

MINUTES OF THE JUVENILE JUSTICE ADVISORY COMMITTEE
Thursday, October 18, 2018

The meeting of the Juvenile Justice Advisory Committee was called to order at 9:15 AM by Douglas Mitchell, Chair, at The Club Teen Center, 122 North Broadway Street, Truth or Consequences, NM 87901.

I. Call to Order - Douglas Mitchell, Chair, at 9:15 AM

II. Roll Call for Quorum

Mr. Mitchell asked for a Roll Call for Quorum, which was conducted by Cindy Varela, Grant Manager. Quorum was established with the following members present:

Members Present

Douglas Mitchell, Chair
Hon. Alan Kirk
Shelly Currier
Oscar Solis
Faith Annalies Cortez
Oscar Gonzalez
Hon. Angie Schneider
Roshanna Toya
Ron West

Members Excused

Sasha Pellerin
Helen Cheromiah
Tina Harris
Tony Ortiz
Nathan Tarbox
Alma Cortez

Staff in Attendance

Nick Costales, Deputy Director of Field Services
Janet Musolf, Special Programs Manager
William Kearney, Grant Management Unit Manager/JJ Specialist
Cindy Varela, Grant Manager
Louis Pacias, Grant Manager
Consuelo Garcia, Grant Manager
Steve Brooks, DMC Coordinator
Patti Vowell, JDAI Coordinator
Steve Shaw, OJJDP Compliance Monitor

Guests in Attendance

Sandra Whitehead, Mayor Pro Tem, City of Truth or Consequences
Rebecca Dow, State Representative
Kathy Burris, Truth or Consequences Continuum Coordinator
Noelle Chavez, Valencia County Coordinator
Jenae Ortiz, Torrance County Continuum Coordinator
Tiffany Mejia, JPO

III. Welcome and Introductions

Sandra Whitehead, Mayor Pro Tem, City of Truth or Consequences, welcomed the Committee and thanked them for their service and support, as well expressing appreciation for the work of their local Continuum.

IV. Presentation by Truth or Consequences Advisory Board Vice Chair, Rebecca Dow

State Representative Rebecca Dow spoke on behalf of the Truth or Consequences Advisory Board. Representative Dow shared information about services available in Truth or Consequences, and JJAC-funded services at The Club Teen Center. They have an active Board that has been meeting once a month, with approximately 30-40 people in attendance. They have had a slow but steady start with successes (e.g., good partnering and support) and challenges (e.g., turnover in staff and some key partners.) The important role of the school and school leadership was discussed, with

exciting developments including interest in Restorative Justice. After input and encouragement from Committee members, Mr. Mitchell thanked Representative Dow for her presentation and for the good job the Continuum is doing.

V. Approval of Agenda:

Mr. Mitchell proposed that item “e” (Continuum Coordinator Update) under Updates be moved up to position “a” and if there are no objections then he would entertain a motion to approve the Agenda. Judge Angie Schneider moved to approve the Agenda. Judge Alan Kirk seconded the motion. Mr. Mitchell then called for discussion. None offered. Motion was approved by unanimous voice vote.

VI. Approval of April 19, 2018 Minutes

A motion was made by Judge Alan Kirk to approve and seconded by Oscar Solis, to approve the minutes from the July 19, 2018, meeting. The minutes were unanimously approved via voice vote.

VII. Updates – Written reports submitted by staff

a. Continuum Coordinator Update – Coordinator Representative

Jenae Ortiz, Continuum Coordinator, Torrance County, representing Coordinators, read a letter from Continuum Coordinators (copy of letter provided to all Board Members)

Mr. Mitchell entertained questions from the Board, but noted that in fairness he was not certain they could answer all the questions posed in this letter. He commented that this was obviously a collaborative effort which was thoughtful and well presented, and thanked the Continuum Collaborative for that. Several Committee members posed questions to Ms. Ortiz and her colleague Noelle Chavez from Valencia County about sustainability, county-level support, local representatives’ support, Coordinator training, the types of Coordinators (local government employees, non-profit employees, and private contractors), billable activities and local partnerships.

