

**CHAPTER 3**

**CONTRACT ADMINISTRATION**

**Authority**

N.J.S.A. 30:1-12.

**Source and Effective Date**

R.1993 d.597, effective October 22, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 3, Contract Administration, expires on October 22, 1998.

**Chapter Historical Note**

All provisions of this chapter were adopted pursuant to authority of Executive Order No. 34 and became effective on March 7, 1978 as R.1978 d.83. See: 9 N.J.R. 469(b), 10 N.J.R. 154(a).

1983 Revisions: Subchapter 2 became effective September 19, 1983 as R.1983 d.392. See: 15 N.J.R. 1072(a), 15 N.J.R. 1580(a). Amendments to sections 2.2 and 2.3 became effective December 5, 1983 as R.1983 d.561. See: 15 N.J.R. 1627(a), 15 N.J.R. 2042(b).

This chapter expired pursuant to Executive Order 66(1978) on September 19, 1988 and was adopted as a new rule effective November 21, 1988 as R.1988 d.513. See: 20 N.J.R. 1771(a), 20 N.J.R. 2898(a). Subchapter 4, Cognizant Division Contracting, was adopted as R.1991 d.442, effective August 19, 1991. See: 23 N.J.R. 1647(a), 23 N.J.R. 2534(a). Subchapter 3, Request for Proposal, was adopted as R.1991 d.554, effective November 4, 1991. See: 23 N.J.R. 957(a), 23 N.J.R. 3356(a).

Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1993 d.597. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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**SUBCHAPTER 1. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF PERSON(S)**

**10:3-1.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Affiliates” means persons having a relationship such that any one of them directly or indirectly controls or has the power to control another.

“Commissioner” means the Commissioner of the Department of Human Services or his designated representative.

“Debarment” means an exclusion from Department of Human Services (DHS) contracting on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance for a reasonable period of time commen-

surate with the seriousness of the offense, failure, or inadequacy of performance.

“DHS contracting” means any arrangement giving rise to an obligation to supply any thing to or perform any service for the DHS or divisions within the DHS other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the State provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service of the persons who may supply or perform the same.

“Disqualification” means a debarment or suspension which denies or revokes a qualification to bid or otherwise engage in DHS contracting which has been granted or applied for pursuant to statute or rules and regulations.

“Person” means any natural person, company, firm, association, corporation, or other entity.

“Suspension” means an exclusion from DHS contracting for a temporary period of time pending the completion of an investigation or legal proceedings.

#### 10:3-1.2 Causes for debarment of a person

(a) Subject to the conditions hereinafter described, the Commissioner may debar a person for any of the following causes.

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;
2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;
3. Violation of the Federal or State Antitrust Statutes, or of the Federal Anti-Kickback Act (18 U.S.C. 874, 40 U.S.C. 276b, c);
4. Violations of any of the laws governing the conduct of elections of the Federal government, State of New Jersey or of its political subdivisions;
5. Violation of the “Law Against Discrimination” (P.L. 1945, c.169, N.J.S.A. 10:5-1 et seq., as supplemented by P.L. 1975, c.127), or of the act banning discrimination in public works employment (N.J.S.A. 10:2-1 et seq.), or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein (P.L. 1942, c.114, N.J.S.A. 10:1-10 et seq.);
6. Violations of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages or child labor;

7. Violations of any laws governing the conduct of occupations or professions or regulated industries;

8. Willful failure to perform in accordance with contract specifications or within contractual time limits;

9. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

10. Violation of contractual or statutory provisions regulating contingent fees;

11. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by the DHS or the divisions within DHS to warrant debarment, including such conduct as may be prohibited by the laws or contracts enumerated in this paragraph even if such conduct has not been or may not be prosecuted as violations of such laws or contracts. Divisions within the DHS may promulgate rules and regulations specifically setting forth other causes of such serious and compelling nature as to warrant debarment;

12. Debarment by another department or agency in the executive branch.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

#### 10:3-1.3 Conditions affecting debarment of a person(s)

(a) Debarment shall be made only upon approval of the Commissioner except as otherwise provided by law.

(b) The existence of any of the causes set forth in N.J.A.C. 10:3-1.2 shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Commissioner unless otherwise required by law, and shall be rendered in the best interests of the State.

(c) All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance and in deciding whether debarment is warranted.

(d) The rendering of a final judgment or conviction based upon any of the grounds set forth in N.J.A.C. 10:3-1.2(a)1 through 7, by either a court of competent jurisdiction or by an administrative agency empowered to render such judgment shall establish cause for debarment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

(e) The existence of a cause set forth in N.J.A.C. 10:3-1.2(a)8 through 11 shall be established by evidence which the DHS determines to be clear and convincing in nature.

(f) No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

(g) No vendor shall cause or influence, or attempt to cause or influence, any state officer or employee or special State officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the vendor or any other person.

(h) The provisions cited in this section shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public, subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

New rule, R.1989 d.315, effective June 19, 1989.  
See: 20 N.J.R. 2849(a), 21 N.J.R. 1699(b).

SUBCHAPTER 2. CAPITAL FUNDING PROGRAM AND FUNDING AGREEMENT

10:3-2.1 Capital Funding Program

(a) The Department of Human Services has established a Capital Funding Program entailing contracting with private and local government agencies in order to carry out the purposes of the New Jersey Public Purpose Buildings Construction Bond Act of 1980 (P.L. 1980, c.119).

10:3-2.2 Capital Funding Agreement for Construction, Purchase, or Purchase and Renovation of Community-Based Facilities

(a) The Department efforts to consolidate division-specific contracts/agreements has culminated in the development of a Standard Contract/Agreement Document for the Construction, Purchase, or Purchase and Renovation of Community-Based Facilities. Copies of the Standard Document and updates may be obtained from:

Facilities Support Services  
Department of Human Services  
PO Box 700  
Trenton, New Jersey 08625-0700

(b) In the event of a conflict between the standard document referred to in (a) above and any other agency rule in Title 10, the standard document shall prevail. Contract administration rules or documents formerly adopted or adopted in the future pertaining to specific divisions within

the Department shall apply to the extent that they are not inconsistent with the standard document.

OFFICE OF ADMINISTRATIVE LAW NOTE: A copy of the Standard Contract/Agreement Document in (a) above was submitted as part of this proposal but is not reproduced herein. This document may be reviewed at the Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, New Jersey 08625-0700 or Facilities Support Services, PO Box 700, 222 South Warren Street, Trenton. This document will not be reproduced in the New Jersey Administrative Code.

