

A. REGISTRATION REQUIREMENTS - DUNS

CONTRACTOR agrees to obtain a Data Universal Numbering System (DUNS) number (or update its existing DUNS record) as a condition for receiving this award.

For all documentation related to this AGREEMENT, the CONTRACTOR shall:

(a) Provide the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the CONTRACTOR's name and address exactly as stated in the AGREEMENT. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the CONTRACTOR to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts .

(b) Contact Dun and Bradstreet directly to obtain a DUNS number, if it does not already have one.

(1) A CONTRACTOR may obtain a DUNS number—

(i) Via the Internet at http://fedgov.dnb.com/webform or if the CONTRACTOR does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The CONTRACTOR should indicate that it is an CONTRACTOR for a New York State Government contract when contacting the local Dun and Bradstreet office.

(c) The CONTRACTOR should be prepared to provide the following information to either obtain a DUNS number or to update its existing DUNS record:

(1) Company legal business name.
(2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
(3) Company physical street address, city, state and ZIP Code.
(4) Company mailing address, city, state and ZIP Code (if separate from physical).
(5) Company telephone number.
(6) Date the company was started.
(7) Number of employees at your location.
(8) Chief executive officer/key manager.
(9) Line of business (industry).
(10)Company Headquarters name and address (reporting relationship within your entity).

B. WAGE RATES

Notwithstanding any other provision of law ,and in a manner consistent with other provisions in the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded

directly by, or assisted in whole or in part by and through the Federal Government pursuant to the ARRA, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.

C. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS

Consistent with Section 1605 of the ARRA, the CONTRACTOR agrees to the following conditions:

(a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that:

(1) Applying subsection (a) would be inconsistent with the public interest;

(2) Iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) Inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

D. SPECIAL REPORTING REQUIREMENTS

In addition to regular Department of Health reporting requirements, the CONTRACTOR will be required to provide additional information related to this AGREEMENT. In accordance with Section 1512(c) of the ARRA, which requires, as a condition of receipt of funds, regular reporting on the use of funds, and the data elements of the Federal Funding Accountability and Transparency Act of 2006, as amended, CONTRACTORS that receive awards funded in whole or in part by the ARRA, must report information to the STATE **monthly** . Information to be reported may include but not be limited to the following:

(1) The name of the project or activity;
(2) The dollar amount of CONTRACTOR invoices;
(3) The supplies delivered and/or services performed;
(4) An assessment of the completion status of the project or activity;
(5) An estimate of the number of jobs created and the number of jobs retained as a result of the ARRA funds;
(6) The names and total compensation of each of the five most highly compensated officers for the calendar year in which the contract is awarded;
(7) Specific information on first -tier subcontractors.

The CONTRACTOR will maintain detailed records of its expenditure of ARRA funds in connection with this AGREEMENT and submit reports as requested by the STATE. The STATE, as recipient of funds under

the ARRA, is subject to timely reporting requirements and oversight by federal agency inspectors. In addition to the detailed reports required in this AGREEMENT, the STATE may request additional reports at its discretion.

Payment for services rendered will be contingent on timely submission of the required reports.

The CONTRACTOR is also responsible for holding all sub-contractors to these reporting requirements.

Specific reporting requirements are detailed in Section II-C of the AGREEMENT.

E. FEDERAL OVERSIGHT

The following ARRA Sections are incorporated into this AGREEMENT:

SEC. 902. ACCESS OF GOVERNMENT ACCOUNTABILITY OFFICE.

(a) ACCESS.—Each contract awarded using funds made available in this Act shall provide that the Comptroller General and his representatives are authorized to:

(1) Examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) Interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

SEC. 1514. INSPECTOR GENERAL REVIEWS.
(a) REVIEWS.—Any inspector general of a Federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using funds made available in this Act. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in this Act, shall be posted on the inspector general's website and linked to the website established by section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

SEC. 1515. ACCESS OF OFFICES OF INSPECTOR GENERAL TO CERTAIN RECORDS AND EMPLOYEES.
(a) ACCESS.—With respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized to:
(1) Examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and
(2) Interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.
(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

F. WHISTLEBLOWER PROTECTIONS

The CONTRACTOR shall post notice of employees rights and remedies for whistleblower protections under Section 1553 of the ARRA. The substance of this clause shall be included in all subcontracts. At minimum, the posting shall include the following information:

Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, provides protections for certain individuals who make specified disclosures relating to Recovery Act funds. Any non-federal employer receiving recovery funds is required to post a notice of the rights and remedies provided under this section of the Act.

Who is protected?
Employees of non-federal employers receiving recovery funds, including state and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

What are whistleblowers protected from?
Covered employees are protected from being discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure.

What kinds of disclosures are protected?
To be protected, the disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives.

In addition, the disclosure must involve information that the employee believes is evidence of:

- *gross mismanagement of an agency contract or grant relating to recovery funds;*
- *a gross waste of recovery funds;*
- *a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;*
- *an abuse of authority related to the implementation or use of recovery funds; or*
- *a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.*

How to report a whistleblower reprisal complaint:

If you have a whistleblower reprisal complaint please refer to the Agency Fraud Hotlines page for links to the Inspectors General (http://www.recovery.gov/?q=content/agency-fraud-hotlines).

G. MALFEASANCE

CONTRACTORS or sub-contractors awarded funds made available under the ARRA shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

H. CIVIL RIGHTS OBLIGATIONS

Recipients and sub-recipients of ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education

Amendments of 1972 (prohibiting sex discrimination in education and training programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services), and a variety of program-specific statutes with nondiscrimination requirements.

Other civil rights laws may impose additional requirements on recipients and sub-recipients. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religious, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting discriminatory housing practices based upon race, color, religion, sex, national origin, disability, or familial status), as well as any other applicable civil rights laws.

I. PUBLICATION

Information gathered from this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. This Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code or under any other applicable law or regulation.

J. ONE-TIME FUNDING

ARRA funding provided for this AGREEMENT should be considered one-time funding and may not be available beyond the dates included in the AGREEMENT. All payments by the STATE will be contingent upon receipt of timely and acceptable reports as required in the AGREEMENT.

K. JOB POSTING REQUIREMENTS

The CONTRACTOR shall post any jobs that it creates or seeks to fill as a result of this ARRA funding on the New York State Department of Labor website (www.labor.ny.gov) in addition to any other postings made. Any advertisements posted for such jobs or positions must indicate ARRA funding.

* This Appendix incorporates language mandated by Governor David A. Paterson in his May 27, 2009 executive memorandum to State Agencies that Administer ARRA Funds (Rider A).

Attachment 18

Special ARRA Reports

December 31,2009

Changes to Monthly Reporting Template Instructions – Prime Vendors

The Office of Management and Budget (OMB) issued updated guidance on 12/18/09 revising the methodology for reporting jobs created or retained as a result of Recovery Act funding[1]. The full text of the OMB memorandum is available at http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf. Under the new rules, the subjective assessment of jobs created or retained as a consequence of an ARRA award has been replaced by a requirement to report only those jobs funded by the ARRA contract award. In addition, DOH as prime recipient will now report total FTEs for jobs created or retained by the ARRA contract award on a quarterly basis, not cumulatively over the contract period as specified under previous guidance.

Accordingly, DOH has made the following changes to its previously issued instructions to prime vendors for monthly ARRA contract reporting requirements:

Prime Vendor – Jobs Created or Retained: The definition of jobs created or retained has been revised as follows:

- A job created is a new position created or filled, or an existing unfilled position that is filled, that is funded by the Recovery Act contract.
- A job retained is an existing position that is now funded by the Recovery Act contract.
- A job funded by the Recovery Act is one in which the wages and salaries are either paid for or will be reimbursed by Recovery Act contract funding.

Note that a job that is paid initially with non-Recovery Act contract dollars may be reported as created or retained as long as such dollars eventually will be reimbursed with Recovery Act contract funds for the jobs being reported. For example, a prime vendor may decide to being hiring new employees as soon as they are notified of the amount of their ARRA contract, but before Recovery Act contract dollars are received or expended. If, in this situation, the non-Recovery Act contract dollars that are paying the wages of the new employees were used as an advance on the Recovery Act contract dollars awarded, the prime vendor can appropriately report these jobs as created or retained.

This new guidance replaces item (1) in the previous DOH instructions. Item (2) has been deleted—see the revised "ARRA Funded Hours" item below for the methodology for split-funded jobs. Item (3) and the second bullet point in item (5) have also been deleted—prime vendors should simply report all hours worked and funded by the Recovery Act contract.

ARRA Funded Hours (formerly *ARRA Project Hours*): Number of hours employee worked in which salaries and wages were either paid for or will be reimbursed with Recovery Act contract funds. Include all Recovery Act funded hours, including vacation, holiday, and sick time. If the employee's job was only partially funded by the Recovery Act contract, count only those hours funded by the Recovery Act contract. If the prime vendor does not have specific funding source information for each individual employee, calculate the proportion of Recovery Act contract funding against the full funding for each position. Use that proportion as the basis for calculating a proportionate share of Recovery Act funded hours. Use this proportionate share of hours as the amount reported.

This language replaces prior guidance specifying that hours reported should be the number of hours employee worked on the ARRA project in a job deemed to have been created or retained by ARRA, regardless of the funding source for wages and salaries related to jobs so designated.

[1] Note that "ARRA contract award" and "Recovery Act contract" are used interchangeably. Prime vendors must submit separate Monthly Reporting Templates for each DOH ARRA contract award and should **not** accumulate data across all DOH ARRA awards or all Recovery Act funds received from any source.

Job Category: This field has been removed from the Monthly Reporting Template. Prime recipients do not need to distinguish between created and retained jobs. See the field "Supporting Documents Submitted to DOH" below for instructions on required documentation.

Comments on Job Impact: Include in comments any plans for reimbursement by Recovery Act contract funds if salaries and wages for reported jobs have not yet been paid for by the Recovery Act contract.

Supporting Documentation Submitted to DOH: Prime vendors must maintain documentation to substantiate that salaries and wages for jobs created or retained by the Recovery Act contract award are either paid for or will be reimbursed with Recovery Act contract funding. Prime vendors no longer need to document that a created or retained position would not have existed but for the ARRA contract award.

These new rules should be implemented for the quarter ended 12/31/09 to the extent practicable. Prime vendors may submit revised reports for October, November and December 2009 reflecting the revised jobs methodology. Do not revise reports for months prior to October 2009—jobs reports for those months should continue to follow prior guidance.

Please contact the DOH contract administrator if you have questions or need additional information regarding these changes. Questions may also be submitted to the DOH using the email address doharrareporting@health.state.ny.us.

NEW YORK STATE DEPARTMENT OF HEALTH
SPECIAL ARRA REPORTING - PROCUREMENTS ("Prime Vendors")
MONTHLY DATA ELEMENTS

ARRA Grant #		**Project Period**		**Report Due Date:**
Vendor DUNS #		**Report Month/Year**		
Vendor HQ ZIP Code +4		**Final Report**		
Vendor Name				

Prime Vendor Reporting - Jobs Created or Retained	
Did procurements for this ARRA project cause any vendor jobs to be created or retained?	

Prime Vendor- ARRA Funded Hours

Employee Name	Job Title	Type of Work	Standard Hours in Full-Time Schedule	ARRA Funded Hours
Prime Vendor - ARRA Funded Hours Totals				

Comments on Job Impact	
Supporting Documentation Submitted to NYSDOH?	

Certification:

I certify to the best of my knowledge and belief that the information presented in this report is correct and complete and that all reported activity is for the purposes set forth in the award document.

Typed or Printed Name and Title		**Telephone #**	
Signature of Authorized Certifying Official		**Email address**	
		Date Report Submitted	

NEW YORK STATE DEPARTMENT OF HEALTH
SPECIAL ARRA REPORTING – PROCUREMENTS ("Prime Vendors")
MONTHLY DATA ELEMENTS

These instructions supplement the ARRA reporting guidance available on the federal Recovery.gov Web site. Contractors should review the materials provided on the Recovery.gov Web site, relevant Federal Register notices, and the further guidance listed below for a full understanding of reporting requirements under the Recovery Act. These instructions build on publications issued by the Office of Management and Budget, including those referenced below.

For questions relating to these instructions, contact doharrareporting@health.state.ny.us or your contract administrator.

For further guidance, please review:

1. OMB June 22 guidance on reporting: http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf
2. Frequently Asked Questions to expand on the guidance: http://www.whitehouse.gov/omb/recovery_faqs/
3. Data dictionary describing data elements required in reports: http://www.recovery.gov/?1=content/recipient-reporting
4. OMB December 18, 2009 Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates: http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf

Instructions for completing *Special ARRA Reporting – Procurements* Template

The *Special ARRA Reporting – Procurements* template provides the data elements and format for monthly ARRA grant reporting. ARRA Section 1512 requires DOH ("prime recipient") to submit quarterly reports on expenditures, performance status, and job creation for each ARRA grant received. This template captures contractor ("prime vendor") information that DOH will either report directly on OMB's FederalReportingTemplate – Grants and Loans or use to support DOH inputs. DOH may alter the data elements and formats in this template at any time. In addition, DOH will be making an Excel version of this template available and will strongly encourage electronic submission of this template to DOH when the Excel version is available.

ARRA Grant #: Federal grant number assigned to prime recipient.

Project Period: Contract period as indicated on DOH contract with prime vendor.

Prime vendor Name: Legal name of prime vendor.

Prime vendor DUNS #: Prime vendor organization's 9-digit Data Universal Numbering System (DUNS) number.

Report Month and Year: Month and year for which report is being submitted.

Final Report: Indicate whether the report is the last report for the project.

Prime Vendor – Jobs Created or Retained: Prime vendors must list hours worked for each job created or retained as a result of ARRA funding for this grant project. The points below offer general guidance; refer to the federal Web sites listed above for a more comprehensive review of ARRA jobs reporting requirements.

1. A job created is a new position created and filled, or an existing unfilled position that is filled, that is funded by the Recovery Act.
2. A job retained is an existing position that is now funded by the Recovery Act.

3. A funded job is one in which the wages and salaries are either paid for or will be reimbursed with Recovery Act funding. Note that a job that is paid initially with non-Recovery Act dollars may be reported as created or retained as long as such dollars eventually will be reimbursed with Recovery Act funds for the jobs being reported. For example, a prime vendor may decide to begin hiring new employees as soon as they are notified of the amount of their ARRA contract, but before Recovery Act dollars are received or expended. If, in this situation, if the non-Recovery Act dollars that are paying the wages of the new employees were used as an advance on the Recovery Act dollars awarded, the prime vendor can appropriately report these jobs as created or retained.

4. Part-time jobs can be reported, subject to the above conditions.

5. Prime vendors should not attempt to report on the employment impact upon materials suppliers and central service providers (so-called "indirect" jobs) or on the local community ("induced" jobs).

6. Only include jobs created in the United States, the District of Columbia, and outlying areas.

Employee Name: Last name, first name of employee working in a job fully or partially funded by ARRA dollars.

Job Title: Position title assigned by prime vendor organization.

Type of Work: Select a classification to describe the job created or retained. A list of type of work classifications will be provided by the DOH contract manager.

Standard Hours in Full-time Schedule: Number of paid work days in payroll reporting period ***X*** number of paid hours in a standard full-time day:

ARRA Funded Hours: Number of hours employee worked in which salaries and wages were either paid for or will be reimbursed with Recovery Act funds. Include all Recovery Act funded hours, including vacation, holiday, and sick time. If the employee's job was only partially funded by the Recovery Act, count only those hours funded by the Recovery Act. If the prime vendor does not have specific funding source information for each individual employee, calculate the proportion of Recovery Act funding against the full funding for each position. Use that proportion as the basis for calculating a proportionate share of Recovery Act funded hours. Use this proportionate share of hours as the amount reported.

Comments on Job Impact: Additional information regarding determination of hours worked, jobs impact beyond specific positions listed, basis for determining proportionate shares for jobs on projects with multiple funding sources, plans for reimbursement by Recovery Act funds if salaries and wages for reported jobs have not yet been paid for by the Recovery Act, explanation if expected job creation or retention did not occur, or other information pertinent to the job impact of the ARRA contract.

Supporting Documentation Submitted to DOH: Prime vendors must maintain documentation to substantiate that salaries and wages for jobs created or retained by the ARRA contract are either paid for or will be reimbursed with Recovery Act funding. Enter "Y" if prime vendor has provided DOH with appropriate documentation for hours reported.

NEW YORK STATE DEPARTMENT OF HEALTH
SPECIAL ARRA REPORTING - PROCUREMENTS ("Prime Vendors")
MONTHLY DATA ELEMENTS

ARRA Grant #		**Project Period**		**Report Due Date:**
Vendor DUNS #		**Report Month/Year**		
Vendor HQ ZIP Code +4		**Final Report**		
Vendor Name				

Prime Vendor Reporting - Jobs Created or Retained	
Did procurements for this ARRA project cause any vendor jobs to be created or retained?	

Prime Vendor- ARRA Funded Hours

Employee Name	Job Title	Type of Work	Standard Hours in Full-Time Schedule	ARRA Funded Hours
Prime Vendor - ARRA Funded Hours Totals				

Comments on Job Impact	
Supporting Documentation Submitted to NYSDOH?	

Certification:

I certify to the best of my knowledge and belief that the information presented in this report is correct and complete and that all reported activity is for the purposes set forth in the award document.

Typed or Printed Name and Title		**Telephone #**	
Signature of Authorized Certifying Official		**Email address**	
		Date Report Submitted	

Attachment 19

New York State Public Health Law
Article 25
Sections 2540-2559

TITLE II-A EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES AND THEIR FAMILIES

Section 2540. Establishment of early intervention program.
2541. Definitions.
2542. Comprehensive child find system and public awareness program.
2543. Service coordinators.
2544. Screening and evaluations.
2545. Individualized family services plans ("IFSP").
2546. Interim services.
2547. Respite services.
2547-a. Day care support services.
2548. Transition plan.
2549. Due process.
2550. Responsibilities of lead agency.
2551. Coordinated standards and procedures.
2552. Responsibility of municipality.
2553. Early intervention coordinating council.
2554. Local early intervention coordinating councils.
2556. Administrative costs.
2557. Financial responsibility and reimbursement.
2558. Responsibility for certain temporary-resident infants and toddlers with disabilities.
2559. Third party insurance and medical assistance program payments.
2559-a. Transportation.
2559-b. Regulations.

S 2540. Establishment of early intervention program. There is established an early intervention program under the administration of the commissioner.

S 2541. Definitions. As used in this title the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "Children at risk" means children who may experience a disability because of medical, biological or environmental factors which may

produce developmental delay, as determined by the commissioner through regulation.

2. "Coordinated standards and procedures" means standards and procedures developed by state early intervention service agencies pursuant to section twenty-five hundred fifty-one of this title.

3. "Council" means the early intervention coordinating council established under section twenty-five hundred fifty-three of this title.

4. "Developmental delay" means that a child has not attained developmental milestones expected for the child`s chronological age, as measured by qualified professionals using appropriate diagnostic instruments and/or procedures and informed clinical opinion, in one or more of the following areas of development: cognitive, physical, communication, social or emotional, or adaptive.

5. "Disability" means:

(a) a developmental delay; or

(b) a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, such as Down syndrome or other chromosomal abnormalities, sensory impairments, inborn errors of metabolism or fetal alcohol syndrome.

6. "Early intervention official" means an appropriate municipal official designated by the chief executive officer of a municipality and an appropriate designee of such official.

7. "Early intervention services" means developmental services that:

(a) are provided under public supervision;

(b) are selected in collaboration with the parents;

(c) are designed to meet a child`s developmental needs in any one or more of the following areas:

(i) physical development, including vision and hearing,

(ii) cognitive development,

(iii) communication development,

(iv) social or emotional development, or

(v) adaptive development;

(d) meet the coordinated standards and procedures;

(e) are provided by qualified personnel;

(f) are provided in conformity with an IFSP;

(g) are, to the maximum extent appropriate, provided in natural environments, including the home and community settings where children

without disabilities would participate;

(h) include, as appropriate:

(i) family training, counseling, home visits and parent support groups,

(ii) special instruction,

(iii) speech pathology and audiology,

(iv) occupational therapy,

(v) physical therapy,

(vi) psychological services,

(vii) case management services, hereafter referred to as service coordination services,

(viii) medical services for diagnostic or evaluation purposes, subject to reasonable prior approval requirements for exceptionally expensive services, as prescribed by the commissioner,

(ix) early identification, screening, and assessment services,

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

(xi) nursing services,

(xii) nutrition services,

(xiii) social work services,

(xiv) vision services,

(xv) assistive technology devices and assistive technology services,

(xvi) transportation and related costs that are necessary to enable a child and the child`s family to receive early intervention services, and

(xvii) other appropriate services approved by the commissioner.

(i) are cost-effective.

8. (a) "Eligible child" means an infant or toddler from birth through age two who has a disability; provided, however, that any toddler with a disability who has been determined to be eligible for program services under section forty-four hundred ten of the education law and:

(i) who turns three years of age on or before the thirty-first day of August shall, if requested by the parent, be eligible to receive early intervention services contained in an IFSP until the first day of September of that calendar year; or

(ii) who turns three years of age on or after the first day of September shall, if requested by the parent and if already receiving services pursuant to this title, be eligible to continue receiving such

services until the second day of January of the following calendar year.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a child who receives services pursuant to section forty-four hundred ten of the education law shall not be an eligible child.

9. "Evaluation" means a multidisciplinary professional, objective assessment conducted by appropriately qualified personnel and conducted pursuant to section twenty-five hundred forty-four of this title to determine a child`s eligibility under this title.

10. "Evaluator" means a team of two or more professionals approved pursuant to section twenty-five hundred fifty-one of this title to conduct screenings and evaluations.

11. "IFSP" means the individualized family service plan adopted in accordance with section twenty-five hundred forty-five of this title.

12. "Lead agency" means the department of health, the public agency responsible for the administration of the early intervention system in collaboration with the state early intervention service agencies.

13. "Municipality" means a county outside the city of New York or the city of New York in the case of a county contained within the city of New York.

13-a. Subject to federal law and regulations, "natural environment" or "natural setting" means a setting that is natural or normal for the child`s age peers who have no disability.

