AUDIT OF THE
FRANK D. LANTERMAN REGIONAL CENTER
FOR FISCAL YEARS 2010-11 AND 2011-12

Department of Developmental Services

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EXECUTIVE SUMMARY

The Department of Developmental Services' (DDS) fiscal compliance audit of Frank D. Lanterman Regional Center (FDLRC) revealed that FDLRC was in compliance with the requirements set forth in the California Code of Regulations, Title 17 (CCR, title 17), the California Welfare and Institutions (W&I) Code, the Home and Community-Based Services (HCBS) Waiver for the Developmentally Disabled, and the contract with DDS. The audit indicated that, overall, FDLRC maintains accounting records and supporting documentation for transactions in an organized manner. This report identifies some areas where FDLRC's administrative, operational controls could be strengthened, but none of the findings were of a nature that would indicate systemic issues or constitute major concerns regarding FDLRC's operations.

The findings of this report have been separated into the categories below:

I. Findings that need to be addressed.

Finding 1: **Client Trust Balances Over $2,000**

The review of 32 Client Trust accounts revealed three Client Trust balances that exceeded the $2,000 resource limit mandated by the Social Security Administration. This is not in compliance with Social Security Handbook, Chapter 21, section 2153.2.

FDLRC provided subsequent information in its response to the draft report which indicates that it has taken corrective action to resolve this issue for one consumer; however, two consumers remain with Client Trust balances over $2,000.

Finding 2: **Equipment**

A. **Missing Equipment**

A sample review of 50 items from FDLRC's equipment inventory register revealed three items that could not be located. This is not in compliance with Article IV, section 4(a) of the FDLRC contract with DDS.

FDLRC provided subsequent information in its response to the draft which noted one item was located; however, two items remain missing.

B. **Physical Inventory**

The review of FDLRC's inventory worksheets revealed that staff did not sign and date the worksheets to document that a physical inventory was taken at least once every three years. This is not in compliance with Article IV, section 4(a) of the FDLRC contract with DDS and

section III (F) of the the State's Equipment Management Systems Guidelines, dated February 1, 2003.

Finding 3: **Family Cost Participation Program – Assessments Not Completed As Part of the Individual Program Plan**

A review of 13 Family Cost Participation Program (FCPP) consumer files revealed two instances in which FDLRC did not assess the parents' share of cost participation as part of the consumer's Individual Program Plan (IPP) review. The two assessments were completed more than five months after the signing of the IPP. This is not in compliance with W&I Code, section 4783(g)(1).

FDLRC provided subsequent information in its response to the draft report indicating that this issue has been resolved for one consumer; however, one consumer remains with a late FCPP assessment.

Finding 4: **Vendors Not Enrolled in Electronic Billing**

During the review of FDLRC's electronic billing process, it was found that 29 vendors have not been enrolled in electronic billing as of July 1, 2012. None of the vendors received an exemption from FDLRC, which would have precluded them from enrolling in the electronic billing process. This is not in compliance with W&I Code, section 4641.5(a).

FDLRC provided subsequent information in its response to the draft report which indicates this issue has been resolved.

Finding 5: **Home and Community-Based Service Provider Agreement Forms**

The review of 163 sampled Purchase of Service (POS) vendor files revealed 14 vendors with HCBS Provider Agreement forms that were improperly completed. The forms were either missing the service code or vendor number or had multiple service codes or vendor numbers. This is not in compliance with CCR, title 17, section 54326(a)(16).

FDLRC has taken corrective action to resolve the issue by providing DDS with properly completed HCBS Provider Agreement forms for 12 vendors. However, two vendors remain with incomplete HCBS Provider Agreement forms.

Finding 6: **Deleted**

Per W&I Code, section 4639(b), the Regional Center's annual fiscal audit shall not be conducted by the same accounting firm more than five times in every 10 years.

DDS conducted further analysis of the W&I Code, section 4639(b) and determined it to be ambiguous and could be interpreted as allowing for the continued use of the same accounting firm for five more fiscal years. This finding has been deleted.

II. Finding that has been addressed and corrected by FDLRC.

Finding 7: **Incorrect Rate Paid to Vendors**

The review of 30 Day Program vendor files revealed that FDLRC reimbursed two vendors at incorrect rates which resulted in underpayments totaling $11,616.04. This is not in compliance with CCR, title 17, section 54326(a)(12).

FDLRC has taken corrective action to resolve this issue by providing supporting documentation for correcting the underpayments.

BACKGROUND

DDS is responsible, under the Lanterman Developmental Disabilities Services Act (Lanterman Act), for ensuring that persons with developmental disabilities (DD) receive the services and supports they need to lead more independent, productive and normal 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. The regional centers 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 Branch conducts fiscal compliance audits of each regional center no less than every two years, and completes follow-up reviews in alternate years. DDS also requires regional centers to contract with independent Certified Public Accountants (CPA) 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 regional center 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 will have its own criteria and processes. These audits and program reviews are an essential part of an overall DDS monitoring system that provides information on regional center fiscal, administrative and program operations.

