**California Code of Regulations**
**Title 17, Division 2**
**Chapter 3: Community Services**

**SubChapter 2: Vendorization**

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## Article 2: Vendorization Process

### Section 54302 – Definitions

(a) The following definitions shall apply to the language contained in Sections 54310 through 54390 of these regulations:

(1) “Accreditation” means a formal determination and recognition by CARF that a Work Activity or Supported Employment Program is in compliance with the service delivery standards CARF has established for the program.

(2) "Activity Center" means a community-based day program that serves adults who generally have acquired most basic self-care skills, have some ability to interact with others, are able to make their needs known, and respond to instructions. Activity center programs focus on the development and maintenance of the functional skills required for self-advocacy, community integration and employment;

(3) "Adult" means a person 18 years of age or older;

(4) "Adult Day Health Care Program" means an Adult Day Care Health Care Program as defined in Health and Safety Code Section 1570.7(a);

(5) "Adult Day Programs" means those community-based day programs defined in (a)(1), above and (a)(6), (11), (13), (31), and (60) below;

(6) "Adult Day Services" means the broad category of nonresidential services under which adult day programs are categorized;

(7) "Adult Development Center" means a community-based day program that serves adults who are in the process of acquiring self-help skills. Individuals who attend adult development centers generally need sustained support and direction in developing the ability to interact with others, to make their needs known, and to respond to instructions. Adult development center programs focus on the development and maintenance of the functional skills required for self-advocacy, community integration, employment, and self-care;

(8) "Age Appropriate" means the consideration of the chronological age of the person in the use of activities, instructional locations, and techniques;

(9~~8~~) "Applicant" means an individual or entity that desires to be a vendor;

(10) "Authorized Agency Representative" means a person authorized to act on behalf of either the Department or the regional center, by law, by court order, or by a written statement signed by the Director of the Department or the regional center director, respectively;

(11~~10~~) "Authorized Consumer Representative" means the parent or guardian of a minor, conservator of an adult, or person who is legally entitled to act on behalf of the consumer;

(12~~11~~) "Behavior Management Program" means a community-based day program that serves adults with severe behavior disorders and/or dual diagnosis who, because of their behavior problems, are not eligible for or acceptable in any other community-based day program;

(13) “CARF” means The Rehabilitation Accreditation Commission, as referenced in Welfare and Institutions Code, Section 4851.

(14) “Certification” means a certification determination completed by the Department of Rehabilitation.

(15) "Child" means a person under the age of 18 years;

(16) "Community-based Day Programs" means those programs which provide services to individuals on an hourly or daily basis, but less than a 24-hour basis in the community rather than at a developmental center. Only the following types of services are community-based day programs: activity centers, adult development centers, behavior management programs, independent living programs, infant development programs and social recreation programs;

(17) "Community Integration" means presence, participation and interaction in natural environments;

(18) "Congregate Living Health Facility" means a Congregate Living Health Facility as defined in Health and Safety Code Section 1250(i)(1);

(19) "Consumer" means an individual who has been determined by a regional center to meet the eligibility criteria of the Welfare and Institutions Code, Section 4512, and of Title 17, Sections 54000, 54001 and 54010, and for whom the regional center has accepted responsibility;

(20) "Controlling Agency" means any agency, department, or commission that by statute requires standards to be met for the issuance of a license, credential, registration, certificate or permit required for the operation or provision of service;

(21) "Days" means calendar days unless otherwise stated;

(22) "Department" means the Department of Developmental Services;

(23) "Developmental Center" means any institution referred to in the Welfare and Institutions Code, Section 4440. Developmental Center is synonymous with state hospital;

(24) "DHS" means the Department of Health Services;

(25) "DSS" means the Department of Social Services;

(26) "Direct Care Staff" means staff who personally provide direct services to consumers. Personnel who are responsible for other staff functions may be considered direct care staff only during that time when they are providing direct services to consumers or are involved in program preparation functions;

(27) "Direct Services" means hands-on training provided by the vendor in accordance with the requirements of the consumer's Individual Program Plan and the provisions of Section 56720 of these regulations;

(28) "Director" means the Director of the Department of Developmental Services;

(29) "Family Member" means an individual who: A) Has a developmentally disabled person residing with him or her; B) Is responsible for the 24-hour care and supervision of the developmentally disabled person; and C) Is not a licensed or certified resident care facility or foster family home receiving funds from any public agency or regional center for the care and supervision provided;

(30) "Functional Skills" means those skills which enable an individual to communicate, interact with others and to perform tasks which have practical utility and meaning at home, in the community or on the job;

(31) "Generic Agency" means any agency which has a legal responsibility to serve all members of the general public and which is receiving public funds for providing such services;

(32) "Generic Support(s)" means voluntary service organizations, commercial businesses, non-profit organizations, generic agencies, and similar entities in the community whose services and products are regularly available to those members of the general public needing them;

(33) "Group Practice" means more than one individual which functions as a business entity while providing services to individuals;

(34) “Habilitation Services” means community-based services purchased or provided for adults with developmental disabilities, including services provided under the Work Activity Program and the Supported Employment Program, to prepare and maintain these adults at their highest level of vocational functioning, or to prepare them for referral to Vocational Rehabilitation services;

(35) "Independent Living Program" means a community-based day program that provides to adult consumers the functional skills training necessary to secure a self-sustaining, independent living situation in the community and/or may provide the support necessary to maintain those skills. Independent living programs focus on functional skills training for adult consumers who generally have acquired basic self-help skills and who, because of their physical disabilities, do not possess basic self-help skills, but who employ and supervise aides to assist them in meeting their personal needs;

(36) "Individual Program Plan (IPP)" means a written plan that is developed by a regional center Interdisciplinary (ID) Team, in accordance with the provisions of the Welfare and Institutions Code, Sections 4646 and 4646.5;

(37) "Infant Development Program" means a community-based day program defined in the Welfare and Institutions Code, Section 4693;

(38) "In-home Respite Services" means intermittent or regularly scheduled temporary non-medical care and supervision provided in the consumer's own home and designed to do all of the following:

(A) Assist family members in maintaining the consumer at home;

(B) Provide appropriate care and supervision to protect the consumer's safety in the absence of family members;

(C) Relieve family members from the constantly demanding responsibility of caring for a consumer; and

(D) Attend to the consumer's basic self-help needs and other activities of daily living, including interaction, socialization, and continuation of usual daily routines which would ordinarily be performed by the family member;

(39) "Interdisciplinary (ID) Team" means the group of persons convened in accordance with the Welfare and Institutions Code, Section 4646, for the purpose of preparing a consumer's IPP;

(40) "Intermediate Care Facility" means an Intermediate Care Facility as defined in Health and Safety Code Section 1250(d);

(41) "Intermediate Care Facility/Developmentally Disabled (ICF/DD)" means a licensed residential health facility which provides care and support services to developmentally disabled consumers whose primary need is for developmental services and who have a recurring, but intermittent, need for skilled nursing services;

(42) "Intermediate Care Facility/Developmentally Disabled-Habilitative (ICF/DD-H)" means a licensed residential health facility which has as its primary purpose the furnishing of 24-hour personal care, developmental training, habilitative, and supportive health services in a facility with 15 beds or less to residents with developmental disabilities;

(43) "Intermediate Care Facility/Developmentally Disabled-Nursing (ICF/DD?N)" means a licensed residential health facility which has as its primary purpose the furnishing of 24-hour nursing supervision, personal care, and training in habilitative services in a facility with 4-15 beds to medically fragile developmentally disabled consumers, or to consumers who demonstrate a significant developmental delay that may lead to a developmental disability if not treated. Such consumers must have been certified by a physician as not requiring skilled nursing care;

(44) "Long-Term Health Care Facility" means an Adult Day Health Care Program, a Congregate Living Health Facility, a Skilled Nursing Facility (SNF), an Intermediate Care Facility (ICF), an Intermediate Care Facility/Developmentally Disabled (ICF/DD), an Intermediate Care Facility/Developmentally Disabled-Habilitative (ICF/DD-H), or an Intermediate Care Facility/Developmentally Disabled-Nursing(ICF/DD-N);

(45) "Management Organization" means a separate and distinct corporation or entity which operates two or more services;

(46) "Mobility Training" means individually planned activities and instruction which enable adults with developmental disabilities to utilize the most normalizing independent transportation modes possible;

(47) "Natural Environment" means places and social contexts commonly used by individuals without developmental disabilities;

(48) "Natural Supports" means, pursuant to Welfare and Institutions Code, Section 4512(e), personal associations and relationships typically developed in the family and community that enhance or maintain the quality and security of life for people;

(494) "Nonresidential Services" means all services provided by any vendor other than a residential facility;

(50) "Nursing Facility" means a licensed health facility or a distinct part of a hospital which provides continuous skilled nursing and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes physician, skilled nursing, dietary and pharmaceutical services, and an activity program;

(51) "Program Preparation Functions" means secondary activities performed by non-residential direct care staff, such as preparation of lesson plans, completion of the necessary documentation required by these regulations, preparation and clean-up of the area where the direct service is provided to consumers, or involvement in other duties such as staff meetings and parent conferences;

(52) "Purchase of Service Funds" means those funds identified in the Budget Act for the purpose of purchasing services, provided by vendors, for consumers;

