

DEPARTMENT OF DEVELOPMENTAL SERVICES

1215 O Street, MS 9-90
Sacramento, CA 95814
TTY: 711
(833) 421-0061



October 21, 2022

Kathy Hebert, Board President
Regional Center of the East Bay, Inc.
500 Davis Street, Suite 100
San Leandro, CA 94577

Dear Ms. Hebert:

The Department of Developmental Services' (DDS) Audit Section has completed the audit of the Regional Center of the East Bay (RCEB). The period of review was from July 1, 2019, through June 30, 2021, with follow-up as needed into prior and subsequent periods. The enclosed report discusses the areas reviewed along with the findings and recommendations. The audit report includes the response submitted by RCEB as Appendix A and DDS' reply on page 21.

If there is a disagreement with the audit findings, a written "Statement of Disputed Issues" may be filed with DDS' Audit Appeals Unit, pursuant to California Code of Regulations (CCR), Title 17, Section 50730, Request for Administrative Review (excerpt enclosed). The "Statement of Disputed Issues" must be filed and submitted within 30 days of receipt of this audit report to the address below:

Office of Legal Affairs
Department of Developmental Services
P.O. Box 944202
Sacramento, CA 94299-9974

The cooperation of RCEB's staff in completing the audit is appreciated.


Your invoice for the total amount of \$946.61 from the current audit findings is enclosed. When making payments to DDS, please refer to the invoice number to ensure that proper credit is given. If you have any questions regarding the payment process, please contact Diane Nanik, Manager, Accounting Section, at (916) 654-2932.

"Building Partnerships, Supporting Choices"

Kathy Hebert, Board President
October 21, 2022
Page two

If you have any questions regarding the audit report, please contact Edward Yan,
Manager, Audit Section, at (916) 651-8207.

Sincerely,

DocuSigned by:

38BD4A5930324CE...

PETE CERVINKA
Chief Deputy Director
Data Analytics and Strategy

Enclosure(s)

cc: Lisa Kleinbub, RCEB
Lynn Nguyen, RCEB
Bob Sands, DHCS
Carla Castañeda, DDS
Brian Winfield, DDS
Hiren Patel, DDS
Jim Knight, DDS
Ernie Cruz, DDS
Aaron Christian, DDS
Ann Nakamura, DDS
Yasir Ali, DDS
Diane Nanik, DDS
Greg Nabong, DDS
Jonathan Hill, DDS
Nury Enciso, DDS
Edward Yan, DDS
Luciah Ellen Nzima, DDS
Staci Yasui, DDS

State of California
DEPARTMENT OF DEVELOPMENTAL SERVICES
 1215 O Street, MS 10-20
 Sacramento, CA 95814

Kathy Hebert, Board President
 Regional Center of East Bay, Inc.
 500 Davis Street, Suite 100
 San Leandro, CA 94577


INVOICE No. 14340

Date **October 21, 2022**

Headquarters

Please return copy of Invoice with your remittance and make payable to:

DEPARTMENT OF DEVELOPMENTAL SERVICES
 1215 O Street, MS 10-20
 Sacramento, CA 95814
 Attn: Diane J. Nanik, Chief of Accounting

Vendor no. 

For: Per final audit report dated October 21, 2022, please reimburse the Department of Developmental Services for the unresolved overpayment of \$946.61 for the Fiscal Years 2019-20 & 2020-21.

Amount Due

\$946.61

DDS ACCOUNTING OFFICE ONLY:

FY	INV DATE	Curr. Doc	Rptg Structure	Svc Loc	Program	Amount	Approp. Ref.	Fund
FY19/20	10/21/2022	INV14340	43009517	96000	9910	\$946.61	101	0001

California Code of Regulations
Title 17, Division 2
Chapter 1 - General Provisions
Subchapter 7 - Fiscal Audit Appeals
Article 2 - Administrative Review

§50730. Request for Administrative Review.

a) An individual, entity, or organization which disagrees with any portion or aspect of an audit report issued by the Department or regional center may request an administrative review. The appellant's written request shall be submitted to the Department within 30 days after the receipt of the audit report. The request may be amended at any time during the 30-day period.

(b) If the appellant does not submit the written request within the 30-day period, the appeals review officer shall deny such request, and all audit exceptions or findings in the report shall be deemed final unless the appellant establishes good cause for late filing.

(c) The request shall be known as a "Statement of Disputed Issues." It shall be in writing, signed by the appellant or his/her authorized agent, and shall state the address of the appellant and of the agent, if any agent has been designated. An appellant shall specify the name and address of the individual authorized on behalf of the appellant to receive any and all documents, including the final decision of the Director, relating to proceedings conducted pursuant to this subchapter. The Statement of Disputed Issues need not be formal, but it shall be both complete and specific as to each audit exception or finding being protested. In addition, it shall set forth all of the appellant's contentions as to those exceptions or findings, and the estimated dollar amount of each exception or finding being appealed.

(d) If the appeals review officer determines that a Statement of Disputed Issues fails to state the grounds upon which objections to the audit report are based, with sufficient completeness and specificity for full resolution of the issues presented, he/she shall notify the appellant, in writing, that it does not comply with the requirements of this subchapter.

(e) The appellant has 15 days after the date of mailing of such notice within which to file an amended Statement of Disputed Issues. If the appellant does not amend his/her appeal to correct the stated deficiencies within the time permitted, all audit exceptions or findings affected shall be dismissed from the appeal, unless good cause is shown for the noncompliance.

(f) The appellant shall attach to the Statement of Disputed Issues all documents which he/she intends to introduce into evidence in support of stated contentions. An appellant that is unable to locate, prepare, or compile such documents within the appeal period specified in Subsection (a) above, shall include a statement to this effect in the Statement of Disputed Issues. The appellant shall have an additional 30 days after the expiration of the initial 30-day period in which to submit the documents. Documents that are not submitted within this period shall not be accepted into evidence at any stage of the appeal process unless good cause is shown for the failure to present the documents within the prescribed period.



