

Conditional Status Addendum
Fiscal Year 2018-19

Contractor:	Community Child Care Council of Santa Clara Count	Vendor number:	V937
Contract	CAPP, C2AP, C3AP, CFCC, CCTR, CCRP, cap, and CHST		

Community Child Care Council of Santa Clara County (4Cs) is hereby notified that the Early Education and Support Division (EESD) of the California Department of Education (CDE) has placed all the contracts on conditional status effective July 1 , 2018.

Authority

The California Education Code (EC) Section 8406.6 establishes a contract classification system for the purposes of identifying, monitoring and providing technical assistance to EESD contractors. The California Code of Regulations, Title 5 (5 CCR) Section 18303 authorizes EESD staff to review contractor performance at least annually and determine whether to offer continued funding on a conditional basis. Similarly, 5 CCR Section 18304 authorizes EESD staff to place a contract on conditional status during the contract period upon review of information demonstrating fiscal or programmatic noncompliance. In either case, 5 CCR Section 18305 requires a written conditional status addendum explaining the contract conditions, including the specific items of noncompliance which the contractor must correct, specific corrective actions which must be taken, the time period within which the contractor must complete the corrections, and notice that failure to make required corrections will result in termination of the contract or no offer of continued funding. The 5 CCR Section 18306 requires that a contractor on conditional status shall submit monthly enrollment and attendance reports and a current inventory of equipment to the California Department of Education. 5 CCR Section 18307 specifies the duration of the conditional contract status. EC Section 8406.7 provides for termination for certain specified fiscal or programmatic violations and 5 CCR Section 18010 specifies that contractors on conditional status that do not meet the requirements specified in their conditional status addendum may not be offered continued funding and that, in any event, contractors have no vested right to a subsequent contract. EC Section 8406.6(c) provides that failure to demonstrate substantive progress toward compliance within six (6) months shall constitute a breach of contract. 5 CCR Section 18305 (d) states that failure to make required corrections will result in termination of the contract or no offer of continued funding.

Bill of Particulars Detailing the Items of Noncompliance (Education Code 58406.6)

The items of noncompliance are set forth in detail in the Notice of Proposed Action

(NOPA) which has been served on 4Cs simultaneously with this Conditional Status Addendum (Addendum) and is incorporated by reference into this Addendum as set forth herein.

- 1 . Disrupted Services to Families by Recording Inaccurate Information on Notice of Action (NOA) Records and Violating State Requirements to Serve Timely NOAs
2. Delayed Payments to Providers Creating a Serious Hardship and Causing Serious Disruption to their Lives
3. Health and Safety Violations
4. Questionable Management of Retirement Plan
5. Unallowable Purchases and Failure to Meet Other Contract Requirements Including Insufficient Documentation for Reimbursements

Required Corrective Actions and Due Dates

Education Code 53406.6 authorizes the CDE to impose on contracting agencies with one or more contracts designated as conditional such restrictions CDE deems reasonable to secure fiscal and programmatic compliance. To correct the areas of noncompliance articulated in the April 5, 2018, California State Audit (CSA) Report and CDE NOPA incorporated by reference herein, the 4Cs must comply with the regulations mandated in the EC 5 CCR, and Funding Terms and Conditions by taking the following actions by the prescribed deadlines:

Agreement to Comply with CDE's Funding Terms and Conditions and Program Requirements on a "Go Forward" Basis

- a. Contractor understands that this contract (like other EESD contracts) is conditioned upon Contractor's acknowledgement, acceptance and future compliance with the standards and criteria and recommendations for correcting the findings outlined in the fiscal mismanagement and noncompliance with California laws and regulations, and the Funding Terms and Conditions and Program Requirements of the contracts, and key findings made in the April 5, 2018, CSA and report pertaining to incidents of noncompliance including serving NOA to families, backdating of NOA, Provider . Payment policies regarding late payments to providers, wrongful use of state funds for non-reimbursable costs, failure to maintain the majority of proper documents to support administrative costs. Therefore, notwithstanding the pendency or outcome of any appeal or