Mr. Mitchell asked Ms. Musolf or Mr. Kearney to draft a response to the letter from the Continuum Coordinators with a copy to all Board members as well as a copy to all of the Continuum Coordinators. He then asked what a reasonable timeframe for that would be. Ms. Musolf responded that this could be done within approximately one week. Mr. Mitchell agreed then that this would go out some time during the following week, and that there would be further discussion at the December meeting. He then noted that there needs to be a review of which issues are actually negotiable as CYFD policy, or Legislative or Federal mandates that the Board has no control over.

b. Detention & Compliance Monitoring Update – Janet Musolf & Steve Shaw: Written report

Mr. Shaw shared he has been focusing on administrative functions and getting documentation submitted from agencies that he did not visit through the fiscal year ending September 30th, and he was able to do that in coordination with New Mexico Counties, the New Mexico Chiefs of Police Association and e-mail blasts out to all agencies to get their certification forms returned, etc. He reported that this past week he has been doing site visits in Dona Ana and Luna Counties and that he would be visiting the local and county facilities here (in Truth or Consequences) before leaving today.

Ms. Musolf shared that the new Detention Compliance Monitor would be starting on October 22, and her name is Samantha Lucas. Ms. Musolf went on to say that the Detention Centers are still all up to date and the next one due for inspection is Craig’s in December, so this is great timing for her to come on staff. Ms. Musolf also reported that there are now eight county operated juvenile detention centers in the State, with the closure of the Taos facility. Mr. Mitchell asked if there had been any discussion about closing any of the other centers. Ms. Musolf stated that there had been rumors but nothing official and that there had been some talk about the cost of

the low population versus operating a full time facility.

c. FFY 18 Title II Grant Update – Janet Musolf, Special Programs Mgr., written report.

Ms. Musolf reported that after much consideration and consultation, CYFD made the decision to not sign and accept the Title II FFY18 Grant Award from the Office of Justice Programs, noting newly added special conditions. The first special condition would require CYFD to comply with 8 U.S.C. 1373 (Sanctuary Policies) and also be responsible for monitoring any local unit of government that received federal funds to ensure they complied with it. She then went on to explain there are still three active grants with OJJDP (FFY15, 16 & 17), and that those funds specifically go for a few priority areas that are dictated, one being the State Advisory Board. Committee members discussed holding a Board retreat in calendar year 2019, as well as the value of having a Continuum Coordinator training. Committee member Oscar Gonzalez expressed interest in touring local JJAC-funded programs as part of future Board meetings.

Ms. Musolf also noted that included within the packet were all three State statutes or Administrative codes which the Board must follow as well as additional information regarding the situation with turning away the Federal Funds, and that this does not mean that there will no longer be a Juvenile Justice Advisory Committee, and that there are still State Regulations that state this Board must continue to function. Ms. Musolf shared that the Federal funds are also spent on Native American pass-through activities and that currently there are three years' worth of grants used to fund the project with the Pueblo of Isleta. There will only be \$14,680.00 to make an agreement for FFY20, and then any of the Native American partners who wish to continue activities would be moved over to the Juvenile Justice Advisory Committee funds.

In conclusion Ms. Musolf stated that a letter will be sent, signed by the Governor, to Department of Justice, Office of Justice Programs relinquishing the grant and discussions will need to begin regarding budgeting for fiscal year 20 and beyond for the JJAC and CYFD.

d. Grants Management Unit

i. Unit Funds and Data/ FY 18 Financial Report – Janet Musolf, Special Programs Manager

Cindy Varela provided an updated FY 18 Financial Report, with an update on the three counties for which there was incomplete information for the last meeting. Las Vegas was able to draw down additional funds, and Cibola and Curry Counties stayed the same.

Mr. Mitchell asked if there were any “red flags” and Mr. Kearney stated there were not. Mr. Mitchell commented that this was basically the close-out for fiscal year 2018 and that was confirmed by both Mr. Kearney and Ms. Varela.

ii. Reverted Funds – Janet Musolf, Special Programs Manager

Ms. Musolf called the Board's attention to the item in their packet titled Appropriations and Reversion History, which includes the funding allocation, the amended budget, the actual expenses and the variances for 2010 to 2019. Ms. Musolf noted that the Fund Balance for the Juvenile Justice Advisory Committee is an estimated 1.7 million dollars. She then stated that what they would like to show as well is Juvenile Community Corrections and everything there follows the same thinking across the board and currently there is over 3 million dollars in that Fund Balance.

Ms. Musolf then asked if that the Executive Committee begin to discuss what to do with this estimated 4.7 million dollars in the Fund Balance. She noted that current Budget Legislation has the limit of only moving \$400,000 at a time. Chair Mitchell proposed exploring the feasibility of wiping the slate clean so to speak and put it in a larger fund and expand the type of programs it could be used for. Craig Sparks asked how much flexibility there is within the spending guidelines and agreed with Mr. Mitchell's idea. Approval from DFA could be

explored to include some of this funding into retreats and training especially if combined with a couple of different things. Judge Kirk stated that he did not know if this needed to be addressed by a Legislative change or a procedural change, but it definitely needs to be done properly and accountably and made available to the community programs that serve the youth in those communities, and this needs to be made a priority of the Board to explore how to accomplish this. Judge Kirk asked if it could be put to a data management system, and Ms. Musolf provided an update about where CYFD is putting a new data management system in place (STARS, by Falling Colors, used by Behavioral Health), using federal dollars.

