

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

December 17, 2024

FROM

JEANY ZEPEDA, Director, Children and Family Services

SUBJECT

Contract Template for Foster Family Agency Services

RECOMMENDATION(S)

1. Approve contract template, including non-standard terms, to be utilized when placing children with Foster Family Agencies, effective upon execution through June 30, 2029.
2. Authorize the Director or the Assistant Director of Children and Family Services to execute the contracts with individual Foster Family Agencies on behalf of the County.

(Presenter: Jeany Zepeda, Director, 387-2792)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

This item will not impact Discretionary General Funding (Net County Cost). Placement costs will be covered using existing Aid to Families with Dependent Children Foster Care Maintenance payments. Foster Family Agency (FFA) service rates are determined by the child's service requirement level. Adequate appropriation and revenue have been included in the Foster Care 2024-25 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

The recommended contract template will enable Children and Family Services (CFS) to place children that cannot be safely maintained in the family home. FFA services allow CFS to provide a safe and stable home setting for children under its supervision. FFA services comply with California Welfare and Institutions Code section 16501.1(d)(1), which requires that decisions regarding the placement of children in out- of- home care be based on the safest, least restrictive, and most family-like setting that meets the child's individual needs and best interests.

FFAs are licensed and monitored by the Community Care Licensing Division of California Department of Social Services (CDSS). FFAs recruit, certify, and train foster parents who provide out-of-home care. They also provide professional support to foster parents and identify homes for the placement of children and youth referred by CFS. FFAs monitor and provide oversight for the homes they certify and have the authority to decertify homes when necessary. In addition, FFAs provide intensive treatment services to children and youth to address special needs and prevent escalation issues.

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Each year San Bernardino County (County) investigates over 31,000 allegations of abuse and neglect of children. CFS operates under the Child Welfare Services system and provides care and protection for children placed under its supervision pursuant to the provisions of Welfare and Institutions Code sections 16500, et seq. The major goal of this system is to protect and promote the welfare of all children by preventing and/or remedying neglect, abuse, or exploitation of children. FFAs provide CFS with trained and certified foster family homes for the placement of children with a variety of service needs.

Under State operation guidelines, CFS utilized FFAs for out-of-home care from 1988 to 2015. Since 2016, CFS has utilized contracts to allow for better monitoring and tracking of enhanced insurance and administrative requirements. Upon approval of the standard contract all FFAs will have the ability to enter into a new contract with CFS.

The FFAs that enter into a contract, as well as relatives, nonrelated extended family members, and County Foster Homes will be used as the primary placements for children that cannot be safely maintained in the family home.

On June 25, 2024 (Item No. 47), the Board of Supervisors (Board) approved a FFA template contract for the period of July 1, 2024 through June 30, 2029. On September 22, 2024, Assembly Bill No. 2496 passed, which added Section 1062.33 to the Code of Civil Procedure and requires that FFAs and public entities each bear the cost of insuring against their respective acts and omissions and defending against claims arising from those risks. The County can no longer contractually require FFAs to indemnify the County. As a result, the FFA template contracts will require the omission of certain County standard contract terms.

The non-standard and missing terms include the following:

1. The FFA contract template does not require the FFA to indemnify the County, as required by County Policies 11-05 and 11-07.
 - The County standard contract requires the contractor to indemnify, defend, and hold the County harmless from third-party claims arising out of the acts, errors, or omissions of any person.
 - Potential Impact: The FFAs are not required to defend, indemnify, or hold the County harmless from any claims, including indemnification for claims arising from an FFA's negligent or intentional acts. If the County is sued for a claim, the County may be solely liable for the costs of defense and damages, which could exceed the total contract amount. However, pursuant to the revised Code of Civil Procedure Section 1062.33, the County can no longer contractually require FFAs to indemnify the County.
2. The FFA contract template does not include certain County insurance requirements, including the waiver of subrogation.
 - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
 - Potential Impact: No waiver of subrogation may allow an FFA's insurer to bring suit against the County, which could result in expenses that exceed the total contract amount. However, pursuant to the revised Code of Civil Procedure Section 1062.33, the County can no longer require FFAs to provide additional insured endorsement or waiver of subrogation rights.

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CFS recommends approval of the FFA contract template, including the non-standard terms, to allow CFS to continue to provide FFA services to children throughout the County.

Contractor performance will be measured by reviewing monthly reports and annual site visits by County staff to monitor compliance with the administrative, fiscal, and program elements of the contract.

PROCUREMENT

Purchasing supports this non-competitive procurement of the primary placements for children that cannot be safely maintained in the family home based on government-mandated/legal requirements. FFAs, which are governed by the licensing procedures of the CDSS, must adhere to section 16501.1 (d)(1) of the California Welfare and Institutions Code. CFS will enter into contracts exclusively with agencies that meet all the established qualifications.

REVIEW BY OTHERS

This item has been reviewed by Human Services Contracts (Patty Steven, Contract Manager, 388-0241) on November 1, 2024; County Counsel (Daniella V. Hernandez, Deputy County Counsel, 387-5455) on November 5, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst II, 386-9008) on November 13, 2024; Purchasing (Jessica Barajas, Supervising Buyer, 387-2065) on November 14, 2024; Finance (John Hallen, Administrative Analyst, 388-0251) on November 27, 2024; and County Finance and Administration (Cheryl Adams, Deputy Executive Officer, 388-0238) on December 2, 2024.

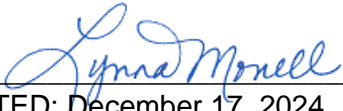
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 17, 2024



cc: File - Children & Family Services w/attach
CCM 12/26/2024