**AUDIT OF THE
REGIONAL CENTER OF THE EAST BAY
FOR FISCAL YEARS 2019-20 AND 2020-21**

Department of Developmental Services

October 21, 2022

This audit report was prepared by the
California Department of Developmental Services
1215 O Street
Sacramento, CA 95814

Pete Cervinka, Chief Deputy Director, Data Analytics and Strategy
Ann Nakamura, Chief, Research, Audit, and Evaluation Branch
Edward Yan, Manager, Audit Section
Luciah Ellen Nzima, Chief, Regional Center Audit Unit
Staci Yasui, Supervisor, Regional Center Audit Unit

Audit Staff: Andrew Quok, Diosdado Agustin, and Wilson Chau

For more information, please call: (916) 654-3695

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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) conducted a fiscal compliance audit of Regional Center of the East Bay (RCEB) to ensure RCEB is compliant with the requirements set forth in the Lanterman Developmental Disabilities Services Act and Related Laws/Welfare and Institutions (W&I) Code; the Home and Community-based Services (HCBS) Waiver for the Developmentally Disabled; California Code of Regulations (CCR), Title 17; Federal Office of Management and Budget (OMB) Circulars A-122 and A-133; and the contract with DDS. Overall, the audit indicated that RCEB maintains accounting records and supporting documentation for transactions in an organized manner.

The audit period was July 1, 2019, through June 30, 2021, with follow-up, as needed, into prior and subsequent periods. This report identifies some areas where RCEB's administrative and operational controls could be strengthened, but none of the findings were of a nature that would indicate systemic issues or constitute major concerns regarding RCEB's operations. A follow-up review was performed to ensure RCEB has taken corrective action to resolve the findings identified in the prior DDS audit report.

Findings that need to be addressed.

Finding 1: Overstated Claims Due To:

A. Incorrect Rates

The sampled review of 149 POS vendor files revealed eight vendors were reimbursed at incorrect rates. RCEB reimbursed two Day program vendors at incorrect rates and six vendors at incorrect home health agency and registered nurse Schedule of Maximum Allowance (SMA) rates. This resulted in overpayments to the eight vendors totaling \$203,398.82 from May 2019 through February 2022. This is not in compliance with CCR, Title 17, Sections 57332(b)(10) and (c)(8)(A), 57500(a) and 57300(c)(2).

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers HB0740 and HB0822 which resolved the overpayments totaling \$202,797.57. However, by applying the newly approved H&S rates this created underpayments to Vendor Number HB0740. Therefore, RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 from May 2019 through December 2021 and reimburse DDS for the remaining overpayments totaling \$601.25 for utilizing incorrect SMA rates.

B. Health and Safety Rates Used Without DDS Approval

The sampled review of 149 POS vendor files revealed RCEB reimbursed three vendors – Elwyn CA Keith Home, Vendor Number PB2254, Service Code 109, and RES Success, Vendor Numbers PB1375 and PB1685, Service Code 55 – for services provided to 13 consumers using Health and Safety (H&S) rates that were not approved by DDS for these specific consumers. This resulted in overpayments totaling \$9,681.35 from March 2020 through December 2021. This is not in compliance with W&I Code, Section 4648.4(b), CCR, Title 17, Sections 57500(a) and 57300(c)(2).

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers PB1375 and PB1685, which resolved the overpayments totaling \$9,335.99; therefore, RCEB must reimburse DDS for the remaining overpayments totaling \$345.36.

Finding 2: Vendor Files Not Reviewed Biennially

The review of 149 sampled POS vendor files revealed RCEB could not provide documentation indicating that the vendor files were reviewed biennially. 73 Applicant/Vendor Disclosure Statement (DS1891) Forms, 73 Office of Inspector General (OIG) exclusion search results and 84 Suspended and Ineligible (S&I) list search results were not current. This is not in compliance with CCR, Title 17, Section 54332(a)(1) and (b)(1) and the Applicant/Vendor Disclosure Statement General Instructions.

RCEB provided 48 updated DS1891 Forms, 46 OIG exclusion search results and 55 S&I List search results before the end of the audit. Therefore, 25 DS1891 Forms, 27 OIG exclusion search results and 29 S&I List search results are still outstanding.

BACKGROUND

DDS is responsible, under the W&I Code, for ensuring that persons with developmental disabilities (DD) receive the services and supports they need to lead more independent, productive, and integrated lives. To ensure that these services and supports are available, DDS contracts with 21 private, nonprofit community agencies/corporations that provide fixed points of contact in the community for serving eligible individuals with DD and their families in California. These fixed points of contact are referred to as regional centers (RCs). The RCs are responsible under State law to help ensure that such persons receive access to the programs and services that are best suited to them throughout their lifetime.

DDS is also responsible for providing assurance to the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), that services billed under California's HCBS Waiver program are provided and that criteria set forth for receiving funds have been met. As part of DDS' program for providing this assurance, the Audit Section conducts fiscal compliance audits of each RC no less than every two years, and completes follow-up reviews in alternate years. Also, DDS requires RCs to contract with independent Certified Public Accountants (CPAs) to conduct an annual financial statement audit. The DDS audit is designed to wrap around the independent CPA's audit to ensure comprehensive financial accountability.

In addition to the fiscal compliance audit, each RC will also be monitored by the DDS Federal Programs Operations Section to assess overall programmatic compliance with HCBS Waiver requirements. The HCBS Waiver compliance monitoring review has its own criteria and processes. These audits and program reviews are an essential part of an overall DDS monitoring system that provides information on RCs' fiscal, administrative, and program operations.

DDS and Regional Center of the East Bay, Inc. entered into State Contract HD199015, effective July 1, 2019, through June 30, 2026. This contract specifies that Regional Center of the East Bay, Inc. will operate an agency known as the RCEB to provide services to individuals with DD and their families in Alameda and Contra Costa Counties. The contract is funded by state and federal funds that are dependent upon RCEB performing certain tasks, providing services to eligible consumers, and submitting billings to DDS.

This audit was conducted remotely from January 31, 2022, through March 30, 2022, by the Audit Section of DDS.

