Early Childhood Pay for Success Social Impact Finance:

Organizational Steps,

Memorandum of Understanding and Contract Outlines

Report of the ReadyNation

Working Group on Contracts in Early Childhood Social Impact Finance

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Introduction

This report of a ReadyNation working group provides initial contract models for consideration by parties interested in establishing early childhood pay for success (PFS) projects. Its purpose is to provide attorneys, policymakers, funders and others basic information in a single document about the contract aspects of organizing a PFS project. The report discusses the motivations for applying PFS finance principles to early child development, reviews key operational considerations, and provides a sample memorandum of understanding (MOU).

The MOU cites the background of the project and intentions of the organizers, and provides definitions and outlines of the three main PFS project contracts. When the organizers sign the MOU, they commit themselves to negotiate in good faith to establish an effective early childhood PFS project.

"Pay for Success" refers to performance-based contracting between government and an intermediary organization for the achievement of a social outcome. "Under this construct, government pays when results are achieved as opposed to providing up-front and on-going payments for services."[1] PFS principles have been shown to have very promising possible applications in a wide range of outcome improvement endeavors.[2] The success of PFS approaches depends on developing effective models of finance and contracts.

Drawing on decades of private capital market and philanthropic experience, financing models illuminate specific challenges to scaling early childhood interventions and preferred funding approaches. The range of asset types that can be deployed in social impact finance projects include everything from traditional bank loans, to fixed maturity bonds, preferred stock, program-related investments and even ultimately to globally marketable pass-through assets.[3]

Contract models reveal unique legal problems in social impact finance and provide guidance on how to frame the relationships among the parties in a project. The main parties to a PFS structure include the providers of interventions and services that achieve desired goals, the governments and investors that want to achieve those goals, and the evaluators who assess whether the goals have been achieved and justify making success payments to the organizers of the project. Equally important, the parties include

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[1] "Case Study: Preparing for a Pay for Success Opportunity", Third Sector Capital Partners, April 2013, p 4 http://www.thirdsectorcap.org/wp-content/uploads/2013/04/Third-Sector_Roca_Preparing-for-Pay-for-Success-in-MA.pdf
See also:
- *"*A Technical Guide to Developing Social Impact Bonds", Social Finance, May 2013 http://socialfinanceus.org/node/464
- Megan Golden, "Developing a Social Impact Bond: Lessons from a Provider", The Children's Aid Society, January 2013 http://www.childrensaidsociety.org/files/upload-docs/CAS_FINAL_Report.pdf
- "What Is Pay for Success?" Third Sector Capital Partners, October 2012 http://www.thirdsectorcap.org/what-is-pay-for-success/faq/
- Michael Bloomberg, City of New York, "Bringing Social Impact Bonds to New York City" August 2012 http://www.nyc.gov/html/om/pdf/2012/sib_media_presentation_080212.pdf
- Laura Callanan, Jonathan Law, and Lenny Mendonca, "From Potential to Action: Bringing Social Impact Bonds to the U.S." McKinsey & Company, May 2012 http://mckinseyonsociety.com/social-impact-bonds/
- http://www.socialfinanceus.org/sites/socialfinanceus.org/files/small.SocialFinanceWPSingleFINAL.pdf
- Jeffrey Liebman, "Social Impact Bonds: A Promising New Financing Model to Accelerate Social Innovation and Improve Government Performance." Center for American Progress, February 2011 http://www.americanprogress.org/issues/2011/02/pdf/social_impact_bonds.pdf

[2] David Erickson, ed. "Pay for Success Financing," *Community Development Investment Review* 9 (1), Federal Reserve Bank of San Francisco, April 2013 http://www.frbsf.org/publications/community/review/vol9_issue1/review-volume-9-issue-1.pdf

[3] Janis Dubno, Robert Dugger and Michele Smith, "Financing Human Capital Development for Economically Disadvantaged Children: Social Impact Finance for Early Childhood Education", ReadyNation working paper, June 2013 http://readynation.org/SIB/

the people impacted by the interventions. Their lives may be altered profoundly. PFS contracts need to have the wellbeing of these people foremost in mind.

Two Concepts of "Success" in Pay for Success Projects

"Success" has come to have two meanings -- "cost avoidance" and "outcome improvement." Cost avoidance refers to actual reductions in government operating costs that are the result of an intervention. Outcome improvement refers to measured changes in outcomes in desired directions that are the result of an intervention. An example of cost avoidance is the dollars and cents reduction in hospital neonatal intensive care costs associated with fewer low birth-weight births that are the result of prenatal counseling for at-risk young mothers. An example of outcome improvement is the measured reduction in low birth-weight births resulting from the prenatal counseling.

Government may be willing to make success payments on the basis of achieved cost avoidance or measured outcome improvement or both. The attractiveness of focusing on cost avoidance is it provides a source of funds for making success payments – by reducing low birth-weight health remediation costs, hospital budget funds are freed up. Focusing on outcome improvement also permits consideration of a wide range of less measurable but fully acknowledged near-term and long-term economic and social benefits. By reducing low birth-weight births, for example, a wide range of economic and social maternal and infant wellness benefits can be rewarded in proportion to their perceived value.

Cost avoidance and outcome measurement are not mutually exclusive. In fact, the most effective PFS projects will almost certainly combine elements of both approaches, since outcome improvement drives cost avoidance. The cost avoidance approach provides a source of funds for making success payments, and the outcome improvement approach provides a basis for government and philanthropic investment. Because a well-designed PFS project could enable a government to increase the amount of economic and social benefits it obtains from a particular intervention, a government might decide to invest more than currently budgeted to obtain more of the desired outcomes for its constituents.

When considering how to "price" the value of an "outcome improvement", governments will want consider using PFS structures to increase the effectiveness of their budget dollars. Consider a state that spends $30 million through traditional grants or contracts to improve high school graduation rates and achieves a 5% graduation rate improvement. In a PFS arrangement, the government's payment -- by definition -- is conditioned on outcome improvement, and in many cases the government's budget funds are augmented by private and philanthropic funds, with a result that the outcome improvement is most likely increased and achieved with relatively fewer government budget dollars. A similar argument could be made for pricing "savings."

The MOU and contract outlines presented in this paper accommodate both interpretations of success.

Why Apply PFS Principles to Early Child Development?

Research spanning several decades shows that investing in prenatal and early child parenting, health, nutrition and education delivers substantial long-term economic returns. More recent research documents significant near-term returns also. Two examples are being intensively explored in geographies as diverse as South Carolina and Utah. The first is home visiting in which trained nurses visit pregnant at-risk mothers in their homes to improve diets and home conditions and ultimately reduce the high costs associated with low-birth weight births and other intensive neonatal treatments.[4] The

[4] Institute for Child Success http://www.instituteforchildsuccess.org/integration.php and "Zero to Five: The Window of Opportunity for South Carolina's Children", *Greenville Business Magazine*, October 2012 , pp 20-21 http://ipubviewer.com/publication/?i=126266&p=24

second is high quality two-year prekindergarten ("pre-k") for three and four-year old children to increase school readiness and reduce public school special education, grade retention and English language learner costs. [5] Initial results suggest that economically sustainable financing plans for home visiting and prekindergarten can be constructed by combining resources from government, philanthropy and private investors.

