

I. PURPOSE

The purpose of this directive is to advise you about a new model contract for local purchase of residential domestic violence services agreements which will become effective on or after September 1, 1993.

II. BACKGROUND

Chapter 838 of the Laws of 1987 created a mechanism to provide ongoing State funding to domestic violence programs. The chapter mandated social services districts to refer victims of domestic violence who were also eligible for public assistance to licensed domestic violence programs offering emergency residential care and to negotiate reasonable per diem reimbursement rates with such programs. The New York State Department of Social Services (The Department) was required to issue program standards and to assume supervisory responsibilities over such residential programs.

Subsequently, Chapter 53 of the Laws of 1991 and of the Laws of 1992 required social services districts to provide residential services to victims of domestic violence regardless of the victim's eligibility for public assistance. The Department is required to establish rates for residential programs for such victims.

The Department has developed a model contract for use by all social services districts which elect to purchase residential domestic violence services rather than providing such services directly.

III. PROGRAM IMPLICATIONS

The model contract meets State and federal regulatory requirements and provides a uniform State-wide standard to assure compliance with such requirements. In addition, the model contract provides the basis for social services districts to claim State and federal financial participation in their residential domestic violence services programs.

IV. REQUIRED ACTION

All social services districts must modify their residential domestic violence services agreements to follow the model contract format.

- A. The model contract must be in use on September 1, 1993 and employed thereafter until further notice. However, those districts that have contracts currently in effect that extend beyond September 1, 1993 may continue their existing contracts unchanged until the contract expires or December 31, 1993, whichever is earlier.
- B. The duration of the agreement must not exceed twelve (12) months.

- C. The county attorney must review the agreement, and may add any county legal or policy requirements before its execution. This assumes these local requirements do not conflict with any applicable State and federal laws or regulations.
- D. Each social services district which does not directly operate a residential program for victims of domestic violence with a length of stay policy of 30 days or more must negotiate and enter into a contract with at least one residential program located within the district or within a contiguous district.
- E. In addition to any contract with a residential program with a length of stay of less than 30 days, the social services district must also negotiate and enter into a contract with a residential program with a length of stay policy of 30 days or more, to the extent there is such a residential program for victims of domestic violence located within the social services district or within a contiguous district.
- F. The contract must state whether, at the time of the initial determination of eligibility, victims will be authorized to stay for either 90 days or a period less than 90 days. If less than 90 days, the intervals at which eligibility will be redetermined must be specified.
- G. The frequency of the assessments of need for temporary shelter, emergency services and care, and the responsibility of the social services district and the residential program to conduct such assessments must be specified.
- H. The time frames within which a residential program must notify a social services district of an extension of a resident's stay beyond the 90-day maximum length of stay and the responsibility of the district and the residential program to assist such resident in securing alternative housing must be specified.

V. SYSTEMS IMPLICATIONS

None

VI. ADDITIONAL INFORMATION

Attached to this directive are:

- A. Model Contract for Purchase of Residential Domestic Violence Services,

Date August 27, 1993

Trans. No. 93 ADM-24

Page No. 4

B. Schedule "A"

1. Program Narrative
2. Maximum Reimbursable Rates

VII. EFFECTIVE DATE

This directive is effective September 1, 1993.

Frank Puig
Deputy Commissioner
Division of Services
& Community Development

MODEL AGREEMENT FOR PURCHASE OF RESIDENTIAL SERVICES
FOR VICTIMS OF DOMESTIC VIOLENCE

This agreement made this _____ day of _____ by and between the _____ Department of Social Services (hereinafter called the Department) located at _____ and _____ located at _____ a not-for-profit agency licensed or otherwise authorized by the New York State Department of Social Services to provide residential domestic violence services (hereinafter called the Agency).

