

# County of Santa Clara

Social Services Agency

333 West Julian Street  
San Jose, California 95110-2335



**DATE:** May 28, 2019

**TO:** Board of Supervisors  
Jeffrey V. Smith, M.D., J.D., County Executive

**FROM:** Robert Menicocci, Agency Director

**SUBJECT: Agenda Report regarding CalWORKs Child Care Resource & Referral Services**

At the April 9, 2019 Board of Supervisors' (Board) meeting (Item No. 15), the Board requested the Social Services Agency (SSA) to report back on recent conversations between SSA and the California Department of Education (CDE) relating to the process of transitioning Child Care Resource and Referral (R&R) service providers in Santa Clara County.

**Transition Process for R&R Service Provider**

On April 22, 2019, a conversation took place between SSA and CDE's Early Learning and Care Division, to confirm the previously reported transitioning process for the CDE-funded R&R program to another party.

In the event that the current CDE-funded R&R contractor relinquishes its contract, or the CDE exercises its option to terminate the existing agreement early, the CDE will issue a Request for Applications (RFA) to its existing contractor pool to select a replacement, in order to "transfer the program to another agency as soon as practicable." (5 California Code of Regulations, Section 18024(d).)

CDE advised SSA staff that it would exhaust this process before initiating an RFA to recruit a new contractor outside of their network of service providers. Currently, two nonprofit organizations serve as CDE-designated R&R agencies in neighboring counties and maintain other childcare operations (e.g., childcare centers, childcare food programs and parent and provider projects) in Santa Clara County.

**Renewal of Community Child Care Council of Santa Clara's CDE Contract for FY2019-20**

CDE confirmed that the renewal of their contract with the Community Child Care Council of Santa Clara County, Inc (4Cs) for Fiscal Year 2019-2020 after completion of CDE's customary annual review and assessment. Confirmation was received in the form of a letter from CDE to 4Cs dated April 5, 2019. The agreement with CDE funds 4Cs' operation of multiple childcare and child development services serving County residents including R&R services.

**c:** Chief Board Aides  
Miguel Marquez, Chief Operating Officer  
James R. Williams, County Counsel  
Megan Doyle, Clerk of the Board

# County of Santa Clara

Social Services Agency

333 West Julian Street  
San Jose, California 95110-2335



**DATE:** June 14, 2019

**TO:** Board of Supervisors  
Jeffrey V. Smith, M.D., J.D., County Executive

**FROM:** Robert Menicocci, Agency Director

**SUBJECT: Off-Agenda Report regarding CalWORKs Child Care Resource & Referral Services**

This report is an addendum to the CalWORKs Child Care Resource & Referral Services (R&R) program report, per the Board of Supervisors' request at its meeting of April 9, 2019 (Item No. 15) to provide an off-agenda report regarding the status of County's assumption of the role as the CalWORKs Child Care R&R Agency including progress in obtaining a database, hiring of staff and development of outreach plans for the R&R program.

## **Current Contract Update: Renewal of Community Child Care Council of Santa Clara's (4Cs) CDE Contract for FY2019-20**

California Department of Education (CDE) confirmed the renewal of their contract with the Community Child Care Council, Inc. (4Cs) for Fiscal Year 2019-2020 after completion of CDE's customary annual review and assessment. Confirmation was received in the form of a letter from CDE to 4Cs dated April 5, 2019 (see attachment). According to CDE's letter, "while there is evidence that 4Cs is in compliance with most fiscal and programmatic requirements...", "there is still a need for 4Cs to address a few noncompliance items" and that the contract status remains conditional. The agreement with CDE funds 4Cs' operation of multiple child care and child development programs and provides services to County residents including R&R services.

## **Interim Action: Extension of Current Provider Agreement**

In order to maintain R&R services and provide adequate time to transition services from the current contractor to County staff, the Social Services Agency (SSA) is submitting a request to renew the agreement with 4Cs through June 30, 2020. This extension will allow an orderly transition to the County as the provider of R&R services to CalWORKs families and will minimize disruption of services to CalWORKs families.

## **County R&R Program Status**

As directed by the Board of Supervisors, SSA proceeded with preparing for SSA to provide R&R services to CalWORKs families. The initial program design phase has been completed and actions initiated to procure essential R&R database software, obtain approval for the proposed program staffing, and prepare for the implementation of the program's outreach and marketing plan.

## Community Impact

While SSA is committed to the successful implementation of the R&R program and enhancing the quality of life for CalWORKs clients, our study of the R&R program has made us aware of issues that may have an adverse effect on the CalWORKs families we serve.

1. The County-run R&R program for CalWORKs families assumes the cost of operations that are the mandated responsibility of the CDE funded R&R provider, 4Cs. In prior years, CalWORKs funded the co-location of 4Cs staff at the County's CalWORKs offices where they provided enhanced R&R services for CalWORKs families. The CalWORKs funds leveraged CDE R&R funding to provide these services. The proposed program relies on the county's CalWORKs allocation and a substantial ongoing financial contribution from the County's General Fund of over \$579,000 annually to maintain the current level of service.
2. The potential impact of creating a parallel R&R program that exclusively serves CalWORKs families includes:
  - Additional administrative burden on providers who would be forced to maintain their service information in multiple systems thereby increasing the potential for errors or their refusal to participate in secondary R&R databases;
  - The unintentional creation of a subclass of families who are perceived by child care providers as a less desirable class of customer. The result of this action would be fewer providers willing to be included in the County's R&R database versus 4Cs. The consequence of this action is fewer providers for CalWORKs families to select from and fewer options to address their child care needs; and
  - Confusion and inefficiencies in the Child Care R&R system. Because the County-run program will be unaware of the referrals being made by 4Cs, CalWORKs families may be constantly forced to compete with other families for limited child care openings. The unsuccessful attempts to secure child care experienced by CalWORKs families will undermine their confidence in the program and may jeopardize a family's ability to meet their CalWORKs activity requirements.
3. Changes to the licensing status of child care providers are monitored by 4Cs as part of their responsibility as the CDE funded R&R program. Having to check with 4Cs regarding updated provider license information may negatively impact families competing for limited child care openings and introduces the risk of the County referring a family to a provider whose license has been suspended or revoked. While the County's R&R program is intended to operate independently from the CDE funded provider, the program is also dependent on 4Cs for the background check information for license-exempt providers contained in the Trustline system that is locally administered by 4Cs.
4. In reply to an inquiry with the California Child Care Resource & Referral Network (an organization of sixty-nine Child Care R&R agencies operating in all fifty-eight California counties) regarding joining the Network, SSA staff was informed that "Network membership is limited to Child Care Resource & Referral agencies contracted with the California Department of Education to provide those services." Since the proposed