14. "Parent" means parent or person in parental relation to the child. With respect to a child who has no parent or person in a parental relation, "parent" shall mean the person designated to serve in parental relation for the purposes of this title, pursuant to regulations of the commissioner promulgated in consultation with the commissioner of social services for children in foster care.

15. "Qualified personnel" means:

(a) persons holding a state approved or recognized certificate, license or registration in one of the following fields:

(i) special education teachers;

(ii) speech and language pathologists and audiologists;

(iii) occupational therapists;

(iv) physical therapists;

(v) social workers;

(vi) nurses;

(vii) dieticians or nutritionists;

(viii) other persons designated by the commissioner who meet requirements that apply to the area in which the person is providing early intervention services, where not in conflict with existing professional licensing, certification and/or registration requirements.

(b) persons holding a state approved license in one of the following fields:

(i) psychologists; or

(ii) physicians.

16. "Service coordinator" means a person who:

(a) meets the qualifications established in federal law and regulation and demonstrates knowledge and understanding of:

(i) infants and toddlers who may be eligible for services under this title;

(ii) principles of family-centered services;

(iii) part H of the federal individuals with disabilities education act and its corresponding regulations;

(iv) the nature and scope of services available under this title; and

(v) the requirements for authorizing and paying for such services and other pertinent information;

(b) is responsible for:

(i) assisting eligible children and their families in gaining access to services listed on the IFSP;

(ii) coordinating early intervention services with other services such as medical and health services provided to the child;

(iii) coordinating the performance of evaluations and assessments;

(iv) participating in the development, monitoring and evaluation of the IFSP;

(v) assisting the parent in identifying available service providers;

(vi) coordinating service delivery;

(vii) informing the family of advocacy services;

(viii) where appropriate, facilitating the transition of the child to other appropriate services; and

(ix) assisting in resolving any disputes which may arise between the family and service providers, as necessary and appropriate; and

(c) meets such other standards as are specified pursuant to section

twenty-five hundred fifty-one of this title.

17. "State early intervention service agencies" means the departments of health, education and social services and the offices of mental health, mental retardation and developmental disabilities and office of alcoholism and substance abuse services.

18. "Year" shall mean the twelve-month period commencing July first unless otherwise specified.

S 2542. Comprehensive child find system and public awareness program.

1. The commissioner shall develop a comprehensive child find system that ensures that eligible children in the state are identified, located, referred to the early intervention official and evaluated. Such system shall:

(a) require early intervention officials to identify and locate eligible children within their municipality;

(b) be coordinated with efforts to identify, locate and track children conducted by other agencies responsible for services to infants and toddlers and their families, including the efforts in (i) part B of the federal individuals with disabilities education act, including early childhood direction centers, (ii) the maternal and child health program under title V of the federal social security act, including the infant health assessment program, (iii) medicaid`s early periodic screening, diagnosis and treatment program under title XIX of the federal social security act, and (iv) the federal supplemental security income program; and

(c) provide for the identification, tracking and screening of children at risk of developmental delay, using resources available through the programs, identified in paragraph (b) of this subdivision and such other available resources as the commissioner shall commit to this purpose.

2. The commissioner shall develop, implement, and maintain a public awareness program to inform the general public and the professional community of the availability of the early intervention program and the benefits of services to infants and toddlers with disabilities and their families. The program shall include materials which describe the normal developmental achievements of young children, identification and procedures for referral of children with disabilities, and how to gain access to early intervention services.

3. The following persons and entities, within two working days of identifying an infant or toddler suspected of having a disability or at risk of having a disability, shall refer such infant or toddler to the early intervention official or the health officer of the public health district in which the infant or toddler resides, as designated by the municipality, but in no event over the objection of the parent made in accordance with procedures established by the department for use by such primary referral sources, unless the child has already been referred: hospitals, child health care providers, day care programs, local school districts, public health facilities, early childhood direction centers and such other social service and health care agencies and providers as the commissioner shall specify in regulation; provided, however, that the department shall establish procedures, including regulations if required, to ensure that primary referral sources adequately inform the parent or guardian about the early intervention program, including through brochures and written materials created or approved by the department.

4. The commissioner shall provide each early intervention official with a list of all approved evaluators and service coordinators in the municipality or geographic area proximate to such municipality or, with respect to the city of New York, subdivisions of the city as prescribed by the commissioner.

Such list of approved evaluators shall be updated at least annually and shall describe the specific areas of expertise of each qualified evaluator, if known.

S 2543. Service coordinators. 1. Upon referral to the early intervention official of a child thought to be an eligible child by a parent or professional, the early intervention official shall promptly designate an initial service coordinator, selecting whenever appropriate a service coordinator who has an established relationship with the child or family, and shall promptly notify the parent of such designation.

2. The initial service coordinator shall promptly arrange a contact with the parent after such designation, provided that such contact must be in a time, place and manner reasonably convenient for the parent and consistent with the timeliness requirements of this title.

3. The parent of the eligible child shall provide and the early

intervention official shall collect such information and or documentation as is necessary and sufficient to determine the eligible child`s third party payor coverage and to seek payment from all third party payors including the medical assistance program and other governmental agency payors.

S 2544. Screening and evaluations. 1. Each child thought to be an eligible child is entitled to a multidisciplinary evaluation, and the early intervention official shall ensure such evaluation, with parental consent.

2. (a) The parent may select an evaluator from the list of approved evaluators as described in section twenty-five hundred forty-two of this title to conduct the evaluation. The parent or evaluator shall immediately notify the early intervention official of such selection. The evaluator may begin the evaluation no sooner than four working days after such notification, unless otherwise approved by the initial service coordinator.

(b) the evaluator shall designate an individual as the principal contact for the multidisciplinary team.

3. (a) To determine eligibility, an evaluator shall, with parental consent, either (i) screen a child to determine what type of evaluation, if any, is warranted, or (ii) provide a multidisciplinary evaluation. In making the determination whether to provide an evaluation, the evaluator may rely on a recommendation from a physician or other qualified person as designated by the commissioner.

(b) If, based upon the screening, a child is believed to be eligible, or if otherwise elected by the parent, the child shall, with the consent of a parent, receive a multidisciplinary evaluation. All evaluations shall be conducted in accordance with the coordinated standards and procedures and with regulations promulgated by the commissioner.

4. The evaluation of each child shall:

(a) be conducted by personnel trained to utilize appropriate methods and procedures;

(b) be based on informed clinical opinion;

(c) be made without regard to the availability of services in the municipality or who might provide such services; and

(d) with parental consent, include the following:

(i) a review of pertinent records related to the child`s current health status and medical history;

(ii) an evaluation of the child`s level of functioning in each of the developmental areas set forth in paragraph (c) of subdivision seven of section twenty-five hundred forty-one of this title;

(iii) an assessment of the unique needs of the child in terms of each of the developmental areas set forth in paragraph (c) of subdivision seven of section twenty-five hundred forty-one of this title, including the identification of services appropriate to meet those needs;

(iv) an evaluation of the transportation needs of the child, if any; and

(v) such other matters as the commissioner may prescribe in regulation.

5. An evaluation shall not include a reference to any specific provider of early intervention services.

6. Nothing in this section shall restrict an evaluator from utilizing, in addition to findings from his or her personal examination, other examinations, evaluations or assessments conducted for such child, including those conducted prior to the evaluation under this section, if such examinations, evaluations or assessments are consistent with the coordinated standards and procedures.

7. Following completion of the evaluation, the evaluator shall provide the parent and service coordinator with a copy of a summary of the full evaluation. To the extent practicable, the summary shall be provided in the native language of the parent. Upon request of the parent, early intervention official or service coordinator, the evaluator shall provide a copy of the full evaluation to such parent, early intervention official or service coordinator.

8. A parent who disagrees with the results of an evaluation may obtain an additional evaluation or partial evaluation at public expense to the extent authorized by federal law or regulation.

9. Upon receipt of the results of an evaluation, a service coordinator may, with parental consent, require additional diagnostic information regarding the condition of the child, provided, however, that such evaluation or assessment is not unnecessarily duplicative or invasive to the child, and provided further, that:

(a) where the evaluation has established the child`s eligibility, such

additional diagnostic information shall be used solely to provide additional information to the parent and service coordinator regarding the child`s need for services and cannot be a basis for refuting eligibility;

(b) the service coordinator provides the parent with a written explanation of the basis for requiring additional diagnostic information;

(c) the additional diagnostic procedures are at no expense to the parent; and

(d) the evaluation is completed and a meeting to develop an IFSP is held within the time prescribed in subdivision one of section twenty-five hundred forty-five of this title.

10. (a) If the screening indicates that the infant or toddler is not an eligible child and the parent elects not to have an evaluation, or if the evaluation indicates that the infant or toddler is not an eligible child, the service coordinator shall inform the parent of other programs or services that may benefit such child, and the child`s family and, with parental consent, refer such child to such programs or services.

(b) A parent may appeal a determination that a child is ineligible pursuant to the provisions of section twenty-five hundred forty-nine of this title, provided, however, that a parent may not initiate such appeal until all evaluations are completed.

11. Notwithstanding any other provision of law to the contrary, where a request has been made to review an IFSP prior to the six-month interval provided in subdivision seven of section twenty-five hundred forty-five of this title for purposes of increasing frequency or duration of an approved service, including service coordination, the early intervention official may require an additional evaluation or partial evaluation at public expense by an approved evaluator other than the current provider of service, with parent consent.

S 2545. Individualized family services plans ("IFSP"). 1. If the evaluator determines that the infant or toddler is an eligible child, the early intervention official shall convene a meeting, at a time and place convenient to the parent, consisting of the parent, such official, the evaluator, the initial service coordinator and any other persons who the parent or the initial service coordinator, with the parent`s

consent, invite, provided that such meeting shall be held no later than forty-five days from the date that the early intervention official was first contacted regarding the child, except under exceptional circumstances prescribed by the commissioner. The early intervention official, at or prior to the time of scheduling the meeting, shall inform the parent of the right to invite any person to the meeting.

2. The early intervention official, initial service coordinator, parent and evaluator shall develop an IFSP for an eligible child whose parents request services. The IFSP shall be in writing and shall include, but not be limited to:

(a) a statement, based on objective criteria, of the infant`s or toddler`s present levels of physical development, including vision and hearing; cognitive development; communication development; social or emotional development; and adaptive development;

(b) with parental consent, a statement of the family`s strengths, priorities and concerns that relate to enhancing the development of the infant or toddler;

(c) a statement of (i) the major outcomes expected to be achieved for the child and the family, including timelines, and (ii) the criteria and procedures that will be used to determine whether progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

(d) a statement of specific early intervention services, including transportation and the mode thereof, necessary to meet the unique needs of the child and the family, including the frequency, intensity, location and the method of delivering services;

(e) a statement of the natural environments, including the home and community settings where children without disabilities participate, in which early intervention services shall appropriately be provided and an explanation of their appropriateness, and, where the child is in day care, a plan for qualified professionals to train the day care provider to accommodate the needs of the child, where appropriate;

(f) a statement of other services, including but not limited to medical services, that are not required under this title but that are needed by the child and the family;

(g) a statement of other public programs under which the child and family may be eligible for benefits, and a referral, where indicated;

(h) the projected dates for initiation of services and the anticipated duration of such services; (i) the name of the service coordinator selected by the parent who will be responsible for the implementation of the IFSP and coordination with other agencies and persons;

(j) the steps to be taken supporting the potential transition of the toddler with a disability to services provided under section forty-four hundred ten of the education law or to other services, to the extent the child is thought to be eligible for such services, including:

(i) discussions with and education of parents regarding potential options and other matters related to the child`s transition;

(ii) procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; and

(iii) with parental consent, the transmission of information about the child to the committee on preschool special education, to ensure continuity of services, if appropriate, including evaluation and assessment information and copies of IFSPs.

3. In developing the IFSP, consideration shall first be given to provision of transportation by a parent of a child to early intervention services. Other modes of transportation shall be provided if the parent can demonstrate the inability to provide appropriate transportation services.

4. If the early intervention official and the parent agree on the IFSP, the IFSP shall be deemed final and the service coordinator shall be authorized to implement the plan.

5. If the early intervention official and the parent do not agree on an IFSP, the service coordinator shall implement the sections of the proposed IFSP that are not in dispute, and the parent shall have the due process rights set forth in section twenty-five hundred forty-nine of this title.

6. The contents of the IFSP shall be fully explained to the parent, and informed consent from the parent shall be obtained prior to the provision of the early intervention services therein. If the parent does not provide such consent with respect to a particular early intervention service, then only those early intervention services with respect to which consent is obtained shall be provided.

7. The IFSP shall be reviewed at six month intervals and shall be

evaluated annually by the early intervention official, service coordinator, the parent and providers of services to the eligible child. Upon request of a parent, the plan may be reviewed by such persons at more frequent intervals.

8. If, at any time, the parent and the service coordinator agree, in writing, that the child has met all the goals set forth in the IFSP or is otherwise no longer in need of services pursuant to this article, the service coordinator shall certify that the child is no longer an eligible child.

9. A parent may, at any time during or after development of the IFSP, select a service coordinator who will become responsible for implementing the IFSP and who may be different from the initial service coordinator.

S 2546. Interim services. 1. Early intervention services for an eligible child and the child`s family may commence before the completion of the evaluation and assessment in sections twenty-five hundred forty-four and twenty-five hundred forty-five of this title, if the following conditions are met:

(a) Parental consent is obtained;

(b) An interim IFSP is developed that includes: (i) the name of a service coordinator who will be responsible for implementation of the interim IFSP and coordination with other agencies and persons; and (ii) the early intervention services that have been determined to be needed immediately by the child and the child`s family; and

(c) The evaluation and assessment are completed within forty-five days from the date the early intervention official was first contacted regarding the child.

2. The costs that an approved provider of early intervention services incurs in providing such interim services shall be approved costs to the extent they are otherwise consistent with section twenty-five hundred fifty-five of this title.

S 2547. Respite services. 1. Subject to the availability of federal funds, the commissioner shall allocate a portion of such funds for respite services for families of eligible children. The commissioner shall establish criteria for selecting families for such services, which

may include the severity of the child`s disability, the availability of respite services to the family through other programs, and the availability of informal supports to the family.

2. In addition to respite services provided pursuant to subdivision one of this section and subject to the amounts appropriated therefor, the state shall reimburse the municipality for fifty percent of the costs of respite services provided to eligible children and their families with the approval of the early intervention official.

3. The commissioner shall contact the appropriate federal governmental agencies and personnel to facilitate the availability of federal funds for respite services.

S 2547-a. Day care support services. The commissioner shall allocate up to one million dollars of federal funds for purposes of establishing two or more demonstration programs for the provision of day care support services for eligible children which may include the use of paraprofessionals to work with one or more children with disabilities within the same setting. The commissioner, in consultation with other appropriate state agencies, shall establish criteria for the selection of demonstration sites for such services, such criteria to include, but not be limited to, geographic distribution, the disability severity of children to be served by such a program and the availability of similar services from other sources.

S 2548. Transition plan. To the extent that a toddler with a disability is thought to be eligible for services pursuant to section forty-four hundred ten of the education law, the early intervention official shall notify in writing the committee on preschool special education of the local school district in which an eligible child resides of the potential transition of such child and, with parental consent, arrange for a conference among the service coordinator, the parent and the chairperson of the preschool committee on special education or his or her designee at least ninety days before such child would be eligible for services under section forty-four hundred ten of the education law to review the child`s program options and to establish a transition plan, if appropriate. If a parent does not consent to a conference with the service coordinator and the chairperson of the

preschool committee on special education or his or her designee to determine whether the child should be referred for services under section forty-four hundred ten of the education law, and the child is not determined to be eligible by the committee on preschool special education for such services prior to the child`s third birthday, the child`s eligibility for early intervention program services shall end at the child`s third birthday.

S 2549. Due process. 1. If a parent disagrees with the determination of the evaluator or the local early intervention official with regard to the eligibility for or provision of early intervention services or if such official fails to act within such period of time as may be required by this title or regulations of the commissioner, a parent may make a request in writing for mediation or an impartial hearing to resolve the dispute; provided, however, if a parent elects not to pursue mediation, such election shall not (a) preclude a parent from requesting an impartial hearing or (b) constitute a failure to exhaust administrative remedies.

2. A request for mediation shall be made to the early intervention official for the municipality in which the child resides. Upon such request, the municipality shall notify a community dispute resolution center designated by the commissioner to provide mediation services for such municipality. The community dispute resolution center shall arrange for the mediation to be conducted at a place and time convenient to the parent. Such mediation shall be at no cost to the parent. If all parties agree to the terms of a mediation agreement, a copy of such agreement shall be forwarded by the community dispute resolution center to the participating parties and the service coordinator who shall incorporate the provisions of such agreement into the IFSP no later than five days after receiving a copy of such agreement. If the parties are unable to reach agreement, in full or in part, the mediator shall inform the parent of the availability of the impartial hearing procedures.

3. A parent may file a written request at any time for an impartial hearing with the commissioner or a designee provided, however, that a request for a hearing to contest a determination that a child is not eligible for services under this title must be made within six months of such determination. Upon receipt of such request, the commissioner, or

the designee, shall promptly notify the parent, or a person designated by the parent, and other appropriate parties in accordance with the regulations of the commissioner. Any such notice to the parent shall be provided in the native language of such person whenever practicable and, if not, in a manner to ensure notice to such person and shall include but not be limited to:

(a) the procedural safeguards afforded to a parent;

(b) the date, time and location for the impartial hearing, which shall be reasonably convenient for the parent;

(c) the procedures for the appointment of an impartial hearing officer; and

(d) the right of the parent to appeal the decision of the impartial hearing to a court of competent jurisdiction.

4. After receipt of notice from the commissioner of a parent`s request for an impartial hearing, the early intervention official shall promptly notify the parent as to whether the municipality intends to be represented by an attorney at such hearing.

5. The impartial hearing shall be conducted by the hearing officer in accordance with the regulations of the commissioner. The hearing shall be held, and a decision rendered, within thirty days after the department receives the request for an impartial hearing except to the extent that the parent consents, in writing, to an extension. The decision shall be in writing and shall state the reasons for the decision and shall be final unless appealed by a party to the proceeding. A copy of the decision reached by the hearing officer shall be mailed to the parent, any public or private agency that was a party to the hearing, the service coordinator, the department and any state early intervention service agency with an interest in the decision. Where ordered by the hearing officer, the service coordinator shall modify the IFSP in accordance with the decision within five days after such decision.

6. During the pendency of any mediation or impartial hearing conducted pursuant to this section, the child and family shall, with parental consent, receive those early intervention services that are not in dispute or that are provided pursuant to the IFSP previously in effect.

7. (a) All orders or determinations made hereunder shall be subject to review as provided for in article seventy-eight of the civil practice

law and rules. In any proceeding under article seventy-eight of the civil practice law and rules, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules and also may, in its discretion, remand the proceedings to the department for further consideration upon a finding that any relevant and material evidence is then available which was not previously considered by the department.

(b) A parent who, after completing mediation, substantially prevails in an impartial hearing or a judicial challenge to an order or determination under this title shall be entitled to reimbursement for reasonable attorney`s fees incurred in such impartial hearing or judicial challenge provided, however, that the parent shall only be entitled to reimbursement for such fees for prevailing in an impartial hearing if the municipality was represented by an attorney at such impartial hearing.

8. (a) The early intervention official shall maintain the confidentiality of all personally identifiable information regarding the children and families receiving early intervention services. The early intervention official shall ensure that no information regarding the conditions, services, needs, or other individual information regarding a child and family is communicated to any parties other than the service coordinator and service providers currently serving the child and family, without the express written consent of the parent.

(b) Providers of service to eligible children and families shall maintain the confidentiality of all personally identifiable information regarding children and families receiving their services. The provider shall ensure that no information regarding the condition, services, needs, or any other individual information regarding a child and family is released to any party other than the early intervention official without the express written consent of the parent, except as specifically permitted in the coordinated standards and procedures, which shall additionally ensure that the requirements of federal or state law which pertain to the early intervention services of the state early intervention service agencies have been maintained.

(c) This section shall not prohibit disclosure otherwise required by law.

S 2550. Responsibilities of lead agency. 1. The lead agency is responsible for the general administration and supervision of programs and activities receiving assistance under this title, and the monitoring of programs and activities used by the state to carry out this title, whether or not such programs or activities are receiving assistance made available under this title, to ensure that the state complies with the provisions of this title.

2. In meeting the requirements of subdivision one of this section, the lead agency shall adopt and use proper methods of administering the early intervention program, including:

(a) establishing standards for evaluators, service coordinators and providers of early intervention services;

(b) approving, and periodically re-approving evaluators, service coordinators and providers of early intervention services who meet department standards;

(c) compiling and disseminating to the municipalities lists of approved evaluators, service coordinators and providers of early intervention services;

(d) monitoring of agencies, institutions and organizations under this title and agencies, institutions and organizations providing early intervention services which are under the jurisdiction of a state early intervention service agency;

(e) enforcing any obligations imposed on those agencies under this title or Part H of the federal individuals with disabilities education act and its regulations;

(f) providing training and technical assistance to those agencies, institutions and organizations, including initial and ongoing training and technical assistance to municipalities to help enable them to identify, locate and evaluate eligible children, develop IFSPs, ensure the provision of appropriate early intervention services, promote the development of new services, where there is a demonstrated need for such services and afford procedural safeguards to infants and toddlers and their families;

(g) correcting deficiencies that are identified through monitoring; and

(h) in monitoring early intervention services, the commissioner shall provide municipalities with the results of any review of early

intervention services undertaken and shall provide the municipalities with the opportunity to comment thereon.

3. The commissioner, through a comprehensive system of personnel development, shall promote the availability of qualified personnel to provide evaluations and early intervention services to eligible children and their families.

S 2551. Coordinated standards and procedures. 1. The state early intervention service agencies shall jointly establish coordinated standards and procedures for:

(a) early intervention services and evaluations;

(b) child find system and public awareness program; and

(c) programs and services, operating under the approval authority of any state early intervention service agency, which include any early intervention services or evaluations.