Witnesseth:

Whereas, the Commissioner of Social Services of the County/City of _____ (hereinafter called the Commissioner) is charged with the responsibility for the provision of all residential domestic violence services in the County/City of _____ at public expense pursuant to Sections 20(3)(d), 34(3)(f), 131-u of the Social Services Law (SSL), as amended by the State Aid to Localities Budget, and

Whereas, the Commissioner may provide such residential domestic violence services either directly or through a contract with a residential program for victims of domestic violence services as such term is defined in Section 459-a (4) of the SSL and New York State Department of Social Service's regulations, and

Whereas, the Agency, under the terms of its corporate authority has the authority to provide the services required to be performed herein and made a part of hereof, and is duly licensed by the New York State Department of Social Services to provide said services, and

Whereas, the Department believes that the amount of funds to be paid to the Agency is reasonable and necessary to assure quality services, and

Whereas, it is economically and organizationally feasible for the Department to contract with the Agency for the performance of these services,

Now therefore, it is mutually agreed as follows:

SECTION I - DEFINITIONS

- A. Whenever the following terms are used in this agreement and schedules attached hereto, they shall have the following meaning unless otherwise clearly noted.
1. APPROVED PER DIEM RATE - means the daily rate of reimbursement established by the New York State Department of Social Services and approved by the Director of the Budget of the State of New York for a residential program for victims of domestic violence. This rate will be applicable to the social services district in which a victim of domestic violence was residing at the time of the domestic violence incident whenever such victim(s) receive(s) temporary shelter, emergency services and care at such a program.
 2. RESIDENTIAL PROGRAM FOR VICTIMS OF DOMESTIC VIOLENCE - means any residential care program approved by the New York State Department of Social Services and operated by a not-for-profit organization for the purpose of providing temporary shelter, emergency services and care to victims of domestic violence. They include Domestic Violence Shelters, Domestic Violence Programs, Safe Home Networks and Domestic Violence-Sponsoring Agencies.
 3. DOMESTIC VIOLENCE SHELTER - means a congregate residential facility with a capacity of 10 or more persons including adults and children organized for the exclusive purpose of providing temporary shelter and emergency services and care to victims of domestic violence and their minor children, if any.
 4. DOMESTIC VIOLENCE PROGRAM - means a facility which would meet the definition of a domestic violence shelter, except victims and their minor children, if any, constitute less than 100 percent but at least 70 percent of the clientele of such program. The remaining 30 percent may only consist of persons who will not be disruptive of the provision of services and will not jeopardize the safety and well-being of the residents.
 5. DOMESTIC VIOLENCE PROGRAM SPONSORING AGENCY - means a not-for-profit organization offering temporary shelter at a domestic violence safe dwelling and emergency services and care to victims of domestic violence and their minor children, if any.
 6. DOMESTIC VIOLENCE SAFE DWELLING - means a self-contained residence which is owned, leased, rented or otherwise under the control and supervision of a domestic violence program sponsoring agency; meets the daily living needs of the residents; has a capacity of nine or fewer persons including adults and children; is secured as specified in 18 NYCRR, Section 455.8; has been designated by the domestic violence sponsoring agency to provide temporary shelter exclusively to victims of domestic violence; and has been approved by a domestic violence program sponsoring agency pursuant to the standards contained in 18 NYCRR, Part 455.

7. SAFE HOME NETWORK - means an organized network of private homes offering temporary shelter and emergency services and care to victims of domestic violence and their minor children that is coordinated by a not-for-profit organization.
8. SAFE HOME - means a self-contained private residence which is owned, leased, rented, or otherwise under the direct control of a single person or family or two or more unrelated persons which has been approved by a safe home network for the purpose of providing temporary shelter to victims of domestic violence and their minor children, if any.
9. RESIDENT - means any victim of domestic violence and his or her minor children who receive temporary shelter, emergency services and care in a residential program.
10. VICTIM OF DOMESTIC VIOLENCE - means any person 16 years of age or older, any married person or any parent accompanied by his or her minor children or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to acts constituting disorderly conduct, harassment, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; and:
 - (a) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
 - (b) such acts or acts are, or are alleged to have been, committed by a family or household member.
11. FAMILY OR HOUSEHOLD MEMBERS - means the following individuals:
 - (a) persons related by blood or marriage;
 - (b) persons legally married to one another;
 - (c) persons formerly married to one another regardless of whether they still reside in the same household;
 - (d) persons who have a child in common regardless of whether such persons are married or have lived together at any time;
 - (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or
 - (f) unrelated persons who have had intimate or continuous social contact with one another and have access to one another's household