project is not funded by CDE, the County would not be eligible to join the Network and benefit from their member-limited information and best practices exchanges.

### **County R&R Program Implementation Status**

Implementation of the planned County R&R Program is contingent on the appropriation of program funding, approval and hiring of staff positions, acquisition and testing of R&R database software, acquisition of office space, furnishings and equipment, training of staff, and implementation of the program's outreach and marketing program to inform both providers and the public of the services available through the program. The status of the major program elements is summarized below.

**R&R Database:** Research on R&R database software options has been completed by the SSA staff and the findings forwarded to Technology Services and Solutions (TSS) Department for technical review and to initiate procurement activities. TSS staff estimates that the acquisition of R&R database software will require nine to twelve months to complete the procurement, configuration and initial testing of the selected product.

Projected completion of procurement, configuration and testing of R&R database: May 2020.

**Staffing:** SSA determined the staffing requirements for the program will consist of a Senior Management Analyst, Management Analyst and two Child Care R&R Specialist positions. Research by SSA's staff was conducted on positions comparable to the new R&R Specialist positions that included a review of compensation, duties and responsibilities, and qualifications. The findings of this research were used to create a job duty statement for the R&R Specialist position that was forwarded to the Employee Services Agency (ESA) where it was reviewed and determined to not fit into any existing county job classification. The position is now the subject of a classification study to create a new job classification by ESA. The department has been advised by ESA staff that the time to complete the class study and obtain the concurrence by the department and union representatives will take a minimum of six months.

**Employment of Existing R&R Staff:** Existing child care specialists who are currently working for 4Cs, could be provisionally appointed to County positions provided they meet the employment standards of the job classification, if no eligible list exists. Prior to the conclusion of their provisional employment status, they would be required to compete for their positions in accordance with the County's Merit System Rules.

**Labor Organizations:** In response to an April 9, 2019 letter from SEIU 521, ESA advised that "Should the Board of Supervisors provide direction to the County Administration at today's Board Meeting to pursue any/all scenarios described in the reports, then the County would follow its standard processes related to developing personnel recommendations, including any associated notice to labor organizations." As noted above, the position in question is currently the subject of a job classification study being conducted by ESA and concurrence from the union would be sought as part of the process.

Projected completion of staffing components: January 2020.

**R&R Outreach Plan:** SSA staff continues to work on formulating an outreach and marketing plan to inform the local child care service provider network of the County's plan to provide R&R services for CalWORKs families and develop a County maintained Child Care R&R

database. To finalize the design and implementation of the outreach and marketing plan, SSA will be reaching out to the County Office of Education as well as other community child care network partners for technical assistance and support.

Projected start date of marketing/outreach plan: December 2020.

**Santa Clara County Office of Education:** A conversation was held with the Santa Clara County Office of Education (SCCOE) to discuss their existing R&R services and plans to expand these services. An outcome of the conversation is a meeting to be scheduled with the SCCOE and SSA to explore the development of a shared R&R database and the possibilities of a collaboration between the two organizations. Of note, is that out of the 69 CDE funded R&R programs in the state, 23% are operated by a County Office of Education, school district or the Superintendent of Schools office. No CDE funded R&R service program is operated by county government.

**CDE R&R Program Provider Transition Process:** A conversation on April 22, 2019, between the staff of the SSA and the CDE's Early Learning and Care Division confirmed in the event that the current CDE funded R&R contractor relinquishes its contract or the CDE exercises its option to terminate an existing agreement early, the CDE will issue a Request for Applications (RFA) to its *existing* contractor pool to select a replacement, in order to "transfer the program to another agency as soon as practicable." (5 California Code of Regulations, Section 18024(d).)

The CDE advised SSA staff that the CDE would exhaust this process before the CDE would consider initiating an RFA to recruit a new contractor outside of their network of service providers. Currently, two nonprofit organizations serve as CDE designated R&R agencies in neighboring counties and maintain other child care operations (e.g., child care centers, child care food programs and parent and provider projects) in Santa Clara County.

Attachment: Community Child Care Council of Santa Clara County, CDE Notice of Proposed Action: Conditional Contract Status Fiscal Year 2019-20

c: Chief Board Aides  
Miguel Marquez, Chief Operating Officer  
James R. Williams, County Counsel  
Megan Doyle, Clerk of the Board





**CALIFORNIA DEPARTMENT  
OF EDUCATION**

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

**TONY THURMOND**  
STATE SUPERINTENDENT OF  
PUBLIC INSTRUCTION

April 5, 2019

Joseph Manarang, Interim Executive Director  
Community Child Care Council of Santa Clara County  
150 River Oaks Parkway, Suite F1  
San Jose, CA 95131-1948

Dear Mr. Manarang:

**Notice of Proposed Action: Conditional Contract Status  
Fiscal Year 2019–20**

Authorized representatives of the Community Child Care Council of Santa Clara County (4Cs) signed an annual General Child Care and Development (CCTR), Alternative Payment Program (CAPP) CalWORKS Stage 2 (C2AP), CalWORKS Stage 3 (C3AP), California Family Child Care (CFCC), California Resource and Referral Program (CRRP) contracts (including Conditional Addendum) to operate a child care and development programs for the California Department of Education (CDE). By entering into these contracts, the 4Cs, its officers, and employees, agreed to comply with the standards for program quality and fiscal accountability set forth in the California Education Code (EC), the *California Code of Regulations*, Title 5 (5 CCR), and the contracts entered into between 4Cs and the CDE (including the Funding Terms and Conditions, applicable Program Requirements, and Conditional Contract Addendum imposed in FY 2018-2019)..

