

## **Board of Trustees Agenda Item**

**Board Meeting Date:** July 2, 2012

**Title of Item:**

Contract with Child Development Inc. DBA Choices for Children, FY 2012-14

**Background and Analysis:**

**Background:**

The Occupational Training Institute administers the CalWORKs program on both Foothill and De Anza College Campuses. CalWORKs is a categorical program that receives funding to assist students who are currently welfare recipients or who are in transition off of welfare to achieve long-term self-sufficiency. Services offered at community colleges include childcare services while at school, as well as many other student support services.

**Analysis:**

In order to provide childcare services the Occupational Training Institute (OTI) requests a new two-year contract with Child Development Inc. DBA Choices for Children for two years (August 1, 2012 – July 31 2014). The current contract with Choices for Children expires on July 31, 2012. OTI has been contracting off-campus childcare placement services for CalWORKs families with Choices for Children since August 1, 1998.

As much as is feasible, OTI also works with the Child Development Center at De Anza College to place CalWORKs children. However only a limited number of children can be placed on-campus due to scheduling conflicts, cost restrictions (CalWORKs is restricted by law to pay at the Regional Market Rate - RMR), and waiting lists due to limited availability of childcare slots.

The CalWORKs childcare allocation for the 2012-13 and 2013-14 years is projected to be \$205,000. The maximum amount of contracted professional service fees that will be paid to Choices for Children is approximately \$30,200 for the two-year period. The two-year projected total to be distributed to childcare providers through this program is \$201,000.

**Recommendation:** De Anza College President, Brian Murphy recommends approval.

Submitted by:	Brian Murphy, President 8705
Additional contact names:	Letha Jeanpierre, Vice President of Finance & Educational Resources x8976 & Daniel Dishno, OTI Supervisor x8307
Is backup provided?	Yes

### Contract For Services

This agreement is made August 1, 2012 between the Occupational Training Institute (OTI) of the Foothill-De Anza Community College District, a California Community College District with its District offices at 12345 El Monte Road, Los Altos Hills, CA 94022, hereafter referred to as the "District" and Child Development Inc., d.b.a. Choices for Children, an independent Contractor, having a principal place of business at 111 North Market St, Suite 100, San Jose, CA 95113, hereafter referred to as "Contractor".

A. TERM OF CONTRACT:

This agreement will become effective on August 1, 2012 and will continue in effect until July 30, 2014, unless terminated under the provisions of this agreement.

B. SERVICES TO BE PERFORMED BY CONTRACTOR:

1. Develop and maintain a system to coordinate the provision of licensed or TrustLined childcare services for OTI CalWORKs participants.
2. Assist participants in obtaining a current list of childcare providers. It is the responsibility of the Contractor to verify that the provider holds a current license or is exempt from licensing. Contractor will maintain documentation of provider license.
3. Assist OTI referred participants in locating child care and making placement of dependents at child care provider which parent believes adequately meet the child care needs of her/his family and children.
4. Provide sufficient information to referred parents to enable them to make an informed choice among all available care options.
5. Provide for parental choice of providers.
6. Obtain to the extent possible split shift, weekend, and night shift care as indicated by the participant's schedule.
7. Establish mutually acceptable agreements with child care providers for the payment of direct childcare costs.
8. Allow, to the extent practicable, parental share in direct childcare costs when such costs exceed the maximum rate established by OTI and the California Community Colleges Chancellor's Office.
9. Maintain all records of expenditures and program activity in complete and auditable condition.
10. Monitor the expenditure of funds by agency referral to comply with OTI child care budgetary requirements.

11. Comply with the California Community Colleges Chancellor's Office and OTI childcare policies and procedures, as described in Attachments I and II to this agreement.
12. Method of Performing Services: Contractor will determine the method, details, and means of performing the above-described services, except that such services must be performed to the satisfaction of the District.

C. PAYMENTS/INVOICING

1. Contractor shall make payments to Childcare Providers approved for services to CalWORKs recipients according to the policies and guidelines established by the California Community Colleges Chancellor's Office per Attachment II.
2. District will reimburse Contractor for direct childcare expenses and in addition will pay 15% of direct childcare expenses for the services provided by the Contractor. District is not liable for any other expenses incurred by the Contractor. The following funds for direct childcare expenses are estimated to be available during the contract term, but the amount is not guaranteed: \$100,395 per year. In any event, total payments to the Contractor for services rendered shall not exceed \$15,059 per year for a total not to exceed \$30,119 for a two-year period.
3. Contractor will submit invoices and back-up showing details for the month's direct childcare on a monthly basis. Invoices should be mailed no later than the 10<sup>th</sup> working day of following month.
4. Contractor must invoice for child care services within the fiscal year for which the services are performed (July – June). Contractor will not be reimbursed for child care provided in any previous fiscal year and invoiced in a subsequent fiscal year (i.e. fiscal year 2011/2012 child care will not be paid during the 2012/13 fiscal year).
5. Invoices and any other correspondence related to this contract should be mailed to:

Occupational Training Institute  
Foothill-De Anza Community College District  
21250 Stevens Creek Blvd.  
Cupertino, CA 95014

D. OTHER OBLIGATIONS OF CONTRACTOR

Contractor agrees to provide workers compensation insurance for Contractor's employees and agents. Contractor agrees to hold harmless and indemnify District for any and all claims arising out of any injury, disability, or death of Contractor, any of Contractor's employees or agents, and for any claims against the District made by childcare providers, parents, or children receiving childcare services hereunder. Contractor agrees to be responsible for applicable withholding under State and Federal law for Contractor and any of Contractor's employees or agents.