(53) "Reasonably suspected" means an objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect abuse;

(54) "Regional Center" means a diagnostic, counseling, and service coordination center for developmentally disabled persons and their families which is established and operated pursuant to the Welfare and Institutions Code, Sections 4620 through 4669, by a private nonprofit community agency or corporation acting as a contracting agency. As used in these regulations, any reference to the regional center shall, by reference, be applicable to those agencies or persons with which the regional center contracts to provide service coordination to consumers under the provisions of the Welfare and Institutions Code, Section 4648;

(55) "Residential Facility" means any licensed community care facility as defined in Health and Safety Code Section 1502(a)(1), (4), (5) or (6), or a licensed residential care facility for the elderly as defined in Health and Safety Code Section 1569.2;

(56) "Self-Advocacy" means the awareness, motivation and ability of an individual to represent and communicate his or her own interests, to exercise personal choice, to exert control over his or her environment, and to avoid exploitation and abuse;

(57) "Self-Care" means meeting one's physical and personal needs, such as dressing, grooming and hygiene without dependence on others or having the ability to direct others to meet those needs;

(58) "Service Catchment Area" means the geographical area within which a regional center provides services specified in its contract with the Department as required by the Welfare and Institutions Code, Section 4640;

(59) "Service Code" means a number which is assigned by the vendoring regional center to a vendor which indicates the type of authorized service to be provided;

(60) "Service Contract" means an agreement entered into between a regional center and a non-residential vendor which specifies the level of payment and units of service to be used by the vendor to charge and invoice the regional center for services provided to consumers;

(61) "Service Design" means a written description of the service delivery capabilities and orientation developed, maintained, and implemented by a SLS vendor.

(62) "Services" means assistance provided, and duties performed, by a vendor for a consumer;

(63) "Skilled Nursing Facility (SNF)" means a Skilled Nursing Facility as defined in Health and Safety Code Section 1250(c).

(64) "Social Recreation Program" means a community-based day program which provides community integration and self-advocacy training as they relate to recreation and leisure pursuits;

(65)"Special Incident Report" is the documentation prepared by vendor staff or long-term health care facility staff detailing a special incident and provided to the regional center.

(66) "Staffing Ratio" or "Staff-to-Consumer Ratio" means the numerical relation of the number of direct care staff to the number of consumers.

(67) "Statewide Vendor Panel" means the statewide listing of all vendors which contains information specified in Section 54334 of these regulations.

(68) "Subcode" means a series of a maximum of five numbers and/or letters which is assigned by the vendoring regional center to a vendor for billing purposes;

(69) “Supported Employment” means ~~work done for pay in integrated community settings by individuals with developmental disabilities~~ services that are provided by a job coach in order to support and maintain an individual with developmental disabilities in employment;

(70) “Supported Employment Program” means a program that meets the requirements of the term supported employment , as defined in this section, and of the terms, integrated work, supported employment placement, allowable supported employment services, group services, and individualized services as defined in Section 58801.

(71) "Supported Living Service(s) (SLS)" means those services and supports referenced in Section 54349(a) through (e), and specified as SLS service and support components in Title 17, Section 58614, which are provided by a SLS vendor, paid for by the regional center, and support consumers' efforts to:
(A) Live in their own homes, as defined in Title 17, Section 58601(a)(3);
(B) Participate in community activities to the extent appropriate to each consumer's interests and capacity; and
(C) Realize their individualized potential to live lives that are integrated, productive, and normal;

(72) "Unit of Service" means the increment of service provided to consumers which is used to charge and invoice the regional center for services provided. The increment of service is specified as hours, days, transportation mileage or any other increment of service agreed to by the Department, regional center and the vendor;

(73) "User Regional Center or Utilizing Regional Center" means any regional center which utilizes a service within the vendoring regional center's catchment area;

(74) "Vendor" means an applicant which has been given a vendor identification number and has completed the vendorization process, and includes those specified in Section 54310(d), and (e);

(75) "Vendor Application" means the form, DS 1890 (12/92), which contains the information specified in Section 54310(a)(1) through (10) of these regulations;

(76) "Vendor Identification Number" means the unique number which is assigned to each vendor in order to establish a recordkeeping and tracking system for regional centers' billing purposes;

(77) "Vendoring Regional Center" means the regional center in whose service catchment area the vendor is located;

(78) "Vendorization" means the process used to:

(A) Verify that an applicant meets all of the requirements and standards pursuant to Section 54320(a) of these regulations prior to the provision of services to consumers; and
(B) Assign vendor identification numbers, service codes and subcodes, for the purpose of identifying vendor expenditures;

(79) "Voucher" means a written authorization issued by a regional center to a family member or consumer to procure the service for which the voucher was issued and which specifies the maximum reimbursement authorized by the regional center;

(80) “Work Activity Program” includes, but is not limited to, Work Activity centers or settings that provide support to consumers engaged in paid work and are certified by the Department of Rehabilitation prior to being accredited by CARF as long as they intend to serve DOR consumers;

Authority: Sections 4405, 4648(a), and 4689.7(c), 4866, Welfare and Institutions Code; and Section 11152, Government Code.
Reference: Sections 1250 and 1502, Health and Safety Code; Sections 240, 242, 243.4, 245, 261, 264.1, 285, 273d, 285, 286, 288, 288a, 289, 311.2, 311.3, 311.4, 647a, 11165.1, 11165.2, 11165.3 and 11165.6, Penal Code; Sections 4504, 4512(i), 4646.5, 4648(a), 4689.7(c), 4691, 4693, 4791, 4851, 15610.57 and 15610.63; and Article II, Chapter 5, Welfare and Institutions Code.

**Section 54310 - Vendor Application Requirements**

(a) An applicant who desires to be vendored shall submit Form DS 1890 (8/04), entitled Vendor Application, and the information specified in (1) through (10) below, as applicable, to the vendoring regional center. Items (1) through (7) specified below must be completed by all applicants.

(1) Applicant's name, including the name of any governing body or management organization;

(2) Applicant's Social Security Number or Federal Tax ID number;

(3) Applicant's mailing address;

(4) Address of service, if applicable;

(5) Name of family member, owner or executive director, as applicable;

(6) Types of service to be provided;

(7) Telephone number;

(8) Facility capacity, if applicable;

(9) Identification of the type of consultants, subcontractors and community resources to be used by the vendor as part of its service.

(10) Copies of:

(A) Any license, credential, registration, certificate or permit required for the performance or operation of the service, or proof of application for such document;

(B) Any academic degree required for performance or operation of the service;

(C) Any waiver from licensure, registration, certification, credential, or permit from the responsible controlling agency;

(D) The proposed or existing program design as required in Sections 56712 and 56762 of these regulations, if applicable, for applicants seeking vendorization as community-based day programs;

(E) The proposed or existing staff qualifications and duty statements as required in Sections 56722 and 56724 of these regulations for applicants seeking vendorization as community-based day programs;

(F) The proposed or existing service design as required in Section 56780 of these regulations for applicants seeking vendorization as in-home respite service agencies;

(G) The proposed or existing program design as required in Section 58811 of these regulations for applicants seeking vendorization as habilitation service providers;

(~~G~~H) The proposed or existing staff qualifications and duty statements as required in Sections 56790 and 56792 of these regulations for applicants seeking vendorization as in-home respite services agencies;

(~~H~~I) The proposed service design as required in Sections 58630 and 58631 of these regulations for applicants seeking vendorization to provide supported living service;

(~~I~~J) The signed agreement with the Department of Health Services, Form DS 1896, dated 12/93, entitled Medi-Cal Program Provider Agreement Claim Certification, obtainable from the regional centers as part of the vendorization packet, for those applicants whose proposed service is eligible for Medi-Cal reimbursement; and

(~~J~~K) The proposed program design as required by Subchapter 4.1, Section 56084 for those applicants seeking vendorization as a family home agency (FHA).

(d) Habilitation services providers who, on July 1, 2004, are providing services to consumers shall be deemed to be an approved vendor. Each approved vendor shall submit to the vendoring regional center, and a copy to the Department, a completed Vendor Application, DS 1890 (12/03) and a completed Annual Habilitation Services Provider Profile, DS 1970 (4/04) by July 31, 2004.

(e) Habilitation Services providers not deemed approved vendors pursuant to (d), and approved vendors seeking vendorization as Habilitation Services providers in a new location, shall, in addition to meeting the general requirements of this section and of Title 17, Sections 58800 through 58882, meet the following requirements as a condition of vendorization:

(f) The applicant shall:
(1)If currently accredited, supply a copy of its last accreditation report and indicate the date its next accreditation review is due.
(2)If not currently accredited, supply a copy of certification by the Department of Rehabilitation and shall become accredited within 3 years of the date of their certification.

(g~~d~~) The following applicants shall be required to submit only Form DS 1890 (12/92) and, if applicable, a copy of any license, credential, registration, certificate, permit, or academic degree required for the performance or operation of the service, or any waiver from licensure, registration, certification, credential,

or permit from the responsible controlling agency. If the proposed service is eligible for Medi-Cal reimbursement, the applicant shall also sign Form DS 1896 (12/93), Medi-Cal Program Provider Agreement Claim Certification, and submit a copy of the signed agreement to the vendoring regional center.