DDS and Los Angeles County Developmental Services Foundation, Inc., entered into contract, HD099010, effective July 1, 2009, through June 30, 2016. The contract specifies that Los Angeles County Developmental Services Foundation, Inc. will operate an agency known as the Frank D. Lanterman Regional Center (FDLRC) to provide services to persons with DD and their families in the Central, Glendale, Hollywood, Wilshire, and Pasadena areas. The contracts are funded by State and Federal funds that are dependent upon FDLRC performing certain tasks, providing services to eligible consumers, and submitting billings to DDS.

This audit was conducted at FDLRC from November 26, 2012, through January 11, 2013, by the DDS Audit Branch.

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.

CRITERIA

The following criteria were used for this audit:

- California's W&I Code
- "Approved Application for the HCBS Waiver for the Developmentally Disabled"
- CCR, title 17
- Federal Office of Management Budget (OMB) Circular A-133
- State Contract between DDS and FDLRC, effective July 1, 2009

AUDIT PERIOD

The audit period was July 1, 2010, through June 30, 2012, 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 regional centers' fiscal, administrative, and program operations. The objectives of this audit are:

- To determine compliance with the W&I Code (or the Lanterman Act),
- To determine compliance with CCR, title 17 regulations,
- To determine compliance with the provisions of the HCBS Waiver Program for the Developmentally Disabled, and
- To determine that costs claimed were in compliance with the provisions of the State Contract.

The audit was conducted in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. However, the procedures do not constitute an audit of FDLRC's financial statements. DDS limited the scope to planning and performing audit procedures necessary to obtain reasonable assurance that FDLRC was in compliance with the objectives identified above. Accordingly, DDS examined transactions, on a test basis, to determine whether FDLRC was in compliance with the Lanterman Act, CCR, title 17, HCBS Waiver for the Developmentally Disabled, and the State Contract.

DDS' review of FDLRC'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 accounting firm for fiscal year 2010-11, issued on February 14, 2012. No management letter was issued by the independent accounting firm. This review was performed to determine the impact, if any, upon the DDS audit and, as necessary, develop appropriate audit procedures. In addition, DDS verified to ensure that the independent accounting firm was not used by FDLRC more than five times within a 10 year period as required per W&I Code, section 4639(b) and the DDS letter dated June 16, 2011, regarding the March 2011 Trailer Bill Language Affecting Regional Centers.

The audit procedures performed included the following:

I. Purchase of Service

DDS selected a sample of POS claims billed to DDS. The sample included consumer services, vendor rates, and consumer trust accounts. 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 FDLRC. The rates charged for the services provided to individual consumers were reviewed to ensure that the rates paid were set in accordance with the provisions of CCR, title 17 and W&I Code of regulations.

- 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 tenth of each month, and that 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 FDLRC's staff revealed that FDLRC 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 Social Security Administration (or other source) in a timely manner.

- DDS selected a sample of Uniform Fiscal System (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 FDLRC's bank accounts to determine whether DDS had signatory authority as required by the contracts with DDS.

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

II. Regional Center Operations

DDS audited FDLRC's operations and conducted tests to determine compliance with the State Contract. The tests included various expenditures claimed for administration to ensure that FDLRC's accounting staff is properly inputting data, transactions were recorded on a timely basis, and to ensure that expenditures charged to various operating areas are valid and reasonable. These tests included the following:

- A sample of the personnel files, time sheets, payroll ledgers and other support documents was selected to determine if there were any overpayments or errors in the payroll or the payroll deductions.

- A sample of operating expenses, including, but not limited to, purchases of office supplies, consultant contracts, insurance expenses, and lease agreements was 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 FDLRC'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 polices and procedures were followed.

III. Targeted Case Management and Regional Center Rate Study

The Targeted Case Management (TCM) Rate Study is the study that determines the DDS rate of reimbursement from the Federal Government. DDS reviewed applicable TCM records and FDLRC's Rate Study for the month of June 2011, and traced the reported information to source documents.

The last Case Management Time Study was performed in May 2010 and was reviewed in the prior DDS audit that included fiscal year 2009-10. As a result, there was no Case Management Time Study to review for this audit period.

IV. Service Coordinator Caseload Survey

Under W&I Code, section 4640.6(e), regional centers 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)(3):

A. For all consumers that are three years of age and younger and for consumers enrolled in the Waiver, the required average ratio shall be 1:62.

B. For 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, the required average ratio shall be 1:62. The required average ratio shall be 1:45 for consumers who have moved within the first year.

C. For all consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not covered under A above, the required average ratio shall be 1:66. The 1:66 ratio was suspended in February 2009, upon imposition of the 3 percent operations reduction to regional centers as required per W&I Code, section 4640.6(i) and (j). The ratio continued to be suspended from July 2010 until July 2012 with imposition of the subsequent 4.25 percent and 1.25 percent payment reductions.

DDS also reviewed the Service Coordinator Caseload Survey methodology used in calculating the caseload ratio 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 (Part C Funding)

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

For this program, DDS reviewed the Early Intervention Program, including the Early Start Plan and Federal Part C funding to determine if the funds were properly accounted for in the regional center's accounting records.

VI. Family Cost Participation Program

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 IPP. To determine whether FDLRC is in compliance with CCR, title 17 and the W&I Code, 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 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' complete income documentation.

- Reviewed vendor payments to verify that FDLRC is paying for only its assessed share of cost.

