**§ 2557. Financial responsibility and reimbursement.** 1. The approved costs for an eligible child who receives an evaluation and early intervention services pursuant to this title shall be a charge upon the municipality wherein the eligible child resides or, where the services are covered by the medical assistance program, upon the social services district of fiscal responsibility with respect to those eligible children who are also eligible for medical assistance. All approved costs shall be paid in the first instance and at least quarterly by the appropriate governing body or officer of the municipality upon vouchers presented and audited in the same manner as the case of other claims against the municipality. Notwithstanding the insurance law or regulations thereunder relating to the permissible exclusion of payments for services under governmental programs, no such exclusion shall apply with respect to payments made pursuant to this title. Notwithstanding the insurance law or any other law or agreement to the contrary, benefits under this title shall be considered secondary to the medical assistance program under which an eligible child may have coverage.

2. The department shall reimburse the approved costs paid by a municipality for the purposes of this title, other than those reimbursable by the medical assistance program, in an amount of fifty percent of the amount expended in accordance with the rules and regulations of the commissioner; provided, however, that in the discretion of the department and with the approval of the director of the division of the budget, the department may reimburse municipalities in an amount greater than fifty percent of the amount expended. Such state reimbursement to the municipality shall not be paid prior to April first of the year in which the approved costs are paid by the municipality, provided, however that, subject to the approval of the director of the budget, the department may pay such state aid reimbursement to the municipality prior to such date.

3. The department may perform audits, which may include site visitation, to all or any of the following: municipalities; service coordinators; evaluators or providers of early intervention services. The department shall provide the municipalities with a copy of the findings of such audits. Early intervention program state aid

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

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

5. (a) The commissioner, in his or her discretion, is authorized to contract with one or more entities to act as the fiscal agent for the department and municipalities with respect to fiscal management and payment of early intervention claims. Municipalities shall grant sufficient authority to the fiscal agent to act on their behalf. Municipalities, and individual and agency providers as defined by the commissioner in regulation shall utilize such fiscal agent for payment of early intervention claims as determined by the department and shall provide such information and documentation as required by the department and necessary for the fiscal agent to carry out its duties.

(b) Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law, sections one hundred forty-two and one hundred forty-three of the economic development law, or any other contrary provision of law, the commissioner is authorized to enter into a contract or contracts under

paragraph (a) of this subdivision without a competitive bid or request for proposal process, provided, however, that:

(i) The department shall post on its website, for a period of no less than thirty days:

(1) A description of the proposed services to be provided pursuant to the contract or contracts;

(2) The criteria for selection of a contractor or contractors;

(3) The period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(4) The manner by which a prospective contractor may seek such selection, which may include submission by electronic means;

(ii) All reasonable and responsive submissions that are received from prospective contractors in a timely fashion shall be reviewed by the commissioner; and

(iii) The commissioner shall select such contractor or contractors that, in his or her discretion, are best suited to serve the purposes of this section.

(c) Paragraph (b) of this subdivision shall apply only to the initial contract or contracts necessary to obtain the services of a fiscal agent for early intervention program fiscal management and payment of early intervention claims and shall not apply to subsequent contracts needed to maintain such services, as determined by the commissioner in his or her discretion.