



**SENIOR DEPUTY COMMISSIONER OF EDUCATION – P-16**  
Office of Elementary, Middle, Secondary and Continuing Education  
Office of Higher Education

To: Contract for Excellence School District Superintendents  
NYC Chancellor Klein

From: Johanna Duncan-Poitier

Date: September, 2009

Subject: Additional Information Regarding 2008-09 Contracts for Excellence

As the second year of Contracts for Excellence draws to a close, it is important that we once again address a number of year-end requirements and responsibilities. To that end, attached to this memo are the following attachments:

- A. Guidance on Supplementing and Supplanting in NYS Contracts for Excellence (including examples)
- B. Revised Independent Auditors Agreed-Upon Procedures and Reporting Document
- C. Summary of Allowable Programs in 2008-09 Contracts for Excellence
- D. Accounting Guidance
- E. Screen Shot From On-Line Expenditure System
- F. Payroll Certification Template

It is critical that districts are aware of are those situations where not all 2007-08 or 2008-09 Contract for Excellence funds will be expended by June 30, 2009. 2007-08 funds only that are unspent as of June 30, 2009 may be expended in 2009-10. However, there is no provision for “carry-over” of new 2008-09 funds which are not expended by June 30, 2009. Please note that districts which do not expend all Contract for Excellence 2008-09 funds will need to include the unexpended amount as a liability on their June 30, 2009 financial statements to ensure that this aid does not revert to fund balance on July 1, 2009. Unexpended C4E funds will be reclaimed in the payment of 2009-10 aids. If you have questions in this area please contact Charles Szuberla, Executive Director of School Operations and Management Services, at 518-474-2238.

Following are important dates associated with the close-out process for the 2008-09 Contracts for Excellence. (Please note the relevant dates that the independent auditor’s annual audit report, including the Contract for Excellence report is due to the State Education Department.) They are:

- |                     |  |
|---------------------|--|
| September 1, 2009 - | Due Date for Expenditures Reported to the State Education Department via the on-line expenditure reporting system  |
| October 15, 2009 -  | Due Date for submission of Contract for Excellence Independent Auditor’s Report to SED <u>as part of</u> the district’s independent annual audit report (Non Big 5 City School Districts)  |
| January 1, 2010 -   | Due Date for submission of Contract for Excellence Independent Auditor’s Report to SED <u>as part of</u> the district’s independent annual audit report (Big 5 City School Districts only) |

January 15, 2010 - Due Date For Contract for Excellence Corrective Action Plan, if necessary (Non Big 5 City School Districts)

April 1, 2010 - Due Date For Contract for Excellence Corrective Action Plan, if necessary (Big 5 City School Districts only)

Thank you for your assistance and cooperation.

cc: Carole Huxley, Interim Commissioner of Education  
William Thompson, Jr., Office of the Comptroller, City of New York  
Chief Financial Officers of Big 4 School Districts  
NYS Public School Accounting Committee

Attachment

## ATTACHMENT A

### Supplementing and Supplanting In New York State Contracts for Excellence

Contracts for Excellence (C4E or Contracts) require that an independent certified public accountant, an independent accountant or comptroller of NYC certify that "...the increases in Total Foundation Aid and Supplemental Improvement Plan Grants have been used to supplement, and not supplant funds allocated by the district in the base year for such purposes." This has raised numerous questions regarding precisely what constitutes supplementing and supplanting.

Accordingly, this paper will address these questions in order to guide and advise Contract districts in this regard. Note that the definition, measurement and audit standards of supplement/supplant may vary depending on whether a district was new to the C4E program in SY 2008-09, or whether this reflected their second year as a participating district. For example, for that handful of districts new to the program in SY 2008-09, the references to the base and current years shall have differing recordkeeping implications.