(1) Public transit authorities, dial-a-ride, rental car agencies, or taxis;

(2) Out-of-state manufacturers or distributors who are eligible for vendorization pursuant to Section 54318 of these regulations;

(3) Retail/wholesale stores; and,

(4) Generic agencies specified in Section 54316(a)(2) of these regulations.

(i~~e~~) Family members or consumers who desire to be vendored in the following categories shall be required to submit only Form DS 1890 (12/92) and, if the vouchered family member or consumer is also the provider of the vouchered service, a copy of any license, credential, registration, certificate, permit, or academic degree required for the performance or operation of the service, or any waiver from licensure, registration, certification, credential, or permit from the responsible controlling agency, if applicable. If the proposed service is eligible for Medi-Cal reimbursement, the applicant shall also sign Form DS (12/93), Medi-Cal Program Provider Agreement Claim Certification, and submit a copy of the signed agreement to the vendoring regional center.

(1) Respite service--family member;

(2) Nursing service--family member;

(3) Transportation--family member;

(4) Day care--family member; and,

(5) Diaper and nutritional supplements--family member.

Authority: Chapter 722, Statutes of 1992, Section 147; Sections 4405, 4648(a), 4791(i), 4689.1, and 4866, Welfare and Institutions Code; and Section 11152, Government Code; Chapter 1095, Statutes of 1994, Section 14.
Reference: Sections 4502, 4631, 4648(a), 4690, 4691, 4791, 4857.1, 4861, Welfare and Institutions Code.

**Section 54320 - Regional Center Review of Vendor Application**

(a) The vendoring regional center shall review the vendor application identified in Section 54310(a) and, as applicable, (d) or (e) within 45 days after receipt from the applicant, to ensure all of the following:

(1) The application is complete;

(2) The applicant has complied with provisions of Sections 54342 through 54355 of these regulations, as applicable;

(3) Any required license, credential, registration, accreditation, certificate or permit:

(A) Is current;

(B) Has been issued for the service to be vendored; and,

(C) Has a current address that matches the address on the application.

(4) Staffing ratios and qualifications as specified in Section 56724, and 56770, if applicable, and Section 56756 or 56772 of these regulations are consistent with the program design as required in Section 56712 and Section 56762 of these regulations, if applicable, for applicants seeking vendorization as community-based day programs.

(5) The applicant has signed Form DS 1896 (12/93), Medi-Cal Program Provider Agreement Claim Certification, if applicable pursuant to Section 54310(a)(10)(I), (d) and (e).

Authority: Chapter 722, Statutes of 1992, Section 147; Sections 4405, 4648(a) and 4791(i), Welfare and Institutions Code; and Section 11152, Government Code.
Reference: Sections 4502, 4631, 4648(a), 4691 and 4791, Welfare and Institutions Code.

**Section 54351 – Habilitation Services**

The following service codes are included within “Habilitation Services”:

(a) Supported Employment Program – Group Services – Service Code 950. A regional center shall classify a vendor as a provider of Supported Employment – Group Services if the vendor meets all the requirements of the vendorization process, including proof of certification of nonprofit status and provides supported employment services with a single job coach to a group of individuals engaged in paid work that is integrated in the community.

(b) Supported Employment Program – Individual Services – Service Code 952. A regional center shall classify a vendor as a provider of Supported Employment – Individual Services if the vendor ~~provides~~ meets all the requirements of the vendorization process, including proof of certification of nonprofit status and provides supported employment services including job coaching services to a single individual with developmental disabilities engaged in paid work in an community setting.

(c) Work Activity Program – Service Code 954. A regional center shall classify a vendor as a provider of Work Activity Program services if the vendor provides support to consumers engaged in paid work in a work activity center or similar setting.

**Authority:** Section 11152 Government Code; Section 4866, Welfare and Institutions Code.

**Reference:** Sections 4857 and 4860, Welfare and Institutions Code

## Article 4: Vendor Compliance and Prohibitions

### Section 54370 - Termination of Vendorization for Noncompliance

(~~b~~a) Vendorization shall be terminated at the end of the first working day after written notification is received from the vendoring regional center if any of the following conditions exist:

(1) The vendor is serving consumers without a current license, credential, registration, accreditation, ~~certificate~~, degree or permit that is required for the performance or operation of the service;

(2) Vendorization has been transferred to another person or entity;

(3) The vendor has refused to make available any books and records pertaining to the vendored service, including those of the management organization, for audit, inspection or reproduction by regional center, Department or authorized agency representative staff;

(4) The service currently provided is not the same service that was approved for vendorization;

(5) The vendor is using planned behavior modification interventions that cause pain or trauma without meeting the conditions specified in title 17, sections 50800 through 58023; or

(6) The vendor is transporting consumers using a driver who does not possess a valid driver's license appropriate for the vehicle being driven.

**Authority:** Sections 4405, 4648 (a), and 4866, Welfare and Institutions Code and Section 11152, Government Code.
**Reference:** Sections 4631, 4648 (a), and 4861(c), Welfare and Institutions Code.

**Title 17. Public Health B Division 2**
**Health and Welfare Agency**
**Department of Developmental Services**
**Chapter 3: Community Services**

## Subchapter 21: Habilitation Services Program

## ARTICLE 1. DEFINITIONS.

### Section 58800. Meaning of Words.

Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning. Words used in their present tense include the future tense. Words used in the singular form include the plural form. Use of the word "shall" indicates conduct that is required, and "may" indicates conduct that is discretionary.

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Section 4851, Welfare and Institutions Code.

### Section 58801. Definitions.

(a) As used in this Subchapter, the following terms shall have the meanings specified in Title 17, Section 54302
(1) Accreditation;
(2) CARF;
(3) Certification;
(4) Department
(5) Habilitation Services;
(6) Individual Program Plan (IPP)
(7) Supported Employment;
(8) Supported Employment Program (SEP);
(9) Vendor;
(10) Vendorization; and
(11) Work Activity Program.
(b) As used in this Subchapter, the term "regional center" shall have the meaning specified in Title 17, Section 54505.
(c) As used in this Subchapter, the term "Cost-of-Living Adjustment " or "COLA" shall have the meaning specified in Title 17, Section 57210.
(d) As used in this Subchapter, the following terms shall mean:
(1) "Allowable supported employment services" means the services approved in the IPP and specified in the IHSP for the purpose of achieving supported employment outcomes, and may include any combination of the following:
(A) Job development to the extent authorized by the regional center;
(B) Program staff time for conducting job analysis of supported employment opportunities for a specific consumer;
(C) Program staff time for the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, including, but not limited to, employer supervision reimbursed by the Supported Employment Program, are approved by the regional center;
(D) Community-based training in adaptive functional and social skills necessary to ensure job adjustment and retention;

(E) Counseling with a consumer/family and/or authorized representative to ensure support of a consumer in job adjustment;
(F) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention; and
(G) Ongoing support services needed to ensure the consumer's retention of the job;

(2) “Audit, Desk” means a desk review by the Department used to calculate a daily rate based on the Cost Statement data submitted. This does not verify or guarantee that the data submitted or the daily rate are accurate or final;

(3) “Audit, Independent” means an external examination by a Certified Public Accountant (CPA) of a facility’s year—end financial statements on which an opinion is issued;

(4) “Audit, Review” means an examination is an independent review by an accountant of a facility’s year-end financial statements on which a statement is issued;

(~~2~~5) “Common Area” means the space within a service provider’s location that has no specific purpose related to the cost centers (e.g., lunchrooms, hallways, and rest rooms);

(6) "Consumer" means an individual who is at least 18 years of age, ~~and~~ is eligible to receive regional center services, is receiving services from a habilitation service provider and who may or may not also be receiving wages for work performed;

(7) “Consumer, Habilitation Services” means an adult with a developmental disability receiving habilitation services who has been referred by a Regional Center or by another agency (in accordance with Welfare and Institutions Code section 4850-4867) and is authorized to receive such services;

(8) “Consumer, Other” means a consumer who is funded by a private or government source other than the regional center, Department of Rehabilitation or unfunded by any source (including unfunded sheltered employees);

(9) “Consumer, Vocational Rehabilitation” means a consumer funded by the Vocational Rehabilitation Program (VRP) of the Department of Rehabilitation;

(10) “Consumer Productivity Rate” means the percentage of industrial standard that the consumer has produced in the work setting;

(11) “Consumer Stipend” means a monetary payment to a consumer, generally used as an incentive, for purposes other than a consumer wage (e.g., during training, class time, and other time spent in unpaid activities);

(12) “Consumer Subsidy” means that portion of wages exceeding the wages warranted by the consumer’s productivity rate that must be paid to meet regulations for Department of Labor’s certificate for regular work programs and/or applicable State labor laws, i.e. if a consumer produces at 40% but must be paid 50% of minimum wage;

(13) “Consumer Wage” means a monetary payment to a consumer in accordance with regulations

for the Department of Labor certificate and/or any applicable State Labor laws for the production of goods/and or services;

(~~3~~14) "Cost Center" means a grouping of revenues and expenses based on a similar purpose;

(~~4~~15) "Cost Center, Administration" means those costs of a general nature that are applicable to all programs operated by the service provider and those specified in these regulations to be administrative in nature;

(16) "Cost Center, Fund Raising" means those costs related to producing income for the service provider from private sources other than production, fee-for-service, and/or grants;

