

Background on Regional Center Oversight

Through decades of work by advocates and those in government, the system of services for people with developmental disabilities in California has evolved towards a more humane, community-based system with safeguards for consumers. With a budget of nearly \$4 billion, the Department of Developmental Services (DDS) is charged with developing and overseeing a service system that is responsive to the needs of the over 240,000 people with developmental disabilities. DDS operations include two major components, the system of Developmental Centers for the most severely disabled consumers and the system of Regional Centers which focus on providing community-based services.

The existing Regional Center system differs from other state services because the point of service for consumers is a private, non-profit organization, as opposed to a state or local public agency. This means that many transparency and accountability provisions in the law which apply to public agencies, do not apply to Regional Centers. Specifically, the California Whistleblower Protection Act (GOV 8547), and the similarly named Whistleblower Protection Act (GOV 9149.20) which addresses complaints brought to the State Legislature, are not applicable to Regional Centers.

In addition, much of the information that Regional Centers *are* required to provide to DDS or to make available to the public, is available only upon request. AAR Committee staff has heard widespread allegations about the burdensome process of requesting information from or about Regional Centers, and the related fear of retribution. Staff has also been in contact with individuals whose requests for information are denied on the basis that as private, nonprofit organizations, Regional Centers are not required to provide information about their operations or expenditures to the public.

Perhaps a greater threat to transparency is the systemic disincentive that exists for providers, Regional Center staff, consumers and their families, and even Area Board members, to request information about Regional Center operations. During the Committee's investigation, several Regional Centers were cited as well-run organizations which operate in accordance with high standards of transparency and accountability. However, other Regional Centers were fraught with allegations of conflict of interest, over-billing, refusals to provide information, and retaliation towards those who raised concerns about the way their local Regional Center operates.

It is also important to note that many people whose work or volunteer activities relate to Regional Centers, became involved with disabilities issues because their loved ones are consumers. Like most consumers, their loved ones are dependent upon Regional Centers for access to critical services. Consumers' reliance on Regional Centers for access to services creates an inherent conflict for consumers and their families. The fear of a reduction or denial of services may be enough to silence people who would otherwise report questionable activities. There is currently no way to make such reports or complaints to the Regional Center, DDS, the Attorney General, or any other oversight agency in an anonymous manner because Whistleblower protections are not applicable.

The Department of Developmental Services' oversight of Regional Centers is focused on its primary charge of ensuring that consumers and their families have access to the services they need. Consumers and their representatives can and do appeal Regional Center decisions about services to the Department. The Lanterman Act is more specific with respect to the rights of consumers than it is with respect to the business side of Regional Center operations. For example, Regional Centers are not required to explain or justify their selection of vendors, or the basis for their negotiated rates.

This lack of transparency prevents those who interact with Regional Centers, including Area Boards, from ensuring that funds are spent so as to maximize the benefit to consumers. As another example, neither Regional Centers nor vendors are required to provide consumers or their families with copies of billing statements, to ensure the accuracy of services billed.

Current law also impedes the State Legislature from exercising its duty to ensure that taxpayer funds are properly expended. The responsibility takes on increased importance when resources are limited. Even the press is denied access to information about Regional Center expenditures, such as salaries and transfers of funds, on the basis that the Public Records Act does not apply to these private, non profit organizations.

DDS' primary oversight activities:

- Five-year contracts with Regional Centers – To reestablish Regional Center contract with DDS dependent upon compliance with statutory and regulatory requirements
- Annual Performance Reviews of Regional Centers – Assess specified performance measures on an annual basis to identify and address outliers
- Regional Center Audits – Verify that Regional Centers comply with statutory and regulatory requirements
- Vendor Audits (If contract is \$100,000 or greater) - Verify the accuracy of provider billing statements

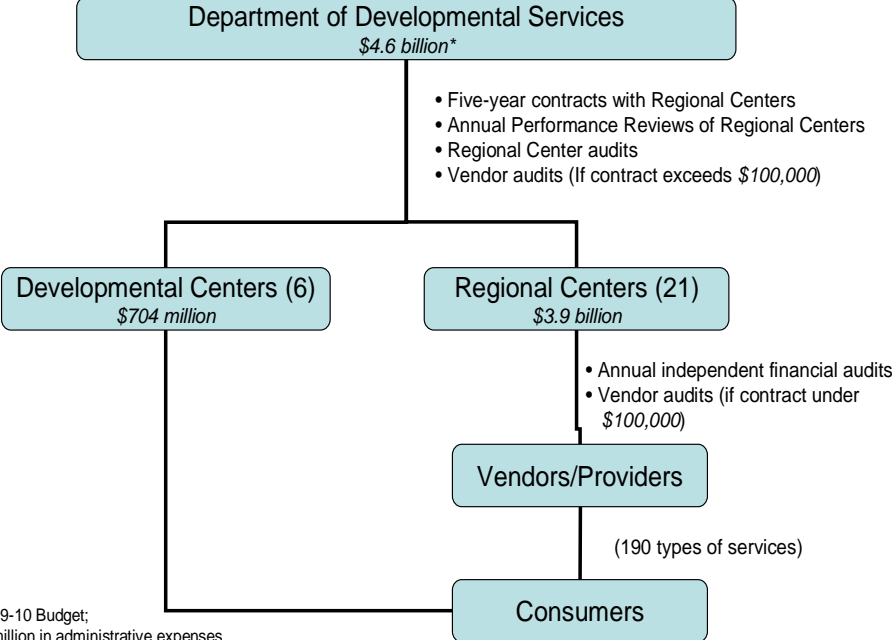
Regional Center self-evaluation activities:

- Annual financial audit- Verifies the accuracy of Regional Center financial statements
- Vendor Audits (If contract is less than \$100,000) – Verify the accuracy of provider billing statements

Fiscal information

The Department of Developmental Services develops its budget for Regional Centers based on a funding allocation formula that is driven by caseload, among other factors. The state budget allocates resources to Regional Centers in two separate funds, called the *Operations* and *Purchase of Service* categories. Operations funds are meant to support Regional Center administrative activities and Purchase of Services (POS) funds are used by Regional Centers to procure services needed by consumers. In FY 2008-09, Regional Centers expended over \$3.3 billion in POS funds and over \$500 million in operations funds.

Regional Center Oversight System



*Based on 2009-10 Budget;
Includes \$26 million in administrative expenses
and \$33 million in infrastructure expenses.