Home Visiting Prenatal Counseling

Evidence from the most rigorous home visiting studies shows conclusively that good prenatal counseling reduces the incidence of low birth-weight births, resulting in lower neonatal intensive care costs. The reduction in incidence together with the large difference in post-delivery healthcare costs between low birth-weight and normal birth-weight deliveries may be sufficient to cover the costs of the prenatal counseling in a PFS project.[6] A large portion of this cost reduction could be paid as a "success payment" to the intermediary or lead contractor, who in turn would pay the prenatal counseling providers and repay the investors.

Importantly, home visiting has been shown to have positive impact beyond the prenatal months. Studies show that home visiting also reduces child abuse and neglect and associated welfare costs, improves school readiness, cuts public school special-ed and grade-retention costs, raises reading and math performance, reduces government costs associated with teen drug use and pregnancy, and increases high-school graduation rates.[7]

Quality Pre-kindergarten

Research in Louisiana[8], Pennsylvania[9], and Utah[10] within the past decade shows that it is not necessary to wait ten to twenty years to see high economic returns on high-quality pre-kindergarten programs. This research confirmed and strengthened findings from the early Perry, Abecedarian and other studies that showed marked reductions in special education assignments of children from low-income families who graduated from quality prekindergarten programs.[11] Several studies indicate that public school special education costs resulting from the lower assignment rates may be large enough to pay for the

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[5] United Way of Salt Lake http://www.uw.org/ and "Utah lawmaker hopes to fund public preschool with private dollars", *Salt Lake Tribune,* January 2, 2013 http://www.sltrib.com/sltrib/news/55551682-78/preschool-education-state-osmond.html.csp

[6] See: E. Lee, S. D. Mitchell-Herzfeld, A. A. Lowenfels, R Greene, V. Dorabawila, K. A. DuMont, "Reducing Low Birth Weight Through Home Visitation: A Randomized Controlled Trial", *American Journal of Preventive Medicine*, Volume 36, Issue 2 , 154-160, February 2009 http://www.ajpmonline.org/article/S0749-3797(08)00845-3/abstract

[7] "Nurse-Family Partnership", *Early Childhood, Social Programs That Work*, Coalition for Evidence-Based Policy http://evidencebasedprograms.org/wordpress/?page_id=57 and "The Case for Home Visiting: Strong families start with a solid foundation", Issue Brief, Center on the States, Pew Charitable Trusts, May 2010 http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/State_policy/067_10_HOME%20Moms%20Brief%20Final_web.pdf?n=9905

[8] *LA 4 Longitudinal Report*, Center for Child Development, University of Louisiana at Lafayette http://www.louisianaschools.net/lde/uploads/11515.pdf

[9] S. Bagnato, J Salway, and H Suen, *Pre-K Counts in Pennsylvania for Youngsters' Early School Success: Authentic Outcomes for an Innovative Prevention and Promotion Initiative*, Heinz Foundation and Early Childhood Partnerships. 2009 http://www.heinz.org/UserFiles/Library/SPECS%20for%20PKC%202009%20Final%20Research%20Report%20113009.pdf

[10] J Dubno and L Dolce, A Sustainable Financing Model for High Quality Preschool for At-Risk Children, Voices for Utah Children & Early Learning Ventures, Presentation to the National Business Leader Summit on Early Childhood Investment, July 2011, Boston, MA http://www.partnershipforsuccess.org/uploads/20110713_SustainableFinancingModelPresentationtoPAESNationalBusinessLeaderSummitBostonJuly222011.pdf

[11] Steven Barnett, "The Economics of Early Childhood Programs: Lasting Benefits and Large Returns", National Institute Early Education Research, 2013 http://nieer.org/sites/nieer/files/Economics%20of%20ECE_Loyola_Nores.pdf

initial pre-k services using PFS finance principles.[12] The reason for this is the very high cost of remediation. It simply costs much more to correct or manage behavioral and learning deficiencies when children are five years old or older, than it does to provide developmentally appropriate foundational experiences when they are three and four years old and personality, social and cognitive capacities are developing very rapidly.

Inequality

The primary motivation for applying PFS finance principles to early childhood interventions is to increase the availability of intervention services and improve long-term workforce competitiveness and per capita income growth, without increasing public costs.[13] A secondary motivation is income inequality. Evidence is mounting that income inequality is, to a significant degree, the result of inequalities in economic opportunity that arise at the earliest points in life from differences in access to prenatal and postpartum nutrition, parenting, healthcare and early education and their cumulative effects on individual capabilities, character traits and health.[14] If an insufficient supply of quality early childhood resources for at-risk children and their parents is a cause of the early opportunity differentials, applying PFS principles holds the promise of reducing income inequality.

Implementation Considerations

PFS projects must address a number of obstacles to be workable.

- ✓ Disjointed or insufficient acquisition and sharing of data on individual child prenatal to five health, nutrition, and education
- ✓ Unclear returns on the PFS investment project or intervention
- ✓ Delays between the PFS intervention investment and the return
- ✓ Difficulties in linking government cost reductions or revenue gains solely to the PFS investment intervention
- ✓ Multiple government jurisdictions with conflicting priorities and child migration among jurisdictions
- ✓ Resistance to paying PFS investors from public cost savings or revenue gains
- ✓ Insufficient personnel or data to administer and evaluate PFS program performance
- ✓ Incentive inconsistencies among the parties to the PFS financing

From the PFS investor standpoint, to be attractive, PFS projects must have:

- ✓ Strong state and local business, philanthropic and government support

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[12] See:

- o J Dubno and L Dolce, A Sustainable Financing Model for High Quality Preschool for At-Risk Children, Voices for Utah Children & Early Learning Ventures, Presentation to the National Business Leader Summit on Early Childhood Investment, Boston, MA, July 2011, http://www.partnershipforsuccess.org/uploads/20110713_SustainableFinancingModelPresentationtoPAESNationalBusinessLeaderSummitBostonJuly222011.pdf
- o Robert Dugger and Robert Litan, Early Childhood "Pay-For-Success" Social Impact Finance: A PKSE Bond Example to Increase School Readiness and Reduce Special Education Costs, Report of Kauffman Foundation-Ready Nation Working Group on Early Childhood Finance Innovation, April 2012 http://www.readynation.org/uploads/db_files/Kauffman-ReadNation%20PKSE%20Report%2012041922.pdf

[13] See: Starting Smart, Finishing Strong: Fixing the Cracks in America's Workforce Pipeline Through Investments in Early Child Development, Institute for Workforce Competitiveness, US Chamber of Commerce, 2012, http://www.readynation.org/uploads/db_files/US%20Chamber%20RN%20Brochure%20Low%20Res72.pdf

[14] James Heckman, "The Economics and Psychology of Human Development and Inequality Lecture I" and "The Economics and Psychology of Human Development and Inequality Lecture II: Understanding the Origins of Inequality and Understanding Effective Interventions and the Channels Through Which They Work," Marshall Lectures, University of Cambridge, Cambridge, UK. May 17-18, 2011 http://sms.cam.ac.uk/media/1144897

- ✓ Government commitments that extend beyond election cycles
- ✓ Rigorous statistical demonstrations of projected benefits
- ✓ Sound legal foundations for PFS issuing organizations
- ✓ Clear enforceable contracts among PFS participating entities
- ✓ Loans, bonds or other PFS assets with terms familiar to investors
- ✓ Good working relationships with the investment underwriting, institutional and foundation investor sectors

Structure of Returns and Sources of Funds: Blending Public and Private Resources

In a pure PFS project, private investors would put up all the capital needed to establish and operate the project and reap the financial gains. Unfortunately, there are few examples of projects that have returns high enough and certain enough to justify private investors taking the entire risk, especially since one of the most significant risks is the government's willingness and ability to legislatively appropriate the funds to make "success payments" when they are due.