VII. Procurement

The Request for Proposal (RFP) process was implemented to ensure regional centers outline the vendor selection process when using the RFP process to address consumer service needs. As of January 1, 2011, DDS requires regional centers to document their contracting practices, as well as how particular vendors are selected to provide consumer services. By implementing a procurement process, regional centers 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 as amended.

To determine whether FDLRC implemented the required RFP process by January 1, 2011, DDS performed the following procedures during our audit review:

- Reviewed FDLRC'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 include 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 FDLRC. The process was reviewed to ensure that the vendor selection process is transparent, 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, there is written documentation retained as justification for such a selection.

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

- Selected a sample of Operational, Start-Up and negotiated POS contracts subject to competitive bidding to ensure FDLRC notified the vendor community and the public of contracting opportunities available.

- Reviewed the contracts to ensure that FDLRC has adequate and detailed documentation for the selection and evaluation process of vendor proposals, written justification for final vendor selection decisions, and 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 new contracts in place as of March 2011:

- Reviewed to ensure FDLRC 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 FDLRC Board approved POS, Start-Up and Operational vendor contracts over $250,000 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 and that the usage of funds are of direct benefit to consumers, and that contracts are supported with sufficiently detailed and measurable performance expectations and results.

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

VIII. Statewide/Regional Center Median Rates

The Statewide or Regional Center Median Rates were implemented on July 1, 2008, and amended on December 15, 2011, to ensure regional centers 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 regional centers demonstrate the exemption is necessary for the health and safety of the consumers.

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

- Reviewed sample vendor files to determine whether FDLRC is using appropriately vendorized service providers, has correct service codes, and that FDLRC is paying authorized contract rates and complying with the medium rate requirements of the W&I Code, section 4691.9.

- Reviewed vendor contracts to verify that FDLRC is reimbursing vendors using authorized contract median rates and verified that rates paid represented the lower of the statewide or regional center 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 health and safety exemptions are granted by DDS.

IX. Other Sources of Funding from DDS

Regional centers may receive other sources of funding from DDS. DDS performed sample tests on identified sources of funds from DDS to ensure FDLRC'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:

- Start-Up Funds, Community and Placement Program.
- Family Resource Center.
- First Five of California.
- Prevention Program.

X. 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 FDLRC and reviewed supporting documentation to determine the degree and completeness of FDLRC'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, FDLRC was in compliance with applicable sections of CCR, title 17, the HCBS Waiver, and the State Contract with DDS for the audit period, July 1, 2010, through June 30, 2012.

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

From the review of prior audit issues, it has been determined that FDLRC has taken appropriate corrective actions to resolve the prior audit issues.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued a draft report on July 19, 2013. The findings in the report were discussed at a formal exit conference with FDLRC on August 5, 2013. At the exit conference, DDS stated it would incorporate the views of responsible officials in the final report.

RESTRICTED USE

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

FINDINGS AND RECOMMENDATIONS

The findings of this report have been separated into the categories below.

I. Findings that need to be addressed.

Finding 1: **Client Trust Balances Over $2,000**

The review of 32 Client Trust accounts revealed three Client Trust balances that exceeded the $2,000 resource limit mandated by the Social Security Administration. By exceeding the asset limit, consumers are at risk of losing Supplemental Security Income (SSI) benefits that are used to offset the cost of residential services. Any residential costs not offset by SSI benefits are charged in full to the State. Consequently, not managing the consumers' trust balances within the asset limit exposes the State to an increased share of residential service costs.

Social Security Handbook, Chapter 21, section 2153.2, states:

"As of January 2009, the applicable limits are:

A. $2,000 for an individual without a spouse..."

FDLRC provided subsequent information in its response to the draft report which indicates that it has taken corrective action to resolve this issue for one consumer; however, two consumers remain with Client Trust balances over $2,000. (See Attachment A.)

Recommendation:

FDLRC should closely monitor Client Trust accounts to ensure the balances remain within the resource limits established by the Social Security Administration.

Finding 2: **Equipment**

A. **Missing Equipment**

A sample of 50 items from FDLRC's equipment inventory register revealed three items that could not be located. FDLRC explained the missing items were moved to different storage locations within the building and were lost or misplaced during the move.

State Contract, Article IV, Section 4(a) states in part:

"Contractor shall maintain and administer, in accordance with sound business practice, a program for the utilization, care, maintenance, protection and preservation of State of California property so as to assure its full availability and usefulness for the performance of this contract. Contractor shall comply with the State's Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of State of California property."

FDLRC provided subsequent information in its response to the draft which noted one item was located, however, two items remain missing. (See Attachment B.)

Recommendation:

FDLRC should be following the State's Equipment Management System Guidelines for the safeguarding of State property. This would include that any missing items are reported in a timely manner and, if the items cannot be located, a survey form is completed to remove the items from the inventory register.

B. <u>Physical Inventory</u>

The review of FDLRC's inventory worksheets, conducted in June 2012, revealed that staff did not sign and date the physical inventory worksheets as verification that an inventory was conducted within three years. FDLRC stated its staff responsible for conducting the inventory was not aware that inventory worksheets are to be signed and dated as part of the review.

State Contract, Article IV, Section 4(a) states in part:

"Contractor shall comply with the State's Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of the State of California property."

Section III (F) of the the State's Equipment Management System Guidelines, dated February 1, 2003, states in part:

"The inventory will be conducted per State Administrative Manual (SAM) Section 8652."

