

- 1 • The State Superintendent of Public Instruction has illustrated changes to the original
2 text in the following manner: text originally proposed to be added is underlined; text
3 proposed to be deleted is displayed in ~~strikeout~~.
- 4 • The 15-day text proposed to be added is in "**bold underline**", deleted text is
5 displayed in "**~~bold strikeout~~**".
- 6 • The second 15-day text proposed to be added is in "**bold double underline**",
7 deleted text is displayed in "**~~bold double strikeout~~**".

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10 **Title 5. EDUCATION**

11 **Division 1. California Department of Education**

12 **Chapter 19. Child Care and Development Programs**

13 **Subchapter 1. Award of Funding for Child Care and Development Programs**

14 **Article 1. General Provisions**

15
16 **§ 18000. Definitions.**

17 As used in this Chapter:

18 (a) "Additional funds" means award of new contracts or expanded contracts that
19 ~~which~~ increase the contractor's level of administrative responsibility. Additional funds
20 do not include ~~c~~Cost of living adjustments, rate increases, one-time-only supplemental
21 funds or ~~and~~ Alternative Payment program contingency contingency funds ~~sings~~ are
22 ~~not considered to be~~ "additional funds."

23 (b) "Applicants headquartered in" means:

24 (1) Contractors ~~or that who~~ have provided child care and development services in
25 the service delivery area, as defined in ~~S~~section 18000 ~~(f)(g)~~ of this Article ~~Division~~, for
26 at least three ~~(3)~~ years immediately preceding the posting date of the Request for
27 Applications (RFA); or

28 (2) Contractors or applicants that who have their primary administrative offices for
29 the child development program in the service delivery area as defined in ~~S~~section
30 18000 ~~(f)(g)~~ of this Article ~~Division~~. The primary administrative office is that office which
31 houses the executive officer(s), the fiscal functions, and other centralized support
32 services as documented to the Internal Revenue Service.

33 (c) "Cost effective manner" for the purposes of Article 3 of this Chapter, means that
34 services are provided at rates which are within the range of local market rates.

35 ~~(d) "Extended day care" means before and after school care and care during school~~

1 ~~vacation days for children kindergarten age through the ninth (9th) grade.~~

2 ~~(d)(e)~~ "New contract" means either:

3 (1) a contract award to applicants who do not currently contract with the California
4 State Department of Education (CDE) for child care and development services; or

5 (2) a contract award to an existing contractor ~~that~~ ~~which~~ is for a program type as
6 specified in Education Code ~~§~~section 8208(i)(h) that is different than the child
7 development contract(s) currently administered by the applicant.

8 ~~(e)(f)~~ "Request for Applications (RFA)" means an announcement issued by the
9 ~~Child Development Division~~ California Department of Education (CDE) for ~~competitive~~
10 an award of a new funding ~~contract~~ for child care and development services or
11 expansion of an existing level of services. The ~~Request for Applications~~ RFA includes,
12 but is not limited to:

13 (1) the application content requirements;

14 (2) procedures and timelines for submission of an application for funding; and

15 (3) the criteria to be used in evaluating the application.

16 ~~(f)(g)~~ "Service delivery area" means the community, geographic area or political
17 subdivision in which the child care and development services are to be provided as
18 specified in the ~~Request for Applications~~ RFA.

19 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections
20 8261, 8269, 8406.6, and 8447 ~~and 8465~~, Education Code.

21
22 **§ 18001. Eligibility for Funding.**

23 (a) A current contractor is ~~not~~ eligible to apply for new or additional funds except
24 when one or more of the following conditions apply during the RFA cycle: if the
25 contractor has received final notification, as specified in Section 18301 of this Division,
26 that its contract has been terminated.

27 (1) the contractor is on conditional status; or

28 (2) ~~the contractor has a fiscal and/or programmatic noncompliance, that has~~
29 been ongoing for over 12 months, based on documentation from a review conducted
30 by either the CDE or the California Department of Social Services, Community Care
31 Licensing Division, ~~the contractor has a fiscal and/or programmatic~~
32 noncompliance that has been ongoing for over 12 months; or

1 (3) the contractor, within the immediately prior three years, has a documented
2 failure to operate as a going concern and/or an uncorrected material weakness in
3 its annual financial statements, interim financial statements, or its audits, as
4 defined by either Government Auditing Standards or generally accepted
5 accounting principles; or

6 (4) has been debarred from receiving public funds; or

7 (5)(3) the CDE reduced the contractor's current year maximum reimbursement
8 amount due to the contractor's inability to utilize its full contract amount, whether
9 through low enrollment or low expenditures for the same contract type.