(17) "Cost Center, Non-Program Activities" means those costs generated and incurred by the service provider for revenue generating activities in which no consumers are served (e.g., thrift stores in which no consumers participate);

(18) "Cost Center, Other Vendored Programs" means those costs generated and incurred by service providers serving consumers in other than work activity programs which are administered by the same service provider (e.g., day program, residential, camp);

(19) "Cost Center, Production means those costs generated and incurred by the work activity program service provider from the production of goods and/or services;

(20) "Cost Center, Service Programs" means those costs generated and incurred by the provision of a specific set of services to a consumer in the work activity program. These services may include, but are not limited to the following:
(a) Habilitation/Rehabilitation: a single set of services that incorporate work adjustment where the purpose is to enable consumers to develop, maintain, and increase proficiency in work skills and behaviors. Included may be supportive habilitation services which are non-vocational but support the consumer's vocational development and retention of work skills and behavior;
(b) Employment Preparation: services provided with the intent of preparing the consumer for employment which includes training in grooming, application for employment, and job interviewing;
(c) Trade Training: services provided to prepare a consumer for a specific occupation (e.g., janitorial, landscaping, clerical);
(d) Work Evaluation: services provided to assess the consumer's limitations, capabilities, and productive potential; utilizing either real or simulated work environment and/or standardized evaluation systems;

(21) "Cost Center, Stores (or other business operations)" means those costs incurred and generated by stores or other business operations in which consumers are receiving services;

(22) "Cost Center, Transportation" means those costs incurred and generated by the ongoing transportation of consumers by the service provider to and from their place of residence and their work activity program;

(23) "Cost Statement " means the information required biennially by the Department from the work activity program vendor for the establishment of the rate for Work Activity Programs.

(~~5~~24) “Direct Production Expense” means those expenses or portion of expenses that are directly attributable to the production of goods or services, including, but not limited to raw materials, marketing, contract procurement, direct production labor, food in food service programs, and shipping and receiving expenses. Does not include expenses for stores and/or other non-program activities;

(25) “Direct Production Labor means the salary or portion of salary, taxes, and fringe benefits paid to or for an employee for the production of goods and/or services for revenue to the service provider; which includes the cost of non-client production workers;

(26) “DOR” means the Department of Rehabilitation

(27) "Extended services" means training, supervision and support services given to a consumer after transition from intensive services;

(28) “Facility” means a service provider organization that operates as a single unit that has at least one component of habilitation services. Each facility is assigned a unique vendor number by the Department of Rehabilitation, and in the case of Work Activity Programs has an individual rate set;

(29) “Fee-For-Service” means a fee paid to a facility by a government or private source for a specific service or services provided to a consumer or group of consumers;

(~~6~~30) "Fiscal Year" means that period of twelve consecutive-months selected and used by a vendor for organizing and reporting accounting records;

(~~7~~31) "Government Source” means Federal, state, or local public agencies that are supported by public funds;

(32) “Group Services" means job coaching in a group supported employment placement at a job coach to consumer ratio of not less than one to four or more than one to eight where services are funded by the Regional Center or DOR. For consumers receiving group services, ongoing support shall be limited to job coaching at the work site~~training and supervision of an individual placed with others while engaged in work in an integrated community setting~~

(~~8~~33) "Historical period" means the period of time upon which allowable costs for the Work Activity Program are based;

(~~9~~34) "Holding Company " means a management organization of which the vendor is a subsidiary;

(~~10~~35) "Income" means all revenue received by a vendor that is not a recovery;

(~~11~~36) "Indirect Expenses" means vendor expenses that are related to providing services to consumers, and non-consumer related activities administered by the vendor;

(~~12~~37) "Individual Habilitation Service Plan (IHSP)" means the service plan developed by the habilitation service vendor to meet the employment goals of the IPP;

(~~13~~38) "Individualized Plan for Employment (IPE)" means an agreed-upon, approved, written plan of vocational rehabilitation program services that assists an individual with a disability eligible for Department of Rehabilitation services to achieve an employment outcome.

(~~14~~39) "Individualized Services" means job coaching and other supported employment services, provided on or off the worksite, for regional center consumers in a supported employment placement at a job coach-to-consumer ratio of one-to-one. When these services are provided by DOR they decrease as the consumer reaches stabilization;

(~~15~~40) "Integrated work" means paid work by a consumer in a community setting in which the consumer interacts with individuals without disabilities, other than those providing services to the consumer, to the same extent that individuals without disabilities in comparable positions interact with other persons;

(~~16~~41) “Intensive Services” means ~~ongoing~~initial DOR funded services as specified by the Code of Federal ~~r~~Regulation ~~in 34 CFR 361.5(b)(38)~~, which decrease to stabilization;

(~~17~~42) "Intervention" means job coaching services necessary for maintenance of employment;

(~~18~~43) "Job Coaching" means employment-related services specified in the IPP and provided by a job coach, directly to or on behalf of consumers, for both group and individual placements;

(44) “Non-Consumer Production Worker” means a person who is not a consumer and who is hired specifically to produce goods and/or services for revenue for the service provider;

(~~19~~45) “Order of Selection” for vocational rehabilitation services means the priority established by the Department of Rehabilitation for selecting eligible individuals to receive vocational rehabilitation services in the event these services cannot be provided to all eligible applicants.

(46) “Payment Year” means the year for which the daily rate is paid for habilitation services, beginning July 1 and ending June 30;

(~~20~~47) "Percentage of Intervention" means supported employment program job coaching time expressed as a percentage of all the hours worked by the consumer;

(48) “Private Source” means any entity other than a government source;

(49) “Production Consumer” means a consumer who is receiving a wage for the production of goods and/or services under the supervision of service provider staff;

(50) “Production Workday” means a day of attendance in which any paid work is performed by a consumer or non-consumer production worker for the production of goods and/or services;

(51) “Production Work Hour” means an hour in which any paid work is performed during a day of attendance by a consumer or non-consumer production worker for the production of goods and/or services;

(~~21~~52) "Productivity Rate" means the percentage of the industrial standard established with the

Code of Federal Regulations, by the U. S. Department of Labor and the California Industrial Welfare Commission Orders, that the consumer has produced in either a supported Employment or Work Activity Program the work setting and when sub-minimum wages apply;

(2253) "Program day" means the percentage of the industrial standard established in compliance with the Code of Federal Regulations, U.S. Department of Labor and the California Industrial Welfare Commission Orders that the consumer has produced in a work setting and when sub-minimum wages apply.the period of time during which a Work Activity Program provides services to consumers;

(2354) "Program Expansion" means the addition of a new service program, space at an existing site, or a new site by a vendor;

(55) “Rate” means the daily or hourly rate paid to service providers for their provision of services to habilitation consumers

(2456) "Rate, Base" means the daily or hourly fee based on the historical period and updated by a rate adjustment based on the State approved COLA, if any, through the current fiscal year;

(57) “Rate, Gross” means the base rate without deducting recoveries from indirect expenses;

(258) "Rate, Historical" means the total allowable Work Activity Program costs in the historical period divided by the total days or hours of attendance of consumers in the historical period;.

(59) “Rate, Interim” means the daily rate set for a new Work Activity Program prior to the establishment of a daily rate based on the historical period;

(260) "Rate Adjustment " means a rate increase or decrease to adjust for cost changes not reflected in the historical period;

(61) “Rate Correction” means the increase or decrease in the rate following a Departmental review or audit;

(2762) "Rate Revision" means a rate increase or decrease in consequence of a review or audit conducted by the Department or the regional center;

(63) “Reconciliation” means the explanation by the service provider of differences between year end financial statements (audited or unaudited) and Revenue Statement (Form DS1953 [Rev 1/05]) and Expense Statement (Form DS1954 [Rev 1/05]);

(64) “Recoveries” are defined primarily as funds from government sources provided to offset indirect expenses by reimbursing a service provider directly for expenses incurred or by direct payment (generally for staff) of such expenses. Fees received from rental of a building or revenue from sales, of items sold, when the cost for the building of item has been included as an indirect expense, are also included as recoveries.

(65) “Revenue” means all income and support, including cash, goods, and in-kind received by a service provider;

(~~28~~66) "Service Delivery Staff " means the Work Activity Program staff working directly with the consumer;

(67) “Shipping and Receiving” means incoming and outgoing transportation and loading area expenses for production materials and supplies, used goods, and finished products;

(~~29~~68) "Stabilization" means the consumer has reached the employment ~~goal~~ outcomes as specified in the Individualized Plan for Employment and IPP, the consumer has learned and maintained the job for a minimum of sixty (60) consecutive work days, and is expected to continue in the employment. ~~The percentage of job coaching intervention for individuals must also be met as follows~~ Stabilization for consumers receiving individualized services in supported employment requires the following percentages:
(A) 20% or less for 60 days; or
(B) 25% or less for 90 days; or
(C) 30% or less for 120 days.

(69) “Staff-To-Consumer Ratio” means the number of service delivery staff to number of consumers in the Work Activity Program;

(~~30~~70) "Staggered Work Schedule" means differing start and stop times for consumer work schedules in a supported employment group;

(71) “State” means the State of California;

(72) “Subsidy” means the revenue from a government source (cash or in-kind) other than fee-for-service that offsets allowable indirect expenses;

(73~~1~~) "Supported Employment Intake" means the process completed by a vendor for the purpose of the provision of Supported Employment services to a consumer, and must include;
(A) Initial meeting with the consumer and, when appropriate, the consumer's authorized representative.
(B) Review of the Job Placement Parameters form with the consumer, and
(C) Development of a plan of action for job placement.