2. Such coordinated standards and procedures shall be designed to:

(a) enhance the objectives of this title, including the provision of services in natural environments to the maximum extent possible;

(b) minimize duplicative and inconsistent regulations and practices among the state early intervention service agencies;

(c) conform, to the extent appropriate, to existing standards and procedures of state early intervention service agencies; and

(d) ensure that persons who provide early intervention services are trained, or can demonstrate proficiency in principles of early childhood development.

3. Coordinated standards and procedures may include guidelines suggesting appropriate early intervention services for enumerated disabilities that are most frequently found in eligible children.

4. Coordinated standards and procedures may encompass or allow for agreements among two or more such agencies.

5. Any standards promulgated by regulation or otherwise by any state early intervention service agency governing early intervention services or evaluations shall be consistent with the coordinated standards and procedures.

6. In the event of an inability to agree upon any coordinated standard or procedure, any state early intervention service agency may refer the issue to the early intervention coordinating council for its advice with

respect to the standard or procedure which the council shall provide to the early intervention service agencies affected by the issue. The commissioner, after obtaining such advice, shall adopt an appropriate standard or procedure, provided however, that the commissioner may adopt an interim standard or procedure while awaiting such advice.

7. Coordinated standards and procedures shall provide that any agency which is an approved program or service provider under section forty-four hundred ten of the education law, and which also plans to provide early intervention services may apply to the commissioner of education for approval to provide such services. Such approval shall be granted based on the agency`s compliance with the coordinated standards and procedures for early intervention services and, where applicable, education certifications.

8. The early intervention service agencies, in consultation with the director of the budget, shall, where appropriate, require as a condition of approval that evaluators and providers of early intervention services participate in the medical assistance program.

9. The coordinated standards and procedures shall permit such evaluators and providers of services to rely on subcontracts or other written agreements with qualified professionals, or agencies employing such professionals, provided that such professionals perform their responsibilities in conformance with regulations of the commissioner and that providers and evaluators fully disclose any such arrangements, including any financial or personal interests, on all applications for approval.

10. Coordinated standards and procedures may identify circumstances and procedures under which an evaluator or service provider may be disqualified under this title, including procedures whereby a municipality may request such disqualification.

S 2552. Responsibility of municipality. 1. Each municipality shall be responsible for ensuring that the early intervention services contained in an IFSP are provided to eligible children and their families who reside in such municipality and may contract with approved providers of early intervention services for such purpose.

2. After consultation with early intervention officials, the commissioner shall develop procedures to permit a municipality to

contract or otherwise make arrangements with other municipalities for an eligible child and the child`s family to receive services from such other municipalities.

3. The municipality shall monitor claims for service reimbursement authorized by this title and shall verify such claims prior to payment. The municipality shall inform the commissioner of discrepancies in billing and when payment is to be denied or withheld by the municipality.

4. The early intervention official shall require an eligible child`s parent to furnish the parents` and eligible child`s social security numbers for the purpose of the department`s and municipality`s administration of the program.

S 2553. Early intervention coordinating council. 1. (a) The department shall establish an early intervention coordinating council.

(b) The council shall consist of twenty-seven members, unless otherwise required by federal law, appointed by the governor. At least five members shall be parents, four of whom shall be parents of children with disabilities aged twelve or younger and one of whom shall be the parent of a child with disabilities aged six or younger; at least five shall be representatives of public or private providers of early intervention services; at least one shall be involved in personnel preparation or training; at least two shall be early intervention officials; at least two shall be members of the legislature; seven shall be the commissioner and the commissioners of education, social services, mental retardation and developmental disabilities, mental health, alcoholism and substance abuse services and the superintendent of insurance, or their appropriate designees with sufficient authority to engage in policy planning and implementation on behalf of their agencies.

(c) The governor shall appoint eight members on the recommendation of the temporary president of the senate and the speaker of the assembly, each of whom shall recommend four members as follows: one parent of a child with disabilities age twelve or younger; one representative of public or private providers of early intervention services; one member of the legislature; and one early intervention official. The governor shall appoint four members on the recommendations of the minority leader

of the assembly and the minority leader of the senate, each of whom shall recommend two members as follows: one parent of a child with disabilities age twelve or younger; one representative of public or private providers of early intervention services.

(d) The governor shall designate a chairperson from among the members of the council. All members shall serve for terms of three years. Such terms shall be established so that the terms of no more than one-third of the members of the council expire each year.

2. The council shall:

(a) assist the lead agency in the effective performance of the lead agency`s responsibilities set out under this title, including:

(i) identifying the sources of fiscal support for early intervention services and programs, assignment of financial responsibility to the appropriate agency and promotion of interagency agreements;

(ii) preparing applications and amendments required pursuant to federal law;

(iii) advising and assisting the commissioner regarding payment methodologies established pursuant to section twenty-five hundred fifty-five of this title to reimburse adequately the cost of services authorized pursuant to this article and to promote the efficient, economical, productive and stable delivery of early intervention services. The council shall convene a reimbursement advisory panel, the members of which shall be appointed by the commissioner, to assist the council regarding such payment methodologies. Such panel shall consist of no more than sixteen members, and shall include at least four representatives of municipalities, at least four representatives of statewide and regional provider organizations, and such other members as the commissioner shall deem appropriate.

(b) advise and assist the commissioner and other state early intervention service agencies in the development of coordinated standards and procedures pursuant to section twenty-five hundred fifty-one of this title in order to promote the full participation and cooperation of such agencies;

(c) advise and assist the commissioner and the commissioner of education regarding the transition of toddlers with disabilities to services provided under section forty-four hundred ten of the education law, to the extent such services are appropriate;

(d) advise and assist the commissioner in identifying barriers that impede timely and effective service delivery, including advice and assistance with regard to interagency disputes; and

(e) prepare and submit an annual report to the governor and legislature on the status of the early intervention program.

3. The council shall meet at least four times a year. Special meetings may be called by the chairperson and shall be called at the request of the commissioner.

4. At least sixty days prior to the commissioner`s final approval of rules and regulations pursuant to this title, other than emergency rules and regulations, the commissioner shall submit proposed rules and regulations to the council for its review. The council shall review all proposed rules and regulations and report its recommendations thereon to the commissioner within sixty days. The commissioner shall not act in a manner inconsistent with the recommendations of the council without first providing the reasons therefor. The council, upon a majority vote of its members, may require that an alternative approach to the proposed rules and regulations be published with a notice of the proposed rules and regulations pursuant to section two hundred two of the state administrative procedure act. When an alternative approach is published pursuant to this section, the commissioner shall state the reasons for not selecting such alternative approach.

5. The members of the council shall be allowed their reasonable and necessary expenses incurred in the performance of their duties hereunder.

S 2554. Local early intervention coordinating councils. 1. A local early intervention coordinating council shall be established in each municipality. The council shall consist of members appointed by the early intervention official. At least four members of each council shall be parents of infants or toddlers with disabilities or of children aged three through twelve with disabilities. Each council shall also include at least three public or private providers of early intervention services, at least one child care provider or representative of child care providers, the chief executive officers or their designees of the municipality`s departments of social services, health and mental hygiene, a representative from the local developmental disabilities

services office and a representative from one or more committees on preschool special education of local school districts in the municipality. A local body which has been previously constituted may serve this purpose if it has the appropriate members. The commissioner, in his or her discretion, may waive one or more of the foregoing membership composition requirements in those municipalities where such requirements cannot reasonably be met.

2. The local early intervention coordinating council shall meet, in open forum, at least four times a year for its first two years of existence.

3. The council shall advise the early intervention official regarding:

(a) the planning for, delivery and assessment of the early intervention services for eligible children and their families, including the transition from early intervention services to services and programs under section forty-four hundred ten of the education law and other early childhood programs;

(b) the identification of service delivery reforms needed to promote the availability of early intervention services within natural environments;

(c) the coordination of public and private agencies; and

(d) such other matters relating to early intervention policies and procedures within the municipality as are brought to its attention by parents, providers, public agencies or others.

4. The council will report annually to the early intervention official on the adequacy of the early intervention system to ensure the availability of family centered, coordinated services; and interface with other existing planning bodies that serve like populations.

S 2556. Administrative costs. On or after July first, nineteen hundred ninety-four, and annually thereafter, municipalities shall be eligible for reimbursement for administrative costs exclusive of due process costs incurred during the preceding year pursuant to this title. Such reimbursement shall be made in the first instance from any federal funds available for such purpose, as determined by the commissioner. To the extent that such federal funds are not sufficient or available to reimburse a municipality for such administrative costs, reimbursement shall be made with state funds in an amount up to, but not exceeding,

one hundred dollars for each eligible child served in such preceding year.

S 2557. Financial responsibility and reimbursement. 1. The approved costs for an eligible child who receives an evaluation and early intervention services pursuant to this title shall be a charge upon the municipality wherein the eligible child resides or, where the services are covered by the medical assistance program, upon the social services district of fiscal responsibility with respect to those eligible children who are also eligible for medical assistance. All approved costs shall be paid in the first instance and at least quarterly by the appropriate governing body or officer of the municipality upon vouchers presented and audited in the same manner as the case of other claims against the municipality. Notwithstanding the insurance law or regulations thereunder relating to the permissible exclusion of payments for services under governmental programs, no such exclusion shall apply with respect to payments made pursuant to this title. Notwithstanding the insurance law or any other law or agreement to the contrary, benefits under this title shall be considered secondary to any plan of insurance or state government benefit program under which an eligible child may have coverage. Nothing in this section shall increase or enhance coverages provided for within an insurance contract subject to the provisions of this title.

2. The department shall reimburse the approved costs paid by a municipality for the purposes of this title, other than those reimbursable by the medical assistance program or by third party payors, in an amount of fifty percent of the amount expended in accordance with the rules and regulations of the commissioner. Such state reimbursement to the municipality shall not be paid prior to April first of the year in which the approved costs are paid by the municipality.

3. The department may perform audits, which may include site visitation, to all or any of the following: municipalities; service coordinators; evaluators or providers of early intervention services. The department shall provide the municipalities with a copy of the findings of such audits. Early intervention program state aid reimbursement or portion thereof may be withheld if, on post-audit and review, the commissioner finds that the early intervention services were

not provided or those provided were not in substantial conformance with the rules and regulations established by the commissioner or that the recipient of such services was not an eligible child as defined in section twenty-five hundred forty-one of this title. In the event that the commissioner determines that there may be a withholding of state reimbursement to any municipality under this section, he shall inform the state early intervention coordinating council and the relevant local early intervention coordinating council and shall consider alternative courses of action recommended within sixty days by either body prior to withholding state reimbursement.

3-a. Each municipality may perform an audit, which may include site visitation, of evaluators and providers of such services within its municipality in accordance with standards established by the commissioner. The municipality shall submit the results of any such audit to the commissioner for review and, if warranted, adjustments in state aid reimbursement pursuant to subdivision three of this section, as well as for recovery by the municipality of its share of any disallowances identified in such audit.

4. The commissioner shall collect data, by municipality, on the early intervention program authorized under this title for purposes of improving the efficiency, cost effectiveness, and quality of such program. Such municipality data collection shall include but not be limited to:

(a) The number and ages of children enrolled in the early intervention program;

(b) The total number of children, within a municipality, receiving a single service, the percentage of those children by service type, and the average frequency of visits per week for such service type;

(c) The total number of children, within a municipality, receiving multiple services, the percentage of those children by service type, the average frequency of visits per week for such service type and the average number of service types that each child receives;

(d) The number of New York state approved agencies, institutions, or organizations providing early intervention services by service specialty or specialties and the number of New York state approved independent providers of early intervention services by service specialty or specialties;

(e) The number and percentage of children receiving a single service by type of New York state approved service provider, and the number and percentage of children receiving multiple services by type of New York state approved service provider;

(f) The overall number of New York state approved evaluators. The number of approved evaluators who also provide services to early intervention children they have evaluated;

(g) The number of families receiving family supportive services such as family training, counseling, parent support groups, and respite;

(h) The types of clinical practice guidelines, evaluation tools and testing instruments used by municipalities to establish eligibility or need for early intervention services;

(i) Both service, cost and payment oversight mechanisms used by counties to ensure quality and efficient delivery of early intervention services;

(j) The number of children that have third party reimbursement;

(k) The number of claims submitted to third party payors by municipality. The percentage of claims denied by third party payors. The reasons for the denials.

The commissioner shall collect and analyze such data elements to determine service and utilization patterns and to enhance the department`s ongoing provision of program oversight and guidance. In addition, the commissioner shall report for the period July first, two thousand three to December thirty-first, two thousand three, and for each calendar year thereafter, to the governor and the legislature, by March first of each year, the information and analysis required by this subdivision.

5. The department shall contract with an independent organization to act as the fiscal agent for the department. A municipality may elect to utilize the services of such organization for early intervention program fiscal management and claiming as determined by the commissioner or may select an independent agent to act as the fiscal agent for such municipality or may act as its own fiscal agent.

S 2558. Responsibility for certain temporary-resident infants and toddlers with disabilities. 1. Definitions. In addition to the definitions contained in section twenty-five hundred forty-one of this

title, the following terms shall have the following meanings:

(a) "Foster child" shall mean a child in the care, custody or guardianship of a commissioner of a local social services district.

(b) "Homeless child" shall mean a child placed in a hotel, motel, shelter, or other temporary housing arrangement by a social services district because of the unavailability of permanent housing.

(c) "Municipality of current location" shall mean a municipality in which a child lives which is different from the municipality in which a child or such child`s family lived at the time a social services district assumed responsibility for the placement of such child or family or at the time the child was admitted for care or treatment in a facility licensed or operated by another state agency.

(d) "Municipality of residence" shall mean the municipality in which a child or such child`s family lived at the time the local social services district assumed responsibility or custody for such child or family or at the time the child was admitted for care or treatment in a facility licensed or operated by another state agency.

(e) "Child in residential care" shall mean an infant or toddler living in a residential facility licensed or operated by a state agency. For the purposes of subdivisions two, three and four of this section, a child in residential care shall be deemed to be a homeless child.

2. Evaluation and IFSP responsibility. The municipality of current location of a foster child or homeless child shall be responsible for the evaluation and IFSP procedures prescribed for an infant or toddler suspected of having a disability. The municipality of current location shall identify to the commissioner each eligible foster child or homeless child, and the municipality of current location of such child shall also transmit a copy of the IFSP and cost of service of such child to the municipality of residence.

3. Contract and payment responsibility. The municipality of current location shall be the municipality of record for an eligible foster child or homeless child for the purposes of this title, provided that notwithstanding the provision of subdivision two of section twenty-five hundred fifty-seven of this title, the state shall reimburse one hundred percent of the approved costs paid by such municipality which shall be offset by the local contribution due pursuant to subdivision four of this section.

4. Local contribution. The municipality of residence shall be financially responsible for the local contribution in the amount of fifty percent of the approved costs. The commissioner shall certify to the comptroller the amount of the local contribution owed by each municipality to the state. The comptroller shall deduct the amount of such local contribution first from any moneys due the municipality pursuant to section twenty-five hundred fifty-six of this title and then from any other moneys due or to become due to the municipality.

S 2559. Third party insurance and medical assistance program payments.
1. Nothing in this title shall be construed to permit the department or any other state agency or municipality to reduce medical assistance or other assistance or services available to eligible children.
2. Notwithstanding any other provisions of law, costs incurred for early intervention services that otherwise qualify as medical assistance that are furnished to an eligible child who is also eligible for benefits pursuant to title eleven of article five of the social services law are considered to be medical assistance for purposes of payments to providers and state reimbursement to the extent that federal financial participation is available therefor.
3. (a) Providers of early intervention services and transportation services shall in the first instance and where applicable, seek payment from all third party payors including governmental agencies prior to claiming payment from a given municipality for services rendered to eligible children, provided that, for the purpose of seeking payment from the medical assistance program or from other third party payors, the municipality shall be deemed the provider of such early intervention services to the extent that the provider has promptly furnished to the municipality adequate and complete information necessary to support the municipality billing, and provided further that the obligation to seek payment shall not apply to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured`s policy.
(b) The commissioner, in consultation with the director of budget and the superintendent of insurance, shall promulgate regulations providing public reimbursement for deductibles and copayments which are imposed under an insurance policy or health benefit plan to the extent that such

deductibles and copayments are applicable to early intervention services.

(c) Payments made for early intervention services under an insurance policy or health benefit plan which are provided as part of an IFSP pursuant to section twenty-five hundred forty-five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of the chapter of the laws of nineteen hundred ninety-two which added this title.

(d) A municipality, or its designee, shall be subrogated, to the extent of the expenditures by such municipality for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from third party reimbursement. The right of subrogation does not attach to benefits paid or provided under any health insurance policy or health benefits plan prior to receipt of written notice of the exercise of subrogation rights by the insurer or plan administrator providing such benefits.

4. Notwithstanding any other provision of law, the commissioner, pursuant to a memorandum of understanding with the commissioner of the office of mental retardation and developmental disabilities, shall develop and submit a medicaid home and community based services waiver, pursuant to section 1915c of the social security act, for the purpose of creating a waiver program to provide and finance services for children who qualify for the early intervention program. In further establishing eligibility criteria under the waiver program, the commissioner, in conjunction with the commissioner of the office of mental retardation and developmental disabilities, shall establish health, developmental and psycho-social criteria which shall permit the broadest eligibility based on criteria for the early intervention program and federal standards for participation in a waiver program. The waiver application shall be submitted pursuant to section 1915c of the social security act no later than January first, two thousand four.

S 2559-a. Transportation. The municipality in which an eligible child resides shall, beginning with the first day of service, provide either directly, by contract, or through reimbursement at a mileage rate authorized by the municipality for the use of a private vehicle or for

other reasonable transportation costs, for suitable transportation pursuant to section twenty-five hundred forty-five of this title. All contracts for transportation of such children shall be provided pursuant to the procedures set forth in section two hundred thirty-six of the family court act, using the date on which the child`s IFSP is implemented, in lieu of the date the court order was issued; provided, however, that the city of New York shall provide such transportation in accordance with the provisions of chapter one hundred thirty of the laws of nineteen hundred ninety-two, if applicable.

S 2559-b. Regulations. The commissioner may adopt regulations necessary to carry out the provisions of this title. In promulgating such regulations, the commissioner shall incorporate coordinated standards and procedures, where applicable, and shall consider the regulations, guidelines and operating procedures of other state agencies that administer or supervise the administration of services to infants, toddlers and preschool children to ensure that families, service providers and municipalities are not unnecessarily required to meet differing eligibility, reporting or procedural requirements.

Attachment 20

10 NYCRR
Subpart 69-4
(Compilation of the Rules and Regulations of the State of New York)

Attachment 20

Notice

The information contained on this website is not the official version of the Compilation of the Rules and Regulations of the State of New York (NYCRR). No representation is made as to its accuracy. To ensure accuracy and for evidentiary purposes, reference should be made to the Official Compilation of the Rules and Regulations of the State of New York, available from West Publishing at 1-800-344-5009.

November 5, 1997

Final Regulations*

Pursuant to the authority vested in the New York State Department of Health by Title II-A of Article 25 of the Public Health Law, Part 69 of Subchapter H of Chapter II of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, is hereby amended to be effective on the earliest date permitted by law. The title of Part 69 of Title 10, and the reference to statutory authority, are amended to read as follows:

Part 69
Testing for Phenylketonuria and Other Diseases and Conditions/Early Intervention Program
(Statutory Authority: Public Health Law §§2500-a,2500-e, Article 25 Title II-A.)

A new subpart 69-4 is added as follows:

SUBPART 69-4
Early Intervention Program

(Statutory authority: Public Health Law Article 25 Title II-A)

Sec. 69-4.1 Definitions
Sec. 69-4.2 Early Intervention Official's or Public Health Officer's Role in the Child Find System
Sec. 69-4.3 Referrals
Sec. 69-4.4 Qualifications of Service Coordinators
Sec. 69-4.5 Approval of Service Coordinators, Evaluators, and Service Providers
Sec. 69-4.6 Standards for Initial and Ongoing Service Coordinators
Sec. 69-4.7 Initial Service Coordinators
Sec. 69-4.8 Evaluators/screening, evaluation and assessment responsibilities
Sec. 69-4.9 Standards for the Provision of Services
Sec. 69-4.10 Service Model Options
Sec. 69-4.11 Individualized Family Service Plan
Sec. 69-4.12 Monitoring of Approved Service Providers (Including Evaluators, Service Providers and Service Coordinators)
Sec. 69-4.13 Local Early Intervention Coordinating Councils
Sec. 69-4.14 Reporting
Sec. 69-4.15 Children in Care
Sec. 69-4.16 Parents, Persons in Parental Relation and Surrogate Parents
Sec. 69-4.17 Procedural Safeguards
Sec. 69-4.18 Respite Services
Sec. 69-4.19 Transportation
Sec. 69-4.20 Transition Planning
Sec. 69-4.21 Reimbursement of Municipal Administrative Costs
Sec. 69-4.22 Third-party payments
Sec. 69-4.30 Computation of rates for early intervention services provided to infants and children ages birth to three years old and their families or caregivers.

*This version of the final regulations contains technical corrections to numbering of provisions. There are no substantive changes to regulation content or language.

Sec. 69-4.1 Definitions

(a) *Approve* means any type of approval process used by State early intervention service agencies to approve providers of services, including licensure or certification.

(b) *Assessment* means ongoing procedures used to identify:

(1) the child's unique needs and strengths and the services appropriate to meet those needs; and
(2) the resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability.

(c) *Child find system* means all policies and procedures established by the state early intervention service agencies to: (1) ensure that at-risk and eligible children are identified, located, and referred to the early intervention official or public health officer as designated by the municipality; (2) determine the extent to which children are receiving needed services; and (3) ensure coordination among the state agencies' major efforts to identify at-risk and eligible children.

(d) *Completed mediation* means

(1) the parties have participated in mediation and reached an agreement;
(2) the parties have participated in mediation but have been unable to reach an agreement during mediation or the parent requests an impartial hearing;
(3) a parent's request for mediation has not been accommodated according to the time frame set forth in section 69-4.17(g)(13); or
(4) the early intervention official declines to participate in mediation.

(e) *Days* means calendar days.