Pursuant to the requirements set forth in EC Section 8406.6; 5 CCR sections 18010, 18303, 18304, and 18307; and the terms set forth in the FT&Cs, the Early Learning and Care Division (ELCD) has completed its annual review of 4Cs and its compliance with the terms and conditions of their contracts, and has determined that, there while there is evidence that 4Cs is in compliance with most fiscal and programmatic requirements, including many of the conditions set forth in their 2018-2019 Conditional Status Addendum, there is still a need for 4Cs to address a few noncompliance items as identified in the 2018–19 Conditional Status Addendum. In addition, as further set forth below, the CDE has this year identified several deficiencies in 4Cs fiscal reporting and cost reimbursements, showing that 4Cs remains a high-risk agency. Therefore, the ELCD has decided to offer 4Cs continued funding on a conditional basis for all contracts for FY 2019–20. The reason supporting this decision are set forth below and further

detailed in the summary of noncompliance sections of this document. Information on how to respond to this action, if desired, is listed in the final section, titled Appeal Process.

## **Historical Background**

### **Summary of FYs 2013–17:**

In or about 2013, ELCD conducted a Contract Monitoring Review of 4Cs subsidized child care programs and found several areas of non-compliance. Specifically, 4Cs error rate for the Alternative Payment Program was found to be excessive and the Key Dimension VII Teaching and Learning component did not meet requirements for center-based programs. Technical Assistance was provided to 4Cs and extensive training was provided to staff. In May of 2014, 4Cs was revisited and those items were cleared.

In 2015, another review was conducted by ELCD and 4Cs error rate was found to be within appropriate federal limits.

In July 2016, 4Cs California State Preschool Program (CSPP) was cited by Community Care Licensing Division of the California Department of Social Services with a Type A deficiency violation. The citation was for a violation of a child's personal rights. Two weeks later, 4Cs was cited again for a second Type A violation for another CSPP site. The second Type A was for a violation of a child's personal rights as well.

On or about February 2017, 4Cs received a third Type A violation for which the outdoor space did not have Fire Marshall Clearance. The citation also stated that 4Cs staff did not adequately supervise children in the facility and did not adequately address children's aggressive behaviors towards one another.

ELCD learned of these licensing violations and, in March 2017, ELCD's representatives conducted unannounced visits to the three CSPP programs operated by 4Cs. During these visits, ELCD representatives found a number of health and safety concerns and informed 4Cs that they would be taking action with respect to the CSPP contract. On or about March 30, 2017, 4Cs chose to relinquish its CSPP contract at the end of FY 2016-17, and would no longer administer direct center based services for children but would retain their CAPP, C2AP, C3AP, CFCC, and CCTR contracts which contracts in this instance to serve children by placing them into family child care homes within the community.

About the same time, ELCD asked the CDE Audits and Investigations Unit (A&I) to begin a limited scope audit of 4Cs as permitted by EC Section 8448. The results of that audit were not available until October 2018. (Discussed further below)

Subsequent to ELCD's request for an internal performance audit, the California State Auditor's office (CSA) informed CDE in July of 2017 that the California Legislature had requested, and the Joint Legislative Audit Committee had approved, an audit request regarding the expenditures, internal controls and external oversight of the use of public funds related to the child care contracts held by the 4Cs with CDE. CSA conducted its audit and, on April 5, 2018, CSA released a final audit report, detailing its findings. (Attachment A)

Given the recent history of 4Cs actions with respect to its contracts and the findings made in that report concerning 4Cs activities, the ELCD exercised its discretion and choose to issue a Notice of Proposed Action (NOPA) not to renew 4Cs contracts for FY 2018-2019, pursuant to 5 CCR Section 18303. A NOPA was mailed to 4Cs on April 5, 2018 and the agency appealed this action, requesting a hearing on April 19, 2018. On April 27, 2018, the Administrative Review Panel (Panel) convened and heard oral presentations from the agency and their representatives. On May 4, 2018, the CDE's Panel issued a final decision modifying the decision to non-renew 4Cs contract, determining instead that 4Cs should receive a contract for 2018-2019 but that 4Cs should be on conditional contract status for the FY 2018–19. (Attachment B) A conditional status addendum was issued to 4Cs on or about June 1, 2018. This document sets forth additional requirements that 4Cs must meet in order to have a contract on clear status. (Attachment C)

### **Technical Assistance Provided In 2018-2019**

On September 25-28, 2018, both FASD and the ELCD FSO, conducted separate on-site technical assistance meetings attended by the following 4Cs personnel: Agency Board Chair, Interim Executive Director, Senior Director of Operations and Personnel Management, Director of Compliance, Financial Director, Fiscal AP Supervisor for Provider Payments, Accounting Manager and Fiscal Staff, Subsidy Manager and Subsidy Supervisor's, Family Child Care Home Education Network (FCCHEN) Manager, FCCHEN Coordinator's, FCCHEN Program Assistant, and the Child Care Resource and Referral Manager. Additionally, ELCD FSO and FASD have provided ongoing technical assistance throughout all of FY 2018–19 in order to help bring 4Cs into full compliance.