That is, districts whose participation in the program *began* in SY 2008-09 will not need to document base year C4E allowable expenditures in the same manner as those districts *continuing* in the program for SY 2008-09. Auditors examining the accounts of those districts in the second year of the program will need to substantiate that the districts' allocations of their Contracts in the current years do not supplant and do in fact supplement expenditures made in the base year. Therefore, auditors will have to verify that expenditures that the district claims are new for program year 2008-09 are actually associated with this year; in this case, this will require an examination of invoices, receipts, contracts, payroll and/or other financial documents (whichever are applicable) from both the 1<sup>st</sup> and 2<sup>nd</sup> program years to clarify that second program year activities are legitimately claimed.

#### ***Supplanting***

A question to start this discussion might be "What would have happened in the absence of the additional Foundation Aid used to support Contract for Excellence programs?" That is, if in the absence of the Contract funds, the district would have otherwise increased monies for a particular expenditure category (which they are choosing to fund with C4E), then a state of supplanting has occurred.

For example, supplanting would be evidenced in cases where the district:

- A. Used funds to provide services that the district was required by other federal or State or local laws; or
- B. Used funds to provide services that the district provided with non-Contract funds in the prior year.

Specific examples that flesh out these criteria:

The district used Contract funds to provide services required by or stated in a child's IEP (individual education plan) or for example, to provide academic intervention services (AIS); in both these cases, this would not be allowable; these are examples of supplanting as they are expenditures of funds required by State and federal law.

A district chose to fund a position or functionality which would be necessary in the absence of the contract – e.g., a Math or ELA curriculum specialist; the district would be prohibited from using Contract monies for this purpose: this would be another example of supplanting.

One area of concern for Contracts for Excellence is the use, or replacement of federal funds. It is clear that if a federal grant is not ending or has not already ended, then expenses paid for through that grant in the base year cannot be moved to the General Fund (re: Contract for Excellence) in the current year and the grant then used for other expenses. This is a case of supplanting and thus, is not permitted.

Another area is the use of additional Foundation Aid, under the Contract for Excellence program, for expenses that would otherwise generate other forms of aid (i.e., BOCES Aid, Computer Hardware Aid, etc.). Whether Contract for Excellence funds can be used for expenses that can generate other aids depends on whether the expense is an integral part of an allowable program under the C4E program and whether it is used consistent with the legislation to supplement existing district effort and to predominately benefit students with the greatest educational needs. Whether the district can also claim other aid for this expense depends on each aid program each of which may have specific statutory requirements. Unless there is a specific prohibition in the law prohibiting the use of aid or grants to generate other aids, districts may use Foundation Aid subject to C4E requirements for the local share of the expense. Department guidelines forbid the use of Foundation Aid subject to C4E requirements for the portion of the expense that will generate aid. For example, if a district wishes to incur new transportation expense to operate an extended day program, Foundation Aid subject to C4E requirements may be used for the total expense in the first year (before aid flows) and for the local share in the second year when the district will also receive Transportation Aid. If the district's Transportation Aid ratio is, for example, 85 percent, they can use Foundation Aid subject to C4E requirements for 15 percent of the expense in the year they also receive

Transportation Aid. Table 1 shows aid programs and whether Contract for Excellence funds can be used and aid received.

**TABLE 1**

<b>Expenses</b>	<b>C4E Funds Used?</b>	<b>Other Aid Received?</b>
Shared services	Yes, local share only.	Yes. BOCES Aid
Construction	No	Districts may seek Building Aid separately.
Transportation	Yes, local share only.	Yes. Transportation Aid
Instructional Computer Hardware	Yes, local share and aidable expense not otherwise reimbursed.	Yes. Instructional Computer Hardware Aid
Textbooks	Yes, aidable expense not otherwise reimbursed.	Yes. Textbook Aid
Software	Yes, aidable expense not otherwise reimbursed.	Yes. Software Aid
Library materials	Yes, aidable expense not otherwise reimbursed.	Yes. Library Materials Aid

A second type of aid issue that districts may encounter is when C4E expenditures are for programs previously supported by a state revenue source since folded in to Foundation Aid. An example of this would be expenses for programs that had previously been paid for thru an Early Grade Class Size Reduction Grant. Because this grant was folded into Foundation Aid, and is included in the Foundation Aid base amount, using the increase in Foundation Aid (that is restricted for new or expanded programs, as per C4E requirements) to fund programs previously paid for through such grant would be an example of supplanting and is not allowed. Districts will need to evaluate all revenue sources that were folded into Foundation Aid and determine if any of their current C4E programs were once paid for by such sources. If so, they may not supplant with Contract for Excellence funds.