(f) *Designated County Official* means the official designated by the municipality as responsible for receipt of referrals of children suspected of having, or at-risk for, developmental delays or disabilities.

(g) *Developmental delay* means that a child has not attained developmental milestones expected for the child's chronological age adjusted for prematurity in one or more of the following areas of development: cognitive, physical (including vision and hearing), communication, social/emotional, or adaptive development.

(1) A developmental delay for purposes of the Early Intervention Program is a developmental delay that has been measured by qualified personnel using informed clinical opinion, appropriate diagnostic procedures and/or instruments and documented as:

(i) a twelve month delay in one functional area; **or**

(ii) a 33% delay in one functional area or a 25% delay in each of two areas; **or**

(iii) if appropriate standardized instruments are individually administered in the evaluation process, a score of at least 2.0 standard deviations below the mean in one functional area or a score of at least 1.5 standard deviation below the mean in each of two functional areas.

(h) *Disability* means a developmental delay or a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(i) *Dominant Language* means the language or mode of communication normally used

by the parent of an eligible or potentially eligible child, including braille, sign language, or other mode of communication.

(j) *Early Intervention Official* means an appropriate municipal official designated by the chief executive officer of a municipality and an appropriate designee of such official.

(k) *Early Intervention Services* means

(1) services that are:

(i) designed to meet the developmental needs of children eligible under this program and the needs of the family related to enhancing the child's development in accordance with the functional outcomes specified in the Individualized Family Service Plan;
(ii) selected in collaboration with the parent;
(iii) in compliance with state standards;
(iv) provided:
(*a*) under public supervision;
(*b*) by qualified personnel;
(*c*) in conformity with an individualized family service plan and to the maximum extent appropriate, provided in natural environments;
(*d*) at no cost to the family; and
(v) are cost effective.

(2) Early intervention services include:

(i) *Assistive technology device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.

(ii) *Assistive technology service* means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:

(*a*) the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(*b*) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(*c*) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(*d*) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(*e*) training or technical assistance for a child with disabilities or, if appropriate, that child's family; and

(*f*) training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to, or are otherwise

substantially involved in, the major life functions of individuals with disabilities.

(iii) *Audiology*, including:

(*a*) identification of children with auditory impairment using at risk criteria and appropriate audiologic screening techniques;

(*b*) determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(*c*) referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

(*d*) provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;

(*e*) provision of services for prevention of hearing loss; and

(*f*) determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(iv) *Family training, counseling, home visits and parent support groups,* including services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development.

(v) *Medical services only for diagnostic or evaluation purposes* means services provided by a licensed physician to determine a child's developmental status and need for early intervention services subject to reasonable prior approval requirements for exceptionally expensive services as prescribed by the Commissioner.

(vi) *Nursing services*, including:

(*a*) the assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;

(*b*) provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(*c*) administration of medications, treatments, and regimens prescribed by a licensed physician.

(vii) *Nutrition services*, including:

(a) conducting individual assessments in nutritional history and dietary intake; anthropometric, biochemical, and clinical variables; feeding skills and feeding problems; and, food habits and food preferences;

(*b*) developing and monitoring appropriate plans to address the nutritional needs of eligible children; and

(*c*) making referrals to appropriate community resources to carry out nutrition goals.

(viii) *Occupational therapy* includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:

(*a*) identification, assessment, and intervention;

(*b*) adaptation of the environment, and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(*c*) prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(ix) *Physical therapy* includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status and effective environmental adaptation. These services include:

(*a*) screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;

(*b*) obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(*c*) providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

(x) *Psychological services*, including:

(*a*) administering psychological and developmental tests and other assessment procedures;

(*b*) interpreting assessment results;

(*c*) obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and

(*d*) planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(xi) *Service Coordination*, including assistance and services provided by a

service coordinator to enable an eligible child and the child's family to receive the rights, procedural safeguards and services that are authorized to be provided under the Early Intervention Program.

(xii) *Social work services*, including:

(*a*) making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(*b*) preparing a social/emotional developmental assessment of the child within the family context;

(*c*) providing individual and family-group counseling with parents and other family members, and appropriate social skill building activities with the child and parents;

(*d*) working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and

(*e*) identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

(xiii) *Special instruction*, including:

(*a*) the design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(*b*) curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's individualized family service plan;

(*c*) providing families and any primary caregivers (*e.g.,* child care providers) with information, skills, and support related to enhancing the skill development of the child; and

(*d*) working with the child to enhance the child's development.

(xiv) *Speech-language pathology*, including:

(*a*) identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(*b*) referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and

(*c*) provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.

(xv) *Vision services*, including:

(*a*) evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(*b*) referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(*c*) communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

(xvi) *Health Services* means services necessary to enable a child to benefit from the other early intervention services during the time that the child is receiving other early intervention services. The term includes:

(*a*) such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(*b*) consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.

(*c*) The term health services does not include the following:

(1) services that are surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or

(2) services that are purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose);

(3) devices necessary to control or treat a medical condition; or

(4) medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

(xvii) *Transportation and related costs* includes the cost of travel (*e.g.*, mileage or travel by taxi, common carrier, or other means) and other costs (*e.g.*, tolls and parking expenses) that are necessary to enable an eligible child and the child's family to receive early intervention services.

(l) *Eligible child* means any infant or toddler from birth through age two years who has a disability, provided that if such infant or toddler:

(1) turns three years of age on or before August 31st, he or she shall, if requested by the parent, be eligible to receive early intervention services contained in an Individualized Family Service Plan until September 1 of that

calendar year; or,

(2) turns three years of age on or after September 1, he or she shall, if requested by the parent and if already receiving early intervention services, be eligible to continue receiving early intervention services until January 2 of the next calendar year; except,

(3) if the infant or toddler is receiving preschool special education services under Section 4410 of the State Education Law, he or she shall not be an eligible child.

(m) *Evaluation* means the procedures used by appropriate qualified personnel to determine a child's initial and continuing eligibility for the Early Intervention Program, including determining the status of the child in each of the following areas of development: cognitive, physical, communication, social or emotional, and adaptive development.

(n) *Evaluator* means a team of two or more professionals approved pursuant to Section 69-4.5 of this subpart to conduct screenings and evaluations.

(o) *Family assessment* means the process of information gathering and identification of family priorities, resources and concerns, which the family decides are relevant to their ability to enhance their child's development.

(p) *Family Concerns* means those areas that parent identifies as needs, issues, or problems which they wish to have addressed within the Individualized Family Service Plan.

(q) *Family Priorities* means those areas which the parent selects as essential targets for early intervention services to be delivered to their child and family unit.

(r) *Family Resources* means the strengths, abilities, and formal and informal supports that can be mobilized to address family concerns, needs or desired outcomes.

(s) *Hearing Officer* means the person duly designated for the purpose of conducting or participating in a hearing pursuant to the Public Health Law, including an administrative officer or an administrative law judge assigned by the Department to the hearing.

(t) *Hearing record* means:

(1) all notices, pleadings, and motions;
(2) evidence presented during the hearing;
(3) questions and offers of proof, objections thereto, and rulings thereon;
(4) any statements of matters officially noticed by the hearing officer; and
(5) any findings of fact, conclusions of law, decision, determination, opinion, order or report made by the impartial hearing officer.

(u) *Include* means that the items named are not all of the possible items that are covered whether like or unlike the ones named.

(v) *Individualized Family Service Plan (IFSP*) means a written plan for providing early intervention services to a child eligible for the Early Intervention Program and the child's family. The plan must:

(1) be developed jointly by the family and appropriate qualified personnel involved in the provision of early intervention services;
(2) be based on the evaluation and assessment described in this subpart; and

(3) include matters as specified in this subpart.

(w) *Informed clinical opinion* means the best use of quantitative and qualitative information by qualified personnel regarding a child, and family if applicable. Such information includes, if applicable, the child's functional status, rate of change in development, and prognosis.

(x) *Informed consent* means:

(1) the parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's dominant language or other mode of communication;

(2) the parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records if any that will be released and to whom; and

(3) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(y) *Initial service coordinator* means the service coordinator designated by the early intervention official upon receipt of a referral of a child thought to be eligible for early intervention services who functions as the service coordinator who participates in the formulation of the Individualized Family Service Plan.

(z) *Interim individualized family service plan* means a temporary plan developed with parental consent for a child with a known developmental delay or disability who has apparent immediate needs to enable early intervention service delivery between initial identification of the child's needs and the completion of the multidisciplinary evaluation.

(aa) *Mediation* means a voluntary, non-adversarial process by which the parent of a child and the early intervention official or designee are assisted in the resolution of a dispute.

(ab) *Medical/biological risk* means early developmental and health events suggestive of medical needs or biological insults to the developing central nervous system which, either singly or collectively, increase the probability of later disability.

(ac) *Multidisciplinary* means the involvement of two or more professionals from different disciplines in the provision of integrated and coordinated services including evaluation and assessment services and development of the Individualized Family Service Plan.

(ad) *Municipality* means a county outside of the City of New York or the City of New York in the case of a county contained within the City of New York.

(ae) *Natural environment* means settings that are natural or normal for the child's age peers who have no disability, including the home, a relative's home when care is delivered by the relative, child care setting, or other community setting in which children without disabilities participate.

(af) *Ongoing service coordinator* means the service coordinator designated in the Individualized Family Service Plan.

(ag) *Parent* means a parent by birth or adoption, or person in parental relation to the child. With respect to a child who is a ward of the state, or a child who is not a ward of the state but whose parents by birth or adoption are unknown or unavailable and the child has no person in parental relation, the term "parent" means a person who

has been appointed as a surrogate parent for the child in accordance with Section 69-4.16 of this subpart. This term does not include the state if the child is a ward of the state.

(ah) *Person in parental relation* means:

(1) the child's legal guardian;

(2) the child's standby guardian after their authority becomes effective pursuant to Section 1726 of the Surrogate's Court Procedure Act;

(3) the child's custodian; a person shall be regarded as the custodian of a child if he or she has assumed the charge and care of the child because the parents, or legally appointed guardian of the minor have died, are imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such child, or are living outside the state or their whereabouts are unknown; or

(4) persons acting in the place of a parent, such as a grandparent or stepparent with whom the child lives, as well as persons who are legally responsible for the child's welfare;

(5) except, this term does not apply to a child who is a ward of the state, and does not include a foster parent.

(ai) *Personally identifiable information* includes:

(1) the name of the child, the parent or other family member;

(2) the address of the child, the parent or other family member;

(3) a personal identifier such as the social security number of the child, parent or other family member; and

(4) a list of personal characteristics or other information that would make it possible to identify the child, the parent or other family member with reasonable certainty.

(aj) *Qualified personnel* are those individuals who are approved as required by this subpart to deliver services to the extent authorized by their licensure, certification or registration, to eligible children and have appropriate licensure, certification, or registration in the area in which they are providing services, including:

(1) audiologists;

(2) certified occupational therapy assistants;

(3) licensed practical nurses, registered nurses and nurse practitioners;

(4) certified low vision specialists;

(5) occupational therapists;

(6) orientation and mobility specialists;

(7) physical therapists;

(8) physical therapy assistants;

(9) pediatricians and other physicians;

(10) physician assistants;

(11) psychologists;

(12) registered dieticians;

(13) school psychologists;

(14) social workers;

(15) special education teachers;

(16) speech and language pathologists and audiologists;

(17) teachers of the blind and partially sighted;

(18) teachers of the deaf and hearing handicapped;

(19) teachers of the speech and hearing handicapped;

(20) other categories of personnel as designated by the Commissioner.

(ak) *Record* means any information recorded in any way, maintained by an Early Intervention Official, designee, or approved evaluator, service provider or service coordinator. A record shall include any file, evaluation, report, study, letter, telegram, minutes of meetings, memorandum, summary, interoffice or intraoffice communication, memorandum reflecting an oral conversation, a handwritten or other note, chart, graph, data sheet, film, videotape, slide, sound recording, disc, tape and information stored in microfilm or microfiche or in computer readable form.

(al) *Screening* means a process involving those instruments, procedures, family information and observations, and clinical observations used by an approved evaluator to assess a child's developmental status to indicate what type of evaluation, if any, is warranted.

(am) *Ward of the State* means a child whose custody and guardianship have been transferred to the local social services official pursuant to a voluntary surrender by the child's parent or by a family court or surrogate's court in conjunction with the termination of the parental rights of the child's parent.

Sec. 69-4.2 Early Intervention Official's or Public Health Officer's Role in the Child Find System

(a) The early intervention official shall:

(1) make all reasonable efforts to identify and locate eligible children within their municipality;

(2) coordinate efforts to identify, locate and track children conducted by other agencies responsible for services to infants and toddlers and their families; and

(3) provide for identification, tracking and screening of children at risk of developmental delay, using available resources and such other resources as the Commissioner shall commit to this purpose.

(i) The municipality shall designate either the early intervention official or the public health officer to receive all early intervention referrals. If the Public Health Officer is designated to receive referrals, and is not the early intervention official, he or she shall promptly transmit the referral of children suspected of having a developmental delay to the early intervention official.

Sec. 69-4.3 Referrals

(a) The following primary referral sources shall, within two working days of identifying an infant or toddler who is less than three years of age and suspected of having a disability or at risk of having a disability, refer such infant or toddler to the official designated by the municipality, unless the child has already been referred or unless the parent objects: all individuals who are qualified personnel; all approved evaluators, service coordinators, and providers of early intervention services; hospitals; child health care providers; day care programs; local health units; local school districts; local social service districts; public health facilities; early childhood direction centers; and, operators of any clinic approved under Article 28 of Public Health Law, Article 16 of the Mental Hygiene Law, or Article 31 of the Mental Hygiene Law.

(1) A primary referral source who has identified an infant or toddler suspected of having a disability shall:

(i) provide a general explanation of the services that are available under the Early Intervention Program and the benefits to the child's development and to the family of accessing those services;

(ii) inform the parent that, unless the parent objects, their child will be referred to the early intervention official for purposes of a free, multidisciplinary evaluation to determine eligibility for services;

(iii) whenever feasible, inform the parent about such referral in their dominant language or other mode of communication; and

(iv) ensure the confidentiality of all information transmitted at the time of referral.

(2) A primary referral source who has identified an infant or toddler at risk of a disability shall:

(i) provide a general explanation of the developmental screening, home visiting, and tracking services that are available to the family, including the Infant-Child Health Assessment Program, and the benefits to the child's development and to the family of accessing those services;

(ii) inform the parent that, unless the parent objects, their child will be referred to the designated county official for the purposes of developmental screening, home visiting, and tracking services, which may include enrollment in the Infant Child Health Assessment Program;

(iii) whenever feasible, inform the parent about such referral in their dominant language or other mode of communication; and

(iv) ensure the confidentiality of all information transmitted at the time of referral.

(3) When a parent objects to the referral the primary referral source shall:

(i) maintain written documentation of the parent's objection to the referral and follow-up actions taken by the primary referral source;

(ii) provide the parent with the name and telephone number of the early intervention official if the child is suspected of having a disability or Infant-Child Health Assessment Program if the child is at-risk; and

(iii) within two months, make reasonable efforts to follow-up with the parent, and if appropriate, refer the child unless the parent objects.

(b) Information transmitted in a referral from a primary referral source, for an infant or toddler suspected of having a disability or at risk of developing a disability, shall consist of only the following information, unless written consent is obtained from a parent to the transmittal of further information to the early intervention official:

(1) the child's name, sex, and birth date;

(2) the name, address and telephone number of the parent and/or if applicable, the person in parental relation to the child;

(3) when necessary and applicable, the name and telephone number of another person through whom the parent may be contacted;

(4) if the child is being referred because he or she is at risk of developing a disability, the referral shall include an indication that the child is not suspected of having a disability, but is at risk of developing a disability in the future; and

(5) name and telephone number of the primary referral source.

(c) Referrals may be made at any time by parents via telephone, in writing or in person.

(d) Referrals of children suspected of having a disability, which includes a developmental delay and/or a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, shall be based on:

(1) the results of a developmental screening or diagnostic procedure(s); direct experience, observation, and perception of the child's developmental progress;

(2) information provided by a parent which is indicative of the presence of a developmental delay or disability;

(3) or a request by a parent that such referral be made.

(e) Diagnosed physical and mental conditions with a high probability of developmental delay include:

(1) chromosomal abnormalities associated with developmental delay (*e.g.,* Down Syndrome);

(2) syndromes and conditions associated with delays in development (*e.g.,* fetal alcohol syndrome);

(3) neuromuscular disorder (*e.g.,* any disorder known to affect the central nervous system, including cerebral palsy, spina bifida, microcephaly or macrocephaly);

(4) clinical evidence of central nervous system (CNS) abnormality following bacterial/viral infection of the brain or head/spinal trauma;

(5) hearing impairment (a diagnosed hearing loss that cannot be corrected with treatment or surgery);

(6) visual impairment (a diagnosed visual impairment that cannot be corrected with treatment (including glasses or contact lenses) or surgery);

(7) diagnosed psychiatric conditions, such as reactive attachment disorder of infancy and early childhood; (symptoms include persistent failure to initiate or respond to primary caregivers; fearfulness and hypervigilance that does not respond to comforting by caregivers; absence of visual tracking); and

(8) emotional/behavioral disorder (the infant or toddler exhibits atypical emotional or behavioral conditions, such as delay or abnormality in achieving expected emotional milestones such as pleasurable interest in adults and peers; ability to communicate emotional needs; self-injurious/persistent stereotypical behaviors).

(f) Referrals of children at risk of having a disability shall be made based on the following medical/biological risk factors:

(1) Medical/biological neonatal risk criteria, including:

(i) birth weight less than 1501 grams
(ii) gestational age less than 33 weeks
(iii) central nervous system insult or abnormality (including neonatal seizures, intracranial hemorrhage, need for ventilator support for more than 48 hours, birth trauma)
(iv) congenital malformations
(v) asphyxia (Apgar score of three or less at five minutes)
(vi) abnormalities in muscle tone, such as hyper- or hypotonicity
(vii) hyperbilirubinemia (> 20mg/dl)
(viii) hypoglycemia (serum glucose under 20 mg/dl)
(ix) growth deficiency/nutritional problems (*e.g.*, small for gestational age; significant feeding problem)
(x) presence of Inborn Metabolic Disorder (IMD)
(xi) perinatally- or congenitally-transmitted infection (*e.g.*, HIV, hepatitis B, syphilis)
(xii) 10 or more days hospitalization in a Neonatal Intensive Care Unit (NICU)
(xiii) maternal prenatal alcohol abuse
(xiv) maternal prenatal abuse of illicit substances
(xv) prenatal exposure to therapeutic drugs with known potential developmental implications (*e.g.*, psychotropic medications, anticonvulsant, antineoplastic)
(xvi) maternal PKU
(xvii) suspected hearing impairment (*e.g.,* familial history of hearing impairment or loss; suspicion based on gross screening measures)
(xviii) suspected vision impairment (suspicion based on gross screening measures)

(2) Medical/biological post-neonatal and early childhood risk criteria, including:

(i) parental or caregiver concern about developmental status
(ii) serious illness or traumatic injury with implications for central nervous

system development and requiring hospitalization in a pediatric intensive care unit for ten or more days

(iii) elevated venous blood lead levels (above 19 mcg/dl)

(iv) growth deficiency/nutritional problems (*e.g.,* significant organic or inorganic failure-to-thrive, significant iron-deficiency anemia)

(v) chronicity of serous otitis media (continuous for a minimum of three months)

(vi) HIV infection

(g) The following risk criteria may be considered by the primary referral source in the decision to make a referral:

(1) no prenatal care

(2) parental developmental disability or diagnosed serious and persistent mental illness

(3) parental substance abuse, including alcohol or illicit drug abuse

(4) no well child care by 6 months of age or significant delay in immunizations; and/or

(5) other risk criteria as identified by the primary referral source

(h) When the child is in the care and custody or custody and guardianship of the local social services district, the early intervention official shall notify the local social services commissioner or designee that the child has been referred.

Sec. 69-4.4 Qualifications of Service Coordinators

(a) All early intervention service coordinators shall meet the following qualifications:

(1) a minimum of one of the following educational or service coordination experience credentials:

(i) two years experience in service coordination activities as delineated in this subpart (voluntary or part-time experience which can be verified will be accepted on a pro rata basis); or

(ii) one year of service coordination experience and an additional year of experience in a service setting with infants and toddlers with developmental delays or disabilities; or

(iii) one year of service coordination experience and an Associates degree in a health or human service field; or

(iv) a Bachelor's degree in a health or human service field.

(2) demonstrated knowledge and understanding in the following areas:

(i) infants and toddlers who may be eligible for early intervention services;

(ii) state and federal laws and regulations pertaining to the Early Intervention Program;

(iii) principles of family centered services;

(iv) the nature and scope of services available under the Early Intervention Program and the system of payments for services in the State; and

(v) other pertinent information.

(b) Service coordinators shall participate in the introductory service coordination training session sponsored or approved by the Department of Health in the first three months and by no later than one year of direct or contractual employment as an early intervention service coordinator, provided that training sessions are offered and accessible in locations with reasonable proximity to their place of employment at least three times annually.

(1) Employees of incorporated entities, sole proprietorships, partnerships, and State operated facilities approved to deliver service coordination services must submit documentation of participation in the introductory service coordination training to their employers for retention in their personnel record.

(2) Individual service coordinators must submit documentation of their participation in introductory service coordination training to the Department of Health for retention with their approved application to deliver service coordination services.

(3) Failure to participate in the introductory service coordination training sponsored or approved by the Department of Health may result in the disqualification as a provider of service coordination services in accordance with procedures set forth in Section 69-4.17(i).