Some participation by philanthropy and government appears to be necessary for almost all projects. Can investment by governments and philanthropies be justified? Do these entities get returns of the kind that have historically justified their support of such projects? The answer is yes. There are valuable non-monetizable returns of the kind that government and philanthropy have long supported. These returns are the basis for the "outcome improvement" approach for measuring PFS performance and compensation. The returns include everything from lower hospital neonatal intensive care costs and public school special education costs to stronger per capita income growth and higher tax revenues from higher-earning adult employment.[15] Estimated returns on quality prekindergarten, for example, range from 7% to 18% per year.[16]

Monetizable and Non-monetizable Returns

Near-term special education cost reductions from pre-k, for example, appear to be monetizable. A substantial part of the cost avoidance can be measured accurately and a portion could be paid as a "success payment" to whoever brought about the savings pursuant to an enforceable contract. Adolescent crime reductions also have huge monetary effects; however, at present, they do not appear to be easily monetizable.[17] The costs touch nearly every aspect of the economy – individual safety and wellbeing, private company security and profitability, community attractiveness and economic growth, and state and national criminal justice and incarceration costs. If ways can be developed to link the jurisdictions that invest in young children with those that benefit from the later crime cost reductions, these kinds of longer-term cost reductions might be monetizable. In any case, the monetizable high

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[15] Timothy Bartik, *Investing in Kids: Early Childhood Programs and Local Economic Development*, Upjohn Institute, 2011 http://www.upjohn.org/Publications/Titles/InvestinginKids

[16] See for example:

- C.R. Beleld, M. Nores, W. S. Barnett, and L. Schweinhart, "The High/Scope Perry Preschool program: Cost-benefit analysis using data from the age-40 followup", *Journal of Human Resources* 41(1), 162-190, 2006
- W. S. Barnett, *Lives in the Balance: Age 27 Benet-Cost Analysis of the High/Scope Perry Preschool Program,* High/Scope Press, Ypsilanti, MI: 1996
- J. J. Heckman, S. H. Moon, R. Pinto, P. A. Savelyev, and A. Q. Yavitz, "The rate of return to the High Scope Perry Preschool Program, *Journal of Public Economics*, 94(1-2), 114{128. 2010
- A. J. Rolnick and R. Grunewald, "The Economics of Early Childhood Development as Seen by Two Fed Economists", Community Investments, Federal Reserve Bank of San Francisco, Fall 2007 http://www.frbsf.org/publications/community/investments/0709/economics_early_childhood.pdf

[17] James J. Heckman and Dimitry V. Masterov, "The Productivity Argument for Investing in Young Children", Working Paper 5, Invest in Kids Working Group, Committee for Economic Development, October 4, 2004, pp 11-14 http://www.readynation.org/docs/ivk/report_ivk_heckman_2004.pdf

return on quality pre-k to society, within and across government jurisdictions, is the basis for arguing that it is entirely appropriate for state and federal governments to be part of the funding structure of a PFS early child development project.

Near and Long-term Returns

Investor willingness to put money at risk in an uncertain project and not get paid back for several decades is critically important. Private investors are usually unable to put money at risk for more than 10 years and may be particularly wary of making long term investments in novel, unproven instruments. Government investors, of course, make long term investments all the time. Local, regional, state and the national government with voter support raise money through taxes and spend it on projects with diffuse, uncertain, but very valuable and often very long-term returns. This long term public investment is why we have been able to significantly invest in our public infrastructure with highways, bridges and a public school system. Philanthropic investors are also able and accustomed to committing resources to projects with long-dated diffuse benefits. To a considerable degree this is why we have art museums and why we permit charitable gifts to be deducted from state and federal income taxes. One of the advantages of PFS finance is it offers the possibility to increase the allocation of resources to activities with strong longer-term benefits by adding private investors to the funding mix. PFS projects specifically enable governments to make long term investments in human capital.

As suggested in the 2010 research by James Heckman and others, the internal rate of return (IRR) to the public sector on high-quality pre-k is 7%. If a state government can get private investors and philanthropists to pay for half of the cost of the pre-k, the return to the state will rise, provided the return paid to the non-government investors is less than 7%. For example, if private and philanthropic investors can be induced via a PFS financing structure to invest at say an average return of 3%, then the state's IRR will increase from 7% to 11%. The state gets a 7% IRR on the one-half of the pre-k it pays for, and it gets an additional 4% (7% less 3%) on the half of pre-k paid for by the non-governmental investors.

Early Childhood Pay for Success Finance Process Steps

The two most important initial steps for any PFS project are completing feasibility research that firmly establishes an economic linkage between an intervention and an early childhood benefit, and signing a Memorandum of Understanding (MOU). The feasibility research will show whether a particular PFS idea is actually financially feasible. When signed, the MOU will show that the organizers have reached sufficient agreement on basic contract terms to begin setting up a PFS project.

The model MOU presented in this report contains outlines of the three most important contracts in a PFS project:

a. Provider contract
b. Government contract
c. Evaluator contract

The following statutory and process steps are the context in which the MOU and contract outlines presented in this paper were developed:

1. State laws and regulations are in place authorizing state agencies and jurisdictions to enter into PFS contracts with social impact finance intermediaries, in a way comparable to Massachusetts, which

has a framework that provides reasonable assurance to investors that if "success payments" have been earned, the appropriate state agency or jurisdiction will make the payments.[18]

2. Working within state laws and regulations, private, philanthropic, and government leaders agree to target a socially important outcome.

3. A feasibility study has been done to ascertain whether a specific child development intervention applied to particular children in the government's geographic jurisdiction can reduce government costs enough to make the project financially feasible.[19] In general, a feasibility study carries out a longitudinal analysis of the difference between the remediation costs associated with a statistically appropriate sample of children, or their parents, who receive the intervention, and a sample of those who do not. The study also takes into account the government's fixed, variable and marginal costs associated with the remediation, and the time it will take for the government to adjust its operations to fully benefit from the cost avoidance made possible by the intervention. [20] The feasibility study provides a basis for initially calibrating PFS contract terms.

4. Once feasibility is established, private and philanthropic investors provide the necessary capital to establish an intermediary to manage the PFS project. The intermediary can be any kind of for-profit, non-profit, or special purpose government entity. In other contexts, intermediaries are referred to as "lead contractors" or "enterprises".

5. The intermediary and the government enter into a contract, in which the government agrees to pay the intermediary a "success payment" to the extent cost avoidance and/or outcome improvements have occurred. If there is no cost avoidance or outcome improvement, the government owes no payment to the intermediary. Note that success payments need not be rigidly related to outcomes. Provision can be made for the government to make a minimum payment to the intermediary regardless of cost or outcome success, with greater success associated with less than proportional payments.[21]

6. The intermediary enters into a contract with early childhood service providers, such as prenatal counseling or pre-k educators, to provide an early childhood intervention to groups of children. The children served are comparable to those analyzed in the feasibility study.