AUTHORITY

The audit was conducted under the authority of the W&I Code, Section 4780.5 and Article IV, Section 3 of the State Contract between DDS and RCEB.

CRITERIA

The following criteria were used for this audit:

- W&I Code,
- “Approved Application for the HCBS Waiver for the Developmentally Disabled,”
- CCR, Title 17,
- OMB Circulars A-122 and A-133, and
- The State Contract between DDS and RCEB, effective July 1, 2019.

AUDIT PERIOD

The audit period was July 1, 2019, through June 30, 2021, with follow-up, as needed, into prior and subsequent periods.

OBJECTIVES, SCOPE, AND METHODOLOGY

This audit was conducted as part of the overall DDS monitoring system that provides information on RCs' fiscal, administrative, and program operations. The objectives of this audit were:

- To determine compliance with the W&I Code,
- To determine compliance with the provisions of the HCBS Waiver Program for the Developmentally Disabled,
- To determine compliance with CCR, Title 17 regulations,
- To determine compliance with OMB Circulars A-122 and A-133, and
- To determine that costs claimed were in compliance with the provisions of the State Contract between DDS and RCEB.

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. However, the procedures do not constitute an audit of RCEB's financial statements. DDS limited the scope to planning and performing audit procedures necessary to obtain reasonable assurance that RCEB was in compliance with the objectives identified above. Accordingly, DDS examined transactions on a test basis to determine whether RCEB was in compliance with the W&I Code; the HCBS Waiver for the Developmentally Disabled; CCR, Title 17; OMB Circulars A-122 and A-133; and the State Contract between DDS and RCEB.

DDS' review of RCEB's internal control structure was conducted to gain an understanding of the transaction flow and the policies and procedures, as necessary, to develop appropriate auditing procedures.

DDS reviewed the annual audit report that was conducted by an independent CPA firm for Fiscal Year (FY) 2019-20, issued on February 4, 2021. It was noted that no management letter was issued for RCEB. This review was performed to determine the impact, if any, upon the DDS audit and, as necessary, develop appropriate audit procedures.

The audit procedures performed included the following:

I. Purchase of Service

DDS selected a sample of Purchase of Service (POS) claims billed to DDS. The sample included consumer services and vendor rates. The sample also included consumers who were eligible for the HCBS Waiver Program. For POS claims, the following procedures were performed:

- DDS tested the sample items to determine if the payments made to service providers were properly claimed and could be supported by appropriate documentation.
- DDS selected a sample of invoices for service providers with daily and hourly rates, standard monthly rates, and mileage rates to determine if supporting attendance documentation was maintained by RCEB. The rates charged for the services provided to individual consumers were reviewed to ensure compliance with the provision of the W&I Code; the HCBS Waiver for the Developmentally Disabled; CCR, Title 17, OMB Circulars A-122 and A-133; and the State Contract between DDS and RCEB.
- DDS selected a sample of individual Consumer Trust Accounts to determine if there were any unusual activities and whether any account balances exceeded \$2,000, as prohibited by the Social Security Administration. In addition, DDS determined if any retroactive Social Security benefit payments received exceeded the \$2,000 resource limit for longer than nine months. DDS also reviewed these accounts to ensure that the interest earnings were distributed quarterly, personal and incidental funds were paid before the 10th of each month, and proper documentation for expenditures was maintained.
- The Client Trust Holding Account, an account used to hold unidentified consumer trust funds, was tested to determine whether funds received were properly identified to a consumer or returned to the Social Security Administration in a timely manner. An interview with RCEB staff revealed that RCEB has procedures in place to determine the correct recipient of unidentified consumer trust funds. If the correct recipient cannot be determined, the funds are returned to the Social Security Administration or other sources in a timely manner.
- DDS selected a sample of Uniform Fiscal Systems (UFS) reconciliations to determine if any accounts were out of balance or if there were any outstanding items that were not reconciled.
- DDS analyzed all of RCEB's bank accounts to determine whether DDS had signatory authority, as required by the State Contract with DDS.

- DDS selected a sample of bank reconciliations for Operations (OPS) accounts and Consumer Trust bank accounts to determine if the reconciliations were properly completed on a monthly basis.

II. Regional Center Operations

DDS selected a sample of OPS claims billed to DDS to determine compliance with the State Contract. The sample included various expenditures claimed for administration that were reviewed to ensure RCEB's accounting staff properly input data, transactions were recorded on a timely basis, and expenditures charged to various operating areas were valid and reasonable. The following procedures were performed:

- A sample of the personnel files, timesheets, payroll ledgers, and other support documents were selected to determine if there were any overpayments or errors in the payroll or the payroll deductions.
- A sample of OPS expenses, including, but not limited to, purchases of office supplies, consultant contracts, insurance expenses, and lease agreements were tested to determine compliance with CCR, Title 17, and the State Contract.
- A sample of equipment was selected and physically inspected to determine compliance with requirements of the State Contract.
- DDS reviewed RCEB's policies and procedures for compliance with the DDS Conflict of Interest regulations, and DDS selected a sample of personnel files to determine if the policies and procedures were followed.

III. Targeted Case Management (TCM) and Regional Center Rate Study

The TCM Rate Study determines the DDS rate of reimbursement from the federal government. The following procedures were performed upon the study:

- Reviewed applicable TCM records and RCEB's Rate Study. DDS examined the months of April 2020 and April 2021 and traced the reported information to source documents.
- The last Case Management Time Study, performed in May 2019, was reviewed in the prior DDS audit that included FY 2018-19. As a result, there was no Case Management Time Study to review for this audit period.

IV. Service Coordinator Caseload Survey

Under the W&I Code, Section 4640.6(e), RCs are required to provide service coordinator caseload data to DDS. The following average service coordinator-to-consumer ratios apply per W&I Code Section 4640.6(c)(1)(2)(3)(A)(B)(C):

- “(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows:
 - (1) An average service coordinator-to-consumer ratio of 1 to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.
 - (2) An average service coordinator-to-consumer ratio of 1 to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.
 - (3) Commencing January 1, 2004, the following coordinator-to-consumer ratios shall apply:
 - (A) All consumers three years of age and younger and for consumers enrolled in the Home and Community-based Services Waiver program for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.
 - (B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.
 - (C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.”