As amended, R.1983 d.561, effective December 5, 1983.  
See: 15 N.J.R. 1627(a), 15 N.J.R. 2042(b).

Address changed from "Office of Community Management Services" to "Contract Policy and Management Unit".  
Amended by R.1988 d.513, effective November 21, 1988.  
See: 20 N.J.R. 1771(a), 20 N.J.R. 2898(a).

Address changed from "88 East State Street" to "9 Quakerbridge Plaza" and "Office of Community Management Services" changed to "Contract Policy and Management Unit".  
Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

10:3-2.3 Capital Funding Agreement for Renovation, Remodeling, Extension or Other Improvements to Agency-Owned or Leased Community Facilities

(a) The Department efforts to consolidate division-specific contracts/agreements has culminated in the development of a Standard Contract/Agreement Document for the Renovation, Remodeling, Extension or Other Improvements to Agency-Owned or Leased Community Facilities. Copies of the Standard Document and updates may be obtained from:

Facilities Support Services  
Department of Human Services  
PO Box 700  
Trenton, New Jersey 08625-0700

(b) In the event of a conflict between the standard document referred to in (a) above and any other agency rule in Title 10, the standard document shall prevail. Contract administration rules or documents formerly adopted or adopted in the future pertaining to specific divisions within the Department shall apply to the extent that they are not inconsistent with the standard document.

OFFICE OF ADMINISTRATIVE LAW NOTE: A copy of the Standard Contract/Agreement Document in (a) above was submitted as part of this proposal but is not reproduced herein. This document may be reviewed at the Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, New Jersey 08625-0700 or Facilities Support Services, PO Box 700, 222 South Warren Street, Trenton. This document will not be reproduced in the New Jersey Administrative Code.

As amended, R.1983 d.561, effective December 5, 1983.  
See: 15 N.J.R. 1627(a), 15 N.J.R. 2042(b).  
Amended by R.1988 d.513, effective November 21, 1988.  
See: 20 N.J.R. 1771(a), 20 N.J.R. 2898(a).

Deleted text "heretofore existent".  
Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

#### 10:3-2.4 Capital Funding Agreement for Community-Based Facility Planning and Design Services

(a) The Department, continuing in its efforts to consolidate contracts and agreements, has developed the Funding Agreement for Community-Based Facility Planning and Design Services document to be used by all divisions for preliminary planning/design services. Copies of the standard document and updates may be obtained from:

Facilities Support Services  
Department of Human Services  
PO Box 700  
Trenton, New Jersey 08625-0700

(b) In the event of conflict between the standard document referred to in (a) above and any other agency rule in Title 10, the standard document shall prevail. Contract administration rules or documents formerly adopted or adopted in the future pertaining to specific divisions within the Department shall apply to the extent that they are not inconsistent with the standard document.

**OFFICE OF ADMINISTRATIVE LAW NOTE:** A copy of the Standard Contract/Agreement Document in (a) above was submitted as part of this proposal but is not reproduced herein. This document may be reviewed at the Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, New Jersey 08625-0700 or Facilities Support Services, PO Box 700, 222 South Warren Street, Trenton. This document will not be reproduced in the New Jersey Administrative Code.

New rule, R.1988 d.513, effective November 21, 1988.  
See: 20 N.J.R. 1771(a), 20 N.J.R. 2898(a).  
Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

### SUBCHAPTER 3. REQUEST FOR PROPOSAL

#### 10:3-3.1 Purpose and scope

This subchapter applies to all Departmental components, County Human Services Advisory Councils (CHSACs) and designated entities when Departmental components choose to issue an RFP, and to all groups or entities responding to RFPs for contracts for the provision of third-party social services or training. The RFP process shall not be required for renewal or expansion of Department purchase of service contracts for programs in effect as of November 4, 1991, unless the departmental component chooses to request proposals.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).  
Rewrote the second sentence, and deleted the third sentence.

#### 10:3-3.2 Definitions

The following terms, when used in this subchapter, shall have the following meanings unless the context indicates otherwise.

"Applicant" means the person, agency or entity responding to an RFP.

"County Human Service Advisory Councils (CHSACs)" means councils appointed by the government of each county to review county-level human service activities and to serve as the primary vehicle for local public input into New Jersey Department of Human Services' decision making. The activities of the County Human Services Advisory Councils include, but are not limited to, review and comment on human service proposals; preparation of allocation plans; review of existing purchase of service contracts; and coordination and consolidation of the local human services delivery systems.

"Days" means calendar days.

"Department" means the New Jersey Department of Human Services. As used throughout the subchapter, it also means, where appropriate from the context, the division, commission, bureau, office, unit or other designated component of the Department of Human Services responsible for the administration of particular contract programs.

"Departmental component" means the division, commission, bureau, office or other unit within the Department responsible for the negotiation, administration, review, approval, and monitoring of certain social service or training contracts.

"Designated entity" means that group or county board which has been given the authority by the Department of Human Services to solicit human service proposals for review and comment and recommended acceptance for third-party social service Contracts. Although the RFP is handled by a group other than the departmental component, the contract is signed and finalized by the departmental component.

"Minority" means a person who is:

1. African-American, having origins in any of the black racial groups in Africa;
2. Hispanic, having Spanish culture, with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
3. Asian-American, having origins in and of the original peoples of the Far East, Southeast Asia, Indian subcontinent, Hawaii, or the Pacific Islands; or

4. American Indian or Alaskan native (Native American), having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliations or community recognition.

“Minority agency” means a business or organization, profit or nonprofit, which is:

1. A sole proprietorship, partnership, or joint venture in which at least 51 percent of the ownership interest is held by minorities and the policy-making, management and daily business operation are controlled by one or more of the minorities who own it; or

2. A corporation or other business entity authorized under the laws of the United States whereby 51 percent of the stockholders, board of directors, ownership or management of daily business operations is controlled by one or more minorities.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Added “Minority” and “Minority agency”.

### 10:3-3.3 Request for proposal

(a) The departmental component or CHSAC/designated entity shall issue a public announcement of the availability of funds for the purchase of services in accordance with N.J.S.A. 52:14-34.4, 34.5 and 34.6. The announcement shall be made in a manner to permit reasonable competition among eligible provider agencies. The departmental component shall publish the announcement in the New Jersey Register and publications directed toward minorities, as defined in N.J.A.C. 10:3-3.2. In addition, the departmental component may choose to do one of the following as a second notification: mail the announcement to identified prospective provider agencies, including those that may provide similar, but not the specific service requested, minority organizations and culturally diverse and sensitive groups; advertise in at least three newspapers of general circulation or enter the notice of RFP on the DHS online system.