Mr. Mitchell asked for any other questions or comments. He then asked if there was a discussion to take place within CYFD about the \$400,000.00 limit or the option of pursuing getting that money repositioned. Nick Costales responded that if he gets an answer before the end of the meeting he would share that with the Board but if not he will still share the answer whenever it is provided, just to find out where that limitation exists.

iii. Strategic Plan – William Kearney, Grant Management Unit Manager/JJ Specialist

Bill Kearney noted that at the last Board meeting a draft of the Strategic Plan had been presented for Board input and had some very good input. Additionally, there were a number of items he is tracking to work on at the Work Plan level in order to implement strategic priorities. Mr. Kearney stated once the Strategic Plan is approved, he will work with Coordinators to solicit their input so there is partnering in coming up with the actions and how to move forward with the Strategic Plan. He noted that references to evidence-based programs have been amended, per previous discussion, to read “evidence-based and promising programs”. Additional edits and suggested changes were provided by Judge Kirk and Craig Sparks. Mr. Kearney noted that with final input from Committee members provided, the draft will be prepared for approval at the December meeting.

e. Juvenile Community Corrections – Louis Pacias, Grant Manager

Mr. Pacias noted that FY19 has started smoothly for JCC and that all providers are online. He then provided some data which included 137 adjudicated youth referred during the first quarter, out of 483 youth receiving services statewide. There were 90 total youth discharged – 61 successful, 14 unsuccessful and 23 administrative discharges. Mr. Pacias went on to state that they now have contracts in every county with the exception of Los Alamos and Guadalupe, and there is one youth in Los Alamos who is on probation, but he is actually a resident of Espanola.

Since FY16 there have been no contract terminations and in FY17 reversions went way down. Mr. Pacias went on to say that he felt that the JCC providers are feeling more confident. He noted that he had done program audits a year ago and programs were able to address findings and come up with plans to address issues and resolve them. In many cases it was a technical issue with their contract such as documentation and compliance notes, and providers were following the program manual guidelines and overall the audits were very successful.

Mr. Pacias reported that statewide JCC has very good relationships with community stakeholders, Juvenile Probation, the judiciary and CYFD facilities and that they all have been tremendous. He noted that the tattoo removal program has been very successful which was started 18 months ago at John Paul Taylor, so the kids there are getting tattoo removal. He stated that there are some kids that have facial tattoos and they’re coming out of the facility with them removed and that really helps them when they go back to school or go out to get a job.

Mr. Mitchell asked Mr. Pacias if the Community Corrections funds were limited in terms of whether a governmental agency can apply for those funds. Mr. Pacias replied they currently have contracts with governmental agencies such as San Juan County and Rio Arriba County.

f. Legislative Update – Nick Costales, Deputy Director JJS

Mr. Costales began by reminding the Board about the Bill that was presented at last year's Legislature that addressed many elements of the work involved here, including the Risk Assessment Tool and a shift in funding for what JJAC does and things like referrals. He said that there had been continuing conversations with Representative Ruiloba about working on something again this year that would be a lot more narrowly focused than last years', as he is still very interested and wants to present something.

Judge Kirk asked if the Board would know when any legislation is drafted. Mr. Costales replied that one of the things that had been considered was instead of starting from scratch, looking at what has already been drafted and figuratively taking a red pen and crossing out what they now know doesn't not be needed in the statute. Mr. Sparks expressed uncertainty about the timing of this with a new governor coming in, a new Cabinet Secretary to be named, and elements of the previous Bill, and that it should be narrowed down to improve the Juvenile Justice System.

VIII. Board Sub-Committee Reports:

a. Youth Sub-Committee – Annalies Cortez, Chair

No report.

b. DMC/JDAI Sub-Committee – Ron West

Report submitted by Patti Vowell, JDAI Coordinator & Steve Brooks, DMC Coordinator

Mr. Mitchell recognized Mr. Ron West as the new designated Chair of this Subcommittee and expressed his appreciation for Mr. West taking on this responsibility. Mr. West reported that he and Steve Brooks met shortly after the previous JJAC Board meeting for Mr. West to coming up to speed on the activities of this Subcommittee. Mr. West also reported that they had set up a telephone conference and made some introductions and basically came away from that conference with Mr. Brooks and Ms. Vowell getting some documentation and information off to these contacts. Mr. West noted that a tentative meeting date had been set up for November 7th or 8th in Albuquerque, and that at the next Board meeting they hoped to be able to report about what the plan is and what direction things will be going.