challenge to the Contract Conditional Status, the Board shall take effective action by July 20, 2018, to ensure that, on a going forward basis (i.e., during the term of this and any future contract), all directors, officers and employees shall adhere to the fiscal noncompliance findings, criteria and recommendations to avoid continuing fiscal and programmatic noncompliance. Such standards, criteria and recommendations set forth in the Funding Terms & Conditions and Program Requirements for FY 2018—19 shall be legally binding under the terms and conditions of this contract and any future EESD contract. For the avoidance of doubt, the Contractor Board shall be directly responsible for ensuring that the Contractor eliminates all past practices that led to findings of noncompliance and take other actions necessary to comply with all conditional provisions set forth herein.

- b. The Board shall issue a written communication to Contractor directors, officers and staff instructing them to comply with the policies and procedures in implementing effective Internal Controls for the purposes of performing this and future contracts and to cease and desist from any further continuation of the past practices determined to be noncompliant in fiscal reporting and management of all contract apportionments and funding. The Board shall deliver a copy of such written communication to the CDE on or before July 20, 2018, along with an attestation signed by all Company officers swearing that they have read the written communication and shall abide by it going findings in the April 5, 2018 CSA Report as follows:

Additional Addendum Requirements

1. Submission of a Corrective Action Plan

On or before August 3, 2018, develop and submit for EESD Field Services Office Administrator approval, via the assigned Field Service Office Consultant, a Corrective Action Plan (CAP), using the instructions provided, that explains in detail how 4Cs shall correct the findings in the April 5, 2018, CSA Report as follows:

- a. Insufficient Internal Controls, including:
 1. Lack of Board Oversight on Unallowable Purchases for Reimbursements and Proper Documentation.
 2. Lack of Awareness of the Financial and Programmatic Circumstances of the Contract Funding Terms and Conditions, and Program Requirements including Eligibility and Need for Subsidized Child Care

and Development Services, Notice of Actions for Applicants/Recipients,
Staff Development, Payment to Providers, and Program Self-Evaluation.

3. Lack of Effectiveness and Efficiency of operations.
 4. Lack of Oversight for Compliance with applicable laws and regulations.
- b. Insufficient payment plan for reimbursing providers to ensure timely payment

- c. Inaccurate information recorded on NOA Records violating requirements and jeopardizing access for applicants to receive continuity of child care

2. Improve Board Governance and Oversight

- a. Contractor shall conduct bi-weekly Board meetings during the term of the CAP, approve prior Board minutes at each subsequent Board meeting and submit approved Board minutes to CDE within ten (10) days of Board approval. Such minutes must demonstrate the Board's active and contemporaneous management of the Child Development Programs.
- b. Minutes must include the agenda, name of chair, participants, issues considered, and actions taken.
- c. Minutes must reflect ongoing, repeated and regular efforts to ensure correction of CSA findings, fiscal mismanagement and noncompliance with California laws and regulations, and the Funding Terms and Conditions and Program Requirements of the contracts including implementing a training program for all Board members, officers, and staff for compliance with the matters identified in the misuse of contract funds.
- d. Minutes must reflect steps taken to ensure ongoing financial accountability and stability to correct the insufficient effectiveness and efficiency of operations.

3. Bring Expenditures of Contract Purchases into Fiscal Compliance

Contractor shall begin correcting the fiscal noncompliance identified as a result of the CSA April 5, 2018, report where the 4Cs used state grant funds for unallowable and questionable purchases including paying for certain legal expenses, food for Board members, and personal amenities for staff resulting in unallowable use of state funds totaling \$1,217.

- a. 4Cs shall begin correcting the fiscal issues identified in the CSA April 5, 2018, report by repaying the CDE for costs which were determined not to be legally reimbursable.