Sec. 69-4.5 Approval of Service Coordinators, Evaluators, and Service Providers

(a) Early intervention service coordinators, evaluators, and/or service providers shall be approved to deliver service coordination services, evaluations, and early intervention services as follows:

(1) incorporated entities, sole proprietorships, partnerships, and state-operated facilities operating under the approval of any state early intervention service agency shall apply to such agency or to the Department of Health for approval to provide service coordination services, evaluations, and/or early intervention services, except that those entities which are currently approved by or otherwise affiliated with the Department of Social Services or Office of Alcohol and Substance Abuse Services shall apply to the Department of Health for approval to provide service coordination services, evaluations, and/or early intervention services;

(2) municipalities, incorporated entities, sole proprietorships, and partnerships not approved by any state early intervention service agency shall apply to the Department of Health for approval to provide service coordination services, evaluations, and/or early intervention services;

(3) those entities and individuals seeking approval to provide early intervention service coordination services, evaluations, and/or early intervention services shall complete an approved Medicaid provider agreement and reassign Medicaid benefits to the municipality;

(4) the state early intervention services agency or the Department of Health shall approve applicants, other than individuals, as providers of service coordination, evaluations, and/or early intervention services based on:

(i) the character and competence of the service provider;

(ii) assurances of fiscal viability;

(iii) assurances of the capacity to provide service coordination services,

evaluations, and/or early intervention services;

(iv) assurance of availability of qualified personnel;

(v) completion of an approved Medicaid provider agreement and reassignment of Medicaid benefits to the municipality;

(vi) assurances of adherence to applicable federal and state laws and regulations;

(vii) assurances of the capacity to deliver services on a twelve-month basis and flexibility in the hours of service delivery, including weekend and evening hours;

(viii) assurances of capacity and agreement that qualified personnel will participate in inservice training pursuant to a plan developed by the Department of Health;

(ix) assurances of compliance with the confidentiality requirements set forth in Section 69-4.17(c) of this subpart;

(x) provision of copies of all organizational documents, such as partnership agreements or certificates of incorporation; and

(xi) such additional pertinent information or documents necessary for the Agency's approval, as requested.

(5) Individual service coordinators, evaluators, and service providers shall be approved by the Department of Health to provide early intervention service coordination services, supplemental evaluations, and/or early intervention services. Qualified individuals with appropriate licensure, certification, or registration shall apply to the Department of Health for approval to provide service coordination services, supplemental evaluations, and/or early intervention services. The Department of Health shall approve individuals to deliver early intervention service coordination services, supplemental evaluations, and/or early intervention services based on the following factors:

(i) the character and competence of the individual;

(ii) assurances of the capacity to provide service coordination, supplemental evaluations, and/or early intervention services;

(iii) qualifications as specified in this subpart;

(iv) completion of an approved Medicaid provider agreement and reassignment of Medicaid benefits to the municipality;

(v) assurances of adherence to applicable federal and state laws and regulations;

(vi) current licensure, certification, or registration in a discipline designated by the Commissioner as qualified personnel;

(vii) assurances to notify the Department of Health within two working days of suspension, expiration, or revocation of licensure, certification, or registration;

(viii) assurances of the capacity to deliver services on a twelve-month basis and flexibility in the hours of service delivery, including weekend and

evening hours;

(ix) assurances of capacity and agreement to attend in-service training programs pursuant to a plan developed by the Department of Health;

(x) assurances of compliance with the confidentiality requirements set forth in Section 69-4.17(c) of this Subpart; and

(xi) such additional pertinent information or documents necessary for the Agency's consideration, as requested.

(b) All applicants shall receive written notice of their approval to deliver service coordination services, evaluations, and/or early intervention services from the Department of Health, State Education Department, Office of Mental Retardation and Developmental Disabilities or Office of Mental Health.

(1) The notice shall inform the applicant that a contract with the municipality is necessary to be reimbursed for service coordination services, evaluations, and/or early intervention services and to be included on the list of approved evaluators, service coordinators, and/or service providers.

(2) The early intervention officials for municipalities in the catchment areas in which the applicant proposes to deliver service coordination services, evaluations, and/or early intervention services, shall receive written notice of the applicant's approval from the state agency approving the application.

(c) The municipality, upon entering into a contract with the approved provider of service coordination services, evaluations and/or early intervention services, shall notify the Department of Health within 10 working days of the finalization of the contract. The notification shall include the time period for which the contract is valid.

(d) The State Education Department, Office of Mental Retardation and Developmental Disabilities, or Office of Mental Health shall notify the Department of Health of their approval of any applicant as a provider of service coordination services, evaluations and/or early intervention services within five working days.

(e) Approved service coordinators, evaluators and/or service providers shall notify, in writing, the state early intervention service agency which granted his or her approval, if such service coordinator, evaluator and/or service provider wishes to modify the catchment area, the target population or the qualified personnel available to deliver services.

(f) The State Education Department, Office of Mental Retardation and Developmental Disabilities, or Office of Mental Health shall notify the Department of Health of any modifications in the catchment area, the target population or the qualified personnel available to deliver services submitted to such agency by an approved service coordinator, evaluator or service provider within five working days of notification.

(g) An approved service coordinator, evaluator and/or service provider who intends to cease providing service coordination services, evaluations or early intervention services, or in the case of an agency, intends to cease ownership, possession or operation of the agency, or chooses to voluntarily terminate status as an approved service coordination, evaluation and/or service provider agency, shall submit to the Commissioner and early intervention official written notice of such intention not less than 90 days prior to the intended effective date of such action.

Sec. 69-4.6 Standards for Initial and Ongoing Service Coordinators

(a) All individuals approved to provide early intervention service coordination shall fulfill those functions and activities necessary to assist and enable an eligible infant and toddler and parent to receive the rights, procedural safeguards and services that are authorized to be provided under State and federal law, including other services not required under the Early Intervention Program, but for which the family may be eligible.

(1) Each eligible infant and toddler and their family shall be provided with one service coordinator who shall be responsible for:

(i) coordinating all services across agency lines; and

(ii) serving as the single point of contact in helping parents to obtain the services and/or assistance they need.

(b) Service coordination shall be an active ongoing process that involves:

(1) assisting parents of eligible infants and toddlers in gaining access to the early intervention services and other services identified in the Individualized Family Service Plan;

(2) ensuring the Individualized Family Service Plan outcomes and strategies reflect the family's priorities, concerns and resources, and that changes are made as the family's priorities concerns and resources change;

(3) coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the infant or toddler needs or is receiving;

(4) facilitating the timely delivery of available services; and

(5) continuously seeking the appropriate services and situations necessary to benefit the development of the child for the duration of the child's eligibility.

(c) Specific service coordination activities shall include:

(1) coordinating the performance of evaluations and assessments;

(2) facilitating and participating in the development, review and evaluation of Individualized Family Service Plans;

(3) assisting families in identifying available service providers;

(4) coordinating and monitoring the delivery of services;

(5) informing families of the availability of advocacy services;

(6) coordinating with medical and health care providers, including a referral to appropriate primary health care providers as needed; and

(7) facilitating the development of a transition plan to preschool services if appropriate or to other available supports and services.

69-4.7 Initial Service Coordinators

(a) Upon referral to the early intervention official of a child thought to be an eligible child, the early intervention official shall promptly designate an initial service coordinator, selecting whenever appropriate a service coordinator who has an established

relationship with the child or family and shall promptly notify the parent of such designation in writing.

(1) Upon receipt of the referral, the early intervention official shall make reasonable efforts to promptly forward a copy of the Early Intervention Program parents' handbook to the parent by mail or other suitable means.

(2) For children in the care and custody or custody and guardianship of the local social services commissioner, the early intervention official shall notify the local commissioner of social services or designee of the designation of an initial service coordinator.

(b) The initial service coordinator shall promptly arrange a contact with the parent in a time, place and manner reasonably convenient for the parent and consistent with applicable timeliness requirements.

(c) The initial service coordinator shall inform the parent of their rights and entitlement under the Early Intervention Program and shall document the information provided in the child's record.

(1) At the initial contact with the parent, the initial service coordinator shall ensure the parent has a copy of the Early Intervention Program parents' handbook, review the handbook, provide an overview of the early intervention system and services, discuss the role of the initial service coordinator, and review the parent's rights, responsibilities and entitlements under the program.

(d) The initial service coordinator shall ascertain if the child and family are presently receiving case management services or other services from public or private agencies. If so, the initial service coordinator shall discuss options for collaboration with the parent and, if appropriate, obtain consent for the release of information for the purpose of collaboration with other case management services.

(e) All information provided to the parent shall be in the parent's dominant language or other mode of communication unless clearly not feasible to do so.

(f) All information obtained from the parent shall be confidential and may only be disclosed upon written consent, unless otherwise required or permitted to be disclosed by law.

(g) The initial service coordinator shall inform the family that services must be at no cost to parents and use of Medicaid and/or third-party insurance for payment of services is required under the Early Intervention Program.

(1) The service coordinator shall inform the parent that any deductible or co-payments will be paid by the municipality.

(2) The service coordinator shall inform the parent that use of third-party insurance for payment of early intervention services will not be applied against lifetime or annual limits specified in their insurance policy, if such policy is subject to New York State law and regulation.

(3) The service coordinator shall inform the parent that the municipality will not obtain payment from their insurer if the insurer is not prohibited from applying, and will apply, payment for early intervention services to the annual and lifetime limits specified in their insurance policy.

(h) The initial service coordinator must obtain, and parents must provide, information

about the status of the family's third party insurance coverage and Medicaid status and promptly notify the early intervention official of such status, including:

(1) Medicaid enrollment status and identification number, if any;

(2) type of health insurance policy or health benefits plan, name of insurer or plan administrator, and policy or plan identification number;

(3) type of coverage extended to the family by the policy; and

(4) such additional information necessary for reimbursement.

(i) The service coordinator shall assist the parent in identifying and applying for benefit programs for which the family may be eligible, including:

(1) the Medical Assistance Program;

(2) Supplemental Social Security Income Program;

(3) Physically Handicapped Children's Program;

(4) Child Health Plus; and

(5) Social Security Disability Income.

(j) The initial service coordinator shall review all options for evaluation and screening with the parent from the list of approved evaluators including location, types of evaluations performed, and settings for evaluations (e.g., home vs. evaluation agency). Upon selection of an evaluator by the parent, the initial service coordinator shall ascertain from the parent any needs the parent may have in accessing the evaluation.

(k) The initial service coordinator shall at the parent's request assist the parent in arrangement of the evaluation after the parent selects from the list of approved evaluators.

(l) If the parent has accessed an approved evaluator prior to contact by the initial service coordinator, the initial service coordinator shall contact the parent to assure that the parent has received information concerning alternative approved evaluators and ascertain from the parent any needs the parent may have in accessing the evaluation.

(m) Upon receipt of the results of the evaluation, the initial service coordinator may with the approval of the early intervention official and with parental consent, require additional diagnostic information regarding the condition of the child, provided that such information is not unnecessarily duplicative or invasive to the child according to guidelines of the Department of Health.

(1) Prior to obtaining written consent for additional diagnostic information, the initial service coordinator shall provide the parent with a written explanation which shall include:

(i) diagnostic information requested;

(ii) reasons for obtaining the information, and use of the information;

(iii) location of diagnostic testing;

(iv) source of payment and that no costs shall be incurred by the parent;

(v) a statement that the information shall not be used to refute eligibility; and

(vi) a statement that the meeting to formulate the Individualized Family Service Plan shall be held within the 45 day time limit.

(2) The initial service coordinator shall assist the parent in accessing the diagnostic testing as needed and desired by the parent.

(3) The initial service coordinator shall facilitate the parent understanding of the results of the diagnostic information, and with parent consent, incorporate this diagnostic information into the planning and formulation of the Individualized Family Service Plan.

(n) Upon the determination of a child as ineligible for early intervention services, the initial service coordinator shall inform the parent of the right to due process procedures as set forth in this Subpart.

(1) The initial service coordinator shall inform the parent of other services which the parent may choose to access and for which the child may be eligible and offer assistance with appropriate referrals.

(o) Upon determination of the child's eligibility for the early intervention program, the initial service coordinator shall discuss the Individualized Family Service Plan process with the parent and shall inform the parent:

(1) of the required participants in the Individualized Family Service Plan meeting and the parent's option to invite other parties;

(2) that the initial service coordinator may invite other participants, provided that the service coordinator obtains the parent's consent and explains the purpose of this person's participation;

(3) that inclusion of family assessment information is optional;

(4) that their priorities, concerns and resources shall play a major role in the establishment of outcomes and strategies among the parent, evaluator, service coordinator and early intervention official;

(5) of the opportunity to select an ongoing service coordinator, who may be different from the initial service coordinator, at the Individualized Family Service Plan meeting or at any other time after the formulation of the Individualized Family Service Plan;

(6) that the final decisions about the services to be provided to the child will be made by the parent and the early intervention official; and

(7) that services can be delivered in a range of settings such as an approved provider's facility, as well as a variety of natural environments, including the child's home, child care site or other community settings.

(p) The initial service coordinator shall assist the parent in preparing for the meeting to develop the Individualized Family Service Plan, including facilitating their understanding of the child's multidisciplinary evaluation and identifying their resources, priorities, and concerns related to their child's development.

(1) The initial service coordinator shall discuss with the parent the options for early intervention services and facilitate the parent's investigation of various options as requested by the parent.

Sec. 69-4.8 Evaluators/Screening, Evaluation and Assessment Responsibilities

(a) *Evaluations and Screening*

(1) If the parent selects an approved evaluator prior to the designation of an initial service coordinator, the parent or evaluator shall immediately notify the early intervention official of such selection.

(i) The evaluator may begin the evaluation no sooner than four working days of the early intervention official's receipt of written notice from the parent or evaluator, unless otherwise approved by the initial service coordinator.

(ii) The evaluator shall obtain parental consent to conduct the evaluation prior to the initiation of the evaluation.

(2) A multidisciplinary evaluation shall be performed to determine the child's initial and ongoing eligibility for early intervention services and costs shall be reimbursed in accordance with this sub-part. The evaluator shall obtain informed parental consent to perform the evaluation and screening prior to initiating the evaluation procedures.

(i) The evaluator may, with parental consent, screen a child to determine what type of evaluation, if any, is necessary.

(a) A screening shall not be performed if the child is known to have a diagnosed condition with a high probability of developmental delay.

(ii) Whenever feasible and appropriate, standardized instruments with demonstrated reliability and validity and appropriate levels of sensitivity and specificity shall be used to perform the screening.

(iii) The parent shall be present during the performance of any screening procedure, unless the parent's circumstances prevent the parent's presence. The local social services commissioner or designee may be present at the screening of a child in his or her care and custody, or custody and guardianship, in lieu of a parent who elects not to participate.

(iv) Screeners shall discuss the results of the screening with the parent, facilitate the parent's understanding of the screening results and address any concerns identified by the parent.

(a) If the results of the screen indicate that an evaluation is not warranted, the evaluator and the parent may agree to conclude the evaluation process. Costs for such screening shall be reimbursed in accordance with this sub-part.

(b) If the results of the screen indicate that an evaluation is warranted, the evaluator shall discuss with the parent the implications of the results for the child's evaluation, including composition of the multidisciplinary team.

(3) The multidisciplinary evaluation team shall include two or more qualified personnel from different disciplines who are trained to utilize appropriate methods and procedures, have sufficient expertise in child development, and at least one of whom shall be a specialist in the area of the child's suspected delay or disability.

(4) The multidisciplinary evaluation and assessment of the child shall be based on informed clinical opinion, employ age-appropriate instruments and procedures, and include the following:

(i) an evaluation of the child's level of functioning in each of the following developmental domains: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development;

(a) the evaluation of the child's physical development shall include a health assessment including a physical examination, routine vision and hearing screening and, where appropriate, a neurological assessment, except when:

(1) a physical examination has occurred within sufficient recency (as determined by the child's age and commonly accepted examination schedules, such as those recommended by the American Academy of Pediatrics and/or NYS Child/Teen Health Plan), and documentation of such examination is available; and

(2) no indications are present which suggest the need for re-examination (*e.g.*, rapid regression in developmental status);

(ii) with parental consent, a review of pertinent records related to the child's current health status and medical history;

(iii) a parent interview about the family's resources, priorities, and concerns related to the child's development and about the child's developmental progress. With the consent of the parent, an interview of other family members or individuals who have pertinent knowledge about the child's development may also be conducted. Information about the child's developmental progress may be gathered from the local social services commissioner, unless the parent objects, regarding children in his or her care and custody or custody and guardianship;

(iv) an assessment of the unique needs of the child in each developmental domain, including the identification of services appropriate to meet those needs. The evaluator should avoid making recommendations regarding frequency and duration of specific services until such time as the family's total priorities, concerns and resources have been assessed and the total plan for services under the IFSP is under discussion; and

(v) an evaluation of the transportation needs of the child, which shall include:

(a) parental ability or inability to provide transportation;

(b) the child's special needs related to transportation; and

(c) safety issues/parental concerns related to transportation.

(5) With written parental consent, the evaluator may use findings from other current examinations, evaluations, or assessments, and health assessments performed for the child, including those conducted prior to initiation of the multidisciplinary evaluation, provided that:

(i) such procedures were performed in a manner consistent with the procedures set forth in this subdivision;

(ii) such findings are used to augment and not replace the multidisciplinary evaluation to determine eligibility;

(iii) no indications are present which suggest the need to repeat such procedures (*e.g.*, the strengths/needs of the child have changed sufficiently to warrant re-examination); and

(iv) where feasible, consultation with the professional(s) who performed such procedures is sought.

(6) The multidisciplinary evaluation shall be conducted in a professional, objective manner and shall: consider the unique characteristics of the child; employ appropriate instruments and procedures; include informed clinical opinion and observations; and use several sources and types of information about the child, including parent perceptions and observations about their child's development.

(i) Instruments used as part of a multidisciplinary evaluation, whether norm- or criterion- referenced, shall be reliable and valid; have appropriate level of sensitivity and specificity; be sensitive to the child's and parent's culture and dominant language or other mode of communication.

(ii) The evaluation procedures, including clinical observation, shall be conducted in an environment appropriate to the unique needs of the child and conducive to ensuring accuracy of results, with consideration given to the preference of the parent. Such settings may include structured (*e.g.,* clinic or office), unstructured (*e.g.*, play room), and natural settings (*e.g.*, the child's home).

(7) The child's parent shall have the opportunity to be present and participate in the performance of evaluation and assessments, unless the parent's circumstances prevent the parent's presence.

(8) The parent shall have the opportunity to engage in the family assessment process with the evaluation team.

(i) Family assessments shall be family-directed and designed to determine the resources, priorities, and concerns of the family related to enhancement of the child's development. Family assessments shall be voluntary on the part of the family.

(a) If the family assessment is carried out, the assessment must:

(1) be conducted by qualified personnel trained to utilize appropriate methods and procedures;

(2) be based on information provided by the family through

a personal interview;

(3) incorporate the family's description of its resources, priorities, and concerns related to enhancing the child's development; and

(4) be completed within a sufficient timeframe to enable convening of the Individualized Family Service Plan meeting within 45 days from the date of referral.

(9) Results of the child's evaluation and assessment shall be fully shared with the parent following the completion of evaluation and assessments, in a manner understandable to the parent.

(i) The evaluation team shall prepare an evaluation report and written summary and submit the summary, and upon request the report, to the following individuals as soon as practicable subsequent to the evaluation and within a sufficient timeframe to enable convening of the Individual Family Service Plan meeting within 45 days of the date that the early intervention official received the referral: the parent, early intervention official, and initial service coordinator; and with parental consent, the child's primary health care provider and the local social services commissioner or designee for those children in the care and custody or custody and guardianship of the local social services commissioner.

(ii) Components of the evaluation report and summary shall include identification of the persons performing the evaluation and assessment, a description of the assessment process and conditions, the child's response, the family's belief about whether the child's response was optimal, measures and/or score that were used, and an explanation of these measures and/or scores.

(iii) The evaluation report and summary shall include a statement of the child's eligibility, including diagnosed condition with a high probability of delay, if any, and/or developmental delay in accordance with the definition of developmental delay in section 69-4.1(g) of this Subpart.

(iv) The parent shall have the opportunity to discuss the evaluation results, with the evaluators or designated contact, including any concerns they may have about the evaluation process; and to receive assistance in understanding these results, and ensure the evaluation has addressed their concerns and observations about their child.

(v) To the extent feasible and within the parent's preference and consent regarding disclosure to the interpreter, and within confidentiality requirements, the written and oral summary shall be provided in the dominant language or other mode of communication of the parent.

(10) If a parent requests a second evaluation or component of the evaluation at public expense, the early intervention official shall authorize a second evaluation or component, if he/she deems it necessary and appropriate, and shall document the cause. Costs for such evaluation authorized by the early intervention official shall be reimbursed in accordance with this Subpart.

(11) If a child is determined ineligible for services, including determinations that second evaluations or components of evaluations are not necessary or appropriate, the parent may exercise his or her right to mediation or a

hearing. However, the parent may not initiate an action regarding ineligibility for early intervention services until all evaluations and assessments are completed and a determination of ineligibility has been made.

(12) With parental consent, certain evaluation and assessment procedures may be performed or repeated and costs may be reimbursed as a supplemental evaluation in accordance with this sub-part, if deemed necessary and appropriate by the early intervention official, in conjunction with the required annual evaluation of the Individualized Family Service Plan, or more frequently under the following conditions:

(i) an observable change in the child's developmental status indicates the need for modification of the Individualized Family Service Plan or a change in eligibility status; and

(ii) the parent, early intervention official or service coordinator, or service provider(s) requests a re-assessment at the six month review of the Individualized Family Service Plan.

(13) After a child's initial multidisciplinary evaluation, any supplemental evaluations must be stated in the child's Individualized Family Service Plan, and must include the type of supplemental evaluation, and the date and evaluator if known.

(14) Nondiscriminatory evaluation and assessment procedures shall be employed in all aspects of the evaluation and assessment process.

(i) Responsiveness to the cultural background of the family shall be a primary consideration in all aspects of evaluation and assessment.

(a) Tests and other evaluation materials and procedures shall be administered in the dominant language or other mode of communication of the child, unless it is clearly not feasible to do so.

(ii) No single procedure or instrument may be used as the sole criteria or indicator of eligibility.

(15) An evaluation or assessment shall not include a reference to any specific provider of early intervention services.

Sec. 69-4.9 Standards for the Provision of Services

(a) For purposes of this section, early intervention providers includes all approved service coordinators, evaluators, and service providers.