7. The intermediary and government together enter into a contract with an independent evaluator to evaluate the effect(s) of the intervention and determine whether cost avoidance and/or outcome improvement have occurred, and if so, by how much. The evaluator's report findings are then used to authorize the government entity to make "success payments" to the intermediary.

8. The intermediary obtains capital from philanthropic, private and government sources to pay for the pre-k services and operate the intermediary. The capital raised can take many forms. From

[18] The Massachusetts statute establishes a "Social Innovation Financing Trust Fund" to assure funding of social impact contracts that meet the requirements of the statute. Under the statute the Secretary for Administration and Finance requests an appropriation for each fiscal year that a contract is in effect, in an amount equal to the expected payments that the commonwealth will ultimately be obligated to pay in the future based upon service provided during that fiscal year, if performance targets are achieved. http://www.malegislature.gov/Content/Documents/Budget/FY2013/ConferenceReport-H4219.pdf

[19] Robert Dugger, "Success Begins with a Feasibility Study," *Community Development Investment Review*, Federal Reserve Bank of San Francisco, April 2013, pp 80-84 http://www.frbsf.org/publications/community/review/vol9_issue1/review-volume-9-issue-1.pdf

[20] See for example: *A Guide to Calculating Justice-System Marginal Costs*, VERA Institute of Justice, May 2013, http://www.vera.org/sites/default/files/resources/downloads/marginal-costs-guide.pdf

[21] See, for example, the success payment schedule in Michael R. Bloomberg, "Brining Social Impact Bonds to New York City", City of New York, August 2012, p 7 http://www.nyc.gov/html/om/pdf/2012/sib_media_presentation_080212.pdf

philanthropies, the capital can be outright grants or project-related investments (PRIs). Depending on the terms, philanthropic capital may or may not earn interest or be repaid, or it can be reinvested in more intervention services. Private capital can be common or preferred stock, loans, or short or long-term securities. The private capital will almost always involve dividend or interest payments and in the case of debt instruments have to be repaid. Government capital can take the form of guarantees, matching funds, or any of the forms available to philanthropic or private investors.

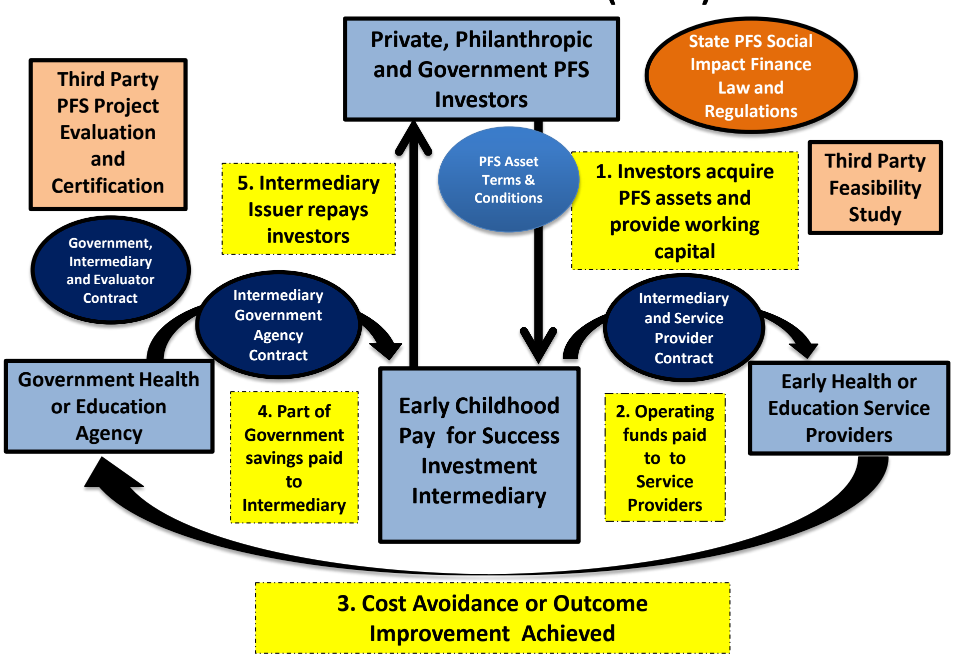
9. As government cost avoidance and/or outcome improvement occur and are confirmed by the evaluator, success payments are made by the government to the intermediary, which in turn pays the private and philanthropic investors according to the terms of their investment contracts. Under many conditions, the success payments will exceed the amounts required to be paid to investors. This excess can be accumulated in a reserve account, and at the end of an intervention cycle the reserve account balance can be paid to the state government. The state can spend the funds for any purpose including reinvesting them to expanding the availability of the intervention.

Main Contract Agreements and Financial Flows

The chart below is based on many of the familiar charts of social impact finance and highlights the three main contract agreements in dark blue. In addition to these three, there are contract agreements between the organizers and the researchers who conduct the initial feasibility study, a variety of kinds of financial agreements between investors and the intermediary, and there may be agreements between the service providers and the parents of children served in an intervention.

Outlines of the three main contracts are provided in the MOU below. Experienced attorneys will recognize immediately that the outlines may be helpful, but the truly important provisions, and the most difficult ones to draft, will be those in the appendices to the contracts. The appendices contain the precise descriptions of the intervention service, the success payment and its determination, needed child data and privacy, evaluator terms and conditions, and how the evaluator is compensated. In any PFS contract negotiation, most likely the hardest work will be in completing the appendices.

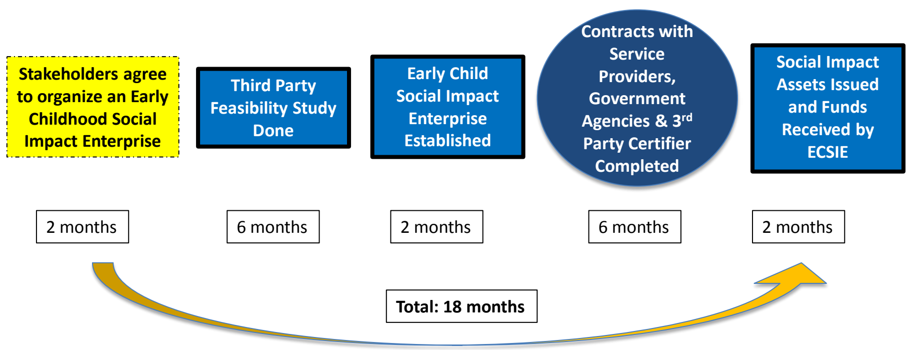
Pay for Success Social Impact Finance flow of funds (arrows)
Statute and Contracts (ovals)



A sense of the time frames likely to be involved in setting up a PFS project and preliminary confirmation of success, are shown in the charts below:

Early Child Social Impact Enterprise Program: Establishment and Funding Time Line