- b. Contractor may not use EESD contract funds apportioned under this or any other contract, including funds held in any CDE reserve account, to repay CDE for any amounts invoiced; or for any future amounts invoiced.
- c. Strengthen controls over approval process of costs charged to the State's share of its funding.
- d. Allow beneficiaries reasonable access to their retirement funds for 4Cs retirement plans through accounts that do not incur high charges for transferring or rolling over funds.
- e. If the CDE fails to receive any of the amounts to be paid by Contractor, the CDE may withhold any and all future Contractor appointments or payments scheduled to Contractor under any of Contractor's EESD contracts.

4. Implement Internal Controls

Contractor shall implement effective internal controls over the Agency's financial operations. Failure to implement and maintain effective internal controls has resulted in inappropriate use of contract funds and diversion of CDE direct services. In consequence, the Alternative Payment, CalWORKs Child Care Programs (C2AP) and (C3AP) and Family Child Care Home Education Networks (CFCC) contract funding has not been available to pay provider reimbursement timely and CDE contract ongoing operation. On or before August 10, 2018, Contractor shall submit an Internal Control Plan (ICP), earning projection, projected provider payment need for anticipated provider invoices, and administrative expense control for each contract. On August 31, 2018, the Contractor shall also report negative fund balances, on a monthly basis.

- a. 4Cs reserve account balance shall be reported during the period of Conditional Status and in compliance with EC sections 8450 and 35168.
- b. On or before August 31, 2018, Agency shall correct internal policies and procedures to provide effective internal controls, which shall be approved by the Agency's CPA.
- c. The contractor must provide a report to CDE, together with evidence documenting detailed steps and actions that have been taken to ensure policies, procedures, and practices are implemented and that staff have been properly trained and are adhering to such policies, practices, and procedures on a quarterly basis following the August 31, 2018, implementation date. The first quarterly report is due September 30, 2018, and subsequent reports will be due December 31, 2018, March 29, 2019, and June 28, 2019.

- d. On or before July 31 , 2018, Agency shall submit an updated inventory that includes all required information and the process implemented to document the physical check of inventory every two (2) years.
- e. Agency's audit for FY 2017—18 shall be submitted on or before November 15, 2018, and will confirm the CDE reserve account is funded and the balance will correspond to the Child Development Nutrition Fiscal Services records.
- f.If, as a result of the CDE's review of the FY 2017—18 Agency audit, 4Cs receives a notice of amounts owing the CDE, 4Cs shall reimburse the CDE for any amounts within thirty (30) days of the invoice date.
- g. If, as result of the CDE's completion of the performance audit anticipated September 2018, CDE will determine whether to conduct follow-up reviews of 4Cs administrative costs and whether it needs to expand its procedures for identifying questionable costs as stated in the CSA Reports, which also may pertain to administrative costs or any other identified systemic issues.

5. Staff Development

Develop and implement a staff development component that ensures:

- 1 . All program staff are qualified for the positions held as outlined in Title 5, Regulations Section 18274.
- 2 Program operating 2 or more sites employ a qualified Program Director.
- 3 Program staff attend training as identified in a staff development plan which addresses the confidential assessed needs of staff that are essential in meeting specific job requirements outlined in current job descriptions.

6. Health and Safety

Contractor shall revise and update its policies and practices to ensure immediate notification of CDE of any health and safety issues, and provide training to relevant staff on the policy requirements to prevent any further noncompliance. In particular: Contractor is to ensure that the supervision, health, and safety of all children in care are maintained and monitored and to:

- a. Notify and submit copies to the CDE/EESD assigned consultant, the results of all DSS/CCLD, with 24 hours.

- b. Adherence to reporting any unusual incidents to the DSS/CCLD as required by 22 CCR Section 10212(d)(1)(c). In addition, notify the CDE/EESD assigned consultant within 24 hours of the unusual incidents.
- c. Adherence to the DSS/CCLD requirement of supervision of all children as defined and required by 22 CCR Section 101152
- d. Obtain and submit to CDE/EESD assigned consultant within thirty (30) days, copies of Deficiency Clearance Letters from DSS/CCLD for any licensing violations (Type A or B) that may occur during the FY 2018—19 conditional contract period.