(b) Each municipality shall ensure that the early intervention services contained in Individualized Family Service Plans are provided to eligible children and their families who reside in such municipality and may contract with approved providers of early intervention services for such purpose. Municipalities shall make reasonable efforts to ensure that early intervention services contracted for are delivered in a manner that protects the health and safety of eligible children.

(1) If an early intervention official reasonably believes that the early intervention provider is out of compliance with health and safety standards, or otherwise posing an imminent risk of danger to children, parents, or staff, the municipality shall take immediate action to ensure the health and safety of such persons.

(2) Upon the taking of such action by the municipality, the early intervention official shall immediately notify the Department of Health, for purposes of the initiation by the Department of an investigation which may result in the disqualification of the early intervention service provider in accordance with procedures set forth in Section 69-4.17(i) of this Subpart.

(i) The Department shall notify all early intervention officials in the catchment area of the provider that an investigation has been initiated.

(c) All providers of early intervention services shall maintain a physical plant that ensures a safe environment for eligible children and their families.

(d) Providers of early intervention services who are otherwise required to be approved by a State early intervention service agency to deliver other health or human services shall comply with the physical plant standards promulgated by the approving state early intervention service agency.

(e) Providers of early intervention services who are approved by the Department of Health or other State early intervention service agencies to deliver services in a facility-based setting shall employ a policy for addressing health, safety, and sanitation issues which is submitted to the approving agency as part of the application process and monitored by that agency.

(f) Individual providers of early intervention services who deliver such services in their own home or private office shall maintain a physical plant which meets all applicable health and safety codes (including local health and safety codes) and physical plant standards.

(g) State early intervention service agencies and early intervention officials shall make reasonable efforts to ensure that early intervention services delivered to eligible infants and toddlers:

(1) are family-centered, including parents in all aspects of their child's services and in decisions concerning the provisions of services;

(2) use a child development emphasis in intervention strategies, incorporating quality child development practices with necessary adaptations to enhance the eligible child's development;

(3) use an individualized approach for both children and their families, including consideration and respect for cultural, lifestyle, ethnic, and other individual and family characteristics; and

(4) use a team approach that is multidisciplinary, interdisciplinary, or transdisciplinary, including the expertise of all appropriate qualified personnel.

(h) Providers of early intervention services shall be responsible for:

(1) consulting with parents, other service providers (including primary health care providers; family day care homes, and day care centers), and representatives of appropriate community agencies to ensure the effective provision of services;

(2) providing support, education, and guidance to parents and other caretakers (including other family members, family day care, and day care centers) regarding the provision of those services; and

(3) participating in the multidisciplinary team's assessment of a child and the child's family and in the development of integrated goals and outcomes for the Individualized Family Service Plan.

(i) To the maximum extent appropriate to the needs of the child, early intervention services shall be provided in natural environments.

(j) Early intervention evaluators, service providers and service coordinators may be denied approval or removed from the approved provider list according to procedures set forth in Section 69-4.17(i) of this Subpart.

Sec. 69-4.10 Service Model Options

(a) The Department of Health, state early intervention service agencies, and early intervention officials shall make reasonable efforts to ensure the full range of early intervention service options are available to eligible children and their families.

(1) The following models of early intervention service delivery shall be available:

(i) home and community based individual/collateral visits: the provision by appropriate qualified personnel of early intervention services to the child and/or parent or other designated caregiver at the child's home or any other natural environment in which children under three years of age are typically found (including day care centers and family day care homes);

(ii) facility-based individual/collateral visits: the provision by appropriate qualified personnel of early intervention services to the child and/or parent or other designated caregiver at an approved early intervention provider's site;

(iii) parent-child groups: a group comprised of parents or caregivers, children, and a minimum of one appropriate qualified provider of early intervention services at an early intervention provider's site or a community-based site (e.g. day care center, family day care, or other community settings);

(iv) group developmental intervention: the provision of early intervention services by appropriate qualified personnel to a group of eligible children at an approved early intervention provider's site or in a community-based setting where children under three years of age are typically found (this group may also include children without disabilities); and

(v) family/caregiver support group: the provision of early intervention services to a group of parents, caregivers (foster parents, day care staff, etc.) and/or siblings of eligible children for the purposes of:

(a) enhancing their capacity to care for and/or enhance the development of the eligible child; and

(b) providing support, education, and guidance to such individuals relative to the child's unique developmental needs.

Sec. 69-4.11 Individualized Family Service Plan

(a) Individualized Family Service Plan (IFSP) Participation

(1) If the evaluator determines that the infant or toddler is an eligible child, the early intervention official shall convene a meeting within 45 days of the receipt of the child's referral, to develop the initial IFSP, except under exceptional circumstances, including illness of the child or parent.

(2) The meeting shall consist of the following individuals:

(i) the parent;

(ii) the early intervention official;

(iii) the evaluator;

(a) if the evaluator is unable to attend the meeting, arrangements must be made for the evaluator's involvement in the meeting, by participating in a telephone conference call, having a knowledgeable authorized representative attend the meeting, or making pertinent records available at the meeting;

(iv) the initial service coordinator; and

(v) any other persons, such as the child's primary health care provider, or child care provider, who the parent or the initial service coordinator, with the parent's consent, invite.

(3) The following individuals may also participate in the meeting as appropriate:

(i) an advocate or person outside of the family, if the parent requests that person to participate;

(ii) persons who may be providing services to the child or family; and

(iii) the local social services commissioner for children in the care and custody or custody and guardianship of such commissioner.

(4) The IFSP meeting must be conducted:

(i) in settings and at times that are convenient to the parent; and

(ii) in the dominant language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(6) The early intervention official, initial service coordinator, parent, and evaluator or designated contact from the evaluation team shall jointly develop an IFSP for a parent who requests services.

(7) If the early intervention official and the parent agree on the initial or subsequent IFSPs, the IFSP shall be deemed final and the ongoing service coordinator shall be authorized to implement the plan.

(8) The contents of the IFSP must be fully explained to the parent and informed written consent from the parent must be obtained prior to the provision of early intervention services described in the plan. If the parent does not

provide consent with respect to a particular early intervention service, or withdraws consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

(9) If the early intervention official and the parent do not agree on an IFSP, the service coordinator shall implement the sections of the proposed IFSP that are not in dispute, and the parent may exercise his or her due process rights to resolve the dispute.

(10) The IFSP shall be in writing and include the following:

(i) a statement, based on objective criteria, of the child's present levels of functioning in each of the following domains: physical development, including vision and hearing; cognitive development; communication development; social or emotional development; and adaptive development;

(ii) a physician's or nurse practitioner's order pertaining to early intervention services which require such an order and which includes a diagnostic statement and purpose of treatment;

(iii) with parental consent, a statement of the family's strengths, priorities and concerns that relate to enhancing the development of the child;

(iv) a statement of

(a) the major outcomes expected to be achieved for the child and the family, including timelines, and

(b) the criteria and procedures that will be used to determine whether progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services is necessary;

(v) a statement of specific early intervention services, including transportation and the mode thereof, necessary to meet the unique strengths and needs of the child and the family, including the frequency, intensity, location and the method of delivering services;

(vi) a statement of the natural environments in which early intervention services shall appropriately be provided;

(vii) when the child is in day care and when appropriate, a plan for qualified professionals to train the day care provider to accommodate the needs of the child;

(viii) when early intervention services are delivered to an eligible child in a group setting without typically developing peers, the IFSP shall document:

(a) the reasons why the parent, early intervention official, service coordinator, and evaluator agree that such placement is appropriate to meet the unique needs of the child;

(ix) a statement of other services, including medical services, that are not required under this program but are needed by the child and the family and the payment mechanism for these services (listing of non-required

services does not constitute responsibility for payment of those services on the part of the municipality);

(x) a statement of other public programs under which the child and family may be eligible for benefits, and a referral, where indicated;

(xi) the projected dates for initiation of services as soon as possible after the IFSP meeting and the anticipated duration of these services;

(xii) the name of the ongoing service coordinator, who may be different from the initial service coordinator, selected by the parent who will be responsible for the implementation of the IFSP and coordination with other agencies, services and persons;

(xiii) if applicable, a statement of any supplemental evaluations, including the type, and the date and evaluator if known; and

(xiv) if applicable, the steps to be taken supporting the potential transition of the toddler with a disability to services provided under section 4410 of the Education Law, or to other services, including:

(a) discussions with and education of parents regarding potential options and other matters related to the child's transition;

(b) procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

(c) with parental consent, procedures to prepare program staff or individual qualified personnel who will be providing services to the child to facilitate a smooth transition; and

(d) with parental consent, the transmission of information about the child to the committee on preschool special education, to ensure continuity of services, if appropriate, including evaluation and assessment information or a copy of the Individualized Family Service Plan.

(b) The IFSP shall be reviewed at six month intervals and shall be evaluated annually to determine the degree to which progress toward achieving the outcomes is being made and whether or not there is a need to amend the IFSP to modify or revise the services being provided or anticipated outcomes. Upon request of the parent, or if conditions warrant, the IFSP may be reviewed at more frequent intervals.

(1) IFSP reviews shall be conducted by a meeting or other means amenable to the parent.

(2) An IFSP meeting shall be conducted at least annually to evaluate the IFSP for the child and the child's family, and, as appropriate, to revise its provisions. The results of any current evaluations conducted under Section 69-4.8 and any other information available from the ongoing assessment of the child and family, must be used in determining the services that are needed and will be provided.

(3) The annual meeting to evaluate the IFSP and six month reviews must include the individuals listed in Section 69-4.11(a)(2) as participants.

(i) If the evaluator is unable to attend the meeting, arrangements must be

made for the evaluator's involvement in the meeting, including participating in a telephone conference call; having a knowledgeable authorized representative attend the meeting; or making pertinent records available at the meeting.

(c) Interim services

(1) The initial service coordinator shall inform the parent of the availability of interim services for the child and/or family in immediate need of early intervention services.

(2) Interim early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment, if the following conditions are met:

(i) parental consent is obtained;

(ii) the parent and the early intervention official agree to an interim IFSP that includes:

(a) the name of a service coordinator who will be responsible for implementation of the interim IFSP and coordination with other agencies and persons;

(b) a physician's or nurse practitioner's order pertaining to those early intervention services which require such an order and which includes a diagnostic statement and purpose of treatment; and

(c) the early intervention services needed immediately by the child and the child's family, including the location, frequency, and intensity and providers of such services.

(iii) The evaluation and assessment are completed and an Individualized Family Service Plan meeting is convened within 45 days of referral to the early intervention official.

(3) The costs that an approved provider of early intervention services incurs in providing such interim services shall be approved costs to the extent they are otherwise consistent with Section 2555 of the Public Health Law.

Sec. 69-4.12 Monitoring of Approved Service Providers (Including Evaluators, Service Providers and Service Coordinators)

(a) Programmatic Monitoring. For purposes of this section, approved service providers means municipalities, incorporated entities, sole proprietorships, partnerships, state-operated facilities and individual qualified personnel approved by a state early intervention service agency to deliver service coordination services, evaluations, and/or early intervention services.

(1) Approved service providers shall be monitored on an annual basis by their approving state early intervention service agency.

(i) State early intervention service agencies shall monitor approved service providers in accordance with these regulations and applicable federal law and regulations and shall report annually to the Department of Health on monitoring activities, including the status of any corrective action plans, and technical assistance activities directed

at providers of early intervention services. Monitoring procedures may include:

(a) institution of reporting requirements;

(b) provision of technical assistance in the development and implementation of self-assessment and internal quality control procedures; and

(c) corrective action plans where appropriate.

(2) Approved service providers may be monitored by municipalities with which they have entered into a contract to deliver service coordination services, evaluations, and/or early intervention services in accordance with Early Intervention Program regulations and/or terms of the municipal contract.

(3) Whenever feasible and appropriate, state early intervention service agencies and municipalities shall jointly conduct monitoring activities.

(i) By October 1 of each year, state early intervention service agencies shall determine and inform the Department of Health of monitoring activities to be conducted during the federal fiscal year, including a site visit schedule which identifies the approved providers under their approval authority which will receive a site visit during that federal fiscal year.

(4) Monitoring activities, including site visits, may include the following components:

(i) a sample review of records, including Individualized Family Service Plans;

(ii) interviews with personnel responsible for the administration and provision of early intervention services;

(iii) review of status of licensure, certification, or registration;

(iv) review of organizational structure and staffing patterns, including supervision of personnel and participation of personnel in in-service training;

(v) a review of compliance with these regulations;

(vi) a review of internal quality assurance procedures (e.g., mechanisms for parent involvement in planning and evaluation of service delivery);

(vii) review of information or gathering of information about parent experiences and satisfaction with service delivery, (e.g., exit interviews with parents, parent satisfaction questionnaires, etc);

(viii) where applicable and practicable, observation of the delivery of early intervention services and interviews with families; and

(ix) where applicable, a review of the status of any corrective action plans for any previously identified deficiencies.

(b) An initial site visit shall be conducted within one year of approval by a state early intervention service agency of a newly incorporated service entity or other

incorporated service entity which has not been previously involved in the delivery of services to eligible children and their families. Such site visits shall be conducted by the approving state early intervention agency.

(c) Fiscal auditing. For purposes of this section, approved service providers means incorporated entities, sole proprietorships, partnerships, state-operated facilities and individual qualified personnel approved by a state early intervention service agency to deliver service coordination services, evaluations, and/or early intervention services.

(1) Each municipality may conduct an audit of approved service providers under contract to deliver service coordination services, evaluations, and/or early intervention services. The municipality shall submit the results of any such audit to the Commissioner for review and, if warranted, adjustments in state aid reimbursement, as well as for recovery by the municipality of its share of any disallowances identified in such audit.

(i) All audits will be based upon these and other applicable regulations and generally accepted accounting principles.

(ii) Audits may include a comprehensive review of all financial records and related documentation.

(2) The early intervention official shall have the ability to perform, or cause to be performed, a fiscal audit of approved service providers under contract with the municipality and located in another municipality, provided that:

(i) prior to initiation of such audit, the early intervention official ascertains that neither the state nor the municipality where services are being delivered has performed or intends to perform such an audit within six months;

(ii) a full fiscal audit is performed;

(iii) where appropriate, the auditing is performed in conjunction with the approving state early intervention service agency to avoid unnecessary duplication of auditing procedures;

(iv) results of the audit shall be made available upon request of any other municipality making payments under the Early Intervention Program to the approved evaluator, service provider or service coordinator; and

(v) no other municipality may conduct an additional audit for the time period specified above.

Sec. 69-4.13 Local Early Intervention Coordinating Councils

(a) A local early intervention coordinating council shall be established in each municipality and shall consist of the following members appointed by the early intervention official:

(1) at least four parents of children with disabilities age birth through twelve years of age;

(2) at least three public or private providers of early intervention services;

(3) at least one child care provider or representative of child care providers;

(4) the chief executive officers or their designees of the municipalities'

departments of social services, health and mental hygiene; and, a representative from the local developmental disabilities services office; and

(5) a representative from one or more committees on preschool special education of local school districts in the municipality.

(b) If membership requirements cannot be reasonably met, the early intervention official may submit a written request to the Commissioner for a waiver of such requirements.

(c) The local early intervention coordinating council shall meet in open forum accessible to the general public preferably quarterly, but in no event less than every six months. The early intervention official shall ensure appropriate public notice of the meeting, which shall include its purpose, date, time, and location. The notice shall be within a sufficient time period prior to the meeting to enable public participation.

(d) The local early intervention coordinating councils shall advise their early intervention officials regarding:

(1) the planning for, delivery and evaluation of the early intervention services for eligible children and their families, including methods to identify and address gaps in services;

(2) the identification of service delivery reforms necessary to promote the availability of early intervention services within natural environments;

(3) the coordination of public and private agencies; and

(4) such other matters relating to early intervention policies and procedures within the municipality as are brought to its attention by parents, providers, public agencies, or others.

(e) The council will report annually to the early intervention official on the adequacy of the early intervention system to ensure the availability of family centered, coordinated services; and interface with other existing planning bodies that serve like populations.

Sec. 69-4.14 Reporting

(a) Early intervention officials shall report to the Department of Health such data as the Department may require.

(1) The early intervention official, in conjunction with the local early intervention coordinating council, shall annually and upon request submit a report to the Department and the Early Intervention Coordinating Council on the status of the program within the municipality including gaps in services and methods to address these gaps.

(b) Approved early intervention evaluators, service providers, and service coordinators will provide to early intervention officials all the data necessary to complete required reports in a timely manner.

Sec. 69-4.15 Children in Care

(a) Definitions. The following terms shall have the following meanings:

(1) "foster child" shall mean a child in the care, custody or guardianship of a commissioner of a local social services district;

(2) "homeless child" shall mean a child placed in a hotel, motel, shelter, or other temporary housing arrangement by a social services district because of the unavailability of permanent housing;

(3) "municipality of current location" shall mean a municipality in which a child lives which is different from the municipality in which a child or such child's family lived at the time a social services district assumed responsibility for the placement of such child or family or at the time the child was admitted for care or treatment in a facility licensed or operated by a state agency other than the Department of Health;

(4) "municipality of residence" shall mean the municipality in which a child or such child's family lived at the time the local social services district assumed responsibility or custody for such child or family or at the time the child was admitted for care or treatment in a facility licensed or operated by a state agency other than the Department of Health; and

(5) "child in residential care" shall mean an infant or toddler living in a residential facility licensed or operated by a state agency. For the purposes of subdivisions (b),(c) and (d) of this section, a child in residential care shall be deemed a homeless child.

(b) Evaluation and IFSP responsibility. The municipality of current location of a foster child or homeless child shall be responsible for the evaluation and IFSP procedures prescribed for an infant or toddler suspected of having a disability. For reimbursement purposes, the municipality of current location shall identify to the Commissioner of Health each eligible foster child or homeless child. The municipality of current location of such child shall also transmit a copy of the IFSP and cost of service of such child to the municipality of residence.

(c) Contract and payment responsibility. The municipality of current location shall be the municipality of record for an eligible foster child or homeless child, provided that the state shall reimburse one hundred percent of the approved costs paid by such municipality which shall be offset by the local contribution.

(d) Local contribution. The municipality of residence shall be financially responsible for the local contribution in the amount of fifty percent of the approved costs.

Sec. 69-4.16 Parents, Persons in Parental Relation and Surrogate Parents

(a) The early intervention official shall make every effort to protect the right of parents, which includes persons in a parental relation, to make decisions about a child's receipt of early intervention services.

(b) Where the parent's availability to the child is limited due to life circumstances, including residing far from their child or the parent is residing in an institution, or the child's placement in the care and custody of the local social services commissioner, the early intervention official shall, as appropriate, facilitate the parent's involvement in early intervention services.

(c) The early intervention official shall be responsible for the determination of the need for a surrogate parent for eligible or potentially eligible children and make reasonable efforts, including contacting persons who might have information concerning the parent, or visit and/or send letters via regular and certified mail to addresses at which the parent may have lived, to discover the whereabouts of a parent before appointing a surrogate.

(1) The early intervention official shall establish agreements with local social service districts, Family Court and other relevant public agencies regarding procedures which will be used to identify eligible or potentially eligible children in need of surrogate parents.

(2) Upon receipt of a referral of an eligible or potentially eligible child who is in the care and custody or custody and guardianship of the local commissioner of social services, the early intervention official, in consultation with the local commissioner of social services or designee, shall determine the availability of the parent.

(3) In the event that the child is a ward of the State, or in the care and custody of the local social services commissioner, and his or her parents by birth or adoption are unavailable and the child has no person in parental relation, the early intervention official shall consult with the local commissioner of social services with care and custody or custody and guardianship of the child to promptly appoint a surrogate parent.

(d) The early intervention official shall appoint a qualified surrogate parent for any eligible or potentially eligible child when the child is a ward of the state, or when the child is not a ward of the state but his or her parents by birth or adoption are unavailable, after reasonable efforts to facilitate their participation and the child has no person in parental relation.

(e) The early intervention official shall allow an available birth parent or adoptive parent to voluntarily appoint a surrogate parent upon written consent.

(f) The early intervention official shall select a surrogate parent who is qualified and willing to serve in such capacity and who:

(1) has no interest that conflicts with the interests of the child;

(2) has knowledge and skills that ensure adequate representation of the child;

(3) if available and appropriate, is a relative who has an ongoing relationship with the child or a foster parent with whom the child resides;

(4) is not an employee of any agency involved in the provision of early intervention or other services to the child, provided however that a person who otherwise qualifies to be a surrogate parent is not considered an employee solely because he or she is paid by a public agency to serve as a surrogate parent; and

(5) has been selected, for any child who is a ward of the state or for any child whose parent is unavailable and who is in the care and custody of the local social services commissioner, in consultation with the local commissioner of social services or designee.

(g) The early intervention official shall afford the surrogate parent the same rights and responsibilities as accorded to the parent by the Early Intervention Program and shall represent the child in all matters related to:

(1) screening, evaluation, and assessment of the child;

(2) development and implementation of the Individualized Family Service Plan, including annual evaluations and periodic reviews;

(3) the ongoing provision of early intervention services;

(4) the right to request mediation or an impartial hearing in the event of a dispute; and

(5) any other rights established in the Early Intervention Program.

(h) The surrogate parent shall maintain the confidentiality of all information regarding the child, including written records.

(i) A person appointed to serve as a surrogate parent shall be removed by the early intervention official in the event:

(1) the surrogate parent is no longer willing or available to participate in that capacity;

(2) the surrogate parent fails to fulfill his or her duties;

(3) the child is no longer a ward of the state; or

(4) a parent becomes available.

(j) The surrogate parent may request a hearing to challenge a determination by an early intervention official to remove the surrogate parent for failure to fulfill the duties of a surrogate parent. Upon request by the former surrogate parent, a hearing shall be conducted under the provisions of Part 51 of Title 10.

(k) In the event that the surrogate parent is removed and the child continues to require the assistance of a surrogate parent, the early intervention official shall appoint a surrogate parent within no more than 10 working days of the removal.