(32~~74~~) “Supported Employment Placement” means the ~~process~~ employment of ~~placing~~ an individual~~s~~ with a developmental disability~~ies~~ ~~who are authorized for individual placement services with~~ by an employer in the community, directly or through contract with a supported employment program. This includes provision of ongoing support services necessary for the individual to retain employment.

(~~33~~75) "Supported Employment Retention" means a consumer authorized for individual placement services who is placed in an integrated supported employment setting and has remained on the job for ninety (90) days.

(~~34~~76) "Supportive Habilitation Services" means any combination of direct services to consumers to achieve personal safety practice training, housekeeping maintenance skills training development, health maintenance skills development, including hygiene skills, and other

vocationally related activities identified in the vendor's program design and approved by the vendoring regional center, including but not be limited to self-advocacy training, consumer counseling, job club, peer vocational counseling, and career counseling;

(~~35~~77) "Temporary Transfer" means a regional center-authorized reassignment of a consumer from one habilitation program type to another, for a period not exceeding sixty (60) ~~calendar~~ consecutive days per occurrence, with one thirty (30) ~~calendar~~ consecutive day extension;

(~~36~~78) "Vocational Rehabilitation Program (VR)" means a statewide program administered by the Department of Rehabilitation to assess, plan, develop, and provide employment services for individuals with disabilities so that those individuals may prepare for and engage in ~~gainful~~ employment outcomes consistent with their strengths, priorities, concerns, abilities, capabilities, interests, and informed choices. The VR program is an integral part of a statewide workforce investment system.

(~~37~~79) "Work Adjustment Services" means any combination of direct services to consumers designed to develop physical capacities, psychomotor skills, interpersonal and communicative skills, work habits, vocationally appropriate dress and grooming, productive skills, work practices and work-related skills development, or preparation for a Vocational Rehabilitation referral.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Section 4851, Welfare and Institutions Code.

**ARTICLE 2. GENERAL REQUIREMENTS FOR ALL HABILITATION SERVICES**
**Section 58810. General Vendorization Requirements for Habilitation Services**
(a) Regional centers shall purchase Habilitation services, pursuant to Title 17, Section 54310, only from vendored work activity programs or supported employment programs, or both.
(b) Habilitation services providers who, on July 1, 2004, are engaged in providing work activity or supported employment services to consumers shall be deemed to be vendored by the appropriate regional center effective that date provided the habilitation program meets the requirements pursuant to Section 54310.
(c) Vendors approved pursuant to (b) shall have until July 1, 2005 to submit to the vendoring regional center an approved program design pursuant to Section 58811.
(d) Regional centers shall vendor additional Habilitation services providers, pursuant to the requirements of Title 17, Sections 54310 and 54351, upon verifying that an applicant for vendorization is appropriately accredited and/or certified.
(e) The regional center shall make available to existing, new and developing vendors information regarding the statutes and regulations, as developed by the Department.
(f) Within four (4) years of the effective date of vendorization, Habilitation services providers, as long as they intend to serve DOR consumers, shall ~~complete the DOR one (1) year~~maintain DOR certification until receiving CARF ~~certification process followed by a three (3) year period in which they shall receive CARF~~ accreditation ~~in~~in the service categories appropriate to their program type(s) as a condition of continued vendorization, and shall distribute copies of any CARF accreditation reports to the vendoring regional center(s), DOR and the Department within thirty (30) days of receipt of such report(s).

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.

Reference: Sections 4857.1, 4861(c) and 4861(d), Welfare and Institutions Code.

**Section 58811. Program Design Requirements for Habilitation Services**

(a) The general program design requirements apply to both Work Activity Programs and Supported Employment Programs and shall include the following:
(1) Anticipated consumer outcomes, resulting from participation in the program, stated in measurable terms;
(2) Consumer attendance policy to include the following:
(A) The requirement for the vendor to notify the regional center on or before a consumer's fifth consecutive day of unplanned absence;
(B) The attendance requirements of consumers to remain enrolled in the program; and,
(C) The effort made to assure attendance in the program as frequently as determined necessary by the ID Team;
(3) ~~If developed a~~A staff-training plan, pursuant to Sections 56726 and 56774 of these regulations, as applicable;
(4) A description of the entrance/exit criteria pursuant to Sections 56714 and 56746 of these regulations, if applicable, including the intake procedure and any screening process used by the vendor;
(5) A description of the process used to determine how the vendor will assist each consumer served in achieving his/her IPP objectives for which the vendor is responsible, including:
(A) Consumer assessment procedures, timelines, and instruments used, including an explanation of how each instrument is applicable in assessing the consumer's needs;
(B) Utilization of assessment data for determining the specific activity and program services that consumers receive; and,
(C) Evaluation procedures used to determine the extent of a consumer's progress toward achieving the specific outcomes in each IPP objective for which the vendor is responsible;
(6) A description of the internal consumer grievance procedures required pursuant to Section 56710(a) of these regulations;
(7) A definition of the geographic area and anticipated number of individuals they intend to serve;
(8) A description of its existing or proposed program, including:
(A) Habilitation philosophy, including purpose and goals;
(B) Interactions with local regional centers, vocational rehabilitation offices, or other related programs;
(C) Capacities to assess consumer habilitation needs and develop individual plans for services;
(D) Specification of any services or work settings it considers to be innovative;
(E) Methods employed to identify consumers who are appropriate for referral to vocational rehabilitation services or other employment;
(F) Method employed to assure continuous quality assurance pursuant to S~~s~~ection 56732.
(9) When modifications are made to the program design which constitute a change in program elements as outlined below in (A) through (D), the vendor must, at least 30 days prior to the change, notify the consumer or his/her authorized representative and submit to the vendoring regional center(s) for approval a revised program design as described above in (a) or (b). A revised program design is require when any of the following elements of the program design are changed:
(A)Locations in which consumer training occurs;
(B)Curriculum training components;
(C)Entrance or exit criteria;

(D)Hours of services provided;
(b) The approved Work Activity Program Design, in addition to the general program design requirements as described in (a) above; shall include,
(1) A description of the applicant's existing or proposed program that demonstrates a general understanding of the goals of the Work Activity Program and the applicant's capacity to provide services to consumers as defined in Welfare and Institutions Code Section 4851(e). This description shall include the following:
(~~A~~2) The specific work activity services it will provide, including the length of the program day. No approved program design shall define a program day of less than five (5) hours, exclusive of the meal period; The program day shall not be reduced in length from what it had been in the historical period used in calculating the Work Activity Program rate, unless an exception pursuant to Welfare and Institutions Code Section 4862 has been granted;
(~~B~~3) A description of the plan for use of time when consumers are not engaged in paid work, excluding the lunch period.
(~~C~~4) Resources devoted to contract procurement and product marketing;
(~~D~~5) Procedures for accurately conducting time studies and determining consumer productivity.
~~(c) When modifications are made to the program design which constitute a change in the type of services provided, the vendor must, at least 30 days prior to the change, notify the consumer or his/her authorized representative and submit to the vendoring regional center, a revised program design as described in (a) above. A revised program design is required when any of the following elements of the program design are changed:~~
~~(1) Locations in which consumer training occurs;~~
~~(2) Curriculum training components;~~
~~(3) Approved service code;~~
~~(4) Entrance and/or exit criteria;~~
~~(5) Hours of services provided;~~

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4851(e) and 4861 , Welfare and Institutions Code.

**Section 58812. General Planning Requirements.**
(a) Following regional center referral of a consumer to a Habilitation service provider, the service provider shall develop and submit for regional center review an initial IHSP within ~~120~~ 90 days of the ~~referral~~start date.
(1) The IHSP shall include the following:
(A) Service provider name, address and vendor number;
(B) Consumer name, UCI number and social security number;
(C )Reporting period;
(D) Objective, status and progress;
(E) Current vocational functioning;
(F) Goals and methods to measure progress
(G) Persons responsible for implementation
(H) Achievements summary;
(I) Attendance, wage statistics and percentage of intervention; and,
(J) Signature of consumer and/or conservator.
(b) Following development, and adoption of the consumer's initial IHSP, the vendor shall submit for regional center review an updated IHSP, within thirty (30) days of the consumer's birthday annually thereafter.

(c) The Habilitation services vendor, working collaboratively with the consumer and/or his or her family or authorized representative, shall review the IHSP, at least, semiannually, or as specified in the IHSP, and document progress achieved toward each IHSP objective.
(d) The IPP team of a consumer receiving Habilitation services shall meet whenever it is necessary to review:
(1) Job placement considerations, including the appropriateness of the placement;
(2) The efficacy of services at the consumer's Work Activity Program or Supported Employment Program; and
(3) The Individual Habilitation Service Plan.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854 and 4854.1, Welfare and Institutions Code.