Ms. Patti Vowell shared information about JDAI Connect and encouraged Board members to joining the JDAI Connect online community and Steve Brooks shared information about the 21-day challenge, which provided a great opportunity to reflect on racial issues and the work that is happening in communities nationwide in advancing equity work. Given New Mexico's impressive participation in the challenge, the State was awarded \$15,000 from the Annie E. Casey Foundation.

Mr. Mitchell then asked Ms. Vowell to report on the work of the Statewide Leadership Team. Ms. Vowell shared that they had identified the next sites that will be visited in this "timeline" of phases and the timeline of bringing in all the sites ending in the year 2020.

c. Grant Sub-Committee – Oscar Solis, Chair

Mr. Solis welcomed Mr. Oscar Gonzalez to the Subcommittee and noted that the Subcommittee is very pleased to have him join them. Mr. Solis then reminded the Board that the grant review dates had been moved up from what was originally scheduled for December to the full day of November 14th. Mr. Solis stated that all the Subcommittee members have received the Application Booklets and that four counties have been assigned per Committee member based on a county within the member's local area and counties both large and small. Mr. Solis noted that application questions are due by October 26th so they are moving along with their timeline and will be ready for their meeting in November.

Mr. Mitchell asked if those would be presented at the December 6th meeting and Mr. Solis responded that they would be.

d. Executive Sub-Committee – Doug Mitchell, Chair
JJAC Board Participation

Mr. Mitchell noted that he had asked staff to prepare attendance logs similar to what they had received three or four years ago and asked the Board to examine those. He noted that he thought this might be interesting information for the next Administration as they consider who they would want to leave on the Committee and who they would not want to remain. Mr. Mitchell then questioned how best to communicate this information and if it would go to the Cabinet Secretary as part of the transition report or if there were some other means. Mr. Costales then commented that over the past few weeks CYFD has been asked to put together a number of transition lists and he anticipates that it will be included in one of the upcoming requests.

Mr. Mitchell noted it was imperative to have a quorum for the December 6th meeting in Albuquerque in order to act on the Grants, so members needed to be sure to block that date off on their calendars.

Mr. Mitchell then asked Mr. Costales to be sure that these Committee member attendance logs are included in the information gathering process, even if not requested, so that the new administration will be aware of the current Board members diligence in participation.

Board Meeting Schedule

Ms. Musolf noted that the December 6th meeting will be in Bernalillo on Second Street and thanked Mr. Sparks for hosting that. Ms. Musolf then explained that practice of the Board was to try to rotate their meetings throughout the four regions and optimally the meetings in the southern regions were scheduled for the cooler months and the northern region meetings scheduled in the warmer months, and this rotation also facilitates the Board getting to different areas in order to hear from the different Continuums and local officials in these areas. Ms. Musolf then reported that the March meeting is presently scheduled to be held in Las Cruces as it has been about two years or more since the Board has been to Las Cruces.

Mr. Mitchell then asked for questions, comments or suggested changes in terms of the proposed schedule and there were none.

IX. Public Comment

Ms. Jenae Ortiz noted that in the letter from the Coordinators she had read earlier there had been an error which consisted of a word omission and that this had been corrected and there was now a corrected copy of the letter available for everyone. She also wanted to remind everyone that these are actual children involved, not just numbers, and that impacting the lives of these children in a positive manner is why we are doing this work.

Mr. Mitchell thanked Kathy Burris, the Continuum Coordinator for Truth or Consequences for hosting the meeting and commented that she had done a great job. Kathy thanked the Committee for allowing Truth or Consequences to host and expressed her appreciation to the Committee and to the Staff for all their hard work.

Mr. Mitchell noted that there was information about Sierra County available on one of the tables.

Judge Kirk noted that Los Alamos County had just received the printout of the Annual Report from their local Continuum and their three-year Strategic Plan and those were available to anyone who might want a copy.

XII. Adjournment

Mr. Mitchell called for a motion to adjourn. Mr. Ron West so moved. Motion was seconded by Judge Angie Schneider. Motion carried by unanimous voice vote. Meeting adjourned at 1:17 p.m.