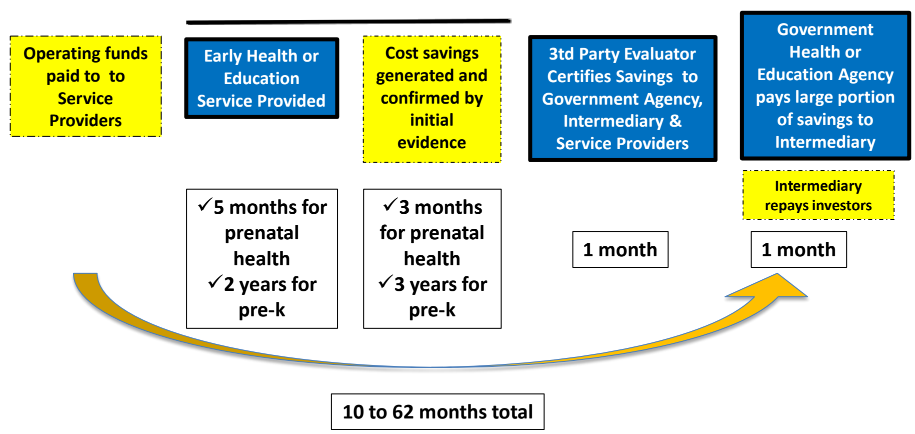
State Law and Regulation Enactment: Unknown
Establishment and Fundraising Phase: 18 Months



Intervention Service Provision and Preliminary Investment Success Time Line

Intervention Service Delivery and Initial Success Indication

- **8 months for prenatal (5 mo average prenatal + 3 mo postpartum)**
- **60 months for pre-k (2 yrs pre-k, 3 yrs k-2nd grade when 90% of special-ed assignments completed)**



Model Memorandum of Understanding

Memorandum of Understanding
Among the Major Participants in Organizing
An Early Childhood Pay for Success Project

This Memorandum of Understanding ("MOU") is made on ________, __ [date], by and between:

1. [Legal representatives of the organizers of Project] ("Organizers"),
2. [Legal representative of the government entity] ("Government"),
3. [Legal representative of the early childhood service provider], ("Service Provider"),
4. [Legal representative of performance evaluation company], ("Evaluator"),
5. [Legal representative of financial investor(s) or lender(s)], (each a "Financial Facilitator"), and
6. Collectively the above are hereinafter referred to as the "Parties".

Contents

I. Purpose

The purpose of this MOU is to present the basic understandings of the Parties hereto, provide a framework for negotiating binding contracts among the Parties, and describe in outline form the contracts needed to establish and operate a Pay for Success (PFS) social investment project (the "Project").

II. Good Faith Negotiations

After signing this MOU, the Parties agree to move forward to establish the funding needed for the Project and to negotiate in good faith the terms of the contracts.

III. Background

A. The health and education of young children, and their future productivity as adults, are very high priorities of the citizens in _____ [region] and their Government.

B. Early childhood research shows that certain early childhood interventions have high long-term economic returns, and significantly increase the health, education and life success prospects of young children.

C. The Feasibility Research shows, with a high degree of confidence, that providing ____________ [the planned "Intervention"] will improve child health, education, and future workplace productivity outcomes (Outcome Improvement) and reduce Government remediation costs in health, education, criminal justice, and job training (Government Cost Avoidance).

D. The Feasibility Research also indicates that the Cost Avoidance and Outcome Improvement that would result from the Intervention are likely to be large enough over time to pay all or a significant portion of the cost of providing the Intervention.

E. The Parties desire to establish a Pay for Success social impact finance project to achieve the Cost Avoidance, Outcome Improvement and other benefits of ______ [the Intervention] for ______ [the jurisdiction].

IV. Statements of the Parties

A. The Organizers will establish an Intermediary to enter into contracts with Service Providers, the Government, an Evaluator, and others as necessary to fund and operate the Project.

B. The Service Provider will enter into a contract with the Intermediary under which the Service Provider will provide an Intervention comparable to that analyzed in the Feasibility Research. An outline of the contract is in Section __.

C. The Government will enter into a contract with the Intermediary under which the Government will make a Success Payment to the Intermediary after the Evaluator certifies that Cost Avoidance and/or Outcome Improvement have occurred as a result of the Intervention provided by the Service Providers. All or a portion of the Success Payment may consist of a percentage of the Cost Avoidance. An outline of the contract is in Section __.

D. The Intermediary, Government, and Service Providers will enter into a contracting structure with an Evaluator under which the Evaluator will provide an independent third-party assessment of whether Government Cost Avoidance and/or Outcome Improvement has occurred and determine the amount of the Success Payment. An outline of the contract is in Section __.

E. At their discretion the Parties, individually or jointly, will enter into a contract with a Financial Facilitator under which the Financial Facilitator will provide investment banking, consulting, management and other services to assist in establishing and operating the Project.

F. The Parties affirm the importance of protecting children from inappropriate disclosure of personal information and will in everything they do remain in full compliance with state and federal personal privacy laws and regulations.

G. The Parties have prepared this Memorandum of Understanding (MOU) to evidence their mutual understandings with respect to the Project.

V. Definitions

A. **Auditor** means a firm (if any) selected by the Parties to audit the work of the Evaluator and assess whether the work of the Evaluator was done according to agreed-upon standards.

B. **Cohort** means a group of children consisting of the Treated Population in one Intervention Cycle. As examples, a Cohort would include a group of children who receive three- and four-year old prekindergarten over a single 24 month period; or those whose mothers received prenatal counseling in a single year.

C. **Cost Avoidance** means the Government operating cost reductions, which occur as a result of the Intervention over a specified period of time, and which are certified by the Evaluator under the Evaluator Contract. Cost avoidance is described in Appendix B.

D. **Data** means personal information about the Treated and Untreated Populations used in implementing the Project. Such data is subject to a wide range of state and federal personal and health privacy laws.

E. **Intermediary** means the social investment intermediary entity established to fund and to manage the Project.

F. **Intermediary Management** means the person or persons at the Intermediary who are responsible for assuring compliance with Project Contracts.

G. **Intermediary Representative** means the Intermediary officer or program manager responsible for day-to-day contact with the Service Provider Management

H. **Evaluator** means an independent third-party entity selected by the Intermediary and the Government to assess if Cost Avoidance as required by the Government Contract has occurred, and carry out any other obligations under the Evaluator Contract.

I. **Evaluation** means, for each Intervention Cycle, the assessment by the Evaluator of Cost Avoidance for such Intervention Cycle.

J. **Evaluator Contract** refers to a contract among the Evaluator, the Government and the Intermediary (and the Provider to the extent necessary) that contains the terms for Evaluator access to Service Provider and Government data and information; and authorizes the Evaluator to: 1. determine whether the Government has experienced Cost Avoidance as a result of the Intervention; 2. compute the amount of the Success Payment, if any; and 3. direct the Government to make a Success Payment to the Intermediary if Cost Avoidance has occurred.

K. **Expiration Date** in Project Contracts generally means either a specified date in the future when the contract will terminate, or an undetermined date in the future when all specified obligations or conditions for expiration have been met, for example, a specified number of Intervention/Payment Cycles have been completed, thus meeting the terms of the contract and enabling it to terminate.

L. **Financial Facilitator** means an entity that provides investment banking, consulting, management and other services to the Organizers or the Parties to facilitate establishment, operation, funding, management, and evaluation of the Intermediary.

M. **Facilitator Contract** means the contract between the Intermediary and a Facilitator.

N. **Feasibility Research** refers to reports, studies, analyses, or the like of the probable effects of an Intervention and the potential government savings.