DDS also reviewed the Service Coordinator Caseload Survey methodology used in calculating the caseload ratios to determine reasonableness and that supporting documentation is maintained to support the survey and the ratios as required by W&I Code, Section 4640.6(e).

V. Early Intervention Program (EIP; Part C Funding)

For the EIP, there are several sections contained in the Early Start Plan. However, only the Part C section was applicable for this review.

VI. Family Cost Participation Program (FCPP)

The FCPP was created for the purpose of assessing consumer costs to parents based on income level and dependents. The family cost participation assessments are only applied to respite, day care, and camping services that are included in the child's Individual Program Plan (IPP)/Individualized Family Services Plan (IFSP). To determine whether RCEB was in compliance with CCR, Title 17, and the W&I Code, Section 4783, DDS performed the following procedures during the audit review:

- Reviewed the list of consumers who received respite, day care, and camping services, for ages 0 through 17 years who live with their parents and are not Medi-Cal eligible, to determine their contribution for the FCPP.
- Reviewed the parents' income documentation to verify their level of participation based on the FCPP Schedule.
- Reviewed copies of the notification letters to verify that the parents were notified of their assessed cost participation within 10 working days of receipt of the parents' income documentation.
- Reviewed vendor payments to verify that RCEB was paying for only its assessed share of cost.

VII. Annual Family Program Fee (AFPF)

The AFPF was created for the purpose of assessing an annual fee of up to \$200 based on the income level of families with children between the ages of 0 through 17 years receiving qualifying services through the RC. The AFPF fee shall not be assessed or collected if the child receives only respite, day care, or camping services from the RC and a cost for participation was assessed to the parents under FCPP. To determine whether RCEB was in compliance with the W&I Code, Section 4785, DDS requested a list of AFPF assessments and verified the following:

- The adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size.
- The child has a DD or is eligible for services under the California Early Intervention Services Act.

- The child is less than 18 years of age and lives with his or her parent.
- The child or family receives services beyond eligibility determination, needs assessment, and service coordination.
- The child does not receive services through the Medi-Cal program.
- Documentation was maintained by the RC to support reduced assessments.

VIII. Parental Fee Program (PFP)

The PFP was created for the purpose of prescribing financial responsibility to parents of children under the age of 18 years who are receiving 24-hour, out-of-home care services through an RC or who are residents of a state hospital or on leave from a state hospital. Parents shall be required to pay a fee depending upon their ability to pay, but not to exceed (1) the cost of caring for a child without DD at home, as determined by the Director of DDS, or (2) the cost of services provided, whichever is less. To determine whether RCEB is in compliance with the W&I Code, Section 4782, DDS requested a list of PFP assessments and verified the following:

- Identified all children with DD who are receiving the following services:
 - (a) All 24-hour, out-of-home community care received through an RC for children under the age of 18 years;
 - (b) 24-hour care for such minor children in state hospitals. Provided, however, that no ability to pay determination shall be made for services required by state or federal law, or both, to be provided to children without charge to their parents.
- Provided DDS with a listing of new placements, terminated cases, and client deaths for those clients. Such listings shall be provided not later than the 20th day of the month following the month of such occurrence.
- Informed parents of children who will be receiving services that DDS is required to determine parents' ability to pay and to assess, bill, and collect parental fees.
- Provided parents a package containing an informational letter, a Family Financial Statement (FFS), and a return envelope within 10 working days after placement of a minor child.
- Provided DDS a copy of each informational letter given or sent to parents, indicating the addressee and the date given or mailed.

IX. Procurement

The Request for Proposal (RFP) process was implemented to ensure RCs outline the vendor selection process when using the RFP process to address consumer service needs. As of January 1, 2011, DDS requires RCs to document their contracting practices, as well as how particular vendors are selected to provide consumer services. By implementing a procurement process, RCs will ensure that the most cost-effective service providers, amongst comparable service providers, are selected, as required by the Lanterman Act and the State Contract. To determine whether RCEB implemented the required RFP process, DDS performed the following procedures during the audit review:

- Reviewed RCEB's contracting process to ensure the existence of a Board-approved procurement policy and to verify that the RFP process ensures competitive bidding, as required by Article II of the State Contract, as amended.
- Reviewed the RFP contracting policy to determine whether the protocols in place included applicable dollar thresholds and comply with Article II of the State Contract, as amended.
- Reviewed the RFP notification process to verify that it is open to the public and clearly communicated to all vendors. All submitted proposals are evaluated by a team of individuals to determine whether proposals are properly documented, recorded, and authorized by appropriate officials at RCEB. The process was reviewed to ensure that the vendor selection process is transparent and impartial and avoids the appearance of favoritism. Additionally, DDS verified that supporting documentation is retained for the selection process and, in instances where a vendor with a higher bid is selected, written documentation is retained as justification for such a selection.

DDS performed the following procedures to determine compliance with Article II of the State Contract for contracts in place as of January 1, 2011:

- Selected a sample of Operations, Community Placement Plan (CPP), and negotiated POS contracts subject to competitive bidding to ensure RCEB notified the vendor community and the public of contracting opportunities available.
- Reviewed the contracts to ensure that RCEB has adequate and detailed documentation for the selection and evaluation process of vendor proposals and written justification for final vendor selection decisions and that those contracts were properly signed and executed by both parties to the contract.

In addition, DDS performed the following procedures:

- To determine compliance with the W&I Code, Section 4625.5 for contracts in place as of March 24, 2011: Reviewed to ensure RCEB has a written policy requiring the Board to review and approve any of its contracts of two hundred fifty thousand dollars (\$250,000) or more before entering into a contract with the vendor.
- Reviewed RCEB Board-approved Operations, Start-Up, and POS vendor contracts of \$250,000 or more, to ensure the inclusion of a provision for fair and equitable recoupment of funds for vendors that cease to provide services to consumers; verified that the funds provided were specifically used to establish new or additional services to consumers, the usage of funds is of direct benefit to consumers, and the contracts are supported with sufficiently detailed and measurable performance expectations and results.