One final issue in the area of supplanting is what may be done with C4E funds in the current year that were used on non-recurring, new expenses in the base year. An example of this would be the purchase of new equipment. If the district purchased new equipment in the base year and is not continuing this expense in the current year, then the amount spent on the

equipment must be used for new programs in the current year. A district may not simply reduce its Contract for Excellence amount because the equipment was a “one-time” expense. That would be considered supplanting and is not allowed.

### *Supplementing*

Supplementing can be considered as the opposite of supplanting and is not only allowed but in fact is required as part of the legislation. Inherent in the concept of supplementing is that the district is doing, providing or delivering more service(s) in an area than was done previously. For example, if a district wished to continue a Class Size Reduction program, paid for through a grant in the base year and again in the current year but wanted to expand the program by the hiring of two additional teachers to bring class size down further in the current year, the costs of those new teachers could be counted as a Contract for Excellence expense. This would be a situation where a district is doing more than what was done in the base year and therefore would be considered supplementing. For example, if the district can demonstrate that it would not have provided services being supported as Contract for Excellence expenditures without such increase in foundation aid, then those services might be appropriately considered supplementing existing programs.

At the same time, if a service or program in the base year that was not otherwise going to be provided in the current year because the grant or other source of revenue was eliminated, and due to actions beyond the control of the Board of Education then Contract for Excellence funds could be used to continue that service in the current year. In this case, it would be easier for a district to demonstrate that without the additional Foundation Aid they could not or would not have provided such services. This is a case of supplementing and is appropriate for the expenditure of Contract for Excellence funds that are required for new or expanded allowable programs.

Another exceptional case which at first glance might appear to be supplanting but on further examination, would not, includes the following. A district that creates an extended day program targeting poor students, whose regular school day programming is not paid by the Contract, would not be supplanting; expansions of services of this sort, are per se, supplemental.

The thornier issue is in the case where a grant or source of revenue is being reduced but not eliminated completely or when the rules governing such revenue change. An example of this is the federal Reading First program for which the federal government is reducing funds to school districts. If the district can demonstrate that such services would have otherwise ceased to be provided, then Contract for Excellence funds could be used to continue them

provided the expenditure fit under the rubric of one of the six allowable Contract purposes. This would be considered supplementing under the current legislation and is allowed. <sup>1</sup>

This guidance is illustrative but not exhaustive. There may be other circumstances and examples that we have not considered here. Therefore, if a district has a question as to whether or not a program is considered supplementing or supplanting they are invited to write the NYS Education Department as soon as possible to request clarification ([emscmgts@mail.nysed.gov](mailto:emscmgts@mail.nysed.gov)).

## **Sources**

New York State Law: Education Law §211-a, 211-b, 211-c, 211-d, 305, 2116-a, 3602, and 3641

Regulations of the Commissioner: §100.13 and 170.12

NYSED Contract for Excellence Guidance Document “Frequently Asked Questions”, found at: [http://www.emsc.nysed.gov/mgtserv/C4E/htm/C4E--FAQs-7-23-07\\_2.htm](http://www.emsc.nysed.gov/mgtserv/C4E/htm/C4E--FAQs-7-23-07_2.htm)

Power Point Presentation – “Federal Education Grants Management Requirement”, Brustein & Manasevit. Posted on NYSED Grants Finance website – [www.oms.nysed.gov/cafe/presentation.pdf](http://www.oms.nysed.gov/cafe/presentation.pdf)