### **BASIS FOR NOTICE OF PROPOSED ACTION**

On October 18, 2018, the Performance Audit of the Child Development Programs report was issued by the California Department of Education, Audits and Investigation



Division in response to the limited scope audit performed by the CDE requested the ELCD. The Performance Audit report identified several findings: (Attachment D)

- Overstated provider payments by \$595,106 and overstated child development days of attendance by 674
- Claimed \$439,636 in supported salaries and benefits
- Claimed \$258,712 in unnecessary and unsupported expenditure to the child development programs
- Did not adequately safeguard property and equipment

On March 1, 2019 ELCD was provided with 4Cs Current Year Findings and Questioned Costs for FY 2017–18. In testing compliance within contracts under CFDA 93.575 and 93.596 the 4Cs Certified Public Accountant reported that the agency did not have adequate documentation to support the allocation of two employee wages to four of the 4Cs contracts (C2AP, C3AP, CCTR, and CFCC). The noncompliance finding was caused by insufficient financial management and record keeping with respect to government contracts. (Attachment E)

On March 18, 2019 the ELCD reviewed the Conditional Status Addendum requirements imposed for FY 2018-19 and found 4Cs had made progress in correcting most, but not all items.

ELCD further reviewed 4Cs payment status for past invoices and confirmed that it was not delinquent with respect to any invoices that did not have appeal rights exercised by 4Cs. The agency had, in the interim, appealed the following billed amounts for FY 2015-16 (\$1,033,660) and FY 2016-17 (\$431,031).

#### **Status of FY 2018-19 Conditional Status Addendum requirements**

The Conditional Status Addendum detailed the specific requirements for fully achieving contract compliance. A number of items in the Addendum have been completed, yet some items remain in progress and not yet completed. Below is a summary of where 4Cs has improved, meeting standards articulated in the Addendum, followed by a summary of the items where 4Cs still has yet to meet the standards articulated in the Addendum.

#### **Meets Compliance of Addendum Requirements:**

- Agreement to Comply with CDE's Funding Terms and Conditions and Program Requirements on a "Go Forward" basis
- Item 1: Submission of A Corrective Action Plan

- Item 2: Improve Board Governance and Oversight
- Item 3: Bring Expenditures of Contract Purchases into Fiscal Compliance (*partial compliance*)
- Item 4: Internal Controls
- Item 5: Staff Development
- Item 6: Health and Safety
- Item 7: Plan for Continuity of Services and Applicant Notices of Action Records (*partial compliance*)
- Item 8: Plan for Provider Payments
- Item 9: Program Self-Evaluation
- Additional Provisions

**Does Not Meet Compliance With CCA Requirements:**

- Item 3(d): Bring Expenditures of Contract Purchases into Fiscal Compliance (*partial compliance*) Contractor shall begin correcting the fiscal noncompliance identified as the result of the CSA April 5, 2018 report. 4Cs employees continue to be unable to have reasonable access to their retirement funds from 4Cs retirement plan through accounts that incur high charges for transferring or rolling over funds
- Item 7(f): Plan for Continuity of Services and Applicant Notices of Action Records (*partial compliance*). Agency is still needing to develop a Family Fee Collections Policy and Procedure. Such Policy and Procedure shall :
  - Describe how fees affect the process for appealing 4Cs actions
  - Ensure families are notified and billed timely
  - Describe how fees are collected
  - Demonstrate how fees are documented and processed timely
  - Demonstrate how fee repayment plan aligns with Title 5 and are implemented and collected accordingly
  - Demonstrate how payment for delinquent family fees is implemented

## **Notice of Proposed Action**

EC Section 8406.6 requires that agencies contracts be reviewed yearly and, if renewed, they shall be either determined to be on clear or conditional status. A review of 4Cs compliance reveals they have complied with a number, but not all, of the requirements of their CCA. In addition, a review of 4Cs independent audits reveals that 4Cs continues to have financial reporting deficiencies. On this grounds, the ELCD finds that 4Cs contract should be renewed for 2019-2020 but continued on conditional contractor status pursuant to *EC* Section 8406.06, .

## **Appeal Process**

If you disagree with this proposed action, you may appeal the action by filing a response on behalf of the 4Cs with the ELCD at the address listed below in accordance with the following requirements of 5 *CCR* Section 18303(c).

1. The ELCD must receive a written response within 10 calendar days of your receipt of this Notice of Proposed Action.
2. You must include any written materials in support of the agency's position with your written response.
3. Include in your response whether a representative of the CDC intends to make an oral presentation.

If you decide to appeal this action, both the ELCD proposed action and your response will be reviewed by the Department's Administrative Review Panel (Panel) that convenes pursuant to the 5 *CCR* Section 18303(d). If you do not request an oral presentation, the panel will review the written materials submitted and issue a final decision. If you request an oral presentation, you will be contacted within 14 calendar days from the ELCD's receipt of your response to schedule an appearance before the Panel. At the oral presentation, you or your representative will have an opportunity to explain any material submitted in your response. You may present any information or arguments that are relevant to the proposed action. The Panel may also set reasonable limits on the scope of your presentation. At the request of the agency, the oral presentation to the Panel may be in person at the ELCD office in Sacramento or by conference call. Within 7 days after the presentation, the Panel will issue and mail to you a decision upholding, modifying, or reversing the proposed action of the ELCD.

If you intend to appeal, please mail or deliver eight copies of your response and supporting materials to:

**Janine Weglin, Manager**

Joseph Manarang, Interim Executive Director  
April 5, 2019  
Page 7

**Appeals Unit  
Early Learning and Care Division  
California Department of Education  
1430 N Street, Suite 3410  
Sacramento, California 95814-5901**

The ELCD must receive your appeal and all supporting documentation no later than 5 p.m. on the tenth day following your receipt of this notice. If the due date falls on a Saturday, Sunday, or a holiday, your appeal must be received no later than the next CDE business day. Do not mail your appeal to the CDE's post office box address or to any other person or office within the CDE.