The next proposed meeting to be held on December 6, 2018 in Bernalillo County, NM

Minutes Approved by the JJAC Committee on December 6, 2018:


Douglas Mitchell, Chair

Dear JJAC Board and CYFD Special Projects Unit,

Earlier this year, in an effort to support one another, various statewide continuum coordinators formed a coalition. Since that time we have been meeting on a monthly basis. Through this process we have learned that we share many of the same struggles. We have also learned that we agree on solutions that will allow CYFD to meet their strategic goals while also allowing our JJAC's to thrive. We, as the JJAB Continuum Coordinators appreciate the support of the Board and CYFD and the opportunity to serve the youth and families throughout New Mexico. To this end, we would like to voice our concerns regarding issues which result in increased difficulty for our local continuums to provide effective services for our youth.

JJAC Continuum Coordinators would like to see a partnership leadership model driven by a collaborative spirit. When CYFD creates policies/processes to address requirements placed on the local continuums in order to access funds, we would like to have a voice at the table. In alignment with the Continuum Act, we believe that local boards are best equipped to determine the needs and programming for their communities. Yet, the current direction is leading to the erosion of community autonomy. We believe local Continuum Coordinators should be involved as partners in providing input into the State strategic planning process. For the current plan there was no input solicited in the initial draft, nor was there follow-up for collaborative discussion of the document before it was presented for final approval.

Within the new CYFD strategic plan, there are three main concerns local continuums feel need immediate attention and may require timely amendments to current contracts;

- Evidence Based vs. Emerging/Best Practices- Currently, only evidence-based programming is acceptable for continuum funding. This severely restricts the ability of continuums to offer best-practice programs and curtails all innovation in responding to local needs. The recent presentation by Dr. Wayne Lindstrom, Director of BHSD, reiterated that limiting programming exclusively to evidence-based was detrimental to meeting the needs of youth in New Mexico due to the high cost of programming, the lack of trained personnel (especially in rural areas), and the exclusion of best-practice options. Small rural communities lack qualified workforce, access to required training, and the number of youth that must be served to cover the cost of training and curriculum. The billable rate per unit does not cover the upfront cost of implementation of any new evidence based programming.
- Top Down Approach- second concern stems from the statements within the strategic plan on future actions and paths forward. There is currently no mention of state collaboration with the local continuums. These actions point to unilateral decision making by CYFD staff regarding data collection, assessing local needs, and prescribing programming to local sights.
- Definitions of At-risk Youth- The third concern is the new CYFD definition of at-risk youth. Increasing restrictions on funding have limited the ability to address indicators within our local communities. The OJJDP defines youth at risk as "... the delinquency and status offense youth population at risk would be the number of children 10 through 17 years of age living within the geographical area served by the court." According to the OJJDP literature review an extensive list of indicators include; truancy, poverty, parenting deficits, substance use, discipline issues, mental health, etc. While these items are indicators, the grant process feedback has stated parenting deficits and truancy for example, are not allowed for consideration as justification for grant funding.

There were also many concerns raised by nearly every local Continuum Sight across our state

Concerns raised by Local Continuum Sights:

The increased complexity of the data reporting and grant application processes, as well as significantly decreased reimbursement related to continuum coordinator administration. For Example;

- Fiscal agent administrative fees were eliminated, during the 2020 grant review process. Municipalities are expected to assume liability and administer the grant at a loss of time and human resources. We request that the 4% administrative fee be restored.
- A \$22 per hour max fee for contracted coordinators was instated during the month of August for FY19. This is particularly burdensome for rural communities and JJACs with small contracts. We recommend that each JJAC be allowed to justify and negotiate the coordinator line item based on the local need.
- In addition to this \$22 an hour max, a 20% administrative fees cap was initiated. So, a continuum which receives a grant award of \$50,000 dollars would be limited to only a \$10,000 fee for the coordinator. This is particularly burdensome for rural communities and JJACs with small contracts. We recommend that each JJAC be allowed to justify and negotiate the coordinator line item based on the local need.
- This includes, per CYFD, the contract for the continuum coordinators work. This 20% also includes the stipend for youth and travel expenses. Smaller, rural counties are especially adversely affected by the reduction in coordinator reimbursement. This is particularly burdensome for rural communities and JJACs with small contracts. We recommend that each JJAC be allowed to justify and negotiate the coordinator line item based on the local need.

The above are very specific examples that demonstrate the difficulty for rural communities to recruit qualified personnel into these contracted positions consistently. In addition, rural counties are unable to offer benefits of any kind and the contractor is required to pay applicable taxes independently from this small amount.

Contracted Continuum coordinators, who are most familiar with the operational programming aspects, are restricted from participating in the grant application. This is because of a perceived conflict of interest which would only apply to a contractor who would receive reimbursement for programming; not a contractor who is responsible for operational oversight such as a continuum coordinator.