SECTION II - TERM OF AGREEMENT

1. The term of this Agreement shall be from _____ through _____ (maximum of 12 months) and may be renewed in writing from year-to-year thereafter. Renewal is not automatic and is dependent upon annual negotiations agreeable to each party, and completed prior to the end of the term of this Agreement. The parties hereto are under no obligation to renew this Agreement or to purchase or provide any care, in whole or in part, after the expiration of the term set forth herein or any renewal thereof, except as herein provided. The Agency must give notice in writing of its intention not to renew the Agreement at least three months prior to the expiration of this Agreement.
2. If notice not to renew has not been given in accordance with the foregoing, then the parties shall move with all due speed to reach a new Agreement to become effective upon expiration of this current Agreement.
3. If negotiations for a new Agreement have not been completed upon expiration of this Agreement, the parties must enter into a written interim continuation Agreement covering the period until negotiations are completed and a new Agreement is executed or an appropriate notice of termination is issued, pursuant to Section X of this Agreement.

SECTION III - SCOPE OF SERVICES

1. It is mutually agreed between the Department and the Agency that the Agency shall provide residential services for victims of domestic violence in accordance with the standards prescribed by the Department, and by Schedule A which is attached hereto and incorporated herein, as well as those standards prescribed by the New York State Department of Social Services and as prescribed by New York State laws and regulations, including, but not limited to, 18 NYCRR Parts 408, 452, 453, 454 and 455.
2. When a victim goes directly to the Agency, the Agency shall be responsible for determining the victim's initial programmatic eligibility for services. When a victim goes directly to the Department, the Department will be responsible for determining a victim's initial eligibility or for referring the victim to a residential program for an eligibility determination.
3. When the Agency makes a determination that a victim is eligible for admission and admits such victim into the program, the Agency will notify, by telephone, the Department if the victim resided within the Department's jurisdiction at the time of the domestic violence incident. The notice must be given on or before the first working day following admission.
4. The Agency shall ensure that the victim completes the common application (DSS-2921 or DSS-2921 NYC) and, to the extent the victim remains in the residential program, completes the application process for public assistance.

5. The Department shall determine the financial eligibility of such victims for public assistance and care and for Title XX. The Department shall advise the Agency, as soon as a determination is made, of the amount of the per diem it will pay under public assistance or under Title XX. The Agency must use the information in calculating the fees, if any, owed by the victim. The Agency will be responsible for collecting the fees and reimbursement paid pursuant to this Agreement will not be increased if the Agency fails to collect the fees.

6. The Department must designate a representative to receive notices of admissions made by the Agency and to serve as the liaison to the Agency on any payment or program issues relating to the admission of victims of domestic violence.

7. The Agency agrees to provide residential services for victims of domestic violence in accordance with the Program Narrative and the rates of payment established by the New York State Department of Social Services which are appended to the contract as Schedule A and B2. These rates are not negotiable in accordance with the New York State Department of Social Services' regulations.

SECTION IV - FAIR HEARINGS

Pursuant to 18 NYCRR, Section 358.4, the Department shall notify applicants for, or recipients of, care and services of their right to a fair hearing to appeal the denial, reduction or termination of a service, or the failure of the Department to act upon an application within the appropriate time frames. Whenever an eligible applicant or recipient requests a fair hearing, the New York State Department of Social Services shall provide such a hearing through its regular fair hearing procedures.

SECTION V - REIMBURSEMENT

1. The Department agrees to pay to the Agency, on a monthly basis, within sixty days of receipt of billing, an amount equal to the applicable per diem rate(s) sent forth in Schedule A, 2, multiplied by each bed night actually provided by the Agency, minus any fee owed by the victim deemed eligible for residential services pursuant to 18 NYCRR, Sections 408.4 and 408.5 for each victim and child provided residential services who was residing within the Department's jurisdiction at the time of the domestic violence incident.

2. A dollar amount for each of the program types provided must be specified in Schedule A, (e.g., domestic violence shelter, domestic violence program, safe dwelling, safe home, etc.).