E. OBLIGATIONS OF DISTRICT

District agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this agreement.

F. TERMINATION OF AGREEMENT

1. Automatic Termination: This agreement shall terminate automatically on the occurrence of any of the following events: (a) Bankruptcy or insolvency of either party; (b) Sale of Contractor's business; (c) Death of Contractor.
2. Termination for Default by Contractor: Should Contractor default in the performance of this agreement or materially breach any of its provision, District, at District's option, may terminate this agreement by giving written notification to Contractor.
3. Termination for Default by District: Should District default in the performance of this agreement or materially breach any of its provisions, Contractor, at Contractor's option, may terminate this agreement by giving written notice to District. For the purposes of this section, material breach of this agreement shall include, but not be limited to failure of District to comply with the provisions of section E of this agreement.
4. Termination Upon Notice: Either party may terminate this agreement at any time and for any reason by giving 30 days written notice to the other party. Unless otherwise terminated in accordance with the terms of this agreement, this agreement shall continue in force and effect for the period specified in Section A of this agreement.

G. Dispute Resolution:

All disputes hereunder shall be resolved by binding arbitration pursuant to California Code of Civil Procedure 1280, et seq. The non-prevailing party shall pay the arbitrator's fee, but in all other respects each of the parties shall bear its own costs and attorneys fees. Venue for any petition related to such matters shall be in Santa Clara County Superior Court.

H. Insurance Requirements

The contractor shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the District. The Contractor shall furnish the District with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the District of any pending change in the limits of liability or of nonrenewal, cancellation, or modification of the policy. The insurance carrier shall have a Best Rating of at least a B+ and category VIII unless otherwise approved by the District's Risk Management Division.

**Worker's Compensation and Employer Liability Insurance:** The contractor shall have in effect, during the entire life of this Agreement, Worker's Compensation and Employer

Liability Insurance providing full statutory coverage. In signing this Agreement, the contractor makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provision of Section 3700 of the California Labor Code, which requires every employer to be insured against Liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provision before commencing the performance of this work of the Agreement.

**Liability Insurance:** The Contractor shall acquire and maintain during the life of this Agreement Liability Insurance for an amount not less than one million dollars combined single limit. Such insurance, shall include all operations performed by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Any exceptions to these insurance provisions must be approved by the District's Risk Management Division.

Required insurance shall include:

- (a) Commercial General Liability \$1,000,000 required
- (b) Motor Vehicle Liability Insurance \$1,000,000, if applicable
- (c) Professional Liability \$1,000,000, if applicable

The District and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the District, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the District, or its officers and employees have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.

In the event that any provision of this section is breached, or in the event that any notice is received which indicates that any required insurance coverage will be diminished or cancelled, the District at its option may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## I. GENERAL PROVISIONS

1. **Work Product:** Unless otherwise specifically agreed upon in writing by Contractor and District, District shall own all copyright and patent rights to all materials developed under this contract.
1. **Notices:** Any notices to be given by either party under the terms of this agreement shall be made in writing and may be delivered either personally or by mail (return receipt requested) as follows to the District: Daniel Dishno, at Occupational Training Institute, Foothill-De Anza Community College District, 21250 Stevens Creek Blvd., Cupertino, CA 95014; and as follows to the Contractor: Ms. Vivian S. Cooper,

Director, Child Development Inc., d.b.a. Choices for Children, 111 North Market St, Suite 100, San Jose, CA 95113.

2. Entire Agreement: The complete agreement consists of the following documents, to wit: The Public Notice, the Proposal Form, the Agreement, all parts of the RFP Specifications, all Addenda incorporated in the documents before their execution and the Contractor's response the RFP #806, as accepted by the District. Any and all obligations of the District and the Contractor are fully set forth and described therein. All of the above documents are intended to cooperate so that any work called for in one an not mentioned in the other, or vice versa, is to be executed in the same manner as if mentioned in all said documents. The documents constitute the entire agreement between the parties and supersedes any and all agreements, either oral or written between the parties with respect to the subject matter of this agreement. Any modification of this agreement shall be effective only if it is in writing and signed by both parties.
3. Partial Invalidity: If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.
4. Governing Law: This agreement will be governed by and construed in accordance with the laws of the State of California.

The Occupational Training Institute of the FOOTHILL-DE ANZA  
COMMUNITY COLLEGE DISTRICT

By

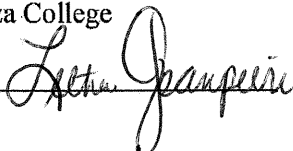


Date

6/14/2012

De Anza College

By




Date

6/21/2012

CHILD DEVELOPMENT INC., D.B.A. CHOICES FOR CHILDREN

By



Date

6/8/2012