If you have questions related to the appeal process, please contact Janine Weglin, Manager, Appeals Unit, by phone at 916-323-2211.

Sincerely,



Lisa Velarde, Administrator  
Field Services Office  
Early Learning and Care Division

DR:slr  
Attachments

# County of Santa Clara


Social Services Agency

333 West Julian Street  
San Jose, California 95110-2335



**DATE:** June 17, 2019

**TO:** Board of Supervisors  
Jeffrey V. Smith, M.D., J.D., County Executive

**FROM:** Robert Menicocci, Agency Director 

**SUBJECT:** **REVISED: Off-Agenda Report regarding CalWORKs Child Care Resource & Referral Services**

This report is an addendum to the CalWORKs Child Care Resource & Referral Services (R&R) program report, per the Board of Supervisors' request at its meeting of April 9, 2019 (Item No. 15). The Board requested that the Social Services Agency (SSA) provide an off-agenda report regarding the status of the County's assumption of the role as the CalWORKs Child Care Resource and Referral (R&R) Agency including progress in obtaining a database, hiring of staff, and development of outreach plans for the R&R program. Since the April 9, 2019 Board meeting, SSA has become aware of new information that impacts the County's efforts to assume the role of the CalWORKs R&R agency.

## **Current Contract Update: Renewal of Community Child Care Council of Santa Clara County's Contract with the California Department of Education for FY2019-20**

Notwithstanding numerous audits and findings related to the performance of the Community Child Care Council of Santa Clara County (4Cs), the California Department of Education (CDE) recently confirmed the renewal of their contract with 4Cs for Fiscal Year 2019-2020 after completion of CDE's customary annual review and assessment. Confirmation was received in the form of a letter from CDE to 4Cs dated April 5, 2019 (see attachment). According to CDE, 4Cs needs to address certain noncompliance issues and their contract status remains conditional. The agreement with CDE funds 4Cs' operation of multiple child care and child development programs serving County residents including R&R services. Of note, it is SSA's understanding that 4Cs' unionized staff and management have negotiated and executed a collective bargaining agreement within the past year.

**CDE R&R Program Provider Transition Process:** SSA staff spoke with the CDE's Early Learning and Care Division on April 22, 2019, and confirmed that if



the current CDE funded R&R contractor relinquishes its contract or the CDE exercises its option to terminate an existing agreement early, the CDE will issue a Request for Applications (RFA) to its *existing* contractor pool to select a replacement, in order to “transfer the program to another agency as soon as practicable.” (5 California Code of Regulations, Section 18024(d).)

The CDE advised SSA staff that CDE would exhaust this process before they would consider initiating an RFA to recruit a new contractor outside of their network of service providers. Currently, two nonprofit organizations serve as CDE designated R&R agencies in neighboring counties and maintain other child care operations (e.g., child care centers, child care food programs and parent and provider projects) in Santa Clara County. Thus, if CDE were to end their R&R contract relationship with 4Cs, two agencies would have priority to replace 4Cs before Santa Clara County would have an opportunity to apply.

**Collaboration with Santa Clara County Office of Education:** Since the April 9, 2019 Board meeting, SSA staff spoke with the Santa Clara County Office of Education (SCCOE) to discuss the development of a child care database and child care referral program to serve each organization’s targeted client populations. The SCCOE and SSA are scheduling an in-person meeting soon to explore the development of a shared R&R database and a collaboration between the two organizations to implement a R&R program. SSA believes that partnering with the SCCOE would be preferable to the County creating a stand-alone R&R service, especially given the fact that out of the sixty-nine CDE funded R&R programs in the state, 23% are operated by a County Office of Education, school district or the Superintendent of Schools office. No CDE funded R&R service program is currently operated by a county government.

#### **Interim Action: Extension of Current Provider Agreement**

In order to maintain R&R services and provide adequate time to transition services from the current contractor to County staff, SSA is submitting a request to renew the existing agreement with 4Cs through June 30, 2020. This extension will allow an orderly transition to the County as the provider of R&R services to CalWORKs families and will minimize disruption of services to CalWORKs families.

#### **Overall Implementation Status of County R&R Program**

As directed by the Board of Supervisors, SSA has proceeded with planning and preparing for SSA to provide R&R services to CalWORKs families. The initial program design phase has been completed and SSA has initiated actions to procure essential R&R database software, obtain approval for the proposed program staffing, and prepare for the implementation of the program’s outreach/marketing plan.

#### **Potential Adverse Community Impact of Transitioning to a County-run R&R**

While SSA is committed to the successful implementation of the R&R program and enhancing the quality of life for CalWORKs clients, our study of the R&R program has made us aware of issues that may have an adverse effect on the CalWORKs families we serve.