Sec. 69-4.17 Procedural Safeguards

(a) The early intervention official shall make reasonable efforts to ensure that the parent is fully informed, in their dominant language, and understand the rights and entitlement afforded them under the Early Intervention Program, including the right to:

(1) elect or decline to have the child screened and/or evaluated to determine eligibility for early intervention services and to participate in the voluntary family assessment process;

(2) elect or decline to participate in the Early Intervention Program without jeopardizing their right to future participation in the Early Intervention Program;

(3) accept or decline any early intervention service without jeopardizing other early intervention services;

(4) confidentiality of personally identifiable information;

(5) review and correct records;

(6) be notified by the early intervention official within a reasonable time prior to a proposal or refusal to initiate or change the identification, evaluation, or delivery of appropriate early intervention services to the child and family unit;

(7) participate in and invite the participation of others in all decision-making meetings regarding a proposal, or refusal, to initiate or change the identification, evaluation, or delivery of services to the child and family unit;

(8) use due process procedures to resolve complaints;

(9) use an attorney or advocate in any and all dealings with the State early intervention program;

(10) receive an explanation of the use of and impact on insurance, including protection against co-payments and safeguards for lifetime and annual caps as provided in State law; and

(11) when the initial service coordinator or the early intervention official has not made contact with the parent prior to the evaluation, the approved evaluator shall review with the parent their rights under the program and document the review in the evaluation summary.

(b) Notice

(1) Written notice must be given by the early intervention official to the parent of an eligible child ten working days before the early intervention official proposes or refuses to initiate or change the identification, evaluation, service setting, or the provision of appropriate early intervention services to the child and the child's family.

(i) The notice must be sufficient in detail to inform the parent about:
(a) the action that is being proposed or refused;
(b) the reasons for taking such action; and
(c) all procedural safeguards available under the Early Intervention Program.

(ii) The notice must be:

(a) written in language understandable to the general public; and
(b) provided in the dominant language of the parents, unless it is clearly not feasible to do so.

(iii) If the dominant language or other mode of communication of the parent is not a written language, the early intervention official shall take steps to ensure that:

(a) the notice is translated orally or by other means to the parent in the parent's dominant language or other mode of communication;
(b) the parent understands the notice; and
(c) there is written evidence that the requirements of this paragraph have been met.

(iv) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, braille, or oral communication).

(2) The early intervention official shall make reasonable efforts to ensure the parent receives written notification about the right to due process and the method by which mediation and an impartial hearing can be requested at the following times:

(i) upon denial of eligibility;

(ii) upon disagreement between the early intervention official and the parent on an initial or subsequent IFSP or proposed amendment to an

existing IFSP; and

(iii) upon request from the parent for such information.

(c) Confidentiality

(1) Personally identifiable data, information, or records pertaining to an eligible child shall not be disclosed by any officer or employee of the Department of Health, state early intervention service agencies, municipalities, evaluators, service providers or service coordinators, to any person other than the parent of such child, except in accordance with Title 34 of the Code of Federal Rules Part 99, Sections 300.560 through 300.576 (with the modification specified in Section 303.5(b) of Title 34 of the Code of Federal Regulations) and Part 303 of Title 34 of the Code of Federal Regulations (Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 available from the Early Intervention Program, Room 208 Corning Tower Building, Empire State Plaza, Albany, New York 12237-0618), to preserve the confidentiality of records pertaining to children participating in the early intervention program.

(2) Each municipality, evaluator, service provider and service coordinator shall adopt procedures comparable to those set forth in part 99 and Sections 300.560 through 300.576 (with the modifications specified in Section 303.5(b)) of Title 34 of the Code of Federal Regulations (Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 available from the Early Intervention Program, Room 208 Corning Tower Building, Empire State Plaza, Albany, New York 12237-0618) to preserve the confidentiality of records pertaining to eligible children participating in the Early Intervention Program.

(3) Early intervention officials, all providers approved to deliver early intervention services and all personnel involved in mediation and impartial hearing procedures shall:

(i) implement and maintain policies and procedures to assure the protection of confidential personally identifiable information, which may include existing policies and procedures where appropriate and applicable;

(ii) submit assurances that all employees, including independent contractors, consultants, and volunteers with access to personally identifiable information are informed of and are required to adhere to all confidentiality requirements of personally identifiable information;

(iii) adhere to all legal requirements that protect records containing sensitive information (*e.g.,* such as sexual or physical abuse, treatment for mental illness or mental health problems, HIV status, communicable disease status, the child's parentage, etc.); and

(iv) identify the person or person(s) with designated responsibility for guaranteeing the confidentiality of personally identifiable information.

(4) Early intervention officials shall ensure the confidentiality of all information maintained in an electronic format, except as required or permitted by state or federal law.

(5) The early intervention official shall provide for the confidential exchange of information among parent, evaluators, service providers and service coordinators, including policies and procedures which enable the parent to

voluntarily give written consent for general release of information.

(i) The parent shall be informed of the right to refuse to sign a general release and offered the opportunity to sign a more selective release which specifies by name or category those individuals to whom information may be disclosed or from whom it may be sought.

(ii) The parent's authorization for general release shall be revokable at any time and the parent shall be informed of the right to revoke such authorization. Such information shall be included on any such release form.

(6) The early intervention official shall make reasonable efforts to ensure notification of the parent when maintenance of personally identifiable information is no longer necessary for the purposes of the early intervention program.

(i) At the request of the parent, the early intervention official shall ensure all personally identifiable information is removed from the record and destroyed. However, a permanent record of the child and the family's name and address and the types and dates of services received may be maintained without time limitation.

(d) Access to Records

(1) The early intervention official and approved evaluators, service providers, and service coordinators shall ensure the parent is afforded the opportunity to review and inspect all the records pertaining to the child and the child's family that are collected, maintained, or used for the purposes of the Early Intervention Program, unless the parent is otherwise prohibited such access under State or federal law. The opportunity to review and inspect the record includes the right to:

(i) understandable explanations about and/or interpretations of the record upon the parent's request;

(ii) obtain a copy of the record within 10 working days of the receipt of the request by the early intervention official or approved evaluator, service provider, or service coordinator;

(iii) obtain a copy of the record within five working days if the request is made as part of a mediation or impartial hearing; and

(iv) have a representative of the parent view the record.

(2) For children in the care and custody or custody and guardianship of the local social services district, the local commissioner of social services or designee shall be accorded access to the records collected, maintained or used for the purposes of the Early Intervention Program.

(3) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(4) The early intervention official or evaluator, service provider or service coordinator may charge a reasonable fee not to exceed 10 cents per page for the first copy and 25 cents per page for any additional copies of the record,

provided that the fee does not prevent the parent from exercising the right to inspect and review records and providing that no fees shall be charged to parents to obtain copies of any evaluation or assessment documents to which parents are specifically entitled under other sections of this subpart, except an evaluator or service provider may charge for copies as permitted under Public Health Law §18.

(5) Parents shall not be charged fees for the search and retrieval of the record.

(6) Where any part of the record contains information on more than one child, the parent shall only have the opportunity to review and inspect the portion of the record which pertains to their child.

(7) Each early intervention official, evaluator, service provider and service coordinator shall keep a record of parties obtaining access to records gathered, maintained, or used for purposes of the Early Intervention Program (except access by parents and authorized employees of the municipality or approved evaluator, service provider, or service coordinator) including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(e) Amending the Record

(1) The early intervention official, evaluator, service provider and service coordinator shall ensure the parent the right to present objections and request amendments to the contents of the record because the parent believes the information is inaccurate, misleading, or violates the privacy or other rights of the child.

(2) The parent may at any time present objections pertaining to the contents of the record to the early intervention official, evaluator, service provider or service coordinator, and request that amendments be made.

(3) The early intervention official, evaluator, service provider or service coordinator shall respond to the parent objection and request for amendments of the record within 10 working days.

(i) If the early intervention official, evaluator, service provider or service coordinator concurs with the parent's request, the service coordinator shall ensure the contents of the record are amended as requested and notify the parent of the amendment in writing or via a verbal explanation in their dominant language unless clearly not feasible to do so.

(ii) If the early intervention official, evaluator, service provider or service coordinator does not concur with the parent's request to amend the record, the early intervention official shall notify the parent in writing of the decision and inform the parent of the right to an administrative hearing.

(4) An administrative hearing to amend the record must meet, at a minimum, the following requirements:

(i) the municipality shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent;

(ii) the municipality shall give the parent notice of the date, time, and place, reasonably in advance of the hearing;

(iii) the hearing may be conducted by any individual designated by the municipality, who does not have direct interest in the outcome of the hearing;

(iv) the municipality shall give the parent a full and fair opportunity to present evidence relevant to the issues. The parent may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney;

(v) the municipality shall make a decision in writing within a reasonable period of time after the hearing;

(vi) the decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and reasons for the decision;

(vii) if, as a result of the hearing, the municipality determines that the record contains information that is inaccurate, misleading, or violates the privacy rights of the child or family, the municipality shall order the amendment of the record as requested by the parent;

(viii) if the record is ordered to be amended, the early intervention official shall ensure the record is amended and notify the parent in writing of the amendment; and

(ix) if, as a result of the hearing, the municipality determines that the contents of the record are not inaccurate or misleading or do not violate the privacy rights of the child and family, the municipality shall order that the parent be notified in writing of such decision and informed of the right to place a statement in the record reflective of their views. The municipality shall ensure that such parental statement is incorporated, maintained, and disseminated as part of the record.

(f) Availability of Due Process

(1) The parent of an eligible or potentially eligible child shall have the right to access mediation and/or an impartial hearing at no cost for the resolution of individual child complaints regarding eligibility determinations or the provision of early intervention services.

(2) The Department of Health shall establish, implement, and maintain impartial hearing and mediation processes for the resolution of individual complaints regarding the identification, evaluation, assessment, eligibility determinations, and development, review and implementation of the individualized family service plan (IFSP).

(i) The Department of Health shall ensure the availability of hearing officers who are trained and knowledgeable of the federal and State law and regulations pertaining to the Early Intervention Program and the conduct of administrative hearing procedures.

(3) The failure of the parent to participate in mediation proceedings for the resolution of a complaint or dispute shall not constitute a failure to exhaust administrative remedies and shall not prevent the parent from accessing an impartial hearing.

(g) Mediation Procedures

(1) The Department shall ensure that a statewide mediation system shall be available to ensure parent and early intervention officials may voluntarily access a non-adversarial process for the resolution of complaints regarding the provision of early intervention services.

(2) Mediation services for the resolution of disputes regarding eligibility determination or early intervention service delivery shall be available from community dispute resolution centers upon the written request of the parent and/or early intervention official and the mutual agreement of the parent and the early intervention official to participate in mediation.

(3) The early intervention official shall ensure the parent, upon the request for mediation services by the parent or the early intervention official, is informed of:

(i) the voluntary nature of mediation;

(ii) the parent's right to withdraw at any time from mediation and request an impartial hearing; and

(iii) the right to be accompanied by supportive persons and/or an attorney.

(4) The parent's request to the early intervention official for mediation services may be made in a written format selected by the parent.

(5) The early intervention official's request that the parent agree to participate in mediation services shall be made in writing in the dominant language of the parent, if feasible, and in a manner understandable to the parent.

(6) If the early intervention official requests mediation, the early intervention official shall obtain the express written consent of the parent to transmit personally identifiable information to the community dispute resolution center.

(7) Within two working days of receipt of a request by the early intervention official for mediation by the parent, the early intervention official shall notify the appropriate community dispute resolution center in writing of the request for mediation. The parent and service coordinator shall simultaneously be sent a copy of such notification, which shall include:

(i) the names, addresses, and telephone numbers of the parties to participate in the mediation;

(ii) the need for interpretive services, if any; and

(iii) the nature of the dispute(s) which has resulted in the request for mediation.

(8) Immediately upon receipt of a request for mediation, the community dispute resolution center shall contact the parent and early intervention official to discuss at a minimum the following:

(i) the mediation process;

(ii) a convenient site and time for the mediation; and

(iii) the need for interpretative services or alternative communication services, if any.

(9) The community dispute resolution center shall, upon a determination of the mutual agreement of the parent and early intervention official to participate in mediation, make appropriate arrangements for and convene the mediation proceedings within two weeks of the receipt of the request by the early intervention official, unless an extension is requested or consented to in writing by the parent.

(i) The mediation proceedings shall be convened at a date, time, and location convenient to the parent.

(10) The mediator and community dispute resolution center shall maintain the confidentiality of all personally identifiable information as required by state or federal law or regulations.

(11) The parent and the early intervention official may represent themselves during the mediation proceedings.

(i) The parent and the early intervention official shall have the right to invite others to accompany them at the mediation proceeding.

(12) The parent and/or the early intervention official may be accompanied by an attorney at the mediation proceeding, provided that advanced notice is given to the other party of the intention to be accompanied by an attorney.

(13) The mediation process shall be completed within 30 calendar days of the receipt of the request for mediation by the community dispute resolution center.

(i) When mediation has resulted in successful negotiation of a partial or full agreement on areas in dispute between the parent and the early intervention official, the mediator shall document the terms of the negotiated agreement, including a list of unresolved issues, in writing and obtain the signatures of the parent and the early intervention official on the written agreement.

(ii) The mediator shall, whenever feasible, provide the written agreement in the dominant language of the parent or other alternative mode of communication.

(iii) The mediator shall forward a copy of such agreement to the community dispute resolution center, which shall ensure that the parent, early intervention official, and service coordinator receive a copy of the written agreement.

(iv) The service coordinator shall ensure that the terms of services agreed to in the written agreement are incorporated into the Individualized Family Service Plan within five working days of the receipt of the written agreement.

(v) When the mediation has not resulted in the negotiation of a resolution, the early intervention official shall ensure the parent is informed of the right to and procedures for requesting and obtaining an impartial hearing.

(v) In any due process proceedings subsequent to the mediation process, only requests for mediation and mediation agreements may be available for presentation as evidence.

(14) Mediation records shall be maintained by the community dispute resolution center for a period of
at least six years.

(h) Impartial Hearing Procedures for Individual Child Complaints

(1) The parent shall have the right to an impartial hearing which ensures the fair and prompt resolution of individual child disputes or complaints.

(i) A request for an impartial hearing must be made in writing and signed by a parent and submitted to the Commissioner of Health or designee.

(2) Upon the receipt of a request for an impartial hearing, the Commissioner of Health or designee shall inquire of the early intervention official whether or not mediation has been requested or completed, and provide the parent and respondents with a notice of hearing. If any party is represented by counsel, notice also shall be served upon the attorney representing the party.

(i) The notice of hearing shall, at a minimum:

(a) specify the date, time, and place of the hearing, which shall be convenient to the parent;

(b) briefly state the issues which are to be the subject of the impartial hearing, if known;

(c) explain the manner in which the impartial hearing will be conducted;

(d) describe the circumstances under which attorney's fees shall be reimbursed;

(e) advise the parent of the right to be represented by counsel and to be accompanied by any person of their choice;

(f) advise the parent of the right to interpreter for the deaf services;

(g) advise the parent of the right to testify, present evidence, and produce and cross-examine witnesses;

(h) advise the parent of the right to appeal the decision of the hearing officer;

(i) inform the parent that early intervention services that are not in dispute shall be continued pending the decision of the hearing officer and any appeal of such decision; and

(j) inform the parent of the availability and procedures for requesting mediation.

(ii) If the municipality intends to be represented by counsel, the early intervention official shall notify the parent within five working days of receipt of the notice of an impartial hearing request, and the hearing shall be held no sooner than five working days from the receipt of the notice.

(a) The service coordinator shall ensure the parent is informed about legal services and advocacy organizations available to assist them in the impartial hearing process.

(3) All notices and papers connected with a hearing, other than the notice of hearing and statement of charges, if any, may be served by ordinary mail and may be deemed complete three days after mailing.

(4) Upon receipt of a request for an impartial hearing, a hearing officer shall be assigned.

(i) The hearing officer shall complete the impartial hearing and render a decision within 30 days of the filing of a written request by the parent.

(ii) No hearing officer shall preside who has any bias with respect to the matter involved in the proceeding. Any party may file with the Department a request, together with a supporting affidavit, that a hearing officer be removed on the basis of personal bias or for other good cause.

(iii) A hearing officer shall be disqualified for bias. For purposes of this subpart, bias shall exist only when there is an expectation of pecuniary or other personal benefit from a particular outcome of the case; when the individual is an employee of any agency or other entity involved in the provision of early intervention services or care of the child; or, when there is a substantial likelihood that the outcome of the case will be affected by a person's prior knowledge of the case, prior acquaintance with the parties, witnesses, representatives, or other participants in the hearing, or other predisposition with regard to the case. The appearance of impropriety shall not constitute bias and shall not be a grounds for disqualification. Hearing officers are presumed to be free from bias.

(iv) A hearing officer may disqualify himself/herself for bias on his/her own motion. A party seeking disqualification for bias has the burden of demonstrating bias. The party seeking disqualification shall submit to the hearing officer an affidavit pursuant to State Administrative Procedures Act Section 303 setting forth the facts establishing bias. Mere allegations of bias shall be insufficient to establish bias.

(v) The hearing officer shall rule on the request for disqualification.

(vi) Upon the refusal of the impartial hearing officer to voluntarily withdraw from the case, the party filing the request shall have the right to appeal this decision to a court of competent jurisdiction. Any such appeal shall not interrupt the hearing proceedings unless the parties consent to an adjournment pending the outcome of such appeal or otherwise ordered by a court.

(5) The hearing officer shall conduct the impartial hearing in a fair and impartial manner and shall have the power to:

(i) rule upon requests by parties to the hearing, including all requests for adjournments;

(ii) administer oaths and affirmations and issue subpoenas requiring the attendance and testimony of witnesses and the production of books, records and other evidence pertinent to the impartial hearing;

(iii) admit or exclude evidence;

(iv) limit the number of times any witness may testify, repetitious examination or cross-examination, and the amount of corroborative or duplicative testimony;

(v) hear arguments on facts or law;

(vi) order that opening statements be made by the parties to the impartial hearing;

(vii) order the parties to appear for a pre-hearing conference to consider matters which may simplify the issue or expedite the hearing, and which may ensure that the parties understand the procedures governing the hearing;

(viii) ensure that a written or electronic verbatim record of the proceedings is maintained and made available to the parties; and

(ix) perform such other acts as may be necessary for the maintenance of order and efficient conduct of the impartial hearing, unless otherwise prohibited by law or regulation.

(6) A parent involved in an impartial hearing has the right to obtain a written or electronic verbatim transcription of the proceeding.

(7) The procedures used to conduct the impartial hearing proceeding shall provide the parties with a fair and prompt resolution of any dispute.

(i) The parties to the impartial hearing may be represented by legal counsel or individuals with special knowledge or training with respect to children eligible for early intervention services and may be accompanied by other persons of their choice.

(ii) The parent shall have the right to determine whether or not the child who is the subject of the impartial hearing shall attend the hearing.

(iii) The impartial hearing shall be closed to the public unless the parent requests an open hearing. Upon such request, the hearing officer shall make a determination regarding whether the hearing will be opened to the public.

(iv) The parties to the impartial hearing, and their respective counsel or representative, if any, shall have an opportunity to present evidence and to question all witnesses at the hearing.

(v) All evidence including documents and a listing of witnesses shall be disclosed to the opposing party at least five working days before the hearing.

(a) The parent has the right to prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent at least five days before the proceeding.

(vi) The local social services commissioner or designee shall be afforded notice and a right to be heard at any mediation process and/or impartial hearing for any child in his or her care and custody or custody

and guardianship.

(vii) Each witness shall be sworn or given an affirmation by the impartial hearing officer.

(viii) The hearing officer shall consider all relevant evidence and shall include as part of the record all records, documents and memoranda submitted into evidence. The formal rules of evidence do not apply; provided, however that any request for mediation and mediation agreement entered into by the parties may be included as evidence.

(ix) The parties may enter into a stipulation to resolve the matters in dispute at any time prior to the issuance of a decision by the impartial hearing officer.

(a) The parties shall inform the hearing officer of such stipulation.

(b) Upon such notice, the hearing officer shall terminate the proceedings and provide notice to the Department of Health of the termination.

(x) The hearing officer may issue a consent order upon such stipulation by the parties. Such consent order shall have the same force and effect and shall be implemented in the same manner as an order issued by the hearing officer.

(xi) Upon conclusion of the proceedings, the hearing officer shall render a written decision within 30 days of the request for the hearing, which shall include:

(a) the findings of fact and conclusions of law;

(b) a determination regarding the matters in dispute;

(c) an order of implementation of the determination; and

(d) the right to appeal the decision to a court of competent jurisdiction.

(xii) The decision of the hearing officer shall be final, provided that any party may seek judicial review by a court of competent jurisdiction.

(xiii) Where a decision is not rendered within 30 days, the hearing officer may issue interim orders which shall ensure that the child and family receive appropriate early intervention services to the extent feasible and consistent with the services requested by the parent.

(xiv) Where the hearing officer determines that delay in rendering a written decision may result in harm to the child's health or welfare, the hearing officer may provide for an expedited hearing, including an interim verbal decision where necessary, to be followed by a written decision.

(xv) A copy of the written decision shall be mailed to the parties of the hearing, the service coordinator for the child and family, the Commissioner of Health or designee, the local social services commissioner or designee for children in his or her care and custody or custody and guardianship and any other state early intervention service agency affected by such decision.

(xvi) The early intervention official or service coordinator shall modify the Individualized Family Service Plan no later than five working days after receipt of the written or oral decision, whichever is issued sooner.

(xvii) The records and decisions by hearings officers shall be maintained for at least six years.

(i) Availability of Complaint Procedures

(1) All complaints alleging violations of laws, rules and regulations by a state early intervention service agency, early intervention official, or provider approved to deliver early intervention services shall be submitted by a parent, representative of the parent or any other individual or entity to the Department of Health for investigation and resolution. For the purpose of this section, "provider" refers to evaluators, service providers and service coordinators.

(i) Complaints shall be submitted in writing to the Department, unless a person or entity has just cause for submitting an oral complaint.

(2) All investigations shall be completed within 60 calendar days of the receipt of the allegation by the Department of Health.

(3) Upon receipt of a complaint the complainant shall be informed of the following:

(i) the procedures governing the investigation;

(ii) the right of the complainant to receive a copy of the final report and to appeal the findings and decision of the report to the United States Secretary of Education; and

(iii) the right to confidentiality of all personally identifying information unless the complainant provides written consent for its release.