In closing, the local continuums request greater input and collaboration during implementation and planning of processes and policies defined by CYFD. Local continuums are striving to increase the well-being of our youths. We also ask for a collaborative process for decision making which would help eliminate unilateral decision-making concerns.

Thank you for your consideration,

JJAB Continuum Coordinators

Dear JJAC Board and CYFD Special Projects Unit,

Earlier this year, in an effort to support one another, various statewide continuum coordinators formed a coalition. Since that time we have been meeting on a monthly basis. Through this process we have learned that we share many of the same struggles. We have also learned that we agree on solutions that will allow CYFD to meet their strategic goals while also allowing our JJAC's to thrive. We, as the JJAC Continuum Coordinators appreciate the support of the Board and CYFD and the opportunity to serve the youth and families throughout New Mexico. To this end, we would like to voice our concerns regarding issues which result in increased difficulty for our local continuums to provide effective services for our youth.

JJAC Continuum Coordinators would like to see a partnership leadership model driven by a collaborative spirit. When CYFD creates policies/processes to address requirements placed on the local continuums in order to access funds, we would like to have a voice at the table. In alignment with the Continuum Act, we believe that local boards are best equipped to determine the needs and programming for their communities. Yet, the current direction is leading to the erosion of community autonomy. We believe local Continuum Coordinators should be involved as partners in providing input into the State strategic planning process. For the current plan there was no input solicited in the initial draft, nor was there follow-up for collaborative discussion of the document before it was presented for final approval.

Within the new CYFD strategic plan, there are three main concerns local continuums feel need immediate attention and may require timely amendments to current contracts;

- Evidence Based vs. Emerging/Best Practices- Currently, only evidence-based programming is acceptable for continuum funding. This severely restricts the ability of continuums to offer best-practice programs and curtails all innovation in responding to local needs. The recent presentation by Dr. Wayne Lindstrom, Director of BHSD, reiterated that limiting programming exclusively to evidence-based was detrimental to meeting the needs of youth in New Mexico due to the high cost of programming, the lack of trained personnel (especially in rural areas), and the exclusion of best-practice options. Small rural communities lack qualified workforce, access to required training, and the number of youth that must be served to cover the cost of training and curriculum. The billable rate per unit does not cover the upfront cost of implementation of any new evidence based programming.

The request for evidence that proposed programs are evidence-based, or an established best practice, comes from the language governing the Juvenile Continuum Grant Fund (NMAC 7/31/2007). Title 8, Chapter 14, Part 13: Juvenile Continuum Grant Fund requires:

- 8.14.13.8 Allowable uses of grant fund money:
 - A. Cost effective services for juveniles who are at risk of referral from a required partner to the department's juvenile probation and parole. These are services that have previously been demonstrated through research or evaluation to be effective at preventing or intervening in the targeted behaviors or that lead to the desired change in targeted behaviors. Targeted behaviors are those which prompt the juvenile's referral to the service, or that are effective in diverting the juvenile from involvement with the juvenile justice system. Applicants may be requested to provide proof of cost-effectiveness in their funding proposals.

Guidance given during the application training and application reviews stated that priority consideration would be given to those proposed programs that could offer evidence that the program demonstrated, or had been evaluated as, promising or effective. Fiscal agents were advised that programs not meeting the above, would be considered, but may not be funded.

- Top Down Approach- second concern stems from the statements within the strategic plan on future actions and paths forward. There is currently no mention of state collaboration with the local continuums. These actions point to unilateral decision making by CYFD staff regarding data collection, assessing local needs, and prescribing programming to local sights.

Over the past four years, in an effort to realign the utilization of continuum funds and improve accountability, CYFD's Special Programs Unit chose to reorganize its strategic plan. In keeping with the language governing the Juvenile Continuum Grant Fund (NMAC 7/31/2007). Title 8, Chapter 14, Part 13: Juvenile Continuum Grant Fund requires:

8.14.13.9 Identifying Priorities for Award of Grant Fund Money: Each fiscal year the money is available to be disbursed from the grant fund, the department (CYFD) in consultation with JJAC shall determine specific priorities for disbursement of the available money. The priorities must be selected from among the allowable uses specified for grant fund money.

During the first three-year strategic plan, needs were identified using the continuums' needs assessments and strategic plans (as submitted through the application process), as well as CYFD's Juvenile Justice annual reports and crime analysis. Also included was direction for greater accountability to the use of funds, data gathered, and ability to identify and meet performance measures. From there, CYFD and the JJAC Executive Committee developed the final plan for approval by the full JJAC Board.