The process above was conducted in order to assess RCEB's current RFP process and Board approval for contracts of \$250,000 or more, as well as to determine whether the process in place satisfies the W&I Code and RCEB's State Contract requirements, as amended.

X. Statewide/Regional Center Median Rates

The Statewide and RC Median Rates were implemented on July 1, 2008, and amended on December 15, 2011 and July 1, 2016, to ensure that RCs are not negotiating rates higher than the set median rates for services. Despite the median rate requirement, rate increases could be obtained from DDS under health and safety exemptions where RCs demonstrate the exemption is necessary for the health and safety of the consumers.

To determine whether RCEB was in compliance with the Lanterman Act, DDS performed the following procedures during the audit review:

- Reviewed sample vendor files to determine whether RCEB is using appropriately vendorized service providers and correct service codes, and that RCEB is paying authorized contract rates and complying with the median rate requirements of W&I Code, Section 4691.9.
- Reviewed vendor contracts to ensure that RCEB is reimbursing vendors using authorized contract median rates and verified that rates paid represented the lower of the statewide or RC median rate set after June 30, 2008. Additionally, DDS verified that providers vendorized before June 30, 2008, did not receive any unauthorized rate increases, except in situations where required by regulation, or health and safety exemptions were granted by DDS.

- Reviewed vendor contracts to ensure that RCEB did not negotiate rates with new service providers for services which are higher than the RC's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. DDS also ensured that units of service designations conformed with existing RC designations or, if none exists, ensured that units of service conformed to a designation used to calculate the statewide median rate for the same service code.

XI. Other Sources of Funding from DDS

RCs may receive other sources of funding from DDS. DDS performed sample tests on identified sources of funds from DDS to ensure RCEB's accounting staff were inputting data properly, and that transactions were properly recorded and claimed. In addition, tests were performed to determine if the expenditures were reasonable and supported by documentation. The sources of funding from DDS identified in this audit are:

- CPP;
- Part C – Early Start Program; and
- Self Determination.

XII. Follow-up Review on Prior DDS Audit Findings

As an essential part of the overall DDS monitoring system, a follow-up review of the prior DDS audit findings was conducted. DDS identified prior audit findings that were reported to RCEB and reviewed supporting documentation to determine the degree of completeness of RCEB's implementation of corrective actions.

CONCLUSIONS

Based upon the audit procedures performed, DDS has determined that except for the items identified in the Findings and Recommendations section, RCEB was in compliance with applicable sections of the W&I Code; the HCBS Waiver for the Developmentally Disabled; CCR, Title 17; OMB Circulars A-122 and A-133; and the State Contract between DDS and RCEB for the audit period, July 1, 2019, through June 30, 2021.

The costs claimed during the audit period were for program purposes and adequately supported.

From the review of the two prior audit findings, it has been determined that RCEB has taken appropriate corrective action to resolve those findings.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued the draft audit report on July 27, 2022. The findings in the draft audit report were discussed at a formal exit conference with RCEB on August 4, 2022. The views of RCEB's responsible officials are included in this final audit report.

RESTRICTED USE

This audit report is solely for the information and use of DDS, CMS, Department of Health Care Services, and RCEB. This restriction does not limit distribution of this audit report, which is a matter of public record.

FINDINGS AND RECOMMENDATIONS

Findings that need to be addressed.

Finding 1: Overstated Claims Due To:

A. Incorrect Rates

The sampled review of 149 POS vendor files revealed eight vendors were reimbursed at incorrect rates. RCEB reimbursed two Day program vendors at incorrect rates and six vendors at incorrect home health agency and registered nurse SMA rates. The day program overpayments occurred when RCEB incorrectly authorized rate increases for two vendors without approval from DDS, while the overpayments to the remaining six vendors occurred because RCEB used an outdated SMA rate schedule. This resulted in overpayments totaling \$203,398.82 from May 2019 through February 2022. (See Attachment A)

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers HB0740 and HB0822 which resolved the overpayments totaling \$202,797.57. However, by applying the newly approved H&S rates this created underpayments to Vendor Number HB0740. Therefore, RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 from May 2019 through December 2021 and reimburse DDS for the remaining overpayments totaling \$601.25 for utilizing incorrect SMA rates.

CCR, Title 17, Section 57332(b) and (c) states:

“(b) The maximum rate of reimbursement for the following medical services shall be in accordance with the Schedule of Maximum Allowance (SMA): ...

(10) Home Health Agency – Service Code 854.”

“(c) The maximum rate of reimbursement for the following medical services shall be as specified below: ...

(8) Registered Nurse – Service Code 744.

(A) The rate of reimbursement shall be in accordance with the Schedule of Maximum Allowance (SMA)

for the Home and Community-Based Services, In-Home Medical Care Waiver Program.”

CCR, Title 17, Section 57500(a) states:

“(a) The methodology for computing permanent payment rates is based on program, cost, vendor income, and as applicable, regional center payment information submitted by all vendors receiving permanent payment rates. The Department shall use each vendor's program, cost, vendor income, and as applicable, regional center payment information to establish that vendor's permanent payment rate pursuant to this methodology.”

CCR, Title 17, Section 57300(c)(2) states:

“(c) Regional Centers shall not reimburse vendors:

(2) For services in an amount greater than the rate established pursuant to these regulations.”

Recommendation:

RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 from May 2019 through December 2021. In addition, RCEB must reimburse DDS for the remaining overpayments totaling \$601.25 for utilizing incorrect SMA rates and correct the vendors’ payment rates.