US Department of Education, *Non Regulatory Guidance, Title I Fiscal Issues: Maintenance of Effort Comparability Supplement, Not Supplant Carryover Consolidating Funds in Schoolwide Programs Grantback Requirements*, Revised 2008

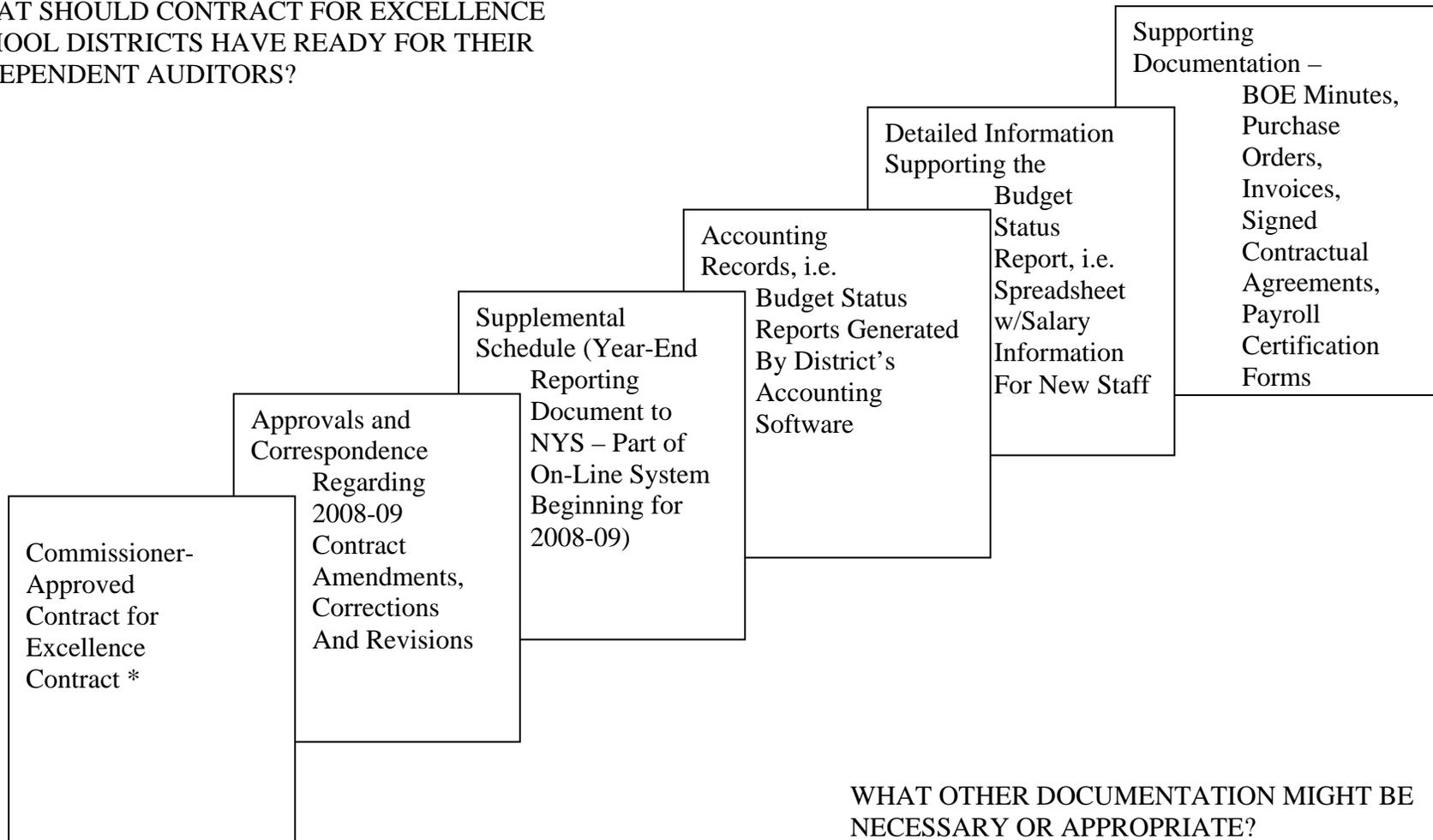
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<sup>1</sup> In such a case, school board minutes or other documentation which would describe or flesh out the rationale or set of circumstances that caused this loss of expected funds would constitute adequate evidence.