For the second three-year plan, CYFD used the same approach, as well as identifying successes and roadblocks discovered through the first plan. The second plan was developed in a structure that identified goals, objectives, and activities with the use of future work plans to meet those goals and objectives. As stated at the July JJAC Board meeting, this plan is for the direction of the Special Programs Unit and will involve fiscal agents, continuum boards and coordinators at the appropriate work plan level.

- Definitions of At-risk Youth- The third concern is the new CYFD definition of at-risk youth. Increasing restrictions on funding have limited the ability to address indicators within our local communities. The OJJDP defines youth at risk as "... the delinquency and status offense youth population at risk would be the number of children 10 through 17 years of age living within the geographical area served by the court." According to the OJJDP literature review an extensive list of indicators include; truancy, poverty, parenting deficits, substance use, discipline issues, mental health, etc. While these items are indicators, the grant process feedback has stated parenting deficits and truancy for example, are not allowed for consideration as justification for grant funding.

The definition of at risk youth and how it is applied is detailed in the language governing the Juvenile Continuum Grant Fund (NMAC 7/31/2007). Title 8, Chapter 14, Part 13: Juvenile Continuum Grant Fund requires:

8.14.13.7 Definitions:

- E. “Juvenile justice continuum” means a system of services and sanctions for juveniles arrested or referred to juvenile probation and parole or at risk of such referral and consists of a formal partnership among one or more units of local or tribal governments, the children’s court, the district attorney, the public defender, local law enforcement agencies, the public schools and other entities such as private nonprofit organizations, the business community and religious organizations.
- F. “At a risk of such referral” means that the juvenile has demonstrated specific behaviors that if repeated will make the juvenile eligible for a referral to juvenile probation and parole, and these behaviors have come to the attention of public agency officials such as the public school, law enforcement or protective services officials. Some examples are truancy or disruptive behavior in school.

8.14.13.8 Allowable uses of grant fund money:

- A. Cost effective services for juveniles who are at risk of referral from a required partner to the department’s juvenile probation and parole. These are services that have previously been demonstrated through research or evaluation to be effective at preventing or intervening in the targeted behaviors or that lead to the desired change in targeted behaviors. Targeted behaviors are those which prompt the juvenile’s referral to the service, or that are effective in diverting the juvenile from involvement with the juvenile justice system. Applicants may be requested to provide proof of cost-effectiveness in their funding proposals.

CYFD is bound by the language that governs the funds. Parenting programs in and of themselves are not eligible for funding under the above language. CYFD does encourage the Strengthening Families Program as a curriculum that offers a parent component in addition to the youth and group components.

CYFD does not consider truancy programs as a priority for funding, as the NM Public Education Department awards over \$3 million dollars annually to truancy coaches across the state. CYFD will consider truancy programs that have been rejected by PED with clear and compelling data showing the need.

There were also many concerns raised by nearly every local Continuum Sight across our state

Concerns raised by Local Continuum Sights:

The increased complexity of the data reporting and grant application processes, as well as significantly decreased reimbursement related to continuum coordinator administration. For Example;

- Fiscal agent administrative fees were eliminated, during the 2020 grant review process. Municipalities are expected to assume liability and administer the grant at a loss of time and human resources. We request that the 4% administrative fee be restored.

In state fiscal year 2017, four continuums took advantage of the 4% administrative fee. In state fiscal year 2018, that number dropped to three. The application for state fiscal year 2019 was redesigned and a

space for the administrative fee was overlooked. The fee was not eliminated on our part and no direction was given to that effect. This oversight was not brought to our attention until now.

- A \$22 per hour max fee for contracted coordinators was instated during the month of August for FY19. This is particularly burdensome for rural communities and JJACs with small contracts. We recommend that each JJAC be allowed to justify and negotiate the coordinator line item based on the local need.
- In addition to this \$22 an hour max, a 20% administrative fees cap was initiated. So, a continuum which receives a grant award of \$50,000 dollars would be limited to only a \$10,000 fee for the coordinator. This is particularly burdensome for rural communities and JJACs with small contracts. We recommend that each JJAC be allowed to justify and negotiate the coordinator line item based on the local need.
- This includes, per CYFD, the contract for the continuum coordinators work. This 20% also includes the stipend for youth and travel expenses. Smaller, rural counties are especially adversely affected by the reduction in coordinator reimbursement. This is particularly burdensome for rural communities and JJACs with small contracts. We recommend that each JJAC be allowed to justify and negotiate the coordinator line item based on the local need.