B. Health and Safety Rates Used Without DDS Approval

The sampled review of 149 POS vendor files revealed three vendors – Elwyn CA - Keith Home, Vendor Number PB2254, Service Code 109, and RES Success, Vendor Numbers PB1375 and PB1685, Service Code 55 – for services provided to 13 consumers using H&S rates that were not approved by DDS for these specific consumers. The overpayments occurred because RCEB applied approved H&S rates for existing consumers to 13 new consumers that were not approved by DDS. This resulted in overpayments totaling \$9,681.35 from March 2020 through December 2021. (See Attachment B)

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers PB1375 and PB1685, which resolved the overpayments totaling \$9,335.99; therefore, RCEB must reimburse DDS for the remaining overpayments totaling \$345.36.

W&I Code, Section 4648.4(b) states:

“Notwithstanding any other provision of law or regulation, except for subdivision (a), no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer’s health or safety and the department has granted prior written authorization.”

CCR, Title 17, Section 57500(a) states:

“(a) The methodology for computing permanent payment rates is based on program, cost, vendor income, and as applicable, regional center payment information submitted by all vendors receiving permanent payment rates. The Department shall use each vendor’s program, cost, vendor income, and as applicable, regional center payment information to establish that vendor’s permanent payment rate pursuant to this methodology.”

CCR, Title 17, Section 57300(c)(2) states:

“(c) Regional Centers shall not reimburse vendors:

(2) For services in an amount greater than the rate established pursuant to these regulations.”

Recommendation:

RCEB must reimburse to DDS the overpayment totaling \$345.36 and correct the vendor’s payment rate.

Finding 2: Vendor Files Not Reviewed Biennially

The review of 149 sampled POS vendor files revealed RCEB could not provide documentation indicating that the vendor files were reviewed biennially. 73 DS1891 Forms, 73 OIG exclusion search results and 84 S&I List search results were not current. These forms and search results are supposed to be updated biennially to ensure information in the vendor files is current, complete, and accurate.
(See Attachment C)

RCEB has since provided 48 updated DS1891 Forms, 46 OIG exclusion search results and 55 S&I List search results. Therefore, T25 DS1891 Forms, 27 OIG exclusion search results and 29 S&I List search results are still outstanding.

CCR, Title 17, Section 54332(a)(1) and (b)(1) states:

“(a) The vendoring regional center shall maintain a file for each vendor which includes copies of:

(1) The vendor application as described in Section 54310(a) of these regulations; ...

(b) Regional centers shall review, at least biennially or sooner upon notification by the Department of Developmental Services, Department of Health Care Services, or any governing licensing or certification board or entity, all vendor files maintained by the regional center to determine that:

(1) The information required for vendorization is current, completed and accurate.”

The Applicant/Vendor Disclosure Statement General Instructions states:

“Every applicant or vendor must complete and submit a current Applicant/Vendor Disclosure Statement, DS 1891 (disclosure statement) as part of a complete application packet for vendorization or upon request of the vendoring regional center.”

Recommendation:

RCEB must locate the missing DS1891 Forms, OIG exclusion search results and S&I List search results, or complete new DS1891 Forms, OIG exclusion searches and S&I List searches for the remaining vendors. In addition, RCEB must review the vendor files at least biennially to ensure the information required for vendorization is current, complete and accurate.

EVALUATION OF RESPONSE

As part of the audit report process, RCEB was provided with a draft audit report and requested to provide a response to the findings. RCEB's response dated September 19, 2022, is provided as Appendix A.

DDS' Audit Section has evaluated RCEB's response and will confirm the appropriate corrective actions have been taken during the next scheduled audit.

Finding 1: Overstated Claims Due To:

A. Incorrect Rates

RCEB took corrective action to resolve the overpayments for two out of the eight vendors by obtaining H&S rate approvals for RES Success, Vendor Numbers HB0740 and HB0822. DDS authorized RCEB to retro actively apply the newly approved H&S rates which resolved the overpayments totaling \$202,797.57. However, the recalculation completed by RCEB resulted in underpayment totaling \$16,269.84 for Vendor Number HB0740. DDS concurs that the overpayments to these two vendors have been resolved but is not in agreement with RCEB's calculation of the underpayment amount. Based on DDS' calculation utilizing the newly approved H&S rates, RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 instead of \$16,269.84 from May 2019 through December 2021.

Regarding the remaining six vendors that RCEB reimbursed at the incorrect home health agency and registered nurse SMA rates, RCEB stated it was unaware the rates were reduced and agrees to reimburse DDS \$601.25 for the overpayment. In addition, RCEB stated that it plans to regularly check the SMA rates regularly at least twice a year and implement any rate changes promptly.

B. Health and Safety Rates Used Without DDS Approval

RCEB stated it plans to implement new procedures to improve their H&S rate approval process and acknowledges that it did not get prior approval from DDS for the consumers that were added to the program. RCEB took corrective action to resolve the overpayments for two out of the three vendors by obtaining H&S rate approvals from DDS for RES Success, Vendor Numbers PB1375 and PB1685, which resolved the overpayments totaling \$9,335.99. In addition, RCEB stated it will reimburse DDS for the overpayment to the remaining vendor, Elwyn CA-Keith Home, Vendor Number PB2254 for \$345.36.

Finding 2: Vendor Files Not Reviewed Biennially

RCEB acknowledges that it has not located/updated the forms or completed the OIG exclusion and S&I List search for the vendors addressed in this audit report but explained that it plans to address this issue by completing/update the forms and searches, retrain its staff, and maintain a detailed spreadsheet to track their requests to the vendors. DDS will conduct a follow-up during the next biennial audit to ensure RCEB is completing/updating their forms and OIG exclusion and S&I List searches.