**PROCEDURES FOR SCHOOL DISTRICTS AND  
INDEPENDENT AUDITORS  
TO MEET REQUIREMENTS OF EDUCATION LAW  
SECTION 211-D  
CONCERNING CONTRACTS FOR EXCELLENCE**

New York State Education Department  
Albany, New York  
September 2009

WHAT SHOULD CONTRACT FOR EXCELLENCE SCHOOL DISTRICTS HAVE READY FOR THEIR INDEPENDENT AUDITORS?



\* Available from: <http://eservices.nysed.gov/c4e-public/selectReports.jsp>

**INDEPENDENT AUDITOR'S REPORT  
ON APPLYING AGREED-UPON PROCEDURES**

Name of Client

\_\_\_\_\_ Central School District

\_\_\_\_\_  
, New York

We have performed the procedures enumerated below, which were agreed to by the Board of Education in order to comply with the certification requirement contained within the revised Regulations of the Commissioner of Education Section 170.12 regarding the expenditures of the Contract for Excellence for the year ended June 30, 2009. \_\_\_\_\_ Central School District's management is responsible for the Contract for Excellence expenditures. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the \_\_\_\_\_ Central School District. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. We have also reported to you our findings as a result of our procedures, which are included within the body of this report.

**Our procedures were as follows:**

1. We reviewed the submitted Contract for Excellence application, experimental application and any amendments to each to determine if it was properly approved by the Commissioner of Education in a timely fashion and that the public comment process procedures were followed.
2. We determined if the school district established the appropriate accounting system to clearly identify costs associated with the Contract for Excellence and that the accounting system captured building level costs. If the district was not in Year 1 of the Contract for Excellence program, we determined if the district had corrected any deficiencies in the accounting system from the previous year(s), as appropriate.
3. We randomly selected transactions to support disbursements of at least 5% of the total Contract for Excellence expenditures, selecting equally from both maintenance of district programs and new and expanded programs, to determine the following:

- a. Transactions were properly documented with original vendor invoices, purchase orders, approved contracts, and/or appropriate payroll information.
  - b. Accounting for these transactions has been separately identified at the school building level within the accounting system and represent a type of expenditure that was included in the approved building plan.
4. We verified that expenditures were properly classified on the on-line expenditure reporting system provided to the NYS Education Department and are consistent with the terms and objectives of the approved contract.
  5. We verified that if the district had a Contract for Excellence program the previous year, it expended funds to maintain the Contract Amount from the previous year or for any funds that were repurposed, the district expended funds for new, allowable programs in 2008-09.
  6. We verified that the district expended Contract for Excellence funds for new and continuing programs in accordance with the Contract for Excellence plan approved by the Commissioner.

**Our Findings are as follows:**

**(SAMPLE)**

1. Payroll expenditures were not clearly identified for additional tutoring for selected students.
2. The accounting system did not account for expenditures down to the code and object level by school building and Contract for Excellence program.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion, on the Contract for Excellence expenditures. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of \_\_\_\_\_ Central School District and is not intended to be and should not be used by anyone other than this specified party.

\_\_\_\_\_, 2009

## ATTACHMENT C

### Description of Contract for Excellence Allowable Programs and Activities

Increased Time on Task - Reflect programs designed to increase pupil instructional time. These activities include: longer school days and years; dedicated instructional blocks (e.g., a longer block of instruction in a core content area such as Mathematics or English Language Arts); individualized tutoring; and the provision of student support services which may include, but are not limited to, guidance, counseling, attendance, parent outreach, behavioral support, or instruction in study skills which are needed to support improved academic performance.