State Administrative Manual (SAM), section 8652 states in part:

"Departments will make a physical count of all property and reconcile with accounting records at least once every three years. Inventory counting does not need to be performed at one time for an entire department's property. Departments may take a rotating inventory according to an inventory calendar.

Departments are responsible for developing and carrying out an inventory plan which will include:

2. Internal control:

b. Worksheets used to take inventory will be retained for audit and will show the date of the inventory and the name of the inventory taker."

Recommendation:

FDLRC should ensure the inventory worksheets are signed and dated by the staff that conducted the physical inventory as defined in the State Contract and the State's Equipment Management System Guidelines.

Finding 3: **Family Cost Participation Program – Assessments Not Completed As Part of the Individual Program Plan**

A review of 13 FCPP consumer files revealed two instances where FDLRC did not assess the parents' share of cost participation as part of the consumers' IPP review. The assessments were completed more than five months after the signing of the IPP. FDLRC stated this occurred when Service Coordinators failed to complete the assessment during the IPP review.

W&I Code, section 4783(g)(1) states in relevant part:

"(g) Family cost participation assessments or reassessments shall be conducted as follows:

(1) (A) A regional center shall assess the cost participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or the individualized family service plan review..."

FDLRC provided subsequent information in its response to the draft report indicating that this issue has been resolved for one consumer, however, one consumer remains with a late FCPP assessment.

Recommendation:

FDLRC should inform all Service Coordinators that FCPP assessments are to be completed as part of the consumers' IPP review. This will ensure compliance with the W&I Code, section 4873(g)(1).

Finding 4: **Vendors Not Enrolled in Electronic Billing**

During the review of FDLRC's electronic billing process, it was found that 29 vendors have not been enrolled in electronic billing as of July 1, 2012, from a list of 1,220 eligible vendors provided by FDLRC. Exceptions are granted for vendors paid by vouchers, and vendors who demonstrate that enrolling in electronic billing will present financial hardships. However, it was found that none of the 29 vendors were paid by vouchers or demonstrated that submitting billings electronically would have presented a financial hardship. FDLRC stated it has been unsuccessful in its attempts to convert these vendors to electronic billing.

W&I Code, section 4641.5(a) states:

"(a) Effective July 1, 2011, all regional centers shall begin transitioning all vendors of all regional center services to electronic billing for services purchased through a regional center. All vendors and contracted providers shall submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:

(1) A vendor or provider whose services are paid for by vouchers, as that term is defined in subdivision (i) of Section 4512 of the Welfare and Institutions Code.

(2) A vendor or provider who demonstrates that submitting billings electronically for services presents substantial financial hardship for the provider."

FDLRC provided subsequent information in its response to the draft report which indicates this issue has been resolved.

Recommendation:

FDLRC should continue to work on enrolling these vendors to the electronic billing process, to be in compliance with W&I Code, section 4641.5(a).

Finding 5: **Home and Community-Based Service Provider Agreement Forms**

The review of 163 sampled POS vendor files revealed 14 vendors with HCBS Provider Agreement forms that were improperly completed. The forms were either missing the service code or vendor number or had multiple service codes or vendor numbers.

FDLRC has taken corrective action to resolve the issue by providing DDS with the properly completed HCBS Provider Agreement forms for 12 vendors. However, two vendors remain with incomplete HCBS Provider Agreement forms.

CCR, title 17, section 54326(a)(16) states in part:

"(a) All vendors shall…

(16) Sign the Home and Community-Based Services Provider Agreement (6/99), if applicable pursuant to section 54310(a)(10)(I), (d) and (e)…"

Recommendation:

FDLRC should ensure that a properly completed HCBS Provider Agreement form is on file for all vendors.

Finding 6: **Deleted**

Per W&I Code, section 4639(b), the Regional Center's annual fiscal audit shall not be conducted by the same accounting firm more than five times in every 10 years.

This law was implemented by the State's Legislature for appropriations related to the Budget Bill to address the fiscal emergency declared by the Governor. This new law was to take effect immediately for a General Fund savings of $1.2 million that was to be realized in fiscal year 2011-12.

DDS conducted further analysis of the W&I Code, section 4639(b) and determined it to be ambiguous and could be interpreted as allowing for the continued use of the same accounting firm for five more fiscal years. DDS maintains its position that FDLRC should not have retained the same accounting firm; however, due to the ambiguity of the law, DDS will not pursue this issue any further. Therefore, this finding has been deleted.

II. Finding that has been addressed and corrected by FDLRC.

Finding 7: **Incorrect Rate Paid to Vendors**

The review of 30 Day Program vendor files revealed that FDLRC reimbursed two vendors at incorrect rates. Willing Workers Inc., vendor number H01769, service code 505, was paid at a rate of $51.55 per unit rather than the correct rate of $53.54 per unit. Avanti Adult Services, vendor number H16770, service code 510, was paid at a rate of $61.51 per unit rather than the correct rate of $63.88 per unit. This resulted in underpayments totaling $11,616.04.

CCR, title 17, section 54326(a)(12) states:

"All vendors shall:

(12) Agree to accept the rate established, revised or adjusted by the department as payment in full for all authorized services provided to consumers and not bill the consumer nor the consumer's family, conservator, guardian or authorized consumer representative for a supplemental amount regardless of the cost of providing the authorized service."