O. **Government** means the regional, state or federal government, or government agency or other governmental entity, which has jurisdiction over the Treated Population and the Untreated Population. It or a division thereof will be party to the Government Contract.

P. **Government Contract** means the contract that contains the obligations and rights of the Government and the Intermediary, and the terms and conditions (which may be general or specific) for the payment of the Government's Cost Avoidance as a Success Payment to the Intermediary.

Q. **Government Management** means the Government individual, commission, agency, or other entity, responsible for management of the Government contract and the Project generally.

R. **Intervention** means the specific prenatal to age five early childhood service, treatment, curriculum, protocol or the like, which has been the subject of the Feasibility Research and is to be provided under the Service Provider Contract. The Intervention is described in Appendix A.

S. **Intervention Cycle** means the time prescribed for an Intervention to be provided to a single Cohort. As examples, an Intervention Cycle could be up to nine months for prenatal counseling and 24 months for three- and four-year old prekindergarten.

T. **Lender(s)** means the banks, foundations, individuals and other investors who provide loans, and other forms of capital expecting a return, to the Intermediary.

U. **Modification** means an adjustment or change in the Intervention that improves its effectiveness or efficiency but does not rise to the level of an amendment to Project contract.

V. **Organizers** means the individuals, businesses, philanthropies, Facilitators and Service Providers that establish, and initially capitalize, the Intermediary.

W. **Outcome Improvement** means a measured positive change in a prenatal to age-five child parenting, health nutrition, education or other wellness outcome, which occurs as a result of the Intervention over a specified period of time, and which is certified by the Evaluator under the Evaluator Contract. Outcome Improvement is described in Appendix B.

X. **Project** means the project to be undertaken pursuant to this MOU including all activities under the Project Contracts.

Y. **Project Contracts** means the Service Provider Contract, the Government Contract, the Evaluator Contract and any other contracts required for implementation of the Project.

Z. **Service Provider** means the individual or entity that will provide the Intervention.

AA. **Service Provider Contract** means the contract between the Intermediary and the Service Provider that contain the conditions and terms of the Intervention.

BB. **Service Provider Management** means the person or persons at Service Provider responsible for assuring compliance with Project Contracts.

CC. **Service Provider Representative** means the Service Provider officer acting as the representative for contact with the Intermediary Representative.

DD. **Success Payment** means (1) a payment amount obtained by multiplying the Cost Avoidance by the applicable Success Percentage; (2) a payment amount associated with a given level of Outcome Improvement; or (3) a payment amount that is a combination of (1) and (2). Success Payment calculations are described and presented in table form in Appendix B.

EE. **Intervention/Payment Cycle** means the period of time beginning with the commencement of the Intervention and ending with the last distribution of any resulting Success Payment(s) for the applicable Cohort.

FF. **Success Percentage** means the applicable percentage of the Cost Avoidance, agreed to by the Government and the Intermediary, which the Government will pay to the Intermediary.

GG. **Treated Population** means the population of all children, parents, caregivers, families or the like who receive the Intervention.

HH. **Untreated Population** means the population of all children, parents, caregivers, families or the like who do not receive the Intervention, but who are other comparable to the Treated Population.

VI. Service Provider Contract Outline

A. Parties

1. Intermediary
2. Service Provider

B. Purpose

This contract provides the terms and conditions under which the Intermediary pays the Service Provider for providing the Intervention.

C. Contract Period

1. **Term** -- This contract will end on the Expiration Date.
2. **Renewal** -- This contract may be renewed subject to agreement by the Intermediary and the Service Provider.

D. Intervention

1. The Intervention is the service, treatment, curriculum, or the like described in Appendix A
2. Modification of the Intervention is permissible if approved by the Intermediary Representative.

E. Obligations of the Service Provider

1. **Intervention –** The Service Provider will provide the Intervention described in Appendix A.
2. **Organization –** The Service Provider may be a private non-profit or for-profit entity or a public entity.
3. **Operations**
   a. Compliance – The Service Provider will be in compliance with local, state and federal regulations, licensing and data requirements.
   b. Accreditation – In circumstances where accreditation or quality ratings are required by the Government jurisdiction, the Service Provider will be accredited or rated.
4. **Financial integrity** – The Service Provider will provide the Intermediary quarterly financial statements and annual audits by an accounting firm mutually agreed upon by the Service Provider and the Intermediary, and paid for by the Intermediary.
5. **Litigation and investigations –** The Service Provider will report to the Intermediary --
   a. Law suits or investigations that arise at any time during the term of the contract against the Service Provider or its employees,
   b. Law suits from five years ago to the present and their disposition, and,
   c. Investigations of the Service Provider or its employees by local, state or federal agencies.
6. **Reporting** – The Service Provider will furnish reports and information as requested by the Intermediary Representative
7. **Service Provider Representative** –
   a. Will meet with Intermediary Representative as requested and at least quarterly
   b. Will meet with the Intermediary Board of Directors as requested and at last annually
8. **Insurance –** The Service Provider will continuously maintain and provide proof of adequate insurance

9. **Independent evaluation** – The Service Provider will permit the Evaluator to have access to the Service Provider Management, Data, employees, and facilities necessary to enable the Evaluator to comply with the Evaluator Contract.

F. Obligations of the Intermediary

1. **Payment –**Intermediary will pay the Service Provider for providing the Intervention based on budgets agreed upon by the parties to this contract in advance. Payment consists of --
    a. Initial funding to increase provision of the Intervention Service, including facility leases, equipment, furnishings, employee contracting and training, and other goods and services necessary for expanding the provision of the Intervention, and
    b. Ongoing funding for costs relating to
        i. The provision of the Intervention, and
        ii. Operating and financial data acquisition and management.
    c. Where, by agreement, Intermediary funding is provided to the Service Provider on a reimbursement basis, reimbursement will be done within ten days of receipt of Service Provider invoices.
2. **Proof of capacity** –Intermediary will furnish proof satisfactory to the Service Provider, of the Intermediary's capacity to meet the obligations enumerated above without interruption until the Expiration Date.
3. **Personnel** – The Intermediary will employ
    a. Adequate staffing to comply with this contract and
    b. An Intermediary Representative with sufficient authority to activate the resources of the Intermediary to assist and assure that the Service Provider complies with the terms of this contract and implementing agreements.
    c. The Intermediary Representative will
        i. Meet with the Service Provider Representative at least monthly and the Service Provider Management at least quarterly,
        ii. Provide prompt and ongoing feedback on Service Provider performance, affirming compliance with, or reporting divergence from, the requirements of this contract and implementing agreements, and
        iii. Review and evaluate periodic reports.
4. **Facilitation** – To aid in enhancing the performance of the Service Provider, the Intermediary will assist the Service Provider, wherever possible, in working with the Government, including arranging meetings with Government officials, obtaining access to government facilities, and receiving data on the performance of the Treated and Untreated populations.
5. **Convenings –** the Intermediary will arrange
    a. Meetings with other Service Providers under contract to discuss aggregate results, best practices, longitudinal information, high-performing employee retention, Intervention improvement, and the like, and
    b. Annual meetings of the Intermediary, Service Providers, Evaluator and the Facilitator.
6. **Compliance --** Intermediary will stay in full compliance with all
    a. General state and federal business laws and regulations, and
    b. Any specific state and/or federal guidelines, regulations, and statutes governing social investment finance.