(b) The departmental components may choose to have bidders conferences. Technical information regarding the RFP may be disseminated at such a meeting.

(c) The CHSACs/designated entities, at minimum, shall use the standards set forth in this subchapter when they are delegated the responsibility to solicit proposals on behalf of the Department. The Department shall be a signatory to the contract in this instance. In all other instances, the departmental component shall notify the CHSACs/designated entity of the RFP, if appropriate.

(d) The proposal process shall be completed within 105 days of publication, inclusive of all informal review processes. See N.J.A.C. 10:3-3.13 for exceptions.

(e) Within two working days after a potential applicant has requested a proposal package, the departmental component or the CHSAC/designated entity shall forward a proposal package to or it may be picked up by those prospective applicants responding to the public announcement. In addition, when the CHSAC/designated entity has been delegated the responsibility to solicit proposals on behalf of the Department, all appropriate Department procedures, as set forth in this subchapter, and county procedures, as appropriate, must be followed. The proposal package shall contain, at minimum, the following information and requirements:

1. The amount of funds available, the source of funds, the purpose, scope, and goals of the programs and services solicited, and any specific conditions, requirements, and/or constraints such as spending caps or match requirements;

2. A list of requirements which must be fulfilled for the proposal to be evaluated;

3. The type of provider agencies eligible to submit a proposal for consideration;

4. A request for a list of the board of directors and officers of the applicant agency;

5. The address to which the completed proposal must be sent, the submission deadline (time and date) after which no applications will be accepted, time frames for review of the proposal and awarding of contracts, and the target date for implementation;

6. The name and address of a contact person who can provide technical assistance;

7. Funding proposal evaluation criteria (see N.J.A.C. 10:3-3.8);

8. A disclaimer stating the following: “The Department reserves the right to reject any and all proposals when circumstances indicate that it is in its best interest to do so. The Department’s best interest in this context, include, but are not limited to, loss of funding, inability of the applicant to provide adequate services, indication of misrepresentation of information and/or noncompliance with State and Federal laws and regulations, any existing Department contracts, and procedures set forth in this subchapter”;

9. The following statements:

“i. This contract contains the following amounts of State and Federal funds:

ii. In a RFP for the privatization of a State service and/or program only:

(1) In accordance with guidelines established by the New Jersey Executive Commission on Ethical Standards, be advised that Department employees or former employees are eligible to submit proposals to this RFP;

(2) These services were previously State operated. Therefore, if awarded this contract, your provider agency may be responsible to maintain, administer and dispose of public records previously maintained by the State of New Jersey as defined by N.J.S.A. 47:3-16 and must agree to do so under the terms of the contract.”

10. The appropriate information, forms and a list of required supporting documents as set forth in N.J.A.C. 10:3-3.6;

11. Notification of Executive Order No. 189(1988), regarding conflict of interest (see Appendix A incorporated herein by reference);

12. A list of depository libraries where the Contract Reimbursement Manual and Contract Policy and Information Manual may be reviewed prior to proposal;

13. The terms and conditions which must be met to comply with specific funding requirements and Departmental contracting rules;

14. The Statement of Assurances and the requirement that it shall be properly signed by the Chief Executive Officer or equivalent and returned with the application package. See Appendix B incorporated herein by reference; and

15. A statement explaining the departmental component's informal review process and that reviews by the departmental component must be completed within the time frame specified in the RFP or within 15 days after receipt of the CHSAC/designated entity recommendation, and that informal reviews by the CHSAC/designated entity must be completed within the 90-day process time period and prior to the recommendations being sent to the departmental component.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Rewrote (a); in (c), inserted the second sentence; in (e), added two day requirement for mailing of proposal packages; rewrote (e)9; inserted (e)9i and (e)9ii; inserted (e)14 and recodified existing (e)14 as (e)15.

#### 10:3-3.4 Sole source services

Where there is none or only one response to the RFP, after specifications of the RFP have been cited and all criteria of this subchapter have been met, documentation of any and all efforts to obtain multiple responses shall be kept in the Department RFP file. Documentation shall also be retained of every contact made by the departmental component or CHSAC/designated entity to find a provider agency to fulfill the required services.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

#### 10:3-3.5 Internal controls for proposals

(a) The departmental component or CHSAC/designated entity shall record all correspondence to and from the departmental component or CHSAC/designated entity, whichever applicable, in a log retained in the individual program RFP file.

(b) Correspondence shall be recorded in the log by a staff person different from the staff personnel who are on the review panel and participating in the selection process.

(c) The log shall indicate, at a minimum, the following information:

1. The name of the program;

2. The submission deadline date;

3. The name of the applicant, the date the applicant requested the proposal package, and how requested (telephone, letter, etc.);

4. The date the proposal package was sent to or picked up by the applicant;

5. The date the completed proposal was received from the applicant;

6. The name of the Department or CHSAC/designated entity staff person receiving the proposal for review and selection;

7. The decision of the review panel in awarding the contract; and

8. The date the decision letter notifying the applicant of acceptance or rejection was sent.

(d) All proposal packages are to be sent to applicants via first class mail, hand delivered or faxed, as decided by the departmental component, to ensure timely receipt by the applicant.

(e) Proposal packages from applicants are to be date and time stamped upon receipt.

(f) All decision letters concerning acceptance and rejection shall have the same date and shall be mailed via first class mail on that day.

(g) When a CHSAC/designated entity is handling the RFP process, all documentation shall be forwarded to the departmental component responsible for signing the contract for final approval and retention.

(h) The departmental component shall communicate to the CHSAC/designated entity the outcome of any departmental component informal review on an CHSAC/designated entity RFP and forward a copy of the final award letter.

(i) For the privatization of DHS services/programs, the departmental component shall ensure that:

1. Department employees intending to bid on a privatization contract notify the New Jersey Executive Commission on Ethical Standards (Commission) in writing, with a copy to departmental component management, as soon as possible and before the application deadline;

2. The Division Director or other designated operations officer shall submit an affidavit to the Commission, stating that the named employee(s) had no substantial involvement in any of the following:

- i. The decision to privatize the service/program or the ongoing privatization process;
- ii. The preparation of the RFP; or
- iii. The evaluation of the bids;

3. The Privatization Participation Documentation Form, Appendix C incorporated herein by reference, is completed, thus identifying all persons involved with the privatization project and those eligible to respond to the RFP;

4. The departmental component shall maintain records identifying all individuals involved in the privatization process, including, but not limited to, the employee's letter to the Executive Commission on Ethical Standards, the affidavit, and a list of all persons working on the privatization project.