FDLRC has taken corrective action to resolve this issue by providing supporting documentation for correcting the underpayments.

Recommendation:

FDLRC should ensure that the billing rates are the same rates that are specified in the contracts with the vendors. FDLRC should also review its vendor files to ensure vendors are reimbursed at the correct rate according to the rate letter on file. This will prevent any future payment errors made to the vendors.

EVALUATION OF RESPONSE

As part of the audit report process, FDLRC was provided with a draft report and was requested to provide a response to each finding. FDLRC's response dated September 5, 2013, is provided as Appendix A. This report includes the complete text of the findings in the Findings and Recommendations section, as well as a summary of the findings in the Executive Summary section.

DDS' Audit Branch has evaluated FDLRC's response. Except as noted below, FDLRC's response addressed the audit findings and provided reasonable assurance that corrective actions would be taken to resolve the issues. During the follow-up review of the next scheduled audit, DDS' Audit Branch will confirm FDLRC's corrective actions identified in the response to the draft report.

Finding 1: **Client Trust Balances Over $2,000**

In its response to the draft report, FDLRC stated that the three consumers, UCI numbers [redacted], [redacted] and [redacted], with resource balances above $2,000, should not have been considered a finding. DDS agrees with FDLRC that consumer UCI number [redacted] was over the resource limit due to an overpayment by Social Security. After further review of the client trust account, it was noted that FDLRC returned the overpayment to the Social Security Administration reducing the resource limit to less than $2,000. Therefore, this issue is resolved.

DDS agrees with FDLRC's explanation that consumer UCI number [redacted] was over the resource limit due to staff being on leave. However, FDLRC should have had staff available as back up to ensure resource limits were protected. DDS recommends that FDLRC cross trains its staff to ensure a staff member is available, at all times, to monitor the consumer trust balances. This will ensure consumer balances remain below the resource limit and consumer benefits are protected. FDLRC stated that consumer UCI number [redacted] was over the limit because additional resources were received in June, July and August of 2012, totaling $573. DDS' review of the client trust account indicated that the consumer's resources were over the limit in May 2012.

In addition, for consumers UCI numbers [redacted] and [redacted], FDLRC stated its Social Security Administration liaison does not take into account funds that are paid in arrears for residential placements. FDLRC should provide DDS with a letter or criteria from the Social Security Administration supporting this claim.

Finding 2: **Equipment**

A. **Missing Equipment**

FDLRC provided supporting documentation indicating that it located one item, an exam table light, State tag number 313319. In addition, for the two items still missing, FDLRC stated that the items are obsolete and should have been surveyed. However, FDLRC did not provide DDS with any supporting documentation indicating that the items have been surveyed; therefore, this issue remains unresolved.

B. **Physical Inventory**

FDLRC agrees with the finding, and stated that inventory worksheets will be signed, dated and reviewed by the Associate Director. However, FDLRC did not provide supporting documentation indicating that staff responsible for conducting the inventory, now signs and dates the inventory worksheets as part of the review. DDS will conduct a follow-up review during the next scheduled audit to ensure worksheets are signed and dated.

Finding 3: **Family Cost Participation Program – Assessments Not Completed As Part of the Individual Program Plan**

FDLRC stated in its response to the draft report, that the IPPs for consumers, UCI numbers [redacted] and [redacted], were not completed late. FDLRC states that the FCPP assessment for consumer, UCI number [redacted], was completed in July 2011, prior to the November 2011 IPP. However, consumer records indicate that an IPP was completed on May 25, 2010; therefore, an FCPP assessment should have been completed at the time of signing the IPP.

In addition, for consumer UCI number [redacted], FDLRC stated that the FCPP re-assessment completed September 28, 2010, was not late since the assessment was completed immediately after income documentation was received. A review of documentation provided supports FDLRC's claim that the assessment was completed on time. Therefore, this issue is resolved.

Finding 5: **Home and Community-Based Service Provider Agreement Forms**

FDLRC disagrees with DDS that vendor numbers H16691 and H00706 should have a separate HCBS Provider Agreement form for each vendor number and service code. FLDRC stated that these two vendors were vendorized in 1990 and 1997, respectively, prior to the implementation of the HCBS Provider Agreement requirements in 1999. However, DDS disagrees with FDLRC's interpretation of the CCR, title 17, section 54326 (a)(16). FDLRC must ensure that a properly

completed HCBS Provider Agreement form is on file for all vendors. Therefore, this issue remains unresolved.

Finding 6: **Deleted**

Per W&I Code, section 4639(b), the Regional Center's annual fiscal audit shall not be conducted by the same accounting firm more than five times in every 10 years.

This law was implemented by the State's Legislature for appropriations related to the Budget Bill to address the fiscal emergency declared by the Governor. This new law was to take effect immediately for a General Fund savings of $1.2 million that was to be realized in fiscal year 2011-12.

DDS conducted further analysis of the W&I Code, section 4639(b) and determined it to be ambiguous and could be interpreted as allowing for the continued use of the same accounting firm for five more fiscal years. DDS maintains its position that FDLRC should not have retained the same accounting firm; however, due to the ambiguity of the law, DDS will not pursue this issue any further. Therefore, this finding has been deleted.