3. The anticipated total cost of the Agreement is an estimate required under DSS Bulletin 195 and shall serve as the limit of obligation under this Agreement. Should it appear that the amount entered may be exceeded, an amendment to the Agreement shall be executed. This figure shall serve only as an upper limit and in no way obligates the Department to purchase residential services for victims of domestic violence up to this amount. The amount entered can be based upon experience during the past contract year modified by the anticipated experience during the new Agreement period. The total cost of this Agreement shall not exceed \$_____.

4. The Agency agrees that payment by the Department shall be contingent upon the Department's receipt of a signed and completed common application (DSS-2921 or DSS 2921 NYC) on behalf of an individual victim and a completed claim form to the district liaison, _____ . Any claim form submitted pursuant to this paragraph must have been approved by the Department.

SECTION VI - GENERAL RESPONSIBILITIES FOR PARTIES

1. The governing board of the Agency shall exercise oversight over the Agency's day-to-day affairs and programs. The Agency shall have the responsibility for the day-to-day provision of residential services to victims of domestic violence for each person placed in it in accordance with this Agreement and with appropriate New York State Department of Social Services' regulations.

2. The Agency shall maintain sufficient staff, facilities and equipment, in accordance with the regulations of the New York State Department of Social Services, in order to provide the services set forth in Schedule A of this Agreement.

SECTION VII - BOOKS, RECORDS AND REPORTS

1. The Agency shall keep accurate records, in conformance with the New York State Department of Social Services' regulations.

2. All information contained in the Agency's files shall be held confidential by the Agency and the Department pursuant to the applicable provisions of the Social Services Law and any regulations promulgated thereunder, including but not limited to 18 NYCRR Parts 357 and 423, and 18 NYCRR 452.10, as well as any applicable Federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.

3. The Agency shall, as part of this Agreement, include specific procedures ensuring the protection of health history information related to an individual who has been diagnosed as having AIDS or an HIV-related illness or an HIV infection or laboratory tests performed on an individual for HIV-related illness. Schedule A must include a statement ensuring that staff, to whom confidential HIV-related information is disclosed as a necessity for providing services and in accordance with 18 NYCRR, Part 405 and Section 2782 of the Public Health Law, are fully informed of the penalties and fines for redisclosure in violation of State law and regulation. Any disclosure of confidential HIV-related information must be accompanied by a written statement as follows:

"This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertain, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."

4. The Agency shall maintain statistical records as required by the New York State Department of Social Services and shall furnish such data at the times prescribed by and on forms supplied by the New York State Department of Social Services.

5. The Agency agrees to maintain financial books, records and necessary supporting documents as required by the New York State Department of Social Services. The Agency shall use accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of the services provided under this Agreement. The Agency agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal and statistical reports at the times prescribed by and on forms supplied by the New York State Department of Social Services.

6. Such financial and statistical records shall be subject to inspection, review, excerpts, transcription or audit by authorized State and/or federal personnel.

7. The Agency agrees to retain all books, records and other documents relevant to this Agreement for eight years after the Agency receives final payment for the services to which they relate, during which time authorized State and/or federal auditors shall have full access to and the right to examine the same. In addition, the Agency shall make available, upon written request, this Agreement, and books, documents, papers and records of the Agency that are necessary to certify the nature and extent of such costs involved, to the Secretary of the United States Department of Health and Human Services, or upon request, to the Comptroller General or any of their duly authorized representatives. Access to the above noted data is limited to that provided for in 18 NYCRR, Section 452.10.

SECTION VIII - ACCOUNTABILITY

1. The Agency agrees that a program and facilities review pertaining to the delivery of domestic violence services under this Agreement including meetings with recipients of service, review of service policy and procedural issues, review of staffing and job descriptions and meetings with staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by qualified personnel from those State and federal agencies with the required legal powers and statutory authority to conduct such activities, as limited by 18 NYCRR 452.10.

2. If the Agency does not conform to the provisions of this Agreement, the Department may, after written notice of the failure to adequately perform under the Agreement, take such actions or invoke sanctions under this Agreement and any appropriate regulations issued by the New York State Department of Social Services as it deems necessary.