1. **Additional, Ongoing Cost of \$579,000 to County General Fund:** The County-run R&R program for CalWORKs families will assume the cost of operations that are the mandated responsibility of the CDE funded R&R provider, 4Cs. In prior years, CalWORKs funded the co-location of 4Cs staff at the County's CalWORKs offices, where they provided enhanced R&R services for CalWORKs families. The CalWORKs funds leveraged CDE R&R funding to provide these services. The proposed program relies on \$200,000 of CalWORKs funds combined with \$579,000 from the County's General Fund in order to meet the \$779,000 budget required to maintain the current level of service.
2. **Negative Impacts on CalWORKs Families and Child Care Providers:** The potential impact of creating a parallel R&R program that exclusively serves CalWORKs families includes:
  - Additional administrative burden on child care providers who would have to maintain their service information in multiple systems thereby increasing the potential for errors or their refusal to participate in the County's secondary R&R database;
  - The unintentional creation of a subset of families who might not receive the same level of services provided to others. It is possible that fewer providers would be willing to be included in the County's R&R database versus 4Cs, which includes a much larger set of potential families. If providers are unwilling to participate in the County's secondary R&R database, there will be fewer of them for CalWORKs families to select from and less options to address their child care needs; and
  - Confusion and inefficiencies in the Child Care R&R system. Because the County-run program will be unaware of the referrals being made by 4Cs, CalWORKs families may be constantly forced to compete with other families for limited child care openings. The unsuccessful attempts to secure child care experienced by CalWORKs families could undermine their confidence in the program and may jeopardize a family's ability to meet their CalWORKs activity requirements.
3. **Difficulty Monitoring Licensing Status:** Another complication to implementing a County-run R&R is that 4Cs monitors changes to the licensing status of child care providers in their role as the CDE funded R&R program. Having County staff who need to frequently check with 4Cs regarding updated provider license information may negatively impact families competing for limited child care openings and introduces the risk of the County referring a family to a provider whose license has been suspended or revoked. While the County's R&R program is intended to operate independently from the CDE-funded provider, the program is also dependent on 4Cs for the background check information for license-exempt providers contained in the Trustline system that is locally administered by 4Cs.

4. **County Ineligibility for Statewide Resource & Referral Network**

**Membership:** In reply to an inquiry with the California Child Care Resource & Referral Network (an organization of sixty-nine Child Care R&R agencies operating in all fifty-eight California counties) regarding joining the Network, SSA staff was informed that "Network membership is limited to Child Care Resource & Referral agencies contracted with the CDE to provide those services." Since the proposed project is not funded by CDE, the County would not be eligible to join the Network and benefit from their member-limited information and best practices exchanges. This could result in suboptimal services to our clients.

**County R&R Program Implementation Status**

Implementation of the planned County R&R program is contingent on the appropriation of program funding, approval and hiring of staff positions, acquisition and testing of R&R database software, acquisition of office space, furnishings and equipment, training of staff, and implementation of the program's outreach/marketing program to inform both providers and the public of the services available through the program. The status of the major program elements is summarized below.

1. **R&R Database Software:** SSA staff have researched R&R database software options and forwarded the findings to Technology Services and Solutions (TSS) for technical review and to initiate procurement activities. TSS staff estimates that the acquisition of R&R database software will require nine to twelve months to complete the procurement, configuration and initial testing of the selected product. Once the R&R database software is procured, staff will be required to populate the database from available resources if procurement of the existing child care provider database from the current CDE contractor is unsuccessful. Ongoing updates to the database will be the responsibility of program staff.

Projected completion of procurement, configuration and testing of R&R database: May 2020.

2. **Staffing:** SSA determined that the staffing for the program will consist of one Senior Management Analyst, one Management Analyst, and two Child Care Resource and Referral Specialist positions. Research by SSA's staff on positions comparable to the new R&R Specialist positions included a review of compensation, duties and responsibilities, and qualifications. SSA applied the findings of this research to create a job duty statement for the R&R Specialist position that was forwarded to the Employee Services Agency (ESA) where it was reviewed and determined to not fit into any existing County job classification. The position is now the subject of a classification study to create a new job classification by ESA. ESA staff has advised SSA that it will take a minimum of six months to complete the class study and obtain the concurrence of the department and union representatives.

- a. **Labor Organizations:** ESA is in communication with SEIU Local 521 regarding potential personnel recommendations tied to the development of a County-run R&R program. As noted above, the position in question is currently the subject of a job classification study being conducted by ESA and concurrence from the union would be sought as part of the process.
- b. **County Employment of Existing R&R Staff from 4Cs:** Existing child care specialists who are currently working for 4Cs could be provisionally appointed to County positions, once created, provided they meet the employment standards of the job classification. Prior to the conclusion of their provisional employment status, the employees would be required to compete for their positions in accordance with the County's merit system rules.

Projected completion of staffing components: January 2020.

**R&R Outreach Plan:** SSA staff continues to work on formulating an outreach and marketing plan to inform the local child care service provider network of the County's plan to provide R&R services for CalWORKs families and develop a County maintained Child Care R&R database. To finalize the design and implementation of the outreach and marketing plan, SSA will be reaching out to the SCCOE as well as other community child care network partners for technical assistance and support.

Projected start date of marketing and outreach plan: December 2019.

Attachment: Community Child Care Council of Santa Clara County, CDE Notice of Proposed Action: Conditional Contract Status Fiscal Year 2019-20

- c: Chief Board Aides  
Miguel Marquez, Chief Operating Officer  
James R. Williams, County Counsel  
Megan Doyle, Clerk of the Board



**CALIFORNIA DEPARTMENT  
OF EDUCATION**

**TONY THURMOND**  
STATE SUPERINTENDENT OF  
PUBLIC INSTRUCTION

---

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

April 5, 2019

Joseph Manarang, Interim Executive Director  
Community Child Care Council of Santa Clara County  
150 River Oaks Parkway, Suite F1  
San Jose, CA 95131-1948

Dear Mr. Manarang:

**Notice of Proposed Action: Conditional Contract Status  
Fiscal Year 2019–20**

Authorized representatives of the Community Child Care Council of Santa Clara County (4Cs) signed an annual General Child Care and Development (CCTR), Alternative Payment Program (CAPP) CalWORKS Stage 2 (C2AP), CalWORKS Stage 3 (C3AP), California Family Child Care (CFCC), California Resource and Referral Program (CRRP) contracts (including Conditional Addendum) to operate a child care and development programs for the California Department of Education (CDE). By entering into these contracts, the 4Cs, its officers, and employees, agreed to comply with the standards for program quality and fiscal accountability set forth in the California Education Code (EC), the *California Code of Regulations*, Title 5 (5 CCR), and the contracts entered into between 4Cs and the CDE (including the Funding Terms and Conditions, applicable Program Requirements, and Conditional Contract Addendum imposed in FY 2018-2019)..