(4) A state early intervention service agency shall, upon referral by the Department of Health of an allegation pertaining to a provider of early intervention services approved by that agency, investigate the complaint and supply the Department of Health with a copy of the final investigation report.

(i) The final report shall include the findings and determination of the investigation and corrective actions and or/procedures, including a copy of the corrective action plan if any.

(5) The investigation of any complaint shall include:

(i) a determination of the need for conducting an on-site investigation.

(a) In the event of a determination that an on-site investigation is unnecessary, the state early intervention service agency shall document the reasons and include a justification for such decision in its final report.

(ii) provision for an interview of the complainant; any person

named in the allegation; and, any person who is likely to have relevant information pertaining to the allegation; and

(iii) provision for the receipt of any documentation which may confirm or deny the substance of the allegation.

(6) Upon completion of an investigation a determination shall be made as to whether the allegation is substantiated and the complainant and subject of the investigation shall be notified in writing of such determination within 10 working days. Written notification shall include:

(i) the findings and determination of the merit of each allegation; and

(ii) corrective actions to be taken, if any.

(a) Subjects of the complaint shall receive a request and instructions for the development of a corrective action plan, if any.

(iii) Corrective action plans developed by the subject of an investigation shall be submitted for approval to the Department of Health or other state early intervention service agency which completed the investigation.

(a) At a minimum, the corrective action plan shall specify the date by which the plan shall be implemented and procedures for implementation.

(iv) The subject of the investigation shall be reviewed periodically until corrective actions have been taken and/or a corrective action plan has been fully implemented.

(a) If appropriate, an on-site follow-up inspection will be performed by the oversight agency to ascertain that all appropriate corrective actions have been taken by the subject of the investigation.

(7) Any provider of early intervention services, who on the basis of an investigation is found to be disqualified to provide such services, shall be immediately removed from the list of approved providers.

(i) The state early intervention service agency which has disqualified the provider of service shall notify the Department of Health immediately of such disqualification.

(ii) Upon the disqualification of a provider of service, the Department of Health shall immediately notify the early intervention official(s) in the provider's catchment area of such disqualification.

(iii) The early intervention official, upon notification of the disqualification of an approved provider, shall notify the parents of any child receiving services from such provider, and in collaboration with the parent and the service coordinator, make arrangements for provision of services by a qualified provider.

(8) Providers who have been disqualified may reply to the commissioner's or state

early intervention service agency's notification within 30 days addressing the statement of reasons, indicating whether deficiencies or violations exist and what corrective steps will be taken and in what time period. If no reply is received, termination will be effective 30 days from receipt of notification.

(9) An early intervention service provider who has been disqualified shall, upon request, be entitled to an impartial hearing.

(i) If a provider is disqualified, such individual or entity shall be given notice promptly of such action, the reasons therefore, the right to an impartial hearing and that such hearing may be obtained by the individual or entity by petitioning the Commissioner of Health or designee within 15 days from the date the notice of agency action is served. Failure to request a hearing within the required 15-day period will result in a waiver of the disqualified provider's right to a hearing.

(ii) A written notice of hearing shall be sent by certified mail to the disqualified provider, and other parties involved, at least 10 days prior to the scheduled date of the hearing. Such notice shall:

(a) specify the date, time, and place of the hearing;

(b) state briefly the issues which are to be the subject of the hearing;

(c) explain the manner in which the impartial hearing will be conducted;

(d) apprise the petitioner of its right to be represented by an attorney, to testify, present documenting evidence, produce witnesses, cross-examine adverse witnesses, and to examine prior to and during the hearing the documents and records supporting the action under appeal; and

(e) state that failure to appear at the hearing shall constitute waiver of the petitioner's right to a hearing and that an order will be issued disqualifying the petitioner from participating in the Early Intervention Program.

(iii) The burden of proof to participate in the Early Intervention Program shall be on the disqualified provider.

(iv) An impartial hearing shall be conducted by a hearing officer under provisions of Part 51 of this Title.

(v) A copy of the impartial hearing decision shall be sent to the petitioner, his/her representative, if any, and the local agency within 45 days from the date on which the request for the hearing was received, except that such time may be extended if the petitioner has requested and been granted a postponement of his/her hearing. An impartial hearing decision unfavorable to the petitioner shall contain a statement informing the petitioner of the availability of judicial review as provided in the Civil Practice Law and Rules.

(10) A record of each impartial hearing shall be maintained as provided in Part 51 of this Title 10 and shall be retained for at least three years from the date of the decision. The record of each impartial hearing shall be available for public inspection and copying.

(j) Pendency

(1) During the pendency of any mediation, impartial hearing, or appeal, the early intervention official shall ensure the following services for the child and family are implemented:

(i) the services provided pursuant to the Individualized Family Service Plan previously in effect; or

(ii) if the early intervention official and the parent do not agree on the IFSP, the sections of the proposed IFSP that are not in dispute.

(2) The early intervention official of a municipality to which a child and family has moved shall ensure that the services identified in the previous Individualized Family Service Plan of the former municipality shall continue to be provided to the extent feasible until a new Individualized Family Service Plan has been developed or that the parent and early intervention official otherwise agree to a modification of such former plan.

Sec. 69-4.18 Respite Services

(a) As appropriate, respite services and models for respite services may be discussed with the parent at the individualized family service plan meeting.

(b) The provision of respite services for an eligible child and family shall be determined in the context of IFSP development, based on the individual needs of the child and family, and with consideration given to the following criteria:

(1) severity of child's disability and needs;

(2) potential risk of out-of-home placement for the child if respite services are not provided;

(3) lack of access to informal support systems (e.g., extended family, supportive friends, community supports, etc.);

(4) lack of access to other sources of respite (e.g., Family Support Services under the auspices of the Office of Mental Retardation and Developmental Disabilities and respite provided through other State early intervention service agencies), due to barriers such as waiting lists, remote/inaccessible location of services, etc.;

(5) presence of factors known to increase family stress (e.g., family size, presence of another child or family member with a disability, etc.); and

(6) the perceived and expressed level of need for respite services by parent.

Sec. 69-4.19 Transportation

(a) The municipality shall ensure that transportation is available beginning the first day of service as agreed upon in the individualized family service plan when transportation is necessary to enable the child and the child's family to receive early

intervention services.

(1) Transportation may be provided directly, by contract, or through reimbursement of the parent at a mileage rate authorized by the municipality for the use of a private vehicle or for other reasonable transportation costs, including public transportation, tolls, and parking fees.

(b) In developing the IFSP, consideration shall first be given to provision of transportation by a parent of a child to early intervention services.

(c) If the parent has demonstrated an inability to provide or access transportation, the municipality in which an eligible child resides shall arrange and provide payment for suitable transportation services necessary for the child and parent participation in early intervention services contained within the Individualized Family Service Plan.

Sec. 69-4.20 Transition Planning

(a) A transition plan shall be developed for every child transitioning from the Early Intervention Program to programs under Education Law, Section 4410, and/or to other early childhood services.

(1) All meetings to discuss the transition plan must be at a time and place mutually convenient to all participants.

(2) The transition plan shall include procedures to prepare the child and family for changes in service delivery, including:

(i) steps to help the child adjust to and function in a new setting;

(ii) procedures to prepare program staff or individual qualified personnel who will be providing services to the child to facilitate a smooth transition; and

(iii) with parental consent, the service coordinator shall incorporate the transition plan into the Individualized Family Service Plan.

(b) At least 120 days prior to the child's potential eligibility for services under the Education Law, Section 4410, the early intervention official, with parental consent, shall provide written notification to the Committee on Preschool Special Education of the local school district in which an eligible child resides of the potential transition of the child.

(1) For children in the care and custody or custody and guardianship of the commissioner of the local social services district, the early intervention official shall notify the local commissioner of social services or designee of the child's potential transition.

(2) The service coordinator shall review information concerning the transition procedure with the parent and obtain parental consent for the transfer of appropriate evaluations, assessments, Individualized Family Service Plans, and other pertinent records.

(3) With parent consent, the early intervention official shall convene a conference with the parent, service coordinator, and the chairperson of the Committee on Preschool Special Education or designee, at least 90 days prior to the child's eligibility for services under Education Law, Section 4410, or no later than 90 days before the child's third birthday, whichever is first to review

program options and if appropriate, establish a transition plan.

(i) The local social services commissioner may participate in the conference for children in the care and custody or custody and guardianship of the social services commissioner.

(ii) The conference may be combined with the initial meeting of the Committee on Preschool Special Education pertaining to the child.

(c) For children thought not to be eligible for programs under Education Law, Section 4410, the service coordinator shall assist the parent in development of a transition plan to other appropriate early childhood and supportive services. The service coordinator shall assist the parent in identifying, locating, and accessing such services.

(d) With parental consent, the early intervention official shall notify the Committee on Preschool Special Education of those children potentially eligible for transition to the preschool special education program but whose parents have selected to continue with early intervention services for the specified period of eligibility for the Early Intervention Program.

Sec. 69-4.21 Reimbursement of Municipal Administrative Costs

(a) Municipalities shall be eligible for reimbursement for administrative costs, exclusive of due process costs, incurred during the preceding year pursuant to this title.

(b) The costs of direct early intervention services are not considered administrative costs. Administrative costs shall include personnel and operating expenses incurred for administration of the program.

Sec. 69-4.22 Third-party Payments

(a) Municipalities shall in the first instance and where applicable, seek payment from private third party insurers, prior to claiming payment from Medicaid or the Department of Health, for services delivered to eligible children and their families, provided that the municipality shall not obtain payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured's policy.

(b) The municipality or its designee shall be subrogated, to the extent of expenditures by the municipality for early intervention services provided to an eligible child and parent, to any rights the child or parent may have or be entitled to from third party reimbursement.

(1) The early intervention official shall, upon notification by the initial service coordinator of the parent's eligibility for benefits from a health insurance policy or benefits plan promptly notify the health insurer or benefits plan administrator of the intent to exercise subrogation rights.

(c) All approved evaluators, service coordinators, and service providers shall forward to the early intervention official within a reasonable period all documentation and information necessary to support municipality billing of all third party payors, including the Medical Assistance Program.

(d) The municipality shall pay all co-payments and deductibles to meet any requirement of an insurance policy or health benefit plan in accessing funds applied to payment for early intervention services. These payments will be subject to the same level of state reimbursement as all other payments by the municipality for early intervention

services.

(1) The municipality shall establish a procedure to ensure that the parent does not make a first instance payment for co-pays and deductibles. Such procedures may include an arrangement between the municipality and the provider for payment of co-payments and deductibles to the provider directly.

Sec. 69-4.30 Computation of rates for early intervention services provided to infants and children ages birth to three years old and their families or caregivers.

(a) The commissioner shall annually determine the rates for approved early intervention services and evaluations provided to eligible children, subject to the approval of the director of the budget. For payments made pursuant to this section for early intervention services to Medicaid patients, reimbursement shall be based upon a uniform payment schedule with discrete prices as set forth in subdivision (d) of this section. To be eligible to receive reimbursement pursuant to this section, providers must be approved to provide early intervention services pursuant to Article 25 of the Public Health Law.

(b) For purposes of this section, a billable visit shall mean a face to face contact for the provision of authorized early intervention services between a provider of early intervention services and the individual(s) receiving such services, except for service coordination as described in subdivision (c)(3) of this section. Duration shall mean the time spent by a provider of early intervention services providing direct care or client contact. Activities such as case recording, training and conferences, supervisory conferences, team meetings and administrative work are not separately billable activities.

(c) Reimbursement shall be available at prices established pursuant to this section for the following early intervention program services:

(1) Screening as defined in section 69-4.1(ll) of this Subpart and performed in accordance with section 69-4.8 of this Subpart. A provider shall submit one claim for a screening regardless of the number of visits required to perform and complete a screening. Reimbursement may be provided for up to two screenings of a child suspected of having a developmental delay in any twelve month period without prior approval of the Early Intervention Official. The Early Intervention Official shall approve and notify the department of any additional screenings provided to a child within the twelve month period. If additional screenings are necessary, such notice shall be provided on a monthly basis on forms provided by the department. Reimbursement shall not be provided for screenings performed after a child has been found eligible for early intervention services.

(2) Multidisciplinary evaluation as defined in section 69-4.1(m) of this Subpart and performed in accordance with section 69-4.8 of this Subpart. Reimbursable evaluations shall include core evaluations and supplemental evaluations. A provider shall submit one claim for a core or supplemental evaluation regardless of the number of visits required to perform and complete the evaluation.

(i) A core evaluation shall include a developmental assessment, a review of pertinent records and a parent interview as specified in section 69-4.8(a)(4) of this Subpart, and may include a family assessment.

(a) A developmental assessment shall mean procedures conducted by qualified personnel with sufficient expertise in early childhood development who are trained in the use of professionally acceptable methods and procedures to evaluate each of the developmental domains: physical development, cognitive development, communication development, social or emotional development and adaptive development.

(b) A family assessment shall mean a voluntary, family-directed assessment conducted by qualified personnel who are trained in the use of professionally acceptable methods and

procedures to assist the family in identifying their concerns, priorities and resources related to the development of the child.

(ii) Supplemental evaluations shall include supplemental physician or non-physician evaluations and shall be provided upon the recommendation of the multi- disciplinary team conducting the core evaluation and agreement of the child's parent. A supplemental evaluation may also be provided in conjunction with the core evaluation by a specialist trained in the area of the child's suspected delay or disability who is present during the core evaluation as required by section 69-4.8(a)(3) of this Subpart and who provides an in-depth assessment of the child's strengths and needs in such area. Supplemental evaluations provided subsequent to the child's Individualized Family Service Plan (IFSP) must be required by and performed in accordance with the IFSP as specified in section 69-4.8(a)(13) of this Subpart.

(a) Supplemental physician evaluation shall mean an evaluation by a physician licensed pursuant to article 131 of the Education Law for the purpose of providing specific medical information regarding physical or mental conditions that may impact on the growth and development of the child and completing the required evaluation of the child's physical development as specified in section 69- 4.8(a)(4)(i)(a) of this Subpart, or assessing specific needs in one or more of the developmental domains in accordance with section 69-4.8(a)(4)(iv) of this Subpart.

(b) Supplemental non-physician evaluation shall mean an additional evaluation for assessing the child's specific needs in one or more of the developmental domains in accordance with section 69-4.8(a)(4)(iv) of this Subpart. Information obtained from this evaluation shall provide direction as to the specific early intervention services that may be required for the child. Supplemental non-physician evaluations may be conducted only by qualified personnel as defined in section 69-4.1(jj) of this Subpart.

(iii)(a) A multidisciplinary evaluation consisting of a core evaluation and up to four supplemental evaluations (which may include any combination of physician and non-physician evaluations) may be reimbursed within a 12 month period without prior approval of the Early Intervention Official to develop and implement the initial IFSP and subsequent annual IFSPs. The Early Intervention Official shall approve and notify the department of any additional core or supplemental evaluations provided to a child within a twelve month period. If additional core or supplemental evaluations are necessary, such notice shall be provided on a monthly basis on forms provided by the department. Additional core or supplemental evaluations provided subsequent to the child's initial IFSP must be required by and performed in accordance with the IFSP as specified in section 69-4.8(a)(13) of this Subpart.

(b) Certain evaluation and assessment procedures may be repeated if deemed necessary and appropriate by the Early Intervention Official in conjunction with the required annual evaluation of the child's IFSP or more frequently in accordance with section 69-4.8(a)(12) of this Subpart. If additional evaluation or assessment procedures are necessary, the Early Intervention Official shall approve up to one more core evaluation and two supplemental evaluations prior to the next annual IFSP. Such additional evaluations must be required by and performed in accordance with the child's IFSP as specified in section 69-4.8(a)(13) of this Subpart. Any additional evaluations within that period shall be based on the indicators specified in section 69-4.8(a)(12), approved by the Early Intervention Official and the Commissioner of Health of the New York State Department of Health and required by and performed in accordance with the child's IFSP.

(3) Service coordination as defined in section 69-4.1(k)(2)(xi) of this Subpart. Service coordination shall be provided by appropriate qualified personnel and billed in 15 minute units that reflect the time spent providing services in accordance with sections 69-4.6 and 69-4.7 of this Subpart, or billed under a capitation methodology as may be established by the Commissioner subject to the approval of the Director of the Budget. When units of time are billed, the first unit shall reflect the initial five to fifteen minutes of service provided and

each unit thereafter shall reflect up to an additional fifteen minutes of service provided. Except for child/family interviews to make assessments and plans, contacts for service coordination need not be face-to-face encounters; they may include contacts with service providers or a child's parent, caregiver, daycare worker or other similar collateral contacts, in fulfillment of the child's IFSP.

(4) Assistive technology as defined in section 69-4.1(k)(2)(ii) of this Subpart;

(5) Home and community-based individual/collateral visit. This shall mean the provision by appropriate qualified personnel of early intervention services to an eligible child and/or parent(s) or other designated caregiver at the child's home or other natural setting in which children under three years of age are typically found (including day care centers, other than those located at the same premises as the early intervention provider, and family day care homes). Reimbursable home and community-based individual/collateral visits shall include basic and extended visits.

(i) A basic visit is less than one hour in duration. Up to three (3) such visits provided by appropriate qualified personnel within different disciplines per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(ii) An extended visit is one hour or more in duration. Up to three (3) such visits provided by appropriate qualified personnel within different disciplines per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, no more than three (3) basic and extended visits combined per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.
(iv) A provider shall not bill for a basic and extended visit provided on the same day by appropriate qualified personnel within the same discipline without prior approval of the Early Intervention Official.

(6) Office/facility-based individual/collateral visit. This shall mean the provision by appropriate qualified personnel of early intervention services to an eligible child and/or parent(s) or other designated caregiver at an approved early intervention provider's site (including day care centers located at the same premises as the early intervention provider). Up to one (1) visit per discipline and no more than three (3) office/facility-based visits per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(7) Parent-child group visit. This shall mean the provision of early intervention services in a group comprised of parent(s) or other designated caregivers and eligible children, and a minimum of one appropriate professional qualified to provide early intervention services at an early intervention provider's site or a community-based site (e.g. day care center, family day care, or other community settings). Up to one (1) visit per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(8) Basic group developmental intervention visit. This shall mean the provision of early intervention services by appropriate qualified personnel to eligible children in a group which may also include children without disabilities, at an approved early intervention provider's site or in a community-based setting where children under three years of age are typically found.

(i) Up to one (1) group developmental intervention visit per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(ii) For purposes of subparagraph (i) of this paragraph and subparagraphs (i) of paragraphs (9) through (11) of this subdivision, a group developmental intervention visit shall include a basic visit as described in this paragraph, an enhanced visit as described in paragraph (9) of this subdivision, a basic with one-to-one aide visit as described in paragraph (10) of this subdivision, or an enhanced with one-to-one aide visit as described in paragraph (11) of this subdivision.

(9) Enhanced group developmental intervention visit. This shall mean a group developmental intervention visit as defined in paragraph (8) of this subdivision provided to a child who, due to age, significant medical needs (such as major feeding difficulties, severe orthopaedic impairment), significant behavior management needs and/or level of developmental functioning, require significantly more time and attention from adults during group activities.

(i) Up to one (1) group developmental intervention visit per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(10) Basic group developmental intervention with one-to-one aide visit. This shall mean the provision of early intervention services by appropriate qualified personnel to eligible children in a group which may also include children without disabilities, with attendance at the group developmental intervention session by an additional aide or appropriate qualified personnel. This visit must be provided at an approved early intervention provider's site or in a community-based setting where children under three years of age are typically found.

(i) Up to one (1) group developmental intervention visit per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(11) Enhanced group developmental intervention with one-to-one aide visit. This shall mean a group developmental intervention with one-to-one aide visit as defined in paragraph (10) of this subdivision provided to a child who, due to age, significant medical needs (such as major feeding difficulties, severe orthopaedic impairment), significant behavior management needs and/or level of developmental functioning, require significantly more time and attention from adults during group activities.

(i) Up to one (1) group developmental intervention visit per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official.

(12) Family/caregiver support group visit. This shall mean the provision of early intervention services by appropriate qualified personnel to a group of parents or other designated caregivers (such as foster parents, day care staff) and/or siblings of eligible children for the purposes of:
(i) enhancing their capacity to care for and/or enhance the development of the eligible child; and/or (ii) provide support, education, and guidance to such individuals relative to the child's unique developmental needs. Up to two (2) visits per day may be billed for each eligible child as specified in an approved IFSP without prior approval of the Early Intervention Official (for example, one (1) for parents or other designated caregivers and one (1) for sibling(s) in a given day).

(13) The Early Intervention Official shall approve and notify the department of any visits provided in addition to those described in paragraphs (5) through (12) as may be required by and provided in accordance with the child's IFSP. If such additional visits are necessary, such notice shall be provided on a monthly basis on forms provided by the department.

(d) The prices established pursuant to this section shall provide full reimbursement for the

following:

(1) physician services, nursing services, therapist services, technician services, nutrition services, psychosocial services, service coordination, and other related professional and paraprofessional expenses directly incurred by the approved provider;

(2) space occupancy, except as provided in subdivision (f) of this section, and plant overhead costs;

(3) all supplies directly related to the provision of early intervention services, except as provided in subdivision (g) of this section; and

(4) administrative, personnel, business office, data processing, recordkeeping, housekeeping, and other related provider overhead expenses.

(e) The price for each service shall be adjusted for regional differences in wage levels to reflect differences in labor costs for personnel providing direct care and support staff and shall include consideration of absentee data and child to professional to paraprofessional ratios.

(f) Until June 30, 1996, those early intervention service providers authorized to provide services pursuant to section 236 of the Family Court Act during 1993, shall be reimbursed for actual allowable capital costs obligated prior to July 1, 1993 that are associated with the provision of early intervention services described in subdivision (c) of this section. Capital costs shall be defined as depreciation or amortization, and interest associated with acquisition and/or construction of the physical plant and lease expenses including leasehold improvements associated with the physical plant.

(g) Assistive Technology Devices - Reimbursement for approved assistive technology devices shall be at reasonable and customary charges approved by the Commissioner or her designee.