



Lawyers Alliance
for New York

Connecting lawyers, nonprofits, and communities

May 14, 2012

Contesting an EarlyLearn NYC RFP Determination

New York City Administration for Children's Services (ACS) recently released a list of the recommended awardees for EarlyLearn NYC, the request for proposals to provide child care and early education programming for low-income children in New York City. In order to view a list of the recommended awardees, go to http://www.nyc.gov/html/acs/html/child_care/earlylearn.shtml.

If your organization applied for an award for EarlyLearn NYC, and you are not satisfied with the determination by ACS to either not recommend your organization for an award or recommend an award different than your organization's proposal, your organization may protest this determination pursuant to the New York City Procurement Policy Board Rules. In addition, if your organization applied for Head Start funding, your organization may also appeal the determination pursuant to Head Start regulations (45 CFR § 1303).

Although it is not a requirement to submitting an appeal, all organizations that applied for EarlyLearn NYC may request a debriefing of their EarlyLearn NYC proposal by contacting Ms. Jean Sheil via email at jean.sheil@acs.nyc.gov to request a debriefing of your organization's EarlyLearn NYC proposal. **This request must be made between May 4, 2012 and ten (10) days after the Public Hearing date, which is the date that ACS will publicly announce awards.**

EarlyLearn NYC Appeals Process (All Applicants)

Below please find the appeals process as outlined by ACS in their award notices denying funding to certain organizations.¹

- 1) Submit a letter stating all of the facts and the basis by which you contest ACS' determination and include any supporting documentation. The letter must be sent to the Commissioner's Office, with a copy to the Agency Chief Contracting Officer's Office and the Comptroller's Office at the addresses below. **The letter must be submitted no later than ten (10) days after the debriefing date, or ten (10) days after the Public Hearing date, whichever is later.** The determination of the appeal is made solely by the

¹ Please note that ACS has specified that an appeal may be filed "no later than ten (10) days after the debriefing date, or ten (10) days after the Public Hearing date, whichever is later". Pursuant to Section 2-10 of the New York City Procurement Policy Board Rules, which outlines the process for submitting a vendor protest, an appeal must be filed "within ten days after the protesting vendor knows or should have known of the facts that prompted the protest but no later than ten days after the publication of the notice of award." Pursuant to this section, an appeal may be required as early as ten (10) days after notice of award is received. Lawyers Alliance for New York has contacted ACS for clarification of its interpretation on the New York City Procurement Policy Board Rules.

Commissioner and is final. The Commissioner's determination regarding the appeal will be mailed to the organization within 30 days' receipt of the appeal letter. The EarlyLearn NYC awards will not be stayed by the appeal unless the agency decides it is in the best interest of the city.

Mr. Ronald Richter
Commissioner
New York City Administration for Children's Services
150 William Street, 9th Floor
New York, New York 10038

Ms. Patricia Chabla
Assistant Commissioner
Agency Chief Contracting Officer
Division of Administration
Office of Procurement
New York City Administration for Children's Services
150 William Street, 9th Floor
New York, New York 10038

NYC Comptroller
Office of Contract Administration
1 Centre Street
New York, NY 10007

Head Start Appeals Process (Head Start Applicants)

In addition to the appeals process above, organizations that applied for Head Start funding in connection with the EarlyLearn NYC RFP may also submit an appeal pursuant to Head Start regulations if (i) ACS wholly rejected the organization's application for funding or (ii) ACS substantially rejected the organization's application for funding and the organization is currently an ACS delegate agency. A substantial rejection of funding means a reduction in funding to 80% or less of the delegate agency's current level of funding for any reason other than the delegate agency does not need the funds to serve all the eligible persons it proposes to serve.

- 1) Submit a letter stating all of the facts and the basis by which you contest ACS' determination and include any supporting documentation. The letter must be sent to ACS at the address below. The letter must be submitted via certified mail, return receipt requested, no later than ten (10) work days after the date of receipt of the award letter.

Administration for Children's Services
150 William Street, 18th Floor
New York, New York 10038
Attention: Joseph Cardieri, General Counsel

ACS has twenty days (20) to review the appeal letter and issue a decision. If ACS upholds its original decision, Head Start delegate agencies may appeal the decision to the appropriate official in the Department of Health and Human Services authorized to make the grant of financial assistance to operate a Head Start program or his or her designee.

This alert is meant to provide general information only, not legal advice. Please contact Nicole Cuttino, Staff Attorney at (212) 219-1800 ext. 228, ncuttino@lawyersalliance.org or visit our website www.lawyersalliance.org.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits and communities, we help nonprofits to develop affordable housing, stimulate economic development, promote community arts, and operate and advocate for vital programs for children and young people, the elderly, and other low-income New Yorkers.

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