10 (b) An applicant that contractor is not a current CDE eligible for additional funds if
11 the contractor is not eligible to apply for funding if one of the following conditions apply:
12 has demonstrated fiscal and/or programmatic noncompliance and has received final
13 notification, as specified in Section 18303 of this Division, that:

14 (1) its contract will be placed on conditional status; or

15 (2) it will not be offered continued funding.

16 (1)(e) the applicant contractor had a previous contract with the CDE that was
17 terminated for cause by the CDE An applicant is not eligible for funding if it has had a
18 prior contract with the State Department of Education for child care and development
19 services within three (3) years immediately preceding the date of the Request for
20 Applications RFA was posted; and:

21 (1) the contract was terminated for fiscal and/or programmatic noncompliance; or

22 (2) the contract funding was not continued because of fiscal and/or programmatic
23 noncompliance.

24 (2) the applicant contractor has an outstanding accounts receivable balance with
25 the CDE; or

26 (3) the applicant contractor has a delinquent audit with the CDE.

27 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections
28 8261, 8406.6 and 8447.5; and 8448, Education Code.

29
30 **§ 18002. Application Review and Award of Contract.**

31 (a) An applicant must submit a complete application in accordance with the
32 instructions and timeline(s) contained in the Request for Applications RFA.

1 (b) If ~~the an~~ application is submitted that is incomplete or not completed in
2 accordance with the instructions and timeline(s), the ~~Child Development Division~~ CDE
3 may shall reject it. If the CDE rejects it, and no further review shall will be made.

4 (c) ~~If a~~Any change is made ~~in to~~ the contents of the Request for Applications RFA,
5 that change willshall be made in writing and shall be posted on the CDE's funding web
6 site located at <http://www.cde.ca.gov/> ~~mailed to all agencies and persons that received~~
7 ~~the Request for Application.~~

8 (d) All applicants that submit a complete application in accordance with the
9 instructions and timeline(s) shall be evaluated as follows:

10 ~~(1)(3)~~ Applications willshall be evaluated and scored in accordance with the rating
11 criteria specified in the Request for Applications RFA.

12 ~~(2)(4)~~ If the Request for Applications RFA includes more than one service delivery
13 area, applicants willshall be considered for the service area(s) specified in their
14 applications;

15 ~~(3)(2)~~ Applicants headquartered in the service delivery area(s) specified in the
16 Request for Applications RFA willshall be given preference over applicants with the
17 same score that are not headquartered in the specified area(s) reviewed first;

18 ~~(4)~~ The Request for Applications shall specify the minimum number of points
19 necessary for applicants to qualify for an interview.

20 ~~(5)~~ The interview will consist of an oral presentation by the applicant regarding the
21 content area of the application and a question and answer portion to clarify or expand
22 on the information presented.

23 ~~(6)~~ The interview will be evaluated and scored in accordance with the rating criteria
24 specified in the Request for Applications;

25 ~~(7)~~ The applicants will be ranked on the basis of the combined scores for the written
26 application and interview.

27 ~~(8)~~ If there are no applicants headquartered in the service delivery area meeting the
28 minimum criteria specified in the Request for Applications, applications from applicants
29 that are not headquartered in the specified service delivery area(s) will be evaluated in
30 accordance with the procedures specified above.

31 ~~(9)~~ The highest scoring application shall receive a tentative offer of funding, subject
32 to the provisions specified in Section 18003 of this Division.

33 (e) The CDE shall notify all applicants in writing of their score.

