

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

June 8, 2021

FROM

MARLENE HAGEN, Director, Children and Family Services

SUBJECT

License Agreement with the Sacramento County Office of Education for the Foster Focus System

RECOMMENDATION(S)

Approve **License Agreement No. 21-443** with the Sacramento County Office of Education for use of the Foster Focus System to securely manage and share foster youth student information, in the amount of \$14,700, for the period of July 1 2021 through June 30, 2022.
(Presenter: Marlene Hagen, 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.

FINANCIAL IMPACT

This does not impact Discretionary General Funding (Net County Cost). The License Agreement in the amount of \$14,700 is funded by Realignment 2011. Adequate appropriation and revenue have been included in the Human Services Administrative Claim 2021-22 recommended recommended budget.

BACKGROUND INFORMATION

Children and Family Services (CFS) has agreements and currently partners with 30 San Bernardino County schools districts to securely exchange, confirm, and maintain foster youth education and enrollment information through the Foster Focus System (Foster Focus). The recommended License Agreement (Agreement) with the Sacramento County Office of Education (Sacramento) for the use of Foster Focus will allow CFS and San Bernardino County school districts to continue to share up-to-date education information on foster youth in a timely manner. CFS has had an agreement with Sacramento since 2008 for use of Foster Focus.

Foster Focus is a web-based data system developed and maintained by the Sacramento. Foster Focus addresses the challenges that result from foster youth frequently changing placements by sharing education and enrollment information in real-time. Foster Focus matches data from local Child Welfare Agencies, school district information systems, and the California Longitudinal Pupil Achievement Data System in a secure environment. The system has multiple safeguards to ensure protection of foster and probation youths' privacy, including password protection, encryption, and limited numbers of authorized users who must sign confidentiality agreements. CFS currently partners with 30 San Bernardino County school

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districts to improve academic outcomes for foster youth through the sharing the education records.

The Agreement with Sacramento includes terms that differ from the standard County contract terms. The non-standard terms include the following:

1. **Warranty:** Sacramento makes no warranty with respect to the services or data provided by Foster Focus.
 - County standard is the contractor fully warrants its services and products.
 - Potential Impact: If there are service or performance issues with Foster Focus, the County will have a limited ability to seek compensation from Sacramento for the deficiencies and any County costs associated with the deficiencies.
2. **Payment Terms:** Sacramento requires payment within 30 calendar days of receipt of invoice.
 - County standard payment terms are Net 60 days with no interest or late payment penalties.
 - Potential Impact: County standard processing time is 60 days or more. Failing to pay within 30 calendar days could result in Sacramento declaring a default and terminating the Agreement.
3. **Venue:** Sacramento requires any legal proceedings arising out of the Agreement to be brought in Sacramento County, California.
 - The County's standard contract requires any action arising under the contract be brought in the San Bernardino County Superior Court.
 - Potential Impact: If there is a dispute between the parties that requires legal action in the court, the County may incur increased litigation expenses associated with litigation in Sacramento County.
4. **Assignment:** The Agreement prohibits the County from assigning the agreement to any third person without Sacramento's written consent, but is silent about prohibiting Sacramento from assigning the Agreement.
 - The County's standard contract prohibits contractors from assigning the agreement without the County's written consent.
 - Potential Impact: Sacramento may assign the Agreement to a third party without notice to the County and without the County's approval. This could allow the Agreement to be assigned without the County's knowledge.
5. **Limitation of Liability:** The Agreement provides that neither party is liable to the other party of any special, consequential, indirect or incidental damages or lost profits.
 - The County's standard contract does not include a limitation of liability.
 - Potential Impact: The County may not be able to recover these damages from Sacramento.
6. **Termination:** The Agreement allows for termination in the event of default, including failure to perform, insolvency, or bankruptcy.
 - The County's standard contract gives the County the right to terminate the Contract, for any reason, with thirty days written notice without any obligation other than to pay

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amounts for services rendered and expenses reasonably incurred prior to the effective date of termination.

- Potential Impact: If the County no longer requires the service it must still pay for the service during the term of the Agreement.

PROCUREMENT

Foster Focus was developed and is maintained by Sacramento. Foster Focus is proprietary; as such, CFS is recommending system compatibility and functional specification non-competitive procurement. Purchasing concurs with these justifications and supports the non-competitive procurement of Foster Focus.

REVIEW BY OTHERS

This item has been reviewed by Human Services Contracts (Jennifer Mulhall-Daudel, Contracts Manager, 388-0214) on May 3, 2021; County Counsel (Julie Surber, Principal Assistant County Counsel, 387-5455) on May 5, 2021; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on May 11, 2021; Finance (John Hallen, Administrative Analyst, 388-0208) on May 11, 2021; and County Finance and Administration (Tanya Bratton, Deputy Executive Officer, 388-0332) on May 11, 2021.

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Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Janice Rutherford Seconded: Joe Baca, Jr.

Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 8, 2021



cc: CFS - Hamman w/agree
Contractor - C/O CFS w/agree
File - w/agree
CCM 06/23/2021