Amended by R.1993 d.597, effective November 15, 1993.  
 See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).  
 Amended by R.1997 d.532, effective December 15, 1997.  
 See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).  
 Added (i).

**10:3-3.6 Funding proposal program summary and evaluation data; list of required information**

(a) The funding proposal requirements shall apply to all proposals submitted to a departmental component or CHSAC/designated entity. Each proposal submitted to a departmental component or CHSAC/designated entity shall contain the following:

- 1. The funding proposal cover sheet, Appendix D, which is incorporated herein by reference;
- 2. The applicant's mission and goals, being a brief description of the applicant's history, purpose, goals, and objectives;
- 3. A need justification, being a description of the basis for concluding that each of the proposed services is needed in the community and the factors that make the applicant the most capable to provide the services, including the following:
  - i. The nature of the problem;
  - ii. Existing services;
  - iii. Statistics;

iv. Any studies that have been conducted either within the community or Statewide relevant to the services being requested in the proposal;

v. The applicant's capability to provide the same or similar services as those existing in the community and/or the applicant's capability to provide a new type of service not currently available in the community;

- vi. The target population and characteristics; and
- vii. The geographic areas to be serviced;

4. Service goals and objectives including specification of the service goals and objectives, the impact on the target populations to be served and how the services will affect the cause of the problem;

5. An indication of the approximate percentage of the client population to be served that requires limited English speaking and/or bicultural services, including the source of the information. Describe how access to the program, the program itself, outreach and referral are culturally relevant and linguistically appropriate for the population to be served, the client and the client's family.

6. An indication of those services that will require a subcontract for provision of the services requested, including a list the subcontracts, if known;

7. A program approach, including the following:

- i. Based on the parameters set forth in the RFP, a description of how the services will be implemented and the time frames involved. The narrative shall address client population and geographic areas served;
- ii. An overview of the total service package. For each component of the program package, the following information shall be provided:

- (1) A definition of each service to be provided, including the purpose and goal of each;
- (2) A description of the service activities or methods that staff will employ to achieve the service objective;
- (3) An indication of the number, qualifications, and skills of the staff that will perform the above service activities, as well as the use of any volunteers. A table of organization for administration and personnel and job descriptions for each position shall be included;
- (4) A description of the management and supervision methods that will be utilized in the operation and the monitoring of the effective performance of the service activities;
- (5) The methods to be used to measure and evaluate the quality of service;
- (6) A description of fees for service (if any), sliding fee schedules and waivers of fees; and

(7) A description of client data to be recorded, the use of this data by the applicant, the means of maintaining confidentiality of client records and data, and the retention schedule of client records and schedule for destruction;

8. Information on accessibility of services, including the following:

i. The hours and days that each service will be available to clients, including how emergencies are handled; for example, closings, client crisis, after-hours contacts;

ii. A list and description of the location(s) where each service will be provided to clients (including in-home provision, if that is an option);

iii. A description of transportation options for clients in obtaining each service; and

iv. A description of handicapped accessibility accommodations;

9. Eligibility requirements and referral processes, including:

i. A description of the priorities for accepting clients into the program and the procedures to be followed to ensure that all clients accepted meet the eligibility requirements for admission;

ii. An explanation of intake procedures; and

iii. An explanation of referral mechanisms and processes (formal and informal) and community outreach procedures;

10. Termination procedures, including a description of termination procedures (client-and program-initiated), the appeals process, and follow-up services, as appropriate. A list of the various reasons for termination shall be included;

11. Information on level of service including the following:

i. An indication of the level of service anticipated throughout the contract period; for example, number of clients to be served, number of meals served, round trips for transportation, hours; and

ii. A definition of each unit of service;

12. Information on service coordination, including the following:

i. A description of the relevant services and ancillary agencies that will be frequently utilized in combination with the service being proposed for funding, including any already existing relationships and agencies which will be referral sources for these services; and

ii. A description of how formal coordination and referral agreements with other community agencies will be accomplished, and where appropriate, specification of these agencies;

13. Information on community participation, including a description of how community members and clients will participate in the functioning of the applicant's organization including the delivery of services, planning for service provisions, and the evaluation of services;

14. A description of activities and timetable for implementation of services, including a description of the timetable for the implementation of activities and schedule of deliverables;

15. Information on current programs managed by the applicant and the funding sources, identification of current programs managed and the funding sources utilized;

16. A copy of the applicant's organizational chart;

17. A copy of the most recent organization-wide audit report;

18. A copy of the applicant's code of ethics and/or conflict of interest policy;

19. A list of the board of directors, officers and their terms of office;

20. Documentation of the applicant's charitable registration status;

21. A copy of the certification of incorporation of the applicant;

22. Originals and/or copies of letters of support from the community;

23. A completed budget proposal, "Appendix E," which is incorporated herein by reference, with a separate column for each service to be provided and with the same program and service names used consistently throughout the proposal or a budget appropriate to the service(s) being requested;

24. A list of the name(s) and address(es) of those entities providing support and/or money to help fund the program for which the proposal is being made;

25. A list of those persons responsible and authorized within the agency to approve and certify binding documents, reports and financial information; and

26. A signed debarment certification statement (Appendix F, incorporated herein by reference) that the applicant is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from Federally funded contracts.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Rewrote (a)3iv; inserted (a)5; recodified existing (a)5 through (a)24 as (a)6 through (a)25; deleted existing (a)25; and added (a)26.

**10:3-3.7 Composition of review panel**

(a) The unit responsible for RFP coordination shall convene a review panel of at least three persons to assess, rate and rank proposals to recommend an applicant for funding. The panel shall be broadly representative and culturally diverse. In no case shall any panel convene absent representation of at least one minority, including that of the CHSAC or the designated entity. The responsible unit shall present an objective process to the review panel for the purpose of rating the proposals.

(b) A panel member must disqualify himself or herself from the panel when he or she has any interest, financial or otherwise, direct or indirect, in the results of the panel's evaluations (see Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq.).

(c) The panel should consist of a diverse group of people having expertise in areas such as contracting, finance, programs/services, including clients, DHS regional and county representatives, and community representatives; or an allocations review panel under the auspices of the CHSAC/designated entity.

(d) Composition of the panel members shall vary depending upon the unit responsible for coordinating the RFP and the nature of the funds to be awarded and services solicited.