Frank D. Lanterman Regional Center
Client Trust Balances Over $2,000
Fiscal Years 2010-11 and 2011-12

	Unique Client Identification Number	Account Balance	Type
1	[redacted]	$2,376.97	SSI/SSA
2	[redacted]	$2,715.55	SSI/SSA

Frank D. Lanterman Regional Center
Equipment - Missing Equipment
Fiscal Years 2010-11 and 2011-12

	Item Description	Serial Number	State Tag Number
1	Television/VCR/DVD Combo.	None	336307
2	Cell Phone	PXVC09G7H055	346474

APPENDIX A

FRANK D. LANTERMAN REGIONAL CENTER

RESPONSE
TO AUDIT FINDINGS

(Certain documents provided by the Frank D. Lanterman Regional Center as attachments to its response are not included in this report due to the detailed and sometimes confidential nature of the information.)

FRANK D. LANTERMAN REGIONAL CENTER

September 5, 2013

Edward Yan
Manager
Audit Branch
Department of Developmental Services
1600 Ninth St., Room 230, MS 2-10

Dear Mr. Yan

Lanterman received the written audit report of fiscal years 2010-11 and 2011-12 and offers the attached response to the findings.

For ease of reference, and for discussion with our Board and committees, we have reprinted the Department's findings and recommendations and inserted our response in the appropriate places.

We look forward to receiving the final report after this response is received and reviewed.

Should you or your staff have questions regarding our response, please contact Patrick Aulicino, our Associate Director of Administrative Services, who prepared the report.

Sincerely,

Diane Anand
Executive Director

FRANK D. LANTERMAN REGIONAL CENTER

RESPONSE TO DDS AUDIT OF 2010-11 AND 2011-12

In this report, we reprint the Department's findings and follow with the Regional Center's response for ease of reading.

I. Findings that need to be addressed.

Finding 1: Client Trust Balances Over $2,000

DDS FINDING

The review of 32 client trust accounts revealed three client trust balances that exceeded the $2,000 resource limit mandated by the Social Security Administration. By exceeding the asset limit, consumers are at risk of losing Supplemental Security Income (SSI) benefits that are used to offset the costs of residential services. Any residential costs not offset by SSI benefits are charged in full to the State. Consequently, not managing consumers' trust balances within the asset limit exposes the State to an increased share of residential service costs (See Attachment A.)

Social Security Handbook, Chapter 21, section 2153.2 states "As of January 2009, the applicable limits are:

A. $2,000 for an individual without a spouse..."

Recommendation:

FDLRC should closely monitor client trust accounts to ensure the balances remain within the resource limits established by the Social Security Administration.

FDLRC RESPONSE

Our Revenue staff does strive to ensure that all accounts remain within the allowable resource limits. As a matter of course, when resources are approaching the stated limits Revenue staff do send spend-down requests to service coordinators asking for spending plans to be developed and disbursements made.

We would, however, like to comment on the specifics of the three clients noted.

In regards to the first client, the overage was due to a previous overpayment by the Social Security Administration. Our staff had been in communication with the SSA and were awaiting

notification of the exact amount of the refund. We were notified of the amount after the completion of the field work by DDS auditors and the situation has been rectified by the repayment. There was no loss of benefits to the client.

In regards to the second client, there was a delay in the development of the spend down plan due to a staff person being on leave. That plan was subsequently developed and implemented with no loss of benefits to the client.

The third client had received one time increases in June, July, and August 2012 in the amount of $573. A spend down request was completed in December of 2012 during the field work of the auditors leaving a remaining balance of just over $2,000. This small excess is permissible as the SSA allows nine months to spend down the excess funds, which would have been in March of 2013. Currently, the client is within the stated resource limits. There was no loss of benefits to the client.

It is also important to note that our SSA liaison does take into account funds we pay in arrears for residential placement so as not to count them in the resource limit; if that had been considered by the DDS auditors, both the second and third clients would have been well under the acceptable limits.

Finding 2: <u>Equipment</u>

DDS FINDING

Missing Equipment: *A sample of 50 items from FDLRC's equipment inventory register revealed three items that could not be located. FDLRC explained the missing items were moved to different storage locations within the building and were lost or misplaced during the move. (See Attachment B).*

State Contract, Article IV, Section 4(a) states in part:

"Contractor shall maintain and administer, in accordance with sound business practice, a program for the utilization, care, maintenance, protection and preservation of State of California property so as to assure its full availability and usefulness for the performance of this contract. Contractor shall comply with the State's Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of State of California property."

Recommendation:

FDLRC should be following the State's Equipment Management System Guidelines for the safeguarding of State property. This would include that any missing items are reported in a

timely manner and, if the items cannot be located, a survey form is completed to remove the items from the inventory register.

FDLRC RESPONSE

We did locate one of the items (an exam table light) and reported this to the auditor via email after the conclusion of the field work. The other two items were an obsolete cell phone and a small TV/VCR/DVD combo player that we have not used for years. These should have been surveyed off in a prior inventory reconciliation. We will review items more carefully in the future in an attempt to avoid a recurrence of this sort of issue.