Class Size Reduction – Activities designed to reduce class sizes, such as the creation or construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio.

High School or Middle School Restructuring - Focuses on expanding challenging academic content and instructional opportunities to middle and high school grade students, while at the same time restructuring these schools, such as, but not limited to: changing grade spans (e.g., changing a grade 6-8 school to one spanning grades 5 to 8), creating grade nine academies, schools within schools, and/or different teams of teachers to deal with the different needs of students.

Teacher and Principal Quality Initiatives - Are those activities which as the title suggests, aim to raise the quality of the teaching and principal workforce in Contract schools in order to ensure that teachers and principals are appropriately certified and that all teachers of core academic subjects are highly qualified. The allowable activities under this program option are: teacher recruitment and retention strategies; mentoring programs for new (i.e., in the first two years of an assignment) teachers; incentive programs to encourage highly qualified teachers to work in low performing schools (provided that such programs shall not use funds for school-wide or district-wide salary enhancements or raises); and teacher and principal coaches.

Full-Day Kindergarten or Pre-Kindergarten - Those K and pre-K instructional programs that are either 1) a full (as opposed to a half) day in length, for 5 and 4 year olds, respectively and which conform to the State student performance indicators; or 2) a full day program which include additional hours to meet the needs of children and families and community-based agencies (i.e. other caregivers). Pre-K allowable programs include those designed to increase the integration of students with disabilities.

Experimental Programs - Are those interventions other than the other five above which the district has some theoretical basis, research or evidence to suggest will improve student performance. Experimental programs must be accompanied by a detailed evaluation plan to be conducted by an institution of higher education or a research firm as to the effectiveness of the experiment at raising achievement.

Model Programs for LEP/ELLS - Programs that are effective in closing the achievement gap for Limited English Proficient / English Language Learners (LEP/ELLs). It is strongly recommended that districts with LEP/ELLs use their Contract for Excellence (C4E) funding to design, support, and implement innovative model programs based on best practices that will assist LEP/ELLs to attain English proficiency, meet State academic and student achievement standards, and insure equitable access to such programs. The Model Programs can be implemented as part of the seven allowable C4E contract program areas and services.

## ATTACHMENT D

### Accounting For Contracts for Excellence

Contract for Excellence expenditures must be accounted for in such a manner that allows for the aggregation and disaggregation by school building and allowable program. Districts will also need to be able to provide information that substantiates whether or not Contract for Excellence expenditures were for new programs or to support pre-existing programs. For any accounting of Contract for Excellence expenditures, the Uniform System of Accounts must still be followed and adhered to.

Both the district’s independent auditor and New York State will be reviewing, verifying and using the financial data provided by the district. Any questions regarding the accounting for or auditing process of Contract for Excellence expenditures should be addressed to the district’s independent auditor or the Office of Educational Management Services at the New York State Education Department ([emscmgts@mail.nysed.gov](mailto:emscmgts@mail.nysed.gov) or 518-474-6541).

For purposes of amending a Contract for Excellence, districts must still follow board-established policies and procedures for budget transfers. An amendment to a district’s Contract does not relieve the district of its duty “to keep the incurred obligations within the amount of the total annual appropriations voted or authorized, and the prior year’s outstanding encumbrances...” as per Section 170.2(k) of the Commissioner’s Regulations or to make transfers to and from appropriate budgetary account codes. Procedures for amending district Contracts for Excellence can be found on SED’s website ([www.emsc.nysed.gov/mgtserv/C4E/](http://www.emsc.nysed.gov/mgtserv/C4E/)).

The table below fleshes out the *expected* expenditure categories and object codes for the various C4E program activities of which districts may avail themselves. Note that this is not exhaustive but it provides guidance to auditors concerning specific data that can be verified to meet legislative requirements. (It is worth noting that this table is not a financial schedule or a system of accounts: that is, one should not nor would we require a district to list different account codes on the same line. Rather, it associates C4E allowable programs with the expected account codes for the expenditures categories that districts are likely to have for each of the five C4E program activities.)