(e) The rating system to be used in evaluating criteria, such as numeric, shall generally be determined by the responsible unit.

(f) Recommendations of the panel are regarded as confidential until the awards are publicly announced.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).  
Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

In (a), inserted the second and third sentences; rewrote (c); and added (e) and (f).

**10:3-3.8 Evaluation of the proposal**

(a) All meetings of the review panel shall have written minutes.

(b) The evaluation of the applicant's proposals shall be in writing using a pre-established evaluation form that explains the rating system used for the evaluation.

(c) Proposals shall be evaluated by a review panel using, at a minimum, the following general criteria (see N.J.A.C. 10:3-3.9):

1. Satisfactory documentation of need for services;
2. Compatibility of applicant's goals and objectives with goals of the program and services solicited;

3. Clarity and attainability of the objectives and the implementation plan;

4. Logic and consistency of the proposal;

5. Clarity of the planned integration of the services with the generic agencies in the community;

6. Reasonableness of the proposed budget as related to the anticipated results;

7. Availability and accuracy of supporting documentation; and

8. Local endorsements, for example, county mental health boards.

(d) The specific evaluation criteria (see N.J.A.C. 10:3-3.6) to be used when assessing proposals shall include:

1. Completeness of the application and clarity of statements concerning:

i. The applicant's mission and goals;

ii. Need justification;

iii. Service goals and objectives;

iv. The program approach, including:

(1) Service definitions;

(2) Activities/methods to achieve objectives;

(3) Staff qualifications and job descriptions;

(4) Monitoring plan; and

(5) Evaluation of quality of services.

v. Accessibility of services;

vi. Eligibility requirements and referral processes;

vii. The termination procedure;

viii. The level of service;

ix. Service coordination;

x. The community participation description;

xi. The timetable to implement services;

xii. Identification of current programs managed and the funding sources;

xiii. The budget proposal; and

xiv. Identification of other sources of support and match, as appropriate;

2. Reasonableness of proposed budget in consideration of anticipated results;

3. Compatibility of the applicant's goals and objectives with goals of the program;

4. Availability and accuracy of supporting documentation;

5. Compliance with all terms and conditions of previous contracts with the Department and the standard language document;

6. The extent to which new and innovative strategies are proposed to assist the target population; and

7. The adequacy and specificity of the outcome statements.

Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

### 10:3-3.9 Evaluation of applicant

(a) The applicant shall be evaluated to determine the following (an on-site evaluation may be conducted by the departmental component or CHSAC/designated entity if deemed necessary). The CHSAC/designated entity shall evaluate the applicant on only those factors with which they are familiar or about which they have accurate information. The Department is responsible for evaluation of all information presented by the applicant in the RFP.

1. Ability to comply with all terms and conditions of the standard language document and its associated annexes and attachments;

2. Prior history in the delivery of the same or similar services;

3. Qualifications of staff;

4. Adequacy of facilities;

5. Ability to manage the fiscal aspects of the contract including a satisfactory past history (a pre-award survey may be necessary prior to the signing of the contract);

6. Accountability of the program and management initiatives to ensure accountability of the staff, for example, supervision and training of staff, planned levels of service, and contingency plans to ensure attainment of objectives;

7. Evidence of ability (including satisfactory past performance and evaluation) to provide the proposed services to the target population;

8. Evidence of the existence of adequate resources, facilities, and equipment to operate the proposed program; and

9. Review of required documents.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

### 10:3-3.10 Notification of decision

(a) Upon determining which proposals are most responsive and advantageous to the needs of the clients to be served, costs and other factors considered, the departmental component shall notify all applicants in writing of its selection within the time frames specified in the request for proposal, not to exceed 90 days. An informal review must be completed within 15 days thereafter and the total RFP process may not exceed 105 days from publication of the RFP announcement in the New Jersey Register.

(b) An informal review based on the determination may be requested according to the procedures established by the Departmental component or CHSAC/designated entity which shall be referenced in the notice of decision to the applicant.

(c) Acceptance letters shall indicate that:

1. The award is contingent on contract negotiation and that if, anytime before or during the contract negotiations, it is found that the agency awarded the contract is incapable of providing the necessary services or has misrepresented any material fact or its ability to handle the funding or provide the solicited services, the award may be rescinded. The rescission shall be made in writing, specifying why the award has been withdrawn.

2. The contract is not binding until funding has been verified and the Department's standard language document and the contract confirmation letter are signed by both parties.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).  
Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

In (a), added requirement that the total RFP process not exceed 105 days.

### 10:3-3.11 Document retention

Awarded contracts, signed originals, all support materials and the record copy shall be retained by the departmental component for three years after the termination of the contract and four years thereafter at the records center prior to destruction. Unsuccessful proposals shall be retained for three years by the departmental component and then may be destroyed. The material to be retained includes the RFP, the applicant proposals, all evaluation sheets, and any other documentation which details why the agency was selected or not selected.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).  
Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Amended requirement to retain unsuccessful proposals from one year to three years.

### 10:3-3.12 Contract negotiations

At the time an award is made to the applicant, negotiations shall proceed with the process of preparing and submitting a formal contract proposal package to the Department. The initial proposal as modified and agreed to by both parties may serve as the Annex A program description for the contract.

### 10:3-3.13 Exceptions to procedures

(a) The 105 day RFP process limitation may be adjusted accordingly by the Department if:

1. The announcement of the availability of funds limits the Department to less than 90 days for allocation, obligation, and/or expenditure of funds; or

2. The process requires an extension because of unforeseen circumstances.

(b) When there is an emergent danger and/or a risk to the health and welfare of clients as a result of strict adherence to N.J.A.C. 10:3-3, an exemption from the full RFP process may be granted and signed by the person in charge of the departmental component.

Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).  
Rewrote (a); and added (a)1 and (a)2.

**APPENDIX A**

**STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES  
ADDENDUM TO REQUEST FOR PROPOSAL  
FOR SOCIAL SERVICE AND TRAINING  
CONTRACTS**

Executive Order No. 189 establishes the expected standard of responsibility for all parties that enter into a contract with the State of New Jersey. All such parties must meet a standard of responsibility which assures the State and its citizens that such parties will compete and perform honestly in their dealings with the State and avoid conflicts of interest.

As used in this document "provider agency" or "provider" means any person, firm, corporation, or other entity or representative or employee thereof which offers or proposes to provide goods or services to or performs any contract for the Department of Human Services.