Physical Inventory: *The review of FDLRC's inventory worksheets, conducted in June 2012, revealed that staff did not sign and date the physical inventory worksheets as verification that an inventory was conducted within three years. FDLRC stated that its staff responsible for conducting the inventory was not aware that inventory worksheets are to be signed and dated as part of the review.*

State Contract, Article IV, Section 4(a) states in part:

"Contractor shall comply with the State's Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of the State of California property."

Section III (F) of the State's Equipment Management System Guidelines, dated February 1, 2003, stated in part:

"The inventory will be conducted per State Administrative Manual (SAM) Section 8652."

State Administrative Manual (SAM), section 8652 states in part:

"Departments will make a physical count of all property and reconcile with accounting records at least once every three years. Inventory counting does not need to be performed at one time for an entire department's property. Departments may take a rotating inventory according to an inventory calendar.

Departments are responsible for developing and carrying out an inventory plan which will include:

2. Internal Control:

b. Worksheets used to take inventory will be retained for audit and will show the date of the inventory and the name of the inventory taker."

Recommendation:

FDLRC should ensure the inventory worksheets are signed and dated by the staff that conducted the physical inventory as defined in the State Contract and the State's Equipment Management System Guidelines.

FDLRC RESPONSE

This was an oversight in the transition to a new manager. We will ensure that the inventory worksheets are signed and dated in the future. These will also be reviewed by the Associate Director.

Finding 3: Family Cost Participation Program-Assessments Not Completed As Part of the Individual Program Plan

DDS FINDING

A review of 13 FCPP consumer files revealed two instances where FDLRC did not asses the parents' share of cost participation as part of the consumer's IPP review. The assessments were completed more than five months after the signing of the IPP. FDLRC stated that this occurred when Service Coordinators failed to complete the assessment during the IPP review.

W&I Code, Section 4783(g)(1) states in relevant part:

"(g) Family cost participation assessment or reassessments shall be conducted as follows:

(1)(A) A regional center shall assess the cost of participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or the individualized family service plan review..."

Recommendation:

FDLRC should inform all Service Coordinators that FCPP assessments are to be completed as part of the consumers' IPP review. This will ensure compliance with the W&I Code, section 4873(g)(1).

FDLRC RESPONSE

FDLRC does regularly reinforce with service coordinators the requirements that FCPP assessments are to be completed as a part of the consumers' IPP review.

In regards to the specific cases, for the first one listed ([redacted]), our records show that an assessment was completed in November of 2008 so another would not have been due until November of 2011. Instead, an assessment was completed in July of 2011and the family was assessed a 100% share of cost as they failed to report income. The last month that services were paid is July of 2011. We believe that the finding is incorrect.

For the second ([redacted]), the assessment was completed in July as scheduled, and the family was assessed a share of cost of 100% as they failed to report income. In September, however, the family did submit income and based on that data there was no share of cost. The regional center did not suspend the respite services for the months of August and September as it should have done. The fiscal impact was approximately $440.00.

Finding 4: Vendors Not Enrolled in Electronic Billing

DDS FINDING

During the review of FDLRC's electronic billing process, it was found that 29 vendors have not been enrolled in electronic billing as of July 1, 2012, from a list of 1,220 eligible vendors provided by FDLRC. Exceptions are granted for vendors paid by vouchers, and vendors who demonstrate enrolling in electronic billing will present financial hardships. However, it was found that none of the 29 vendors were paid by vouchers or demonstrated that submitting billings electronically would have represented a financial hardship. FDLRC stated it has been unsuccessful in its attempts to convert these vendors to electronic billing. (See Attachment C.)

W&I Code, section 4641.5(a) states:

"(a) Effective July 1, 2011, all regional centers shall begin transitioning all vendors of all regional center services to electronic billing for services purchased through a regional center. All vendors and contracted providers shall submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:

(1) A vendor or provider whose services are paid for by vouchers, as that term is defined in subdivision (i) of Section 4512 of the Welfare and Institutions Code.

(2) A vendor or provider who demonstrates that submitting billings electronically for services presents substantial financial hardship for the provider."

Recommendation:

FDLRC Should continue to work on enrolling these vendors to the electronic billing process, to be in compliance with the W&I Code, section 4641.5(a).

FDLRC RESPONSE

FDLRC has diligently worked to enroll vendors in the electronic billing program since its inception. Formalized training sessions were held on more than twenty occasions and, in addition, individual tutorials were provided. Training videos were also loaded onto the center's website. Prior to June 30, 2012, 1,191 vendors were enrolled, leaving a balance of only 29. These 29 providers represented less than 2.5% of all providers eligible for e-billing, had little or no billing activity since July 1, 2012, and represented an average of less than 2 clients per vendor.

In May, 2013, within about 2 months of the original DDS audit inquiry, FDLRC had advised DDS auditors that of the 29 identified vendors, it had completed enrolling 22 providers, had formally granted 2 exemptions, and had terminated inactive authorizations for 5 providers.

We do not agree, as stated in the report, that "FDLRC stated it has been unsuccessful in its attempts to convert these vendors to electronic billing." Rather, we have worked systematically and diligently to enroll providers and these 29 represent the few remaining as of 6/30/12. We would like to see credit for this activity represented in the Department's report.

Finding 5: Home and Community-Based Service Provider Agreement Forms

DDS FINDING

The review of 163 sampled POS vendor files revealed 14 vendors with HCBS Provider Agreement forms that were improperly completed. The forms were either missing the service code, vendor number, or had multiple service codes or vendor numbers.