<b>Expected Expenditure Codes for C4E Programs</b>					
Allowable Programs	Expected Applicable Object Codes for Program	Operating Expenditure Category	Object Code	Capital Expenditure Category	Object Code
ToT	.15, .16, .4, .8	Instructional Salaries	.15	Principal on Indebtedness	.6
CSR	.15, .2, .6, .7, .8	Non-Instructional Salaries	.16	Interest on Indebtedness	.7
HS/MS	.2, .4, .45, .49, .6, .7	Equipment or other Capital Outlay	.2		
TPQI	.16, .4, .49	Contractual Expenditures	.4		
FPK/K	.15, .2, .6, .7, .8	Materials and Supplies	.45		
EXP	Any and/or All	BOCES Expenditures	.49		
LEP/ELL	Any and/or All	Employee Benefits	.8		

ATTACHMENT E

NYS ED - Contract For Excellence - Microsoft Internet Explorer

Address: https://eservicest.nysed.gov/cte/input/aeSchoolProgram.do

University of the State of New York  
State Education Department

School Year 2008-09

### Contract For Excellence

#### Actual Expenditures- School Programs and Metrics

**Welcome**  
**Maintenance of Effort (MOE)**  
**Contract Overview**  
**Preliminary Adjustments**  
**District Input**  
**School Input**  
**Performance Targets**  
**Reports**  
**Submit and Certify**  
**Actual Expenditure**  
**Monitoring**  
**Nysed Admin**  
**Contract NYSED**  
**Guidance**  
**District Status**

District: BINGHAMTON CITY SD  
 School: BENJAMIN FRANKLIN ELEMENTARY SCHOOL  
 Program: Class Size Reduction

Total Projected Allocation (Current Year + MOE) \$748,692  
 Total Actual Expenditures (Current Year + MOE) \$0  
 Total Variance % 100%

All expenditures are for the fiscal year 2008-09 including 2007-08 amount maintained.

#### Class Size Reduction - Fiscal Summary

	07-08 Amount Maintained in 08-09	08-09 New Programs	08-09 Continued Programs	Total
Projected	\$258,431		\$279,191	\$537,622
Actual Expenditures	\$0	\$0	\$0	\$0
Variance \$	\$258,431	\$0	\$279,191	\$537,622
Variance %	100%	0%	100%	100%

#### Actual Expenditures for Class Size Reduction

- For selected program, if you have more than five account codes for expenditures, please enter data in the five rows below and click on "Save Data" button. Clicking on it will add more rows.
- If total program variance is more than 10%, please enter explanation below in School Narrative section.
- List of [Account Codes](#) for reference.

Account Code	07-08 MOE in 08-09	08-09 New Programs	08-09 Continued Programs	Totals
				\$0
				\$0
				\$0
				\$0
				\$0
<b>Totals</b>		\$0	\$0	\$0

School Narrative

2008  
Change Year

District Status: BINGHAMTON CITY SD  
Not Submitted

Save Data

start August 2009 Packet t... New York State Appl... NYSED - Contract For... 2:02 PM

C4E Payroll Certification

This certification is to be utilized to certify that employee’s payroll costs have been properly charged to the Contract for Excellence program and that the employee has worked on this program during the year. If the employee’s time is split between the C4E program and another program the appropriate FTE allocation should be identified. This Certification must be completed by the administrator responsible for supervising the employee completing the service.

Quarterly Certification for C4E program expenditures

Employee Name: \_\_\_\_\_  
Employee Position: \_\_\_\_\_  
Period Covered: \_\_\_\_\_

FTE allocation

<u>Program Name</u>	<u>Coding</u>	<u>FTE</u>	<u>Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Total FTE (must equal 100%)		_____	

I certify that the above individual has performed services allocated to the code(s) and period identified above.

\_\_\_\_\_  
Print Name Title

\_\_\_\_\_  
Signature