At the fiscal agent training, held September 8, 2017, fiscal agents were given a spreadsheet (attached) detailing each county’s SFY16 and SFY17 allocations broken down by administration and direct services. Counties were highlighted where their administration expenses outpaced their direct service expenses. The discussion revolved around the fact that SFY17 saw an increase in administrative costs over direct services, as well as an increase in counties drawing down administrative funds over direct services.

SFY16	<u>Allocation</u>	<u>Expenses</u>	<u>Percentage</u>
Total	\$3,112,236	\$2,653,097	85.25%
Admin	598,683	528,726	88.31%
Direct	2,513,553	2,124,371	84.52%
SFY17			
Total	\$2,735,997	2,371,716	86.69%
Admin	663,896	616,928	92.93%
Direct	2,072,101	1,754,788	84.69%

CYFD outlined two areas where we needed to turn this around. The first guidance offered was that we would like to see administrative costs become more in line with 20% of the total grant amount requested. The 20% was not mandated. The guidance was given that if fiscal agents requested more than 20% in administrative costs, the application would need to justify the request.

The second area was that of continuum coordinator salary. The grant agreement requires the coordinator to provide seven specific job responsibilities for the grant funds. In many cases, fiscal agents are requiring the coordinator to provide additional duties outside of those seven. In an effort to realign the coordinator expenses with the responsibilities outlined in the grant, CYFD studied the hourly wages of all coordinators and established a reimbursed hourly rate of \$22.

CYFD’s position is that the Continuum Grant Fund requires a 40% match contribution. Guidance was given that if a fiscal agent wanted to pay their coordinator more than \$22/hour that would be allowable.

Beginning in SFY19, CYFD would reimburse up to \$22/hour and consider that balance of the hourly wage as match.

The above are very specific examples that demonstrate the difficulty for rural communities to recruit qualified personnel into these contracted positions consistently. In addition, rural counties are unable to offer benefits of any kind and the contractor is required to pay applicable taxes independently from this small amount.

Contracted Continuum coordinators, who are most familiar with the operational programming aspects, are restricted from participating in the grant application. This is because of a perceived conflict of interest which would only apply to a contractor who would receive reimbursement for programming; not a contractor who is responsible for operational oversight such as a continuum coordinator.

We agree that the coordinators offer important insight into the needs of youth and appropriate programming in their communities. Guidance to the fiscal agents for completing the application, in keeping with the following requirements, was to solicit information from current subcontractors as to need, programming, number of youth served and cost allocation as a means to better understand their community's plan for submission. We advised that subcontractors are not to be responsible for or be physically involved in the creation and submission of the application.

Since state fiscal year 2015, the funding agreement's Attachment 3: CYFD Administrative and Fiscal Standards, Fiscal Standards, For All Contractors, Compliance states in #1, "The Contractor shall comply with all federal and state statutes, rules and regulations. Cost principles, administrative requirements and audit requirements, applicable to federal grants shall apply to state funds as referenced in the section Source Sheet of the CYFD Administrative and Fiscal Standards" (Page 22 of SFY19 agreements).

The Uniform Administrative Requirements, 2 CFR Part 200, sections that most apply to this situation are: § 200.318 General procurement standards. (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part. (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. **No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.** The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
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(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct

covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.213 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

- (i) The actual cost of materials; and
- (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction. Code of Federal Regulations / Title 2 - Grants and Agreements / Vol. 1 / 2018-01-01122 [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 43309, July 22, 2015]

§ 200.319 Competition. (a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to: (1) Placing unreasonable requirements on firms in order for them to qualify to do business; (2) Requiring unnecessary experience and excessive bonding; (3)

Noncompetitive pricing practices between firms or between affiliated companies; (4) Noncompetitive contracts to consultants that are on retainer contracts; (5) Organizational conflicts of interest; (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and (7) Any arbitrary action in the procurement process. (b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. (c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations: (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. (d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

[48 CFR Federal Acquisition Requirements, Subpart 9.5 Organizational and Consultant Conflicts of Interest:](https://www.gpo.gov/fdsys/pkg/CFR-2011-title48-vol1/pdf/CFR-2011-title48-vol1-part9-subpart9-5.pdf)

<https://www.gpo.gov/fdsys/pkg/CFR-2011-title48-vol1/pdf/CFR-2011-title48-vol1-part9-subpart9-5.pdf>

In closing, the local continuums request greater input and collaboration during implementation and planning of processes and policies defined by CYFD. Local continuums are striving to increase the well-being of our youths. We also ask for a collaborative process for decision making which would help eliminate unilateral decision-making concerns.

Thank you for your consideration,

JJAB Continuum Coordinators