G. Privacy

[The next four subsections deal with personal information and privacy, the security of information gathering, storage and analysis systems, and publication of personal data in ways that do not harm individuals but do permit sound research to be done. The provisions will need to be drafted to comply with state and federal laws and regulations and to enable the goals of the Project to be achieved.]

1. **Data Ownership** --
2. **Data Availability –** [In general, to facilitate research on early child development intervention effectiveness, Data without personal identifying information will be publically available. Ideally, it will be promptly published on the websites of the Government agency involved and the Intermediary.]
3. **Computer Systems, Software and Data Handling** --
4. **Privacy and Confidentiality** [In general, the Parties will continuously be in compliance with applicable state and federal laws and regulations and in any case, take all reasonable steps to assure the confidentiality of Data, and permit publication of Data only in ways that do not contain personal identifying information.]

H. Termination

1. **Termination for Cause** -- Either party may terminate this contract for Cause before the Termination Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination. Cause exists if:
   a. The non-terminating party has committed a material breach of this Agreement as defined by the Parties, and
   b. The breach is not cured 30 days after notice of the breach by the terminating party.
2. **Service Provider Termination Without Cause** -- The Service Provider may terminate this contract with __ days notice, without cause, before the Expiration Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination, and provided that the Service Provider reimburses the Intermediary for
   a. Actual loss or damage to the Intermediary that the Intermediary incurs as a result of complying with Section F, Obligations of the Intermediary, of this contract, and
   b. Any penalties or other costs the Intermediary incurs, or must pay, as a result of the termination, or
   c. The Service Provider pays liquidated damages agreed to in advance by the parties to this contract.
3. **Intermediary Termination Without Cause** -- The Intermediary may terminate this contract with __ days notice, without cause before the Termination Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination, and provided that the Intermediary reimburses the Service Provider for
   a. Actual loss or damage to the Service Provider that the Service Provider incurs as a result of complying with Section E, Obligations of the Service Provider, of this contract, and
   b. Any penalties or other costs the Service Provider incurs, or must pay, as a result of the termination, or

a. The Intermediary pays liquidated damages agreed to in advance by the parties to this contract.

I. Miscellaneous Provisions

1. **Amendment**
2. **Notices**
3. **Conflicts of Interest**
4. **Fraud and Corruption**
5. **Intellectual Property**
6. **Audit**
7. **Assignment and Subcontracting**
8. **Waiver**
9. **Variation**
10. **Severability**
11. **Indemnity and Liability**
12. **Insurance**
13. **Warranties and Representations**
14. **Default**
15. **Convenience**
16. **Force Majeure**
17. **Governing Law**
18. **Dispute Resolution**

J. Appendices

Appendix A -- Description of the Intervention

Appendix B – Description of the Outcome Improvement and, where relevant, the Cost Avoidance, and Determination of the Success Payment

Appendix C – Description of required information and data on the Treated and Untreated Populations

Appendix D – Description of the methods for securely acquiring and maintaining Information and data on the Treated and Untreated Populations

Appendix E – Terms of Evaluator access to Government and Service Provider facilities and modes of operation

Appendix F – Description of the method for calculating the payment by the Intermediary and the Government to the Evaluator for the Evaluation

VII. Government Contract Outline

B. Parties

1. Intermediary
2. Government entity

C. Purpose

This contract provides the terms and conditions under which the Government makes Success Payments to the Intermediary.

D. Contract Period

1. This contract will continue in force until the Expiration Date.
2. This contract may be renewed as agreed to by the Government and the Intermediary.

E. Obligations of the Government

1. **Success Payment –** Within 90 days of certification by the Evaluator that Cost Avoidance and/or Outcome Improvement has occurred as a result of the Intervention, the Government will make the Success Payment to the Intermediary.
2. **Reporting and Access** -- To enable the Evaluator to comply with the Evaluator Contract and accurately determine whether Outcome Improvement and/or Cost Avoidance have occurred and how large the Outcome Improvement and/or Cost Avoidance are, the Government will –
    a. Collect and maintain the information regarding the Treated Population and the Untreated Population, described in Appendix C of the Evaluator Contract and incorporated in this contract as Appendix C,
    b. Collect and maintain the information regarding the costs of providing services to the Treated Population and the Untreated Population including the costs of complying with this contract, described in Appendix D of the Evaluator Contract and incorporated in this contract as Appendix D, and
    c. Permit the Evaluator to have access and to observe the Government's facilities and modes of operation as described in Appendix E of the Evaluator Contract and incorporated in this contract as Appendix E.
3. **Operating Consistency** – The Government will not change its modes of operation with respect to the Treated Population or the Untreated Population without notifying the Evaluator and the Intermediary.
4. **Intermediary Monitoring** – The Government Management or its representative will meet with the Intermediary Management or its representative as requested and at least quarterly and with the Intermediary Board of Directors at last annually.

F. Obligations of the Intermediary

1. **Intermediation** – The Intermediary will oversee provision of Intervention by the Service Provider.
2. **Compliance** – The Intermediary will stay in full compliance with
    a. The Project Contracts.
    b. General state and federal business laws and regulations, and
    c. Any specific state and federal guidelines, regulations, and statutes governing social investment finance.

G. Privacy

[The next four subsections deal with personal information and privacy, the security of information gathering, storage and analysis systems, and publication of personal data in ways that do not harm individuals but do permit sound research to be done. The provisions will need to be drafted to comply with state and federal laws and regulations and to enable the goals of the Project to be achieved.]

1. **Data Ownership** --
2. **Data Availability –** [In general, to facilitate research on early child development intervention effectiveness, Data without personal identifying information will be publically available. Ideally, it will be promptly published on the websites of the Government agency involved and the Intermediary.]
3. **Computer Systems, Software and Data Handling** --
4. **Privacy and Confidentiality** [In general, the Parties will continuously be in compliance with applicable state and federal laws and regulations and in any case, take all reasonable steps to assure the confidentiality of Data, and permit publication of Data only in ways that do not contain personal identifying information.]

H. Termination

4. **Termination for Cause** -- Either party may terminate this contract for Cause before the Termination Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination. Cause exists if:
    a. The non-terminating party has committed a material breach of this Agreement as defined by the Parties, and
    b. The breach is not cured 30 days after notice of the breach by the terminating party.
5. **Government Termination Without Cause** -- The Government may terminate this contract with __ days notice, without cause, before the Expiration Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination, and provided that the Government reimburses the Intermediary for
    a. Actual loss or damage to the Intermediary that the Intermediary incurs as a result of complying with Section F, Obligations of the Intermediary, of this contract, and
    b. Any penalties or other costs the Intermediary incurs, or must pay, as a result of the termination, or
    c. The Government pays liquidated damages agreed to in advance by the parties to this contract.
1. **Intermediary Termination Without Cause** -- The Intermediary may terminate this contract with __ days notice, without cause before the Termination Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination, and provided that the Intermediary reimburses the Government for
    a. Actual loss or damage to the Government that the Government incurs as a result of complying with Section E, Obligations of the Government, of this contract, and

b. Any penalties or other costs the Government incurs, or must pay, as a result of the termination, or
c. The Intermediary pays liquidated damages agreed to in advance by the parties to this contract.