In compliance with Paragraph 3 of Executive Order No. 189, no provider agency shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury or any other agency with which such provider agency transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any provider agency shall be reported in writing forthwith by the provider agency to the Attorney General and the Executive Commission on Ethical Standards.

No provider agency may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such provider agency to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

No provider agency shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

No provider agency shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the provider agency or any other person.

The provisions cited above shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with provider agencies under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

Repeal and New Rule, R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).  
Appendix was "Funding Proposal Cover Sheet".

**APPENDIX B**

**DEPARTMENT OF HUMAN SERVICES  
STATEMENT OF ASSURANCES**

As the duly authorized Chief Executive Officer/Administrator, I am aware that submission to the Department of Human Services of the accompanying application constitutes the creation of a public document and as such may be made available upon request at the completion of the RFP process. This may include the application, budget, and list of applicants (bidder's list). In addition, I certify that the applicant:

- Has legal authority to apply for the funds made available under the requirements of the RFP, and has the

institutional, managerial and financial capacity (including funds sufficient to pay the non-Federal/State share of project costs, as appropriate) to ensure proper planning, management and completion of the project described in this application.

- Will give the New Jersey Department of Human Services, or its authorized representatives, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with Generally Accepted Accounting Principles (GAAP). Will give proper notice to the independent auditor that DHS will rely upon the fiscal year end audit report to demonstrate compliance with the terms of the contract.

- Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. This means that the applicant did not have any involvement in the preparation of the RFP, including development of specifications, requirements, statement of works, or the evaluation of the RFP applications/bids.

- Will comply with all Federal and State statutes and regulations relating to non-discrimination. These include but are not limited to: 1.) Title VI of the Civil Rights Act of 1964 (P.L. 88-352; 34 CFR Part 100) which prohibits discrimination on the basis of race, color or national origin; 2.) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794; 34 CFR Part 104), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.; 3.) Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et. seq.; 45 CFR part 90), which prohibits discrimination on the basis of age; 4.) P.L. 975, Chapter 127, of the State of New Jersey (N.J.S.A. 10:5-31 et seq.) and associated executive orders pertaining to affirmative action and non-discrimination on public contracts; 5.) federal Equal Employment Opportunities Act; and 6.) Affirmative Action Requirements of P.L. 1975, c.127 (N.J.A.C. 17:27).

- Will comply with all applicable Federal and State laws and regulations.

- Will comply with the Davis-Bacon Act, 40 U.S.C. §§ 276a-276a-5 (29 CFR 5.5) and the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.27 et. seq. and all regulations pertaining thereto.

- Is in compliance, for all contracts in excess of \$100,000, with the Byrd Anti-Lobbying amendment, incorporated at Title 31 U.S.C. § 1352. This certification extends to all lower tier subcontracts as well.

- Has included a statement of explanation regarding any and all involvement in any litigation, criminal or civil.

- Has signed the certification in compliance with Federal Executive Orders 12549 and 12689 and State Executive Order 66 and is not presently debarred, proposed for debarment, declared ineligible, or voluntarily excluded. Will have on file signed certifications for all subcontracted funds.

- Understands that this provider agency is an independent, private employer with all the rights and obligations of such, and is not a political subdivision of the Department of Human Services.

- Understands that unresolved monies owed the Department and/or the State of New Jersey may preclude the receipt of this award.

Applicant Organization	Signature: Chief Executive Officer of Equivalent
Date	Typed Name and Title

Repeal and New Rule, R.1997 d.532, effective December 15, 1997.  
 See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).  
 Appendix was "Request for Proposal: Budget Information Summary".

APPENDIX C

Privatization Participation Documentation Form

Departmental Component: \_\_\_\_\_ Section/Unit: \_\_\_\_\_

Program/Service: \_\_\_\_\_ Privatization Decision Date: \_\_\_\_\_

List all Persons:	Involved in the Decision to Privatize	Involved in the Preparation of the RFP	Involved in the Evaluation of the Bids	For Whom an Affidavit was submitted to the Ethical Commission
Name: _____				
Position: _____				
Name: _____				
Position: _____				
Name: _____				

Position: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Position: \_\_\_\_\_

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_  
 (PRINT)

Title: \_\_\_\_\_ Telephone #: \_\_\_\_\_

CPMU 6/96 Page \_\_\_\_ of \_\_\_\_

New Rule, R.1997 d.532, effective December 15, 1997.  
 See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

APPENDIX D

\_\_\_\_\_  
 Date received

\_\_\_\_\_  
 Dept. Component  
 STATE OF NEW JERSEY  
 DEPARTMENT OF HUMAN SERVICES

Funding Proposal  
 Cover Sheet

1. Proposal Summary Information

Incorporated Name of Applicant: \_\_\_\_\_

Type: Public \_\_\_\_\_ Profit \_\_\_\_\_ Non-Profit \_\_\_\_\_, or Hospital Based \_\_\_\_\_

Federal ID Number: \_\_\_\_\_ Charities Reg. Number: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Address of Service(s): \_\_\_\_\_

(Attach list if necessary)

Contact person: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Total dollar amount requested: \_\_\_\_\_ Agency Fiscal Year End: \_\_\_\_\_

Total Match required: \_\_\_\_\_ Match Secured: Yes \_\_\_\_\_ No \_\_\_\_\_

Funding period: From \_\_\_\_\_ to \_\_\_\_\_

Services: \_\_\_\_\_

(For which funding is requested)

Total number of unduplicated clients to be served: \_\_\_\_\_

Brief description of services by program name and level of service to be provided\*:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Authorization:

Chief Executive Officer (Print) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

\* NOTE: If funding request is for more than one service, complete a separate description for each service. Identify the number of units to be provided for each service as well as the unit description (hours, days, etc.). If the Contract will be based on a rate, please describe how the rate was established.

New Rule, R.1997 d.532, effective December 15, 1997.  
 See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).





Service—the need, which can be measured for monitoring purposes, for which the client is being included in the proposal.

#### Directions—Budget Expense Summary

1. Complete the identifying information at the top of the page. It is important that all information be completed in full.
2. The budget expense summary summarizes the expected expenditures by budget category, by program(s) as specified in the proposal. Please list all anticipated expenditures required to meet the needs of the proposal for services by the categories indicated on the form. Indicate the total for each category and then break out the total by program, listing the names of the programs in the column headings provided next to the column for total cost. Parenthesis means that the amount will be deducted where indicated.
3. List the anticipated level of service (Total Units of Service) for each program and the description of the unit to be used for measurement of service.
4. Indicate all funds other than those of the Department of Human Services for the programs in the proposal, the total amount and the total broken down by program.