Pursuant to the requirements set forth in EC Section 8406.6; 5 CCR sections 18010, 18303, 18304, and 18307; and the terms set forth in the FT&Cs, the Early Learning and Care Division (ELCD) has completed its annual review of 4Cs and its compliance with the terms and conditions of their contracts, and has determined that, there while there is evidence that 4Cs is in compliance with most fiscal and programmatic requirements, including many of the conditions set forth in their 2018-2019 Conditional Status Addendum, there is still a need for 4Cs to address a few noncompliance items as identified in the 2018–19 Conditional Status Addendum. In addition, as further set forth below, the CDE has this year identified several deficiencies in 4Cs fiscal reporting and cost reimbursements, showing that 4Cs remains a high-risk agency. Therefore, the ELCD has decided to offer 4Cs continued funding on a conditional basis for all contracts for FY 2019–20. The reason supporting this decision are set forth below and further

detailed in the summary of noncompliance sections of this document. Information on how to respond to this action, if desired, is listed in the final section, titled Appeal Process.

## **Historical Background**

### **Summary of FYs 2013–17:**

In or about 2013, ELCD conducted a Contract Monitoring Review of 4Cs subsidized child care programs and found several areas of non-compliance. Specifically, 4Cs error rate for the Alternative Payment Program was found to be excessive and the Key Dimension VII Teaching and Learning component did not meet requirements for center-based programs. Technical Assistance was provided to 4Cs and extensive training was provided to staff. In May of 2014, 4Cs was revisited and those items were cleared.

In 2015, another review was conducted by ELCD and 4Cs error rate was found to be within appropriate federal limits.

In July 2016, 4Cs California State Preschool Program (CSPP) was cited by Community Care Licensing Division of the California Department of Social Services with a Type A deficiency violation. The citation was for a violation of a child's personal rights. Two weeks later, 4Cs was cited again for a second Type A violation for another CSPP site. The second Type A was for a violation of a child's personal rights as well.

On or about February 2017, 4Cs received a third Type A violation for which the outdoor space did not have Fire Marshall Clearance. The citation also stated that 4Cs staff did not adequately supervise children in the facility and did not adequately address children's aggressive behaviors towards one another.

ELCD learned of these licensing violations and, in March 2017, ELCD's representatives conducted unannounced visits to the three CSPP programs operated by 4Cs. During these visits, ELCD representatives found a number of health and safety concerns and informed 4Cs that they would be taking action with respect to the CSPP contract. On or about March 30, 2017, 4Cs chose to relinquish its CSPP contract at the end of FY 2016-17, and would no longer administer direct center based services for children but would retain their CAPP, C2AP, C3AP, CFCC, and CCTR contracts which contracts in this instance to serve children by placing them into family child care homes within the community.

About the same time, ELCD asked the CDE Audits and Investigations Unit (A&I) to begin a limited scope audit of 4Cs as permitted by EC Section 8448. The results of that audit were not available until October 2018. (Discussed further below)

Subsequent to ELCD's request for an internal performance audit, the California State Auditor's office (CSA) informed CDE in July of 2017 that the California Legislature had requested, and the Joint Legislative Audit Committee had approved, an audit request regarding the expenditures, internal controls and external oversight of the use of public funds related to the child care contracts held by the 4Cs with CDE. CSA conducted its audit and, on April 5, 2018, CSA released a final audit report, detailing its findings. (Attachment A)

Given the recent history of 4Cs actions with respect to its contracts and the findings made in that report concerning 4Cs activities, the ELCD exercised its discretion and choose to issue a Notice of Proposed Action (NOPA) not to renew 4Cs contracts for FY 2018-2019, pursuant to 5 CCR Section 18303. A NOPA was mailed to 4Cs on April 5, 2018 and the agency appealed this action, requesting a hearing on April 19, 2018. On April 27, 2018, the Administrative Review Panel (Panel) convened and heard oral presentations from the agency and their representatives. On May 4, 2018, the CDE's Panel issued a final decision modifying the decision to non-renew 4Cs contract, determining instead that 4Cs should receive a contract for 2018-2019 but that 4Cs should be on conditional contract status for the FY 2018–19. (Attachment B) A conditional status addendum was issued to 4Cs on or about June 1, 2018. This document sets forth additional requirements that 4Cs must meet in order to have a contract on clear status. (Attachment C)

### **Technical Assistance Provided In 2018-2019**

On September 25-28, 2018, both FASD and the ELCD FSO, conducted separate on-site technical assistance meetings attended by the following 4Cs personnel: Agency Board Chair, Interim Executive Director, Senior Director of Operations and Personnel Management, Director of Compliance, Financial Director, Fiscal AP Supervisor for Provider Payments, Accounting Manager and Fiscal Staff, Subsidy Manager and Subsidy Supervisor's, Family Child Care Home Education Network (FCCHEN) Manager, FCCHEN Coordinator's, FCCHEN Program Assistant, and the Child Care Resource and Referral Manager. Additionally, ELCD FSO and FASD have provided ongoing technical assistance throughout all of FY 2018–19 in order to help bring 4Cs into full compliance.