**ARTICLE 3. STANDARDS FOR WORK ACTIVITY PROGRAMS**
**Section 58820. General Standards for Work Activity Programs.**
(a) Work Activity Program services include, but are not necessarily limited to, any combination of the following:
(1) Community-based work activity centers or essentially similar site-based programs and services certified by the Department of Rehabilitation and subject to CARF accreditation pursuant to Section 58810(f).
(2) Vocationally focused services to, and remunerative employment of, consumers, and related activities pursuant to Title 29, Part 525, Code of Federal Regulations.
(3) Paid training of consumers for the purpose of enhancing their ability to perform productive work, pursuant to Title 29, Part 785, Section 785.27, Code of Federal Regulations.
(4) Work environments providing payment to consumers commensurate with their level of productivity, based on productivity studies conducted in compliance with Title 29, Part 525, of the Code of Federal Regulations, and the requirement of Section 1191.5 of the California Labor Code, and Sections 6 and 7 of the California Industrial Welfare Commission Order, order number 1-2001, updated effective January 1, 2004.
(b) Work Activity Programs shall provide the requisite amount and variety of work sufficient to prepare each consumer served to attain his or her highest feasible level of functioning, in accordance with each consumer's IPP.
(c) Work Activity Programs shall assure that the aggregate percentage of the total time consumers average in program participation time over any six (6)-month period, shall be:
(1) Not less than fifty (50) percent in paid work;
(2) Not more than ~~twenty-five~~fifty (~~2~~50) percent ~~(25%)~~ of the time in work adjustment services in combination with supportive habilitation services consisting of any appropriate combination of the following components:
(A) Physical capacities development;
(B) Psychomotor skills development;
(C) Interpersonal and communicative skills development;
(D) Work habits development;
(E) Development of vocationally appropriate dress and grooming;
(F) Productive skills development;
(G) Work practices training;
(H) Work-related skills development;
(I) Orientation to and preparation for referral to the Department of Rehabilitation for vocational

rehabilitation program services.
(3) Not more than ~~twenty-five~~fifty (~~2~~50) percent in supportive habilitation services in combination with work adjustment services consisting of any appropriate combination of the following components:
(A) Personal safety practice training;
(B) Housekeeping maintenance skills training development;
(C) Health and hygiene maintenance skills development;
(D) Self-advocacy training, consumer counseling, peer vocational counseling, career counseling and peer club participation;
(E) Other vocationally related activities identified in the regional center-approved Work Activity Program design.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference:
Sections 4851(e), 4854, 4854.1 and 4857, Welfare and Institutions Code.

**Section 58821. Work Activity Program Day Length.**
(a) The approved Work Activity Program design shall specify the length of the program day during which consumers receive services, provided:
(1) No approved design shall define a program day of less than five (5) hours, exclusive of the meal period.;
(2) The program day shall not be reduced in length from what it had been in the historical period used in calculating the Work Activity Program rate, unless an exception pursuant to Welfare and Institutions Code, Section 4862, has been granted.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Section 4862(b), Welfare and Institutions Code.

**Section 58822. Work Activity Program Service Records Requirements**
(a) All Work Activity Programs shall meet the requirements of Section 50604 and maintain consumer-specific records documenting daily service delivery in a manner that links regional center-paid services to the services specified in the consumer's IHSP.
(b) All Work Activity Programs shall submit to the Department and the billing regional center by the 15th day of each following month, a completed monthly Work Activity Program Consumer Monthly Report, DS 1971 (~~7~~1/0~~4~~5) for the previous month, including the following information for each consumer served and aggregated calculations for:
(1) Name of the consumer;
(2) Wages earned by the consumer;
(3) Hours worked by the consumer;
(4) Monthly percentage of participation in paid work for each consumer;
(5) Productivity level for each consumer;
(5) Average percentage of participation in paid work for the aggregate of consumers; and
(7) Average wages and productivity level for the aggregate of consumers.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854, 4859 and 4865, Welfare and Institutions Code.

**ARTICLE 4. STANDARDS FOR SUPPORTED EMPLOYMENT PROGRAMS**

**Section 58830. General Standards for Supported Employment Programs.**
(a) Supported Employment Program services consist of any combination of the allowable supports identified in the IPP and specified in the IHSP for a consumer as necessary to enable that consumer to perform integrated work for pay through a supported employment placement.
(b) Allowable supported employment services may include any of the following:
(1) Job development, as indicated in the IPP and the IHSP, and authorized by the regional center;
(2) Program staff time for conducting job analysis of supported employment opportunities for a specific consumer;
(3) Program staff time for the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, including, but not limited to, employer supervision reimbursed by the supported employment program, are approved by the regional center;
(4) Community-based training in adaptive functional and social skills necessary to ensure job adjustment and retention;
(5) Counseling with a consumer and or his or her family member or authorized representative to ensure support of a consumer in job adjustment;
(6) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention; ~~and~~
(7) Ongoing support services needed to ensure the consumer's retention of the job.
(8) Services and supports following a job loss;
(9) Job coach travel time for individual placement is billable as follows; and
(A) Job coach travel time from the vendor's headquarters to the first consumer's work site is billable to the first consumer.
(B) The job coach travel time from the first consumer's worksite to the second consumer's worksite is billable to the second consumer.
(C) Job coach travel time for all subsequent consumers is billed in the same fashion until the job coach arrives at the last consumer's worksite. Travel from last consumer's worksite back to the vendor's headquarters is not billable.
(c) Supported Employment Program services shall be designated as either group services or individualized services.
(d) Group services shall be limited to:
(1) Job coaching provided at the worksite;
(2) Employment placements at a job coach-to-consumer ratio of not less than one-to-four nor more than one-to-eight except for those groups that may be authorized by the passage of the ~~proposed~~ Trailer Bill to the Budget Act Fiscal Year 2004-05 to grand-father specific groups at a one-to-three consumer to job coach ratio:
(A) Services to a minimum of four consumers are funded by the regional center or the Department of Rehabilitation, and
(B) Consumers unable to participate due to illness or injury for a period not exceeding six (6) months are replaced by other consumers temporarily, for the purpose of maintaining the program's minimum coach-to-consumer ratio.
(C) A newly approved group begins with a minimum of three (3) consumers and increased to four (4) within ninety (90) days of starting.
(e) Individualized services:
(1) May be provided on or off the jobsite;
(2) Shall consist of job coaching and other supported employment services for regional center-funded consumers in a supported employment placement at a job coach-to-consumer ratio of one-to-one;

(3) Shall decrease over time until stabilization in the employment is achieved.
(f) Consumers in Supported Employment Programs receiving less than the minimum wage ~~they~~ shall be paid according to productivity level on the basis of appropriately conducted productivity studies in compliance with Title 29, Part 525, of the Code of Federal Regulations; Section 1191.5 of the California Labor Code; and Sections 6 and 7 of the Industrial Welfare Commission Order No. 1.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Section 4851(j) and 4854, Welfare and Institutions Code.

**Section 58831. Supported Employment Program Records Requirements.**
(a) In addition to meeting the requirements of Section 50604, all Supported Employment Programs shall maintain service records that accurately and adequately link the services billed to the IHSP of each consumer receiving services, including:
(1) Consumer's name;
(2) Job coach's name;
(3) Date(s) of intervention;
(4) Start and end times of intervention;
(5) Purpose of intervention;
(6) Location of intervention; and
(7) Actions taken.
(b) In addition to (a), Supported Employment Individual Services Programs shall regularly submit to the Department and the billing regional center a completed Supported Employment Individualized Services Consumer Monthly Report, DS 1972 (1~~7~~/0~~4~~5), no later than the 15th day of the following month. The report shall include for each consumer served and the aggregate calculation of the:
(1) Name of the consumer;
(2) Wages earned by each consumer and the average for the aggregate;
(3) Hours worked by each consumer and the average for the aggregate;
(4) Hours of intervention for each consumer and the average for the aggregate; and
(~~4~~5) Percentage of intervention for each consumer and the average for the aggregate.
(c) In addition to (a), Supported Employment Group Services Programs shall:
(1) Maintain records documenting:
(A) Occurrences or behaviors by a consumer that impede the progress of the group or the individual consumer; and
(B) Any unusual circumstances or events that impact the stability of the group and/or individual consumer.
(2) Regularly submit to the Department, ~~and~~ the billing regional center and DOR (when one (1) or more consumers are in the Vocational Rehabilitation program and payment is required) a completed Supported Employment Group Services Consumer Monthly Report, DS 1964~~b~~(~~7/04~~1/05) ~~(~~, no later than the 15th day of the following month. The report shall include the following information:
(A) Employer name and location;
(B) Supported Employment Program name and vendor number
(C) Group ID number;
(D) Name(s) of the job coach(es);
(E) Date(s) of service;
(F) ~~Start and end t~~Time~~s~~ in 15 minute increments of each consumer's ~~work day~~workday, including

lunch break ~~only for those groups with a consumer authorized for staggered hours~~;
(G) Monthly wages earned by each consumer;
(H) Monthly hours worked by each consumer.
(I) Monthly Report preparer's name;
(J) Date of form preparation;
(K) Authorizing signature and date signed;
(L) Each consumer productivity level; and
(M) Indication of regional center authorization for each of the following:
(i) meal time supervision; and
(ii) staggered start and stop time.
(N) Consumer Name
(O) UCI Code
(P) Authorization Code;

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854, 4859 and 4865, Welfare and Institutions Code.