1 NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and
2 8445.

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4 **§ 18003. Appeals for Request for Applications ~~Contract Award Disputes.~~**

5 (a) Applicants may review applications, ~~interview scores~~ scoring criteria and any
6 reader comments as described in the RFA after receiving the written notification date
7 ~~the proposed application results are posted at the office of the Child Development~~
8 ~~Division.~~ An unsuccessful applicant may appeal the procedures used in the scoring of
9 applications and interviews. If the unsuccessful applicant intends to appeal, the
10 following appeal process shall apply:

11 ~~(a)(1)~~ (1) ~~The unsuccessful a~~ Applicants shall file a notice to of appeal with the CDE
12 ~~Appeals Coordinator identified in the Request for Applications~~ within ten ~~seven (7)~~
13 calendar business days of receipt of the notice issued pursuant to section 18002(e)
14 ~~after the date the proposed application results are posted at the office of the Child~~
15 ~~Development Division.~~

16 ~~(2) The Director of the Child Development Division shall designate a Child~~
17 ~~Development Division staff person who shall coordinate the appeal process and who~~
18 ~~shall be referred to as the "Appeals Coordinator." The Request for Applications shall~~
19 ~~specify the name, address and telephone number of the Appeals Coordinator.~~

20 ~~(3) The Appeals Coordinator shall appoint no less than two (2) State Department of~~
21 ~~Education staff who will be members of an Appeals Panel that shall hear all appeals.~~
22 ~~The members of the Appeals Panel shall be independent from the application review~~
23 ~~process.~~

24 ~~(4) A notice of appeal shall be deemed to be filed if the Appeals Coordinator~~
25 ~~receives a written notice of appeal or a telephone communication within the time period~~
26 ~~required for filing a notice of appeal.~~

27 ~~(b)(2)~~ (5) The notice to appeal shall contain the following information:

28 (1)(A) the appellant's name, mailing address, and telephone number;

29 (2)(B) the name(s) of the person(s) who will represent the appellant at the appeal
30 hearing; and

31 (3)(C) whether the representative(s) will attend the appeal hearing in person appear
32 ~~in person at the appeal hearing or will appear~~ or communicate through a telephone
33 conference call ~~with the Appeals Panel.~~

1 ~~(c)(3)(6)~~ The appellant will be notified of the date, time and place of the appeal
2 hearing in writing to the address provided pursuant to subdivision (a)(2)(A)(b)(1)
3 ~~Appeals Coordinator shall schedule an appeal hearing to be held in Sacramento or with~~
4 ~~a telephone conference call by the Appeals Panel within seven (7) calendar days of the~~
5 ~~receipt of the notice of appeal.~~

6 ~~(d)(4)(7)~~ The appeal will be limited to the RFA package submitted ~~unsuccessful~~
7 ~~applicant shall not submit additional information to be evaluated and scored during the~~
8 ~~appeal process.~~

9 ~~(8) The Appeals Panel shall adjust scores assigned by the reviewers and/or~~
10 ~~interviewers when there is evidence of an inconsistent application of scoring criteria by~~
11 ~~a reader(s) or interviewer(s).~~

12 ~~(e)(5)(9)~~ The **CDE Appeals Panel** shall notify the appellant in writing of the results
13 of the appeal within seven (7) calendar business days of the appeal hearing

14 ~~(b) If, after the Appeals Panel's decision, there is a change in the rank order of~~
15 ~~applications, the applicant who received a tentative offer for funding pursuant to~~
16 ~~Section 18002 of this Division shall receive a notice of the change, and may file an~~
17 ~~appeal with the Appeals Coordinator within seven (7) calendar days of the date the~~
18 ~~notice of the change was sent. If a notice to appeal is filed pursuant to this Subsection,~~
19 ~~the procedures specified above in Subsections (a)(2) through (a)(9), inclusive, shall~~
20 ~~apply.~~

21 ~~(c) A contract award decision is final when an appeal is filed pursuant to subsection~~
22 ~~(b) and the appellant is notified of the Appeal Panel's decision.~~

23 NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261,
24 Education Code.

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26 **§ 18004. Award of Contract.**

27 (a) Prior to announcing a final award, the CDE willshall verify:

28 (1) verify the applicant's eligibility for funding pursuant to section 18001 of this
29 Division; and

30 (2) as applicable, all applicants who have filed appeals have either been
31 notified of the results of their appeal or the applicant has withdrawn their appeal.

32 (b) The applicants will be awarded contract funding based on the
33 applicationapplicant's score for the program narrative and local child care planning
34 council priority rankings.

1 NOTE: Authority cited: Section 8261, Education Code. Reference Sections 8261 and
2 8444, Education Code.

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