### **BASIS FOR NOTICE OF PROPOSED ACTION**

On October 18, 2018, the Performance Audit of the Child Development Programs report was issued by the California Department of Education, Audits and Investigation



Division in response to the limited scope audit performed by the CDE requested the ELCD. The Performance Audit report identified several findings: (Attachment D)

- Overstated provider payments by \$595,106 and overstated child development days pf attendance by 674
- Claimed \$439,636 in supported salaries and benefits
- Claimed \$258,712 in unnecessary and unsupported expenditure to the child development programs
- Did not adequately safeguard property and equipment

On March 1, 2019 ELCD was provided with 4Cs Current Year Findings and Questioned Costs for FY 2017–18. In testing compliance within contracts under CFDA 93.575 and 93.596 the 4Cs Certified Public Accountant reported that the agency did not have adequate documentation to support the allocation of two employee wages to four of the 4Cs contracts (C2AP, C3AP, CCTR, and CFCC). The noncompliance finding was caused by insufficient financial management and record keeping with respect to government contacts. (Attachment E)

On March 18, 2019 the ELCD reviewed the Conditional Status Addendum requirements imposed for FY 2018-19 and found 4Cs had made progress in correcting most, but not all items.

ELCD further reviewed 4Cs payment status for past invoices and confirmed that it was not delinquent with respect to any invoices that did not have appeal rights exercised by 4Cs. The agency had, in the interim, appealed the following billed amounts for FY 2015-16 (\$1,033,660) and FY 2016-17 (\$431,031).

#### **Status of FY 2018-19 Conditional Status Addendum requirements**

The Conditional Status Addendum detailed the specific requirements for fully achieving contract compliance. A number of items in the Addendum have been completed, yet some items remain in progress and not yet completed. Below is a summary of where 4Cs has improved, meeting standards articulated in the Addendum, followed by a summary of the items where 4Cs still has yet to meet the standards articulated in the Addendum.

#### **Meets Compliance of Addendum Requirements:**

- Agreement to Comply with CDE's Funding Terms and Conditions and Program Requirements on a "Go Forward" basis
- Item 1: Submission of A Corrective Action Plan

- Item 2: Improve Board Governance and Oversight
- Item 3: Bring Expenditures of Contract Purchases into Fiscal Compliance (*partial compliance*)
- Item 4: Internal Controls
- Item 5: Staff Development
- Item 6: Health and Safety
- Item 7: Plan for Continuity of Services and Applicant Notices of Action Records (*partial compliance*)
- Item 8: Plan for Provider Payments
- Item 9: Program Self-Evaluation
- Additional Provisions

**Does Not Meet Compliance With CCA Requirements:**

- Item 3(d): Bring Expenditures of Contract Purchases into Fiscal Compliance (*partial compliance*) Contractor shall begin correcting the fiscal noncompliance identified as the result of the CSA April 5, 2018 report. 4Cs employees continue to be unable to have reasonable access to their retirement funds from 4Cs retirement plan through accounts that incur high charges for transferring or rolling over funds
- Item 7(f): Plan for Continuity of Services and Applicant Notices of Action Records (*partial compliance*). Agency is still needing to develop a Family Fee Collections Policy and Procedure. Such Policy and Procedure shall :
  - Describe how fees affect the process for appealing 4Cs actions
  - Ensure families are notified and billed timely
  - Describe how fees are collected
  - Demonstrate how fees are documented and processed timely
  - Demonstrate how fee repayment plan aligns with Title 5 and are implemented and collected accordingly
  - Demonstrate how payment for delinquent family fees is implemented

## **Notice of Proposed Action**

EC Section 8406.6 requires that agencies contracts be reviewed yearly and, if renewed, they shall be either determined to be on clear or conditional status. A review of 4Cs compliance reveals they have complied with a number, but not all, of the requirements of their CCA. In addition, a review of 4Cs independent audits reveals that 4Cs continues to have financial reporting deficiencies. On this grounds, the ELCD finds that 4Cs contract should be renewed for 2019-2020 but continued on conditional contractor status pursuant to *EC* Section 8406.06, .

## **Appeal Process**

If you disagree with this proposed action, you may appeal the action by filing a response on behalf of the 4Cs with the ELCD at the address listed below in accordance with the following requirements of 5 *CCR* Section 18303(c).

1. The ELCD must receive a written response within 10 calendar days of your receipt of this Notice of Proposed Action.
2. You must include any written materials in support of the agency's position with your written response.
3. Include in your response whether a representative of the CDC intends to make an oral presentation.

If you decide to appeal this action, both the ELCD proposed action and your response will be reviewed by the Department's Administrative Review Panel (Panel) that convenes pursuant to the 5 *CCR* Section 18303(d). If you do not request an oral presentation, the panel will review the written materials submitted and issue a final decision. If you request an oral presentation, you will be contacted within 14 calendar days from the ELCD's receipt of your response to schedule an appearance before the Panel. At the oral presentation, you or your representative will have an opportunity to explain any material submitted in your response. You may present any information or arguments that are relevant to the proposed action. The Panel may also set reasonable limits on the scope of your presentation. At the request of the agency, the oral presentation to the Panel may be in person at the ELCD office in Sacramento or by conference call. Within 7 days after the presentation, the Panel will issue and mail to you a decision upholding, modifying, or reversing the proposed action of the ELCD.

If you intend to appeal, please mail or deliver eight copies of your response and supporting materials to:

**Janine Weglin, Manager**

Joseph Manarang, Interim Executive Director  
April 5, 2019  
Page 7

**Appeals Unit  
Early Learning and Care Division  
California Department of Education  
1430 N Street, Suite 3410  
Sacramento, California 95814-5901**

The ELCD must receive your appeal and all supporting documentation no later than 5 p.m. on the tenth day following your receipt of this notice. If the due date falls on a Saturday, Sunday, or a holiday, your appeal must be received no later than the next CDE business day. Do not mail your appeal to the CDE's post office box address or to any other person or office within the CDE.

If you have questions related to the appeal process, please contact Janine Weglin, Manager, Appeals Unit, by phone at 916-323-2211.

Sincerely,



Lisa Velarde, Administrator  
Field Services Office  
Early Learning and Care Division

DR:slr  
Attachments