7. Plan for Continuity of Service and Applicant Notices of Action Records

- a. Develop and implement a plan to prohibit fraud and commission of fraud and adhere to all applicable state and federal laws pertaining to accurately recording information on NOA, record keeping and documentation that 4Cs will serve notices to families on a timely basis and before services are approved or denied.
- b. The plan must outline how 4Cs will give proper notice of any change in service prior to the effective date of the action as pursuant to 5 CCR sections 18094, 18095, 181 18 and 18119, as well as the Funding Terms and Conditions, and Program Requirements.
- c. The plan must provide details of how the family was served and received the NOA, when any electronic, Information Technology (IT) System database or manual tracking log was updated demonstrating the accurate recording of information, proper preparation and notification including mailing of the notice to approve or deny services, and/or to make changes which may include, but are not limited to: decreasing or increasing child care hours, decreasing family fees, or terminating services.
- d. The detailed plan must be identified in the CAP as well as how this corrective action implementation will be sustained beyond FY 2018—19.
- e. Plan should clearly identify revisions and updates to internal controls
 - i. Address all matters identified in the CSA report and NOPA
 - ii. Specify the prevention of recording incorrect dates on notices, periodically review dates in system to ensure controls and protocols are effective and proper handling of NOA Records including record retention for each contract.
 - iii. Agency shall update or establish and implement internal control policies, practice, and procedures.
 - iv. Agency shall provide sufficient information to families about the process for appealing 4Cs actions.
 - v. Agency to make appeal process more accessible to families who may not receive a satisfactory resolution from its contractors.
 - vi. The plan for applicant/recipient NOA must demonstrate the written policies about the appeal process that have been provided to the parent, as well as any trainings or agenda's that the contractor has regarding the

topic of appeal process. The plan must demonstrate evidence of the following:

1. Give families clear and concise information regarding their appeal process including written policies and training.
2. Ensure appeal process is clearly communicated to the parent regarding their appeal rights.
3. Ensure the number of days is correct for the appeal process.

f. Family Fee Collections

1. Describe how fees affect the process for appealing 4Cs actions.
2. Ensure families are notified and billed timely.
3. Describes how fees are collected.
4. Demonstrate how fees are documented and processed timely.
5. Demonstrate how fee repayment plays align with Title 5 and are implemented and collected accordingly.
6. Demonstrate how payment plan for delinquent family fees is implemented.

R Plan for Provider Payments

- a. Develop and implement a plan to ensure timely provider payments to licensed and licensed-exempt providers serving families enrolled in the program.
- b. A detailed plan should be identified in the CAP demonstrating how implementation will be sustained beyond FY 2018—19.

9. Program Self-Evaluation

- a. Develop and implement a plan to address the program self-evaluation process.
- b. A detailed plan should be identified in the CAP demonstrating how areas in the program needing improvement are addressed with Board of

Directors and Staff to ensure satisfactory progress and continued compliance to meet the required standards.

Additional Provisions Applicable While on Conditional Status:

1. By the 10th day of each month, Contractor shall provide CDE with a written progress report indicating all corrective action activities taken by Contractor during the prior month, any slippage or acceleration in schedule or plans under the CAP or any setbacks, and any other pertinent information with regard to its adherence to the terms and conditions hereof and its compliance with fiscal or programmatic requirements.
2. Beginning July 1, 2018, Contractor shall conduct bi-weekly Board meetings during the term of the Conditional Status Addendum FY 2018—19, approve prior Board minutes at each subsequent Board meeting and submit approved Board minutes to CDE within ten (10) days of board approval, Such minutes must demonstrate the Board's active and contemporaneous management of the Child Development Programs.
 - a. Minutes must include the agenda, chair, and participants, issues considered, and actions taken.
 - b. Minutes must reflect ongoing, repeated and regular efforts to ensure correction of CSA Report findings, fiscal noncompliance, 'including implementing a training program for all Board members, officers and staff for compliance with the matters identified in the mismanagement of contract funds.
 - c. Minutes must also reflect on-going repeated and regular efforts of implementing and maintaining compliance of enrollment to families to ensure the programs of direct service contracts, and voucher contracts including Alternate Payment Program (APP) and CalWORKs provide access and continuity of care to families enrolled in the program, and that timely payment to providers is consistent.
3. On or before, but no later than November 15, 2018, 4Cs shall submit a complete, acceptable audit for the fiscal year ending June 30, of that year. There will be no extension granted.
4. 4Cs shall comply with all laws and regulations. During the second half of the fiscal year, a review will be conducted by the CDE. The review will be to ensure