FDLRC has taken corrective action to resolve the issue by providing DDS with the properly completed HCBS Provider Agreement forms for 12 vendors. However, two vendors remain with incomplete HCBS Provider Agreement forms.

CCR, title 17, section 54326(a)(16) states in part:

"(a) All vendors shall...

(16) Sign the Home and Community-Based Services Provider Agreement (6/99), if applicable pursuant to section 54310 (a)(10)(I)(d) and (e)..."

Recommendation:

FDLRC should ensure that a properly completed HCBS Provider Agreement form is on file for all vendors.

FDLRC RESPONSE

We disagree that the two providers in question do not have appropriate forms on file. The HCBS Provider Agreement forms on file for the two providers cited in this audit (H16691 (505) and H00706 (805)) were properly completed and on file at the time of the audit. The issue that repeatedly arises is that we have one form containing multiple vendor numbers for a single provider. There is nothing in Title 17 section 54326 that prohibits multiple vendor numbers and/or service codes on one HCBS Provider Agreement form.

H16691 (505), an FDLRC provider, was vendored in 1990. H00706 (805) an SCLARC provider, was vendored in 1997. The HCBS Provider Agreement form was implemented in 1999 and providers were asked to complete the form as a requirement to continue to be vendored. The instructions to providers did not direct them to complete one form per vendor number or service code. The signed and dated forms were placed and remain in the vendor files.

The HCBS Provider Agreement form is part of the new vendor application packet and the vendorization process is not completed without the completed form. Each new HCBS Provider Agreement form has one vendor number and one service code.

Finding 6: Annual Independent Fiscal Audit

DDS FINDING

The review of the Independent Fiscal Audit Report area revealed that the same accounting firm was retained to conduct the annual fiscal audit for fiscal year 2011-2012. This same accounting firm has been contracted by FDLRC to conduct the annual fiscal audit for more than five times within the previous 10 year period. In addition, for appropriations related to the Budget Bill to address the fiscal emergency declared by the Governor, this new law was to take effect immediately for a General Fund savings of $1.2 Million. However, FDLRC stated that based on its own legal counsel's interpretation of the new law, the 10 year period was to commence effective fiscal year 2011-12, and that FDLRC can continue to use the same accounting firm for the next five fiscal years.

W&I Code, section 4639(b) states:

"(b) For the 2011-12 fiscal year and subsequent years, the audit specified in subdivision (a) shall not be completed by the same accounting firm more than five times in every 10 years."

Also, Page 7 of DDS' letter dated June 16, 2011, regarding the March 2011 Trailer Bill Language Affecting Regional Centers states in part:

"TBL Section 9: Section 4639 was amended to specify that, beginning in Fiscal Year (FY) 2011-12, the independent fiscal audit conducted pursuant to this section of law cannot be completed by the same accounting firm more than five times in every 10 years.

Implementation: For the FY 2011-12 audit, the regional center may not use an independent accounting firm that has been used five or more times in the previous ten years."

Recommendation:

FDLRC must comply with W&I Code, section 4639(b), and the DDS letter dated June 16, 2011, requiring the annual independent fiscal audit not be conducted by the same accounting firm more than five times in every 10 years.

FDLRC RESPONSE

We emphatically disagree with this finding. This particular W&I code section was added in 2011. Nowhere in the legislation does it state that this provision of the law is retroactive. Even the language of the audit report clearly states that "(b) **for the 2011-12 fiscal year and subsequent years,** the audit specified in subdivision (a) shall not be completed by the same accounting firm more than five times in every 10 years (emphasis added).

We have requested and secured a legal opinion to this effect from our counsel. If this finding is not removed from the report, we intend to appeal it.

Finding that has been addressed and corrected by FDLRC.

Finding 7: Incorrect Rate Paid to Vendors

DDS FINDING

The review of 30 Day Program vendor files revealed that FDLRC reimbursed two vendors at incorrect rates. Willing Workers Inc., vendor number H01769, service code 505, was paid at a rate of $51.55 per unit rather than the correct rate of $53.54 per unit. Avanti Adult Services, vendor number H16770, service code 510, was paid at a rate of $61.51 per unit rather than the correct rate of $63.88 per unit. This resulted in underpayments totaling $11,616.04.

CCR, title 17, section 54326(a)(12) states:

"All vendors shall:

(12) Agree to accept the rate established, revised or adjusted by the department as payment in full for all authorized services provided to consumers and not bill the consumer nor the consumer's family conservator, guardian or authorized consumer representative for a supplemental amount regardless of the cost of providing the authorized service."

FDLRC has taken corrective action to resolve this issue by providing supporting documentation for correcting the underpayments.

Recommendation:

FDLRC should ensure that the billing rates are the same rates that are specified in the contracts with the vendors. FDLRC should also review its vendor files to ensure vendors are reimbursed at the correct rate according to the rate letter on file. This will prevent any future payment errors made to the vendors.

FDLRC RESPONSE

The Center continues to use its best efforts to assure that rates are paid correctly, particularly when so much of the activity must be done manually in the absence of effective IT systems. This has only been exacerbated in the past few years with the myriad of rate changes during the fiscal crisis and its aftermath.