#### Definitions

General and Administrative Costs (indirect costs)—represent costs incurred for common or joint objectives which are not readily assignable as a direct cost.

Unallowable Costs—those costs which are not reimbursable in a Contract with DHS as specified in the DHS July 1986 edition of the Contract Reimbursement Manual, Section 4.7.

Units of Service—the breakdown of the services used as a standard of measurement, e.g., hours, trips, meals.

#### Directions—Personnel Detail

(Make additional copies of this page, as needed, to ensure inclusion of all personnel data.)

1. Complete the identifying information at the top of the page.
2. Personnel detail requests a listing of all personnel involved in providing the services being proposed, including the percentage of time spent on each program. Please list each person and their position title, the total salary allotted to this proposal, the hours per week assigned to each program and any unallowable or general and administrative costs involved for each person.
3. Also indicate any vacant titles that will be filled to meet the obligations of this proposal.

#### Directions—Budget Category Detail

1. Ensure that all identifying information is completed, including the date and page number.
2. The budget category detail is intended to show which method was used to allocate the expenses to the various categories of the proposal. List the categories as indicated on the Budget Expense Summary A through G and I.
3. Indicate the basis for allocation and the total funding for each category. Then break out the total by program and indicate any unallowable and/or general and administrative costs.

#### Definitions

Cost Allocation—the distribution base used to allocate items or groupings of indirect costs in proportion to the relative benefit derived for the program with in the proposal. (Example—a building used by several programs of which only one is funded by DHS. The square footage may be used to prorate the expenses of the building and assigned according to contracted program usage.) If there is no indirect cost in the category, the cost basis is a direct cost which is identified specifically with a particular category.

Direct Cost—any cost which can be identified with a particular cost objective (category).

Indirect Cost—a cost, because of its incurrence for common or joint objectives, which is not readily assignable as a direct cost.

New Rule, R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

## APPENDIX F

READ THE ATTACHED INSTRUCTIONS BEFORE SIGNING THIS CERTIFICATION. THE INSTRUCTIONS ARE AN INTEGRAL PART OF THE CERTIFICATION.

#### Appendix B to CFR § 29 Part 98

#### Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

#### Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by an Federal department or agency.
2. 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.

\_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

This certification is required by the regulations implementing Federal Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510.

Appendix A to CFR § 29 Part 98  
Certification Regarding Debarment, Suspension,  
Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions  
Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of facts upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an 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.

3. 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 erroneous when submitted or had become erroneous by reason of changed circumstances.

4. 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.

5. 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.

6. 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 and in all solicitations for lower tier covered transactions.

7. 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 Nonprocurement Programs.

8. 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.

9. 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.

New Rule, R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

\_\_\_\_\_  
SUBCHAPTER 4. COGNIZANT DIVISION  
CONTRACTING

**10:3-4.1 Purpose and scope**

The purpose of these rules is to advise provider agencies of the policies and procedures to be followed in cognizant division contracting. These rules apply to all provider agencies that contract with more than one departmental component and have a cognizant division assigned to coordinate the contracting process.

**10:3-4.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Cognizant division" means the division or other designated departmental component responsible for all fiscal

contract administration functions when a provider agency contracts with more than one departmental component.

“Contract” means one of the Department’s social service or training contracts with a provider agency. Terms and conditions of the contract are included in the standard language document, annexes, appendices, attachments (including any approved assignments, subcontracts and modifications) and supporting documents. The contract constitutes the entire agreement between the Department and the provider agency.

“Contract modification” means the formal procedures entailing the Department’s written approval to allow certain programmatic and/or financial changes in the contract during the contract term.

“Day” means calendar days.

“Department” means the New Jersey Department of Human Services. As used in these rules, it also means, where appropriate from the context, the division, commission, bureau, office, unit or other designated component of the Department of Human Services responsible for the administration of particular contract programs.

“Departmental component” means the division, commission, bureau, office, or other unit within the Department responsible for the negotiation, administrative review, approval and monitoring of certain social service or training contracts.

“Intra-departmental agreement” means the document signed by the cognizant and non-cognizant division(s) which delineates the authority and responsibilities of the cognizant and non-cognizant division(s) that contract for services with the same provider agency.

“Provider agency” means the public or private organization which has a social or training contract with the Department.

“Reimbursable ceiling” means the total cost of the contract to the Department. The reimbursable ceiling is the maximum payment to the provider agency.

“Standard language document” means the document which establishes the non-negotiable obligations, responsibilities, rights and relationships of the contract parties.

#### 10:3-4.3 Administrative policies

(a) A cognizant division shall be identified and may be assigned by the Department’s Contract Policy and Management Unit when a provider agency contracts with more than one departmental component.

(b) Generally, the cognizant division is chosen based on the departmental component which provides the most contract dollars to the provider agency, unless circumstances and/or past history indicate the selection of another departmental component.

(c) A copy of the intra-departmental agreement shall be forwarded to the provider agency by the cognizant division after the agreement is completed and signed by all involved departmental components. The intra-departmental agreement delineates the authority and responsibilities of the cognizant division and non-cognizant division(s) that contract for services with the same provider agency.

#### 10:3-4.4 Administrative procedures

(a) For pre-contract negotiations, the following procedures shall apply:

1. The Contract Policy and Management Unit shall:
  - i. Annually notify the departmental components of those provider agencies which contract with more than one departmental component; and
  - ii. Meet with the responsible contract administration supervisors of the departmental components to determine the assignment of a cognizant division for each provider agency.
2. The cognizant division shall:
  - i. Notify the provider agency that a cognizant division has been assigned and is responsible for coordinating the contract negotiation process; and
  - ii. Coordinate the planning, negotiating, finalizing and distribution of the intra-departmental agreement in a timely manner.
3. The cognizant/non-cognizant division(s) shall:

i. Ensure that each responsible contract administration supervisor designate a contact person, usually the contract administrator assigned to the provider agency, to coordinate all aspects of its participation in the cognizant contract; and

ii. Ensure that the intra-departmental agreement is signed prior to the contract effective date.

(b) For contract negotiations, the following procedures shall apply:

1. The cognizant division shall:

i. Coordinate contract negotiations with the non-cognizant division(s) and provider agency;

ii. Be responsible for obtaining the provider agency authorized signature on the standard language document (SLD) and the addendum to the SLD;

iii. Receive the signed and approved contract confirmation letter from the Department's Office of Finance and Accounting; and

iv. Send a copy of the following documents to the provider agency and the non-cognizant division(s):

(1) The signed contract;

(2) The cognizant designation letter, Appendix A, incorporated herein by reference;

(3) The intra-departmental agreement, Appendix B, incorporated herein by reference;

(4) The reporting requirements form, Appendix C, incorporated herein by reference; and

(5) The signed and approved contract confirmation letter.