of 14

all areas of noncompliance identified in the misuse of funds have been corrected and that there are no new areas of noncompliance. If any findings of noncompliance are identified in this review, the contractor shall have failed to meet its obligations hereunder.

5. Each month 4Cs shall complete all required monthly attendance and fiscal reports and submit them on or before the 20th calendar day of the following month to the CDE, beginning with the first month beginning July 1 , 2018, of the

conditional contract status (July 2018, report is due August 20, 2018) and each month thereafter until conditional status is removed. 4Cs shall mail all attendance and fiscal reports, and the fully completed updated inventory list to:

Jo Sublett, Fiscal Analyst
Child Development Fiscal Services
California Department of Education
1430 N Street, Suite 2213
Sacramento, CA 95814-5901

Attendance and Fiscal Report forms are available on the CDE Child Development Web page at <http://www.cde.ca.gov/fa/aa/cd/index.asp>.

NOTICE: Consequences for Failing to Comply with Conditional Contract Status Conditions

1. Failure to demonstrate substantive progress toward compliance with each item contained in this addendum within specified deadlines shall constitute a breach of contract, which subjects the contract to termination.
2. An agency on conditional status may not be offered a subsequent contract and shall be so notified by the CDE at least ninety (90) calendar days prior to the end of the contract year.
3. Even if all conditions have been met to avoid termination of the current contract, an agency on conditional contract status has no vested right to a subsequent contract.
4. In order to rectify 4Cs inappropriate use of state funding, Education should by October 2018, recalculate the amount of 4Cs reimburseable costs based on the unallowable costs we identified and recover any funds should be repaired.

Other Information

Pursuant to EC Section 8406.6(c) and 5 CCR, Section 18307, the following is available to 4Cs in connection with its conditional contract status:

1. The CDE shall provide an agency with technical assistance. As part of that technical assistance, EESD staff shall review and provide comments to 4Cs with respect to its approach and plans to correct its areas of required agency

corrective actions. As detailed above, 4Cs shall develop a comprehensive, written CAP and submit the CAP to its assigned Field Services Consultant.

The CAP will include:

- a. A table of contents. The table of content should list the summary description of each item requiring a corrective action and report of contractor current progress and/or status for the program on each required item.
 - b. The report may also be segmented and tabbed for inclusion in report binder.
 - c. Page one—Report title page.
 - d. Page two—Convert the list of report required items into an item by item table of contents.
 - e. Page three and subsequent pages are formatted as follows:
 - i. Requirement: Statement of the requirement and sub items
 - ii. Corrective Action(s): Describes how the issue was corrected or plans to be corrected and the timeframe
 - iii. Attachment: Attached documents or material to support the item reported
2. The CAP must demonstrate specific actions, tasks, timelines and due dates designed to correct the required actions, and identify the personnel assigned to complete the various actions and tasks. EESD staff will review the CAP and provide comments, suggestions, revisions and other assistance to help 4Cs correct its areas of noncompliance. 4Cs shall also provide any other reports, documentation and other information requested by EESD staff to assist 4Cs in its efforts to implement the CAP, meet the conditions of this CSA, correct deficiencies and/or avoiding new areas of noncompliance. Notwithstanding such technical assistance, 4Cs is ultimately responsible for meeting the terms of this CSA and the CAP should only be considered a tool to support CDE's technical assistance effort and in no way modifies or amends the terms and conditions of the contract or this CSA.
3. An agency may request written verification of deficiency correction.