I. Miscellaneous Provisions

1. **Amendment**
2. **Notices**
3. **Conflicts of Interest**
4. **Fraud and Corruption**
5. **Intellectual Property**
6. **Audit**
7. **Assignment and Subcontracting**
8. **Waiver**
9. **Variation**
10. **Severability**
11. **Indemnity and Liability**
12. **Insurance**
13. **Warranties and Representations**
14. **Default**
15. **Convenience**
16. **Force Majeure**
17. **Governing Law**
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J. Appendices

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Appendix B – Description of the Outcome Improvement and, where relevant, the Cost Avoidance, and Determination of the Success Payment

Appendix C – Description of required information and data on the Treated and Untreated Populations

Appendix D – Description of the methods for securely acquiring and maintaining Information and data on the Treated and Untreated Populations

Appendix E – Terms of Evaluator access to Government and Service Provider facilities and modes of operation

Appendix F – Description of the method for calculating the payment by the Intermediary and the Government to the Evaluator for the Evaluation

VIII. Evaluator Contract Outline

A. Parties

1. Intermediary
2. Government
3. Service Provider
4. Evaluator

B. Purpose

This contract describes the Evaluation provided by the Evaluator and terms and conditions under which the Intermediary and the Government pay the Evaluator for the Evaluation.

C. Contract Period

1. This contract will continue in force until the Expiration Date.
2. This contract may be renewed as agreed to by the Parties.

D. Obligations of the Evaluator

1. **Evaluation –** The Evaluation will --
   a. Compare provision of the Intervention by the Service Provider to the requirements of Appendix A,
   b. Report on the performance of the Treated Population relative to the Untreated Population,
   c. Assess the effect of the Intervention and document the amount of Cost Avoidance and/or Outcome Improvement,
   d. Determine the amount of the Success Payment, if any, the Government is required to pay to the Intermediary.
2. **Evaluation Delivery --** The Evaluator will deliver its Evaluation to the Government, the Intermediary and the Service Provider, within sixty days after receipt of the information from the Government specified in Appendix C and required under Section E, Obligations of the Government, of this contract.
3. **Payment by the Intermediary and the Government --**The Intermediary and the Government will pay the Evaluator within thirty days of receipt of the Evaluation the amount of the payment will be as agreed to by the Parties and specified in Appendix F.

E. Obligations of the Government

1. **Reporting and Access** -- To enable the Evaluator to comply with this contract, the Government will –
   a. Collect and maintain the information regarding the Treated Population and the Untreated Population, described in Appendix C of this contract,
   b. Collect and maintain the information regarding the costs of providing services to the Treated Population and the Untreated Population including the costs of complying with this contract,
   c. Permit the Evaluator to have access to all Cohorts,
   d. Permit the Evaluator to observe the Government's facilities and modes of operation as described in Appendix E of this contract, and
   e. Provide the information specified in Appendices C within sixty days after the end of its budget cycle or other date agreed to in advance.
2. **Operating Consistency –** The Government will not change its modes of operation with respect to the Treated Population or the Untreated Population without notifying the Evaluator, the Service Provider and the Intermediary.

F. Obligations of the Service Provider

1. **Reporting and Access --** To enable the Evaluator to comply with this contract, the Service Provider will –
   a. Collect and maintain the information regarding the Treated Population, described in Appendix C of this contract, and
   b. Permit the Evaluator to have access and to observe the Service Provider's facilities and modes of operation as described in Appendix E of this contract.
2. **Operating Consistency –** The Service Provider will not change its modes of operation with respect to the Treated Population or the Untreated Population without notifying the Evaluator, the Government and the Intermediary.

G. **Obligations of the Intermediary**

1. **Retention** – The Intermediary will establish and maintain the relationship with the Evaluator and pay all associated initial and continuing fees and charges to the extent agreed to in advance by the parties to this contract.
2. **Facilitation** – The Intermediary will maintain close working relationships with the Government, Service Provider and Evaluator and facilitate wherever possible effective working relationships among them.

H. Privacy

[The next four subsections deal with personal information and privacy, the security of information gathering, storage and analysis systems, and publication of personal data in ways that do not harm individuals but do permit sound research to be done. The provisions will need to be drafted to comply with state and federal laws and regulations and to enable the goals of the Project to be achieved.]

1. **Data Ownership** --
2. **Data Availability** – [In general, to facilitate research on early child development intervention effectiveness, Data without personal identifying information will be publically available. Ideally, it will be promptly published on the websites of the Government agency involved and the Intermediary.]
3. **Computer Systems, Software and Data Handling** --
4. **Privacy and Confidentiality** -- [In general, the Parties will continuously be in compliance with applicable state and federal laws and regulations and in any case, take all reasonable steps to assure the confidentiality of Data, and permit publication of Data only in ways that do not contain personal identifying information.]

I. Termination

1. **Termination for Cause** – Any party may terminate this contract for Cause before the Termination Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination. Cause exists if:
   a. The non-terminating party has committed a material breach of this Agreement as defined by the Parties, and
   b. The breach is not cured 30 days after notice of the breach by the terminating party.
2. **Evaluator Termination Without Cause** -- The Evaluator may terminate this contract with __ days notice, without cause, before the Expiration Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a

Cohort at the time of the termination, and provided that the Evaluator reimburses the Government, a Service Provider and the Intermediary for

   a. Actual losses or damages to the Government, a Service Provider, or Intermediary that the Government, Service Provider, or Intermediary incurs as a result of complying with Section E, Obligations of the Government, Section F, Obligations of the Service Provider, or Section G, Obligations of the Intermediary, of this contract, and
   b. Any penalties or other costs the Government, a Service Provider, or Intermediary incurs, or must pay, as a result of the termination, or
   c. The Evaluator pays liquidated damages agreed to in advance by the parties to this contract.

2. **Government, Service Provider or Intermediary Termination Without Cause** -- The Government, a Service Provider or the Intermediary may terminate this contract with __ days notice, without cause before the Termination Date, provided that the termination will not result in interruption or impairment of the provision of the Intervention to a Cohort at the time of the termination, and provided that the terminating party reimburses the Evaluator for
   a. Actual loss or damage to the Evaluator that the Evaluator incurs as a result of complying with Section D, Obligations of the Evaluator, of this contract, and
   b. Any penalties or other costs the Evaluator incurs, or must pay, as a result of the termination, or
   c. The terminating party pays liquidated damages agreed to in advance by the parties to this contract.

J. Miscellaneous Provisions –

1. **Amendment**
2. **Notices**
3. **Conflicts of Interest**
4. **Fraud and Corruption**
5. **Intellectual Property**
6. **Audit**
7. **Assignment and Subcontracting**
8. **Waiver**
9. **Variation**
10. **Severability**
11. **Indemnity and Liability**
12. **Insurance**
13. **Warranties and Representations**
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16. **Force Majeure**

17. **Governing Law**
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J. Appendices

Appendix A -- Description of the Intervention

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IX. MOU General Provisions

A. Representations and Warranties

B. Prior Agreements Superseded

C. Termination

D. Liability

E. Dispute Resolution

F. Confidentiality

G. Notice

H. Governing Law

I. Assignment

J. Amendment

K. Severability

L. …

IN WITNESS WHEREOF, the Parties have signed their names below on the above mentioned date.

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