3. The Agency shall not make any subcontract for the performance of any part of this Agreement.

4. The Agency covenants and agrees that neither it nor any of its directors, officers, members, or employees has any interest, nor shall they acquire any interest, directly or indirectly, which would substantially or

adversely conflict in any manner or degree with the Agency's performance of this Agreement. The Agency further covenants that in the performance of this Agreement, no person having such interest including board members shall be employed. The names and addresses of the members of the Board of Directors of the Agency shall be annexed to this Agreement.

SECTION IX - COMPLIANCE WITH LAW

1. The Agency represents and agrees to comply with all applicable Federal laws, including the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1967 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No. 11246 entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41 CFR Part 60. The Agency also agrees to observe all applicable federal regulations contained in 45 CFR Part 84, and 28 CFR Part 41.

2. In addition, if the total cost of this Agreement is in excess of \$100,000, the Agency shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended.

SECTION X - TERMINATION OF AGREEMENT

1. The Agreement may be terminated by the mutual written agreement of the contracting parties.

2. The Agreement may be terminated by the Department, for cause, upon the failure of the Agency to comply with any of the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the Agency written notice specifying the Agency's failure. Such written notice shall be delivered via registered or certified mail with return receipt requested or shall be delivered by hand with receipt granted by the Agency. The notice shall be given to the Agency's executive director or designated representative at the Agency's business address. The effective date of termination shall not be less than 30 days from the date of the notice. In any event, the effective date of termination shall not be later than the Agreement expiration date. The Agreement will be terminated immediately if the operating certificate is revoked pursuant to 18 NYCRR, Part 452.5.

3. In addition to the termination provisions set forth above, the Department shall have the right to terminate this Agreement, in whole or in part, if the Agency has failed, at any time, to comply with any applicable federal, State or local health, safety or fire code regulations; or in the event that any license, approval or certification of the Agency, required by federal, State or local government is revoked, not renewed, or otherwise not in full force or effect, or in the event that the Agency fails to secure a new such license, approval or certification during the term of this Agreement, if required.

SECTION XI - INDEMNIFICATION

1. The Department and the Agency agree that the Agency is an independent contractor and is not an employee of the Department. The Agency agrees to indemnify the Department for any loss the Department, or the State of New York may suffer if such losses result from the claims of any person or organization (excepting only the Department) injured by the negligent acts or omission of the Agency, its officers and/or employees or subcontractor(s). Furthermore, the Agency agrees to indemnify, defend, and save harmless the State of New York, the Department, and its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, and any other persons, firms, or corporations furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Agency in the performance of this Agreement, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under this Agreement, or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this Agreement.

2. This Agreement may not be assigned, transferred or in any way disposed of by the Agency without the prior written approval of the Department.

3. The Agency warrants that it is not in arrears to the Department upon any debt or contract, and that it has not been in default and is not in default as surety, contractor or otherwise.

4. The Agency warrants that it and its service staff have all the necessary licenses, approvals and certifications currently required by the laws of any applicable municipality or local, State or federal government. The Agency further agrees to keep such required licenses, approvals and certificates in full force and effect during the term of this Agreement, or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames.

PROPOSED SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and the year first above written.

Department of Social Services

by: _____
COMMISSIONER

(NAME OF AGENCY)

by: _____
EXECUTIVE DIRECTOR

STATE OF NEW YORK)

County of)S.S.:

)

On this _____ day of _____, 19__, before me personally came _____, to me known, who being duly sworn, did depose and say that he resides in _____; that he is a _____ of the _____, the corporation described in and which executed the foregoing instrument.

NOTARY PUBLIC

SCHEDULE A

(Instructions to Agency). The following narrative should be completed by the Agency, in order to present an accurate description of the Agency's programs.

A. Program Narrative

1. Agency's Name and Address
2. Residential Domestic Violence Programs Provided by Agency - (Include details on all programs, including milestones and performance targets).
3. Persons Served - (ages, sex, geographic limitations, if any; number to be served by program, etc.).
4. Services of Agency Programs - include description of all those services which are provided, such as indicate types and numbers of staff providing services, length of stay allowed.
5. Self-evaluation Procedures - description of agency procedures for evaluating program effectiveness, i.e., conferences, staff meetings, etc.