**Regional Center of the East Bay
Overstated Claims Due to Incorrect Rates
Fiscal Years 2019-20 and 2020-21**

No.	Vendor Number	Vendor Name	Unique Client Identification Number	Service Code	Payment Period	Over/Under payment
1	HB0740	RES Success	5031200	515	05/19-12/20	(\$203.93)
			5031231	515	07/19-02/20	(\$134.11)
			5031311	515	05/19-12/20	(\$125.58)
			5031638	515	05/19-09/21	(\$164.81)
			5031865	515	05/19-10/21	(\$212.28)
			5032186	515	05/19-12/21	(\$189.13)
			5032519	515	05/19-12/21	(\$153.44)
			5032689	515	05/19-12/20	(\$247.31)
			5033342	515	09/19-12/20	(\$114.21)
			5033405	515	05/19-08/19	(\$63.50)
			5034033	515	10/19-12/20	(\$95.61)
			5034374	515	05/19-12/21	(\$223.45)
			5034507	515	05/19-12/20	(\$238.93)
			5034508	515	05/19-12/20	(\$252.39)
			5035305	515	05/19-10/21	(\$160.58)
			5036288	515	05/19-12/21	(\$162.30)
			5036339	515	05/19-12/20	(\$209.05)
			5036953	515	05/19-12/21	(\$131.14)
			5243050	515	04/20-08/21	\$53.84
			5264338	515	05/19-12/21	(\$191.91)
			5317649	515	05/19-04/20	(\$276.84)
			5356498	515	05/19-08/21	(\$224.04)
			5357553	515	05/19-08/21	(\$208.55)
			5505227	515	05/19-10/21	(\$203.42)
			5509757	515	05/19-12/21	(\$162.33)
			5677430	515	05/19-11/21	(\$183.43)
			5796289	515	05/19-12/21	(\$155.25)
			5796479	515	10/19-12/20	(\$78.77)
			5872411	515	05/19-12/20	(\$235.40)
			5979463	515	09/21-11/21	\$23.01
			5983051	515	06/19-12/21	(\$67.15)
			6123665	515	06/19-06/21	(\$170.94)
			6152112	515	05/19-03/21	(\$162.58)
6560973	515	05/19-12/20	(\$244.89)			
6806027	515	05/19-12/20	(\$235.43)			
8001265	515	05/19-11/21	(\$170.98)			
8002650	515	05/19-12/20	(\$252.39)			
8004071	515	05/19-12/20	(\$251.15)			

**Regional Center of the East Bay
Overstated Claims Due to Incorrect Rates
Fiscal Years 2019-20 and 2020-21**

No.	Vendor Number	Vendor Name	Unique Client Identification Number	Service Code	Payment Period	Over/Under payment
1	HB0740	RES Success	8007117	515	05/19-12/20	(\$228.80)
			8013653	515	05/19-11/21	(\$233.63)
			8014067	515	05/19-12/21	(\$211.49)
			8014113	515	05/19-12/20	(\$248.14)
			8015025	515	05/19-12/21	(\$235.67)
			8016300	515	05/19-12/20	(\$233.35)
			8019060	515	05/19-11/21	(\$230.72)
			8020247	515	05/19-09/21	(\$218.17)
			8023337	515	05/19-12/20	(\$251.13)
			8023373	515	05/19-12/20	(\$242.90)
			8026025	515	05/19-03/21	(\$215.73)
			8028308	515	12/20-08/21	\$48.75
			8029454	515	05/19-12/20	(\$243.50)
			8029887	515	12/21-12/21	\$8.19
			8030362	515	05/19-06/21	(\$182.35)
			8034464	515	09/21-09/21	\$8.19
			8036677	515	02/20-09/21	\$29.09
			8037389	515	09/20-03/21	\$45.63
			8080160	515	03/21-11/21	\$50.70
			8081279	515	05/19-12/21	(\$142.26)
			8082483	515	05/19-02/20	(\$173.39)
			8085570	515	05/19-12/21	(\$143.59)
			8087174	515	08/19-12/20	(\$142.54)
			8087718	515	05/19-12/21	(\$195.65)
			8095033	515	05/19-12/21	(\$162.84)
			8095513	515	05/19-07/19	(\$53.34)
			8096282	515	05/19-03/21	(\$227.87)
			8096728	515	05/19-11/19	(\$166.37)
			8097349	515	05/19-12/21	(\$165.41)
			8099265	515	12/19-12/20	(\$47.35)
8099733	515	05/19-07/19	(\$49.53)			
8099802	515	06/19-06/19	(\$7.62)			
Total Underpayment						(\$10,943.16)
2	HB0066	RES Success	multiple	515	07/19-12/21	A
3	HB0066	Temp Care LLC	multiple	854	02/21-02/22	\$367.44
4	PB0396	Akilah Blakwomyn, RN	multiple	744	02/21-02/22	\$10.50
5	PB0759	Michelle Vega-Cajucom	multiple	744	02/21-12/21	\$32.58
6	PB2204	Denise Ochoa, RN	multiple	744	02/21-10/21	\$3.77

**Regional Center of the East Bay
Overstated Claims Due to Incorrect Rates
Fiscal Years 2019-20 and 2020-21**

No.	Vendor Number	Vendor Name	Unique Client Identification Number	Service Code	Payment Period	Over/Under payment
7	PB2225	Maecy Pingol	multiple	744	02/21-02/22	\$133.14
8	PB2243	Johana Segura, Inc	multiple	744	02/21-10/21	\$53.82
Total Overpayment						\$601.25
Total Underpayment						(\$10,341.91)

Legend:

A = H&S rates were approved and applied retro actively to resolve the overpayments.

**Regional Center of the East Bay
Overstated Claims Due to Health and Safety Rates Used Without DDS Approval
Fiscal Years 2019-20 and 2020-21**

No.	Vendor Number	Vendor Name	Unique Client Identification Number	Service Code	Payment Period	Overpayment
1	PB2254	Elwyn CA- Keith Home	6402832	109	03/20	\$345.36
2	PB1375	RES-Success	5033097	55	02/21-08/21	A
			5875364	55	03/20-06/21	A
			6199912	55	09/21-10/21	A
			6199917	55	09/21-10/21	A
			8005977	55	09/20-12/21	A
			8032445	55	12/21	A
			8095772	55	09/20-11/21	A
			8096855	55	10/21	A
			8097229	55	08/20-10/21	A
			8097687	55	04/21-12/21	A
3	PB1685	RES-Success	8096650	55	07/20-12/21	A
			8279272	55	09/21-12/21	A
Total						\$345.36

Legend:

A = H&S rates were approved and applied retro actively to resolve the overpayments.