**Section 58832. Supported Employment Group Formation and Change Requirements.**
(a) Supported Employment Programs offering group services may request permission to form new groups through submission to the Department of a completed Request for New SEP Groups, Form DS1962 (14/0~~54~~),
(b) The Department shall, in consultation with the vendoring regional center, approve or disapprove the formation of new groups based upon consideration of the following factors:
(1) Number of consumers;
(2) Ratio of consumers to job coaches;
(3) Wages paid to consumers; and
(4) Necessity for staggered hours attributable to medical and transportation needs as identified in the consumer's IPP, job requirements as established by the employer, availability of transportation in the geographic location.
(c) Supported Employment Programs offering group services may request permission to change existing groups through submission to the Department and the vendoring regional center of a completed Notification of SEP Group Changes, Form DS 1963 (14/0~~54~~). The following changes may be requested:
(1) Increase or decrease in work hours or work days;
(2) Implementation of or alteration to a staggered work schedule; and
(3) Termination of group and transfer of consumers to another Supported Employment Program.
(d) The Department and the regional center shall approve any proposed change to an existing program prior to implementation of the change by the Supported Employment Program.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854, 4860 and 4861, Welfare and Institutions Code.

**Section 58833. Temporary Transfers Between Work Activity and Supported Employment Programs.**
The regional center shall approve the temporary transfer of a consumer between a Supported Employment - Group Placement Program and a Work Activity Center, pursuant to the following:
(a) A finding by the consumer's IPP team of a prospective need for a temporary transfer,

manifested in a written preauthorization for the transfer specifying the following:
(1) The criteria upon which the temporary transfer is preconditioned;
(2) The maximum number of days of the temporary transfer, not to exceed sixty (60) days; and
(3) Conditions, other than those specified in (c), under which an extension of the temporary transfer is to be granted, not to exceed thirty (30) days.
(b) Emergency authorization of a temporary transfer pursuant to Title 17, Section 50612.
(c) The regional center may grant an extension of a temporary transfer of up to thirty (30) days when not specified in accordance with (a)(3), provided one or more of the following adverse circumstances occurs:
(1) Temporary shutdown of the employer's operations due to good cause;
(2) Adverse weather conditions;
(3) Natural disasters.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854.1, 4857, 4860(b) and 4862(c)(1)(2), Welfare and Institutions Code.

**Section 58834. Additional Requirements for Supported Employment Programs.**
(a) Regional centers shall approve job coaching for consumer supervision during the meal period when previously approved by the Department of Rehabilitation or when specified in the consumer's IPP.
(b) Supported employment services above the stabilization level specified in the consumer's IPP shall be allowable as necessary, consistent with the determination of the consumer's IPP team, when:
(1) The consumer is learning new job skills or increasing his or her job responsibilities;
(2) There is a change in employer management;
(3) The consumer is experiencing a personal crisis.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854 and 4854.1, Welfare and Institutions Code.

**ARTICLE 5. COORDINATION OF SERVICES WITH THE DEPARTMENT OF REHABILITATION.**
**Section 58840. Referrals to the Department of Rehabilitation**.
(a) Work Activity Programs shall at least once annually assess the service needs of each consumer served by the program to identify any consumers for whom vocational rehabilitation program services provided by the Department of Rehabilitation would be appropriate, provided the program shall inform the regional center at any time when a consumer expresses an interest in securing employment outside the Work Activity Program, or presents as an appropriate candidate for referral to the Department of Rehabilitation.
(1) The Work Activity Program shall inform the regional center whenever a consumer is identified as a candidate for vocational rehabilitation program services pursuant to this section, within thirty (30) days of the assessment or identification;
(2) Upon being informed of the need for services for any consumer, the regional center shall collaborate with the Work Activity Program to address the finding of need for vocational rehabilitation program services through the consumer's IPP process.
(3) Upon confirmation of the need for vocational rehabilitation program services through the consumer's IPP process, the regional center shall refer the consumer to the Department of Rehabilitation for the needed vocational rehabilitation program services, using Vocational

Rehabilitation Referral, Form DS 1968 (4/04) to effect the referral.
(b) The regional center shall refer a consumer ~~receiving supported employment services~~ to the Department of Rehabilitation when:
(1) The consumer has no current job, and requests a job while meeting Department of Rehabilitation eligibility requirements for Vocational Rehabilitation Services.
(2) The consumer has a job, ~~and requests an additional job, for the purpose of securing Department of Rehabilitation funding of services for the new job, or for both the consumer's new and current jobs;~~ where ongoing job coach funding is provided by the regional center and he/she requests an additional job where DOR will provide funding of services for the new job. DOR VR program does not provide ongoing support for a consumer in a job after the consumer has stabilized. DOR would provide services for the new job only.~~or~~
~~(3) Habilitation supported employment services need to be increased for the consumer for longer than thirty (30) calendar days.~~

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854.1, 4856(a), 4857 and 4858, Welfare and Institutions Code.

**Section 58841. Transition to Habilitation Services Upon Achievement of Stabilization.**
(a) The regional center shall maintain communication with the Department of Rehabilitation to monitor the progress of any consumer referred by the regional center to the Department of Rehabilitation pursuant to Section 58840.
(b) When a consumer receiving supported employment services from the Department of Rehabilitation achieves stabilization, the regional center shall assure that consumer's timely transition from vocational rehabilitation intensive services to regional center-funded extended services, in accordance with the following requirements:
(1) Upon receiving notification from the Department of Rehabilitation that the consumer receiving supported employment intensive services has reached stabilization, the regional center shall implement the consumer's IPP determinations for Habilitation Service. Based upon the notification received from the Department of Rehabilitation, the planning team shall verify that:
(A) The consumer has performed the job satisfactorily for a minimum of sixty (60) days or longer;
(B) The consumer's job is expected to be stable and to continue; and
(C) The percentage of job coaching intervention for individualized services meets the following criteria: no more than 20 percent for at least sixty (60) days; no more than 25 percent for at least ninety (90) days; no more than 30 percent for at least 120 days;
(2) Regional center funding for the consumer's extended services shall begin on the first billing day of the month following the regional center's approval of services, or according to a start time agreed upon by the IPP team in coordination with the Department of Rehabilitation.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: 4854.1 and 4857, Welfare and Institutions Code.

**Section 58842. Denial of Services Pursuant to Order of Selection Criteria**

Whenever the Department of Rehabilitation is unable to provide vocational rehabilitation services to all eligible applicants and invokes order of selection criteria to set priorities for accepting applicants, the regional center shall, as directed by the Department, provide on behalf of consumers denied services pursuant to the order of selection:

(a) Intensive services job coaching until stabilization is achieved; and
(b) Supported Employment Intake, Supported Employment Retention, and Supported Employment Placement fees.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: 4854.1, 4856(a), 4857 and 4858, Welfare and Institutions Code.

**ARTICLE 6. QUALITY ASSURANCE MONITORING AND CORRECTIVE ACTIONS FOR HABILITATION SERVICES PROGRAMS**

**Section 58850. Monitoring and Evaluation of Habilitation Program Services.**

(a)The Department and the vendoring regional center shall have the authority and responsibility for monitoring and evaluating Habilitation Services Programs for:
(1) Service quality.
(2) Protections for consumers receiving services.
(3) ~~Compliance with applicable~~Verify ongoing CARF accreditation~~ standards.~~
(b) The Department and the vendoring regional center shall coordinate the following monitoring and evaluation activities as may from time to time be necessary to avoid duplication or incompatibility of effort, and to achieve the most efficient and effective employment of staff resources in the implementation of this section:
(1) Review the initial and subsequent annual Individual Habilitation Service Plan prepared by the Habilitation Services Program for all consumers served by the program;
(2) Review each program's CARF accreditation report, upon initial accreditation and renewal, as appropriate; and
(3) Review for each Work Activity Program the information, as compiled by the Department, the amount of time consumers engaged in paid work as a percentage of the total time that the aggregate of consumers in the program received services over a selected period of six (6) months.
(c) The activities specified in (a) shall be undertaken at a frequency and in a manner to be determined by the Department and the vendoring regional center, provided that these reviews shall occur not less frequently than would achieve synchronization with the program's CARF accreditation renewal cycle.
(d)As necessary for the implementation of this section, all Habilitation Services Programs shall:
(1) Maintain and make available for inspection and review by the Department and the regional center, as appropriate, all records, reports, documents, and facilities related to the delivery of services to consumers; and
(2) Provide the Department and the vendoring regional center, as appropriate, direct access to program administrators, supervisors, and staff.
(e) In the event the Department and the vendoring regional center disagree upon a course of action pursuant to the monitoring and evaluating responsibilities of this section, the Department's position shall prevail.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Section 4856, Welfare and Institutions Code.