(c) For the contract term, the following procedures shall apply:

1. Fiscal procedures as follows:

i. The provider agency shall be responsible for sending the required expenditure reports to the cognizant division according to the time frames established during contract negotiations. The cognizant division shall distribute copies to the non-cognizant division(s).

ii. The cognizant division shall make scheduled payments (monthly, quarterly, etc.) consistent with the cognizant division's payment system as specified in the contract negotiations.

iii. The cognizant division, with the assistance of the non-cognizant division(s), shall monitor contract expenditures. If provider agency expenditures are significantly over or under the contract reimbursable ceiling, the appropriate non-cognizant division(s) shall contact the cognizant division for consultation concerning possible modification to the contract or other appropriate action.

2. Programmatic procedures as follows:

i. The provider agency shall send all required program reports to the cognizant division according to the time frames established during contract negotiations. The cognizant division shall distribute copies to the non-cognizant division(s).

ii. All departmental components (cognizant and non-cognizant) shall monitor their own programmatic service delivery, unless otherwise negotiated through the intra-departmental agreement.

iii. If there is a programmatic inconsistency or failure by the provider agency to meet contractual programmatic levels, the cognizant and non-cognizant division(s) must consult with each other for any contemplated remedial or fiscal action.

(d) For contract closeout and audit, the following procedures shall apply:

1. The provider agency shall send a completed notification of the licensed public accountant form and a photocopy of the accountant's license to operate to the cognizant division.

2. The provider agency shall send a copy of the audit report for each departmental component, including the Department's Office of Auditing, to the cognizant division within 120 days after its fiscal year end.

3. The cognizant division shall process and distribute the provider agency's final expenditure report and any other reconciliation documents.

4. The cognizant division shall consult with the non-cognizant division(s) to determine final settlement with the provider agency. Any amount remaining due for contract services within the specified funding ceiling will be paid, any refund amount determined to be an overpayment and/or disallowed cost, which has not been authorized for retention by the provider agency, will be collected.

**Appendix A**

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES  
COGNIZANT DESIGNATION LETTER

Subject: Cognizant Division Contracting

In accordance with Department of Human Services' Policy Circular PI.25, \_\_\_\_\_ has been assigned as the Cognizant Division for all Department contracts with your agency for the period \_\_\_\_\_ to \_\_\_\_\_.

The Cognizant Division is responsible for coordinating the contracting process into one consolidated contract. The consolidation includes the coordination of most contract functions such as contract modifications, reporting require-

ments, and contract closeout. Although the program commitments will remain separate for each Departmental Component, the consolidated contract budget and the individual Annex A materials should be submitted to the Cognizant Division.

Attached for your information and review are forms (Funding Summary and Reporting Requirements) that identify the available Department funding and routine contract reporting requirements for the contract term.

The contract administrator assigned to assist you in all contract matters is \_\_\_\_\_ and may be reached at \_\_\_\_\_

Attachments

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Title)

- c: Contract Policy and Management Unit
- Non-cognizant division(s)
- Office of Auditing
- Contract File

Appendix B

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES  
INTRA-DEPARTMENTAL AGREEMENT  
CONTRACT SUMMARY

Provider Agency: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Executive Director \_\_\_\_\_ Telephone No. \_\_\_\_\_

Federal I.D. No. \_\_\_\_\_

Contract No. \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 Contract No. \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_

Division: \_\_\_\_\_  
 Address: \_\_\_\_\_

Cognizant Division  
 Contact Person \_\_\_\_\_ Telephone No. \_\_\_\_\_  
 Contract Services \_\_\_\_\_

Credit Account # \_\_\_\_\_ Amount \$ \_\_\_\_\_ FY \_\_\_\_\_  
 Credit Account # \_\_\_\_\_ Amount \$ \_\_\_\_\_ FY \_\_\_\_\_

Division: \_\_\_\_\_  
 Address: \_\_\_\_\_

Non-Cognizant Division  
 Contact Person \_\_\_\_\_ Telephone No. \_\_\_\_\_  
 Contract Services \_\_\_\_\_

Debit Account # \_\_\_\_\_ Amount \$ \_\_\_\_\_ FY \_\_\_\_\_  
 Debit Account # \_\_\_\_\_ Amount \$ \_\_\_\_\_ FY \_\_\_\_\_

Division: \_\_\_\_\_  
 Address: \_\_\_\_\_

Non-Cognizant Division  
 Contact Person \_\_\_\_\_ Telephone No. \_\_\_\_\_  
 Contract Services \_\_\_\_\_

Debit Account # \_\_\_\_\_ Amount \$ \_\_\_\_\_ FY \_\_\_\_\_  
 Debit Account # \_\_\_\_\_ Amount \$ \_\_\_\_\_ FY \_\_\_\_\_

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES  
INTRA-DEPARTMENTAL AGREEMENT  
FOR COGNIZANT DIVISION CONTRACTING

The purpose of this intra-departmental agreement is to delineate the authority and responsibilities of the cognizant division and non-cognizant division(s) when a provider agency contracts with more than one departmental component.

I. Cognizant Division

A. Pre-contract negotiations

1. Schedule any meetings with the non-cognizant division(s) necessary to expedite the intra-departmental agreement.
2. Notify the provider agency of the assigned cognizant division.

B. Contract negotiations

1. Coordinate completion and signing of the intra-departmental agreement.
2. Process the certificate(s) of debit and credit (AR 30) applicable to the appropriate State fiscal years.

a. Contracts that begin on the State's fiscal year will require one certificate of debit and credit. The non-cognizant division(s) will transfer its full share of the contract reimbursable ceiling to the cognizant division via this document.

b. Contracts that have an effective date other than the State's fiscal year will require two certificates of debit and credit. The first certificate of debit and credit form shall reflect the applicable portion of the contract reimbursable ceiling that coincides with the first State fiscal year. A second debit and credit shall be completed for the balance of the reimbursable ceiling to cover the second State fiscal year.

C. Contract term

1. Receive, monitor, and process the interim, fiscal-year-end and final expenditure reports.
2. Distribute copies of the expenditure reports to the non-cognizant division(s).
3. Make all contract payments to the provider agency.

D. Contract audit/close-out