**Regional Center of the East Bay
Vendor Files Not Reviewed Biennially
Fiscal Years 2019-20 and 2020-21**

No.	Vendor Number	Vendor Name	Service Code	Missing Document		
				DS1891	Exclusion Search Results	State and Ineligible List
1	H14420	East Bay Services to the DD	520	X		
2	H17065	Shield- California Health Care Center	627	X	X	X
3	H84751	Fred Finch Youth Center	920	X	X	X
4	HB0170	Wisdom Path	505	X		
5	HB0390	The Arc of the East Bay	505		X	X
6	HB0503	Arc Access	91		X	X
7	HB0873	Manos Home Care - EOR	862	X		X
8	HB0895	Telecare Corporation Redwood Place	90		X	X
9	HB0964	Karydom	915	X	X	X
10	HB1081	Happy Lion Day Care Center	851	X	X	X
11	HB1108	Telecare Cypress House	903		X	X
12	HB1173	The Davis St Community Center	950	X	X	
13	HB1222	Ro Health	854		X	X
14	HB1282	REM California	510	X		
15	HG0069	Ro Health	742			X
16	HH0937	College Hospital	700	X	X	X
17	HS0606	Mobility Works of CA	21	X	X	X
18	HS0928	Praising Hands	862	X		
19	HS1188	Premier Healthcare Services	338		X	X
20	P19203	Toolworks-Supported Living Services	896		X	X
21	P31558	National Seating & Mobility	725		X	X
22	P91265	Hodges Residential Facility	111	X	X	X
23	PB0009	Lee Family Care Home	111	X	X	X
24	PB0586	Tamar Meidav MD	780	X	X	X
25	PB0912	Radcliff Home L&N	109	X	X	X
26	PB1227	Autism Learning Partners Pacific Child & Family	28	X	X	X
27	PB1463	RSCR California	62	X	X	X
28	PB1891	Extended Family Services	108	X	X	X
29	PB1999	Thrive Adult Residential Care	109	X	X	X
30	PB2223	Maxim Healthcare Services	115	X		X
31	PB2225	Maecy Pingol	744	X		
32	PF3917	Mains'l California	460	X	X	X
33	PG0051	Therapista	116	X	X	X
34	PN0392	Sonia Corina	103		X	X
35	PT0917	Tri-counties Comm House	104	X	X	X
Total Number of DS1916s and Search Results Outstanding				25	27	29

APPENDIX A

**REGIONAL CENTER OF THE EAST BAY'S
RESPONSE
TO THE AUDIT FINDINGS**



September 12, 2022

Edward Yan, Manager (via Email only)
Audit Section
Department of Developmental Services
1600 Ninth Street, Room 230, MS-2-10
Sacramento, CA 95814

Dear Mr. Yan,

The Regional Center of the East Bay has reviewed the enclosed draft report of our audit by the department of Developmental Services (DDS) for fiscal years 2019-20 and 2020-21. Our response to the findings and recommendations is as follows:

Response to Audit Finding 1: Overstated Claims

A. Incorrect Rates

For one day program vendor, RCEB received preliminary approval from DDS as a draft letter sent via email. The Department later sent the official letter, which had a revised rate that was different than the rate in the email due to a transposition error. RCEB did not notice the revised rate and therefore has been paying the incorrect rate. Since the audit, RCEB has been working with DDS to request for the corrected Health and Safety (H&S) rates. Based on the revised DDS letter dated September 9, 2022, RCEB recalculated using the newly approved H&S rates and determined that this vendor had underpayment totaling \$16,269.84, instead of the overpayment amount of \$180,649.93 that was assessed during the audit. We plan to correct the vendor's payment rates and adjust the vendor payments for the difference of \$16,269.84.

For the second day program vendor, RCEB did not seek approval from the Department for the additional nine consumers, who later joined the program but were paid the program's H&S rates. We have requested for approval since then, which DDS has approved in its letter dated August 23, 2022.

For the 6 vendors that RCEB reimbursed at the incorrect home health agency and registered nurse Schedule of Maximum Allowance (SMA) rates, RCEB was not aware that the rate was reduced by only three cents. RCEB acknowledged our oversight and will remit overpayment of \$601.25 to the Department. Although it is a challenge to find out when the SMA rates change, we plan to regularly check at least twice a year and implement any rate changes promptly.

B. Health and Safety Rates Used Without DDS approval

RCEB acknowledged that we did not get approval from DDS for using the approved H&S rates for the 13 consumers who were later added to the program. We have requested for approval since then, which DDS approved in its letter dated August 23, 2022 for two of the three vendors. For Elwyn CA-Keith Home, RCEB will remit \$345.36 for the overpayment processed.

RCEB recognized that there is a challenge in getting H&S rates approved by DDS and we plan to implement new procedures to improve this process, including quarterly submission to request approval for H&S rates for clients added to the program. We also decided not to set up H&S rates based on preliminary approval, and wait for final approved letters from the Department as the rates can still change in the final letter.

Response to Audit Finding 2: Vendor Files Not Reviewed Biennially

RCEB acknowledged that we have not located or updated the missing 73 DS 1891 forms, nor completed the 73 OIG exclusion and 84 S&I List search results as noted in the audit. We plan to complete or update these searches for the remaining vendors. We have re-trained our staff and updated the DS1891 form to capture both the OIG and S&I List search to ensure that both searches are completed consistently.

RCEB continues to struggle with obtaining updated DS1891 forms from vendors even though they are requested every 2 years. RCEB will keep a detailed spreadsheet to record the dates that we send out the request to our vendors.

Please accept the above responses as we have carefully reviewed and worked through these audit findings. RCEB remains vigilant and is committed to ensuring that our internal processes and procedures remain compliant with regulations. If you have any questions, please call me at 510-618-7709.

Sincerely,

Lynn Nguyen

Lynn Nguyen
Director of Finance and Administration

Enclosure

cc: Luciah Ellen Nzima, DDS (via email)
Staci Yasui, DDS (via email)
Lisa Kleinbub, RCEB (via email)
Steve Robinson, RCEB (via email)