**Section 58851. Noncompliance Sanctions and Corrective Action Plans.**

(a) Habilitation Services Programs determined by the Department and the vendoring regional

center consequent to the monitoring and quality assurance activities specified in Section 58850, to be out of compliance with any relevant service provider requirement in this Subchapter, shall be subject to immediate sanctions proportional to the noncompliance condition(s).
(b) A finding of failure on the part of a Habilitation Services Program to comply with relevant service provider requirements shall require the development of a corrective action plan within thirty (30) days of notification by the Department or regional center of noncompliance, provided the sanction imposed is not termination of vendorization.
(c) Sanctions shall include ~~but are not limited to~~:
(1) A moratorium on new referrals.
(A) This sanction shall apply only in cases where consumers are not subject to, or at imminent risk of, abuse or other harm.
(B) The moratorium shall trigger development and implementation of a corrective action plan, and shall be rescinded only when the conditions that led to the moratorium have been corrected in accordance with the corrective action plan.
(2) Imposition of a corrective plan.
(A) A corrective action plan may be imposed in conjunction a moratorium on new referrals, or as the sole sanction when a moratorium on referrals has not been imposed.
(B) The program shall develop a corrective action plan within thirty (30) days of notification by the Department or regional center of noncompliance, provided the sanction imposed does not include termination of vendorization.
(C)The corrective action plan shall be subject to Department or regional center approval.
(D) Failure of the Habilitation Services Program to comply with the conditions and timelines of the corrective action plan shall result in termination of vendorization, pursuant to Title 17, Section 54370.
(3) Removal of consumers from a service area.
(A) Removal of consumers shall be required only when dangerous or abusive conditions are present, or upon termination of vendorization.
(B) Upon correction by the Habilitation Services Program of the conditions found by the Department or the regional center to have threatened the health and safety of consumers, as determined by the Department or the regional center, consumers removed from the program may, at their option, return to the program or receive services from an alternate program.
(4) Termination of vendorization.
(d) A Habilitation Services Program sanctioned under subparagraph (A) of paragraph (3) of subdivision (c) may request an administrative review, pursuant to Welfare and Institutions Code, Section 4648.1.
(e) A Habilitation Services Program sanctioned under paragraph (4) of subdivision (c) shall have a right to a formal review by the Office of Administrative Hearings under Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code.
(f) Any habilitation services program that has been sanctioned pursuant to former Title 9, Section 19354.5, the provider shall complete the requirements of the corrective action plan or any other terms or conditions imposed upon it as part of the sanctions. At the end of the term of the corrective action plan or other compliance requirements, the services provider shall be evaluated by the regional center and/or Department in light of the standards and requirements established for Habilitation Services Programs in this Subchapter.
(g) The Department and vendoring regional center(s) shall notify DOR if sanctions are being considered.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: 4856 4648.1 Welfare and Institutions Code.

**ARTICLE 7. WORK ACTIVITY PROGRAM RATESETTING PROCEDURES.**
**Section 58860. General Provisions.**

(a) The rates shall be based on the allowable costs ~~of~~ inclusive of allowable staff time costs associated the Work Activity Programs only and shall not include expenses for other programs such as Activity Centers, residential programs, camps, or transportation to and from the consumer's home. Staff cost will be determined by a semi- annual two week time study.

(b) The Department shall establish rates which reflect the reasonable cost of both an overall habilitation service and each specific allowable service, activity, or administrative cost comprising that overall service. Costs related to services, provided in the areas of shipping/receiving (direct costs) or business operations (non—program costs) such as stores shall not be included in the computation of the Habilitation Service cost, but rates paid for consumers receiving services in these areas shall be based on the costs and consumer attendance of the primary work activity operation.

(c) Reasonable cost shall not be based on actual cost during a payment year, but on actual allowable costs in a historical period. The principle of reasonable cost, as distinct from actual cost, shall be based on methods by which the Department can contain costs of the program. Therefore, the Department shall set forth specific cost containment policies as a part of the ratesetting manual. Unless otherwise instructed by the Legislature, the HSP shall abide by this principle.

(~~b~~d) The policies and procedures the Department employs to establish rates shall be equitable. The Department shall require all vendors to submit the same type of cost statement data in the same form.

(~~c~~e) The Department shall apply all of the ratesetting policies and procedures specified in these regulations in the same manner.

(~~d~~f) The Cost Statement shall be used by the Department as a basis for establishing rates so that expenses for all services for which the vendor bills the regional center are reported separately for each service.

(~~e~~g) The Department shall not reduce the rate of payment resulting from income, as defined in Section 58801(d)(10), received by vendors.

(~~f~~h) The rate for Work Activity Program services shall be the sole rate paid for such services and shall not be paid if any other fee is paid by any government or private entity other than the regional center for a consumer for such Work Activity Program services.

(~~g~~i) The Department shall base the historical rate for Work Activity Program services on allowable administrative, production, and service costs ~~divided by the actual consumer attendance of regional center consumers during the historical period~~. The Cost Statement data shall be the basis for setting the historical rate.

(1) Administrative Costs – allocated to service programs based on the percentage of indirect costs of each program.

(2) Production Costs – is allowable to the extent that consumers are not working to the industry's production level. (Net of consumer productivity).

(3) Service Costs – all indirect service costs are allowed up to the amount allocated to Work Activity Program (WAP).

(~~h~~j) This historical rate shall then be adjusted by any State approved COLA(s) to arrive at a daily or hourly rate. The amount of the COLA(s) shall depend directly upon the accounting fiscal year that is the historical period for the service provider (e.g., if the accounting fiscal year of the service

provider begins two years prior to the payment year, a two-year COLA shall be added to the rate resulting from the historical period data).
(~~i~~k) Days or hours billed during the historical period by the Work Activity Program and paid by the regional center, Department of Rehabilitation, and any other entity shall be considered to be days or hours of attendance for purposes of rate setting.
(l) Because the Legislature has expressed its intent that the Department assures service quality the ratesetting procedure shall seek to maintain an adequate level of habilitation services.
(m) The Department shall not reduce the rate of payment resulting from income (as defined in Section 58801) received by service providers.
(n) All service providers shall calculate and report all depreciation on a straight-line basis over the estimated useful life of the asset, based on the actual cost at the time of acquisition. Only depreciation and the interest on the loan of a depreciable asset shall be allowed as an indirect expense. The principal amount paid on the purchase or loan of a depreciable asset cannot be expensed. Use Internal Revenue Service Publications 534 and 946 as the guideline for the useful life of depreciable assets.

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Sections 4859, 4861(b), and 4863, Welfare and Institutions Code.

**Section 58861. General Ratesetting Requirements for Work Activity Programs.**
(a) Work Activity Programs requesting or receiving reimbursement from the regional center for the provision of Work Activity Program services shall submit all fiscal and consumer data as required by these regulations, to the Department and a copy to the vendoring regional center. Such data shall serve as the basis for setting rates, and is subject to audit. Failure to comply with the Department' s data submission policies shall result in a delay in processing of the current payment year invoices of that Work Activity Program.
(b) For new Work Activity Programs, which have insufficient historical fiscal and client data, rates shall be set according to Section 4861 of the Welfare and Institutions Code.
(c) In the case of a change in ownership or merger of a Work Activity Program that is currently vendored, the rate will remain the same.
(d) The instructions and procedures for reporting Cost Statement data for vendors shall also apply to ~~agencies~~Management Organizations. The data reported for the Management Organization shall then be allocated to the vendor(s) on a cost basis.
(e) All service providers shall use the method for reporting Cost Statement data detailed in this Subchapter.
(f) The instructions and procedures for reporting Cost Statement data for service providers shall also apply to agencies.
(g) The data reported for the agency shall then be allocated to the each vendored service provider on an acceptable basis.
(~~e~~h) Vendors that are part of a school, hospital, or any city or county operation may report only the data for the Work Activity Program.
(i) Vendors shall adhere to the following procedures:
(1) The vendor shall report all revenue and expenses annually in the form and time period required by the Department, utilizing the Staff Survey Report, Space Utilization Report, Revenue Statement, and Expense Statement.
(2) The vendor shall report on the Consumer Survey Report actual attendance annually of all consumers and non-consumer production workers, and productivity rates of all habilitation and

Vocational Rehabilitation consumers.
(3) The vendor shall consistently use the same headings or titles for services or programs on all reporting forms required by the Department.
(j) If a service provider charges fees for a single work activity program service, it may report expenses for that service under one habilitation or rehabilitation cost center.
(k) If a facility receives separate fees for certain services (e.g., Work Evaluation, Trade Training, and Employment Preparation), it shall report expenses for each of them under separate cost centers.
(l) Expenses for services such as infant stimulation, independent living, or other programs not provided as part of the work activity program shall be reported separately from the expenses of habilitation services. However, such non-habilitation expenses may be consolidated under one cost center unless offered as separate services to Vocational Rehabilitation Programs.
(m) The value of privately donated rent, goods, services, assets (including private donations or grants restricting the use of the funds for purchase of assets), or staff shall not be reported either as an indirect expense or a recovery. The value of such private donations shall be reported as income, and the expense, if any, as a direct expense when applicable or as a reconciling item.
(n) To report staff salaries and wages and allocate them to the appropriate cost centers, the following documents shall be retained for review and audit:
(1) Payroll records, including W-2's,.quarterly payroll tax returns, and canceled checks.
(2) Time studies used as the basis for allocating salaries and wages.

Authority: Section 11152 Government Code; Sections, 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Sections 4859 and 4860, Welfare and Institutions Code.

**Section 58862. Reporting Period for Submission of Information.**
(a) For Fiscal Year 2006-07, and each alternate fiscal year thereafter, rates are based on the costs for the vendor's fiscal year of two (2) years prior.
(b) To aid in the vendors' preparation and the Department's desk audit and the Department's and/or regional center's field audit of Cost Statements, vendors shall use as a historical period their most recently completed fiscal year as the basis for reporting Cost Statement data. The historical period shall not end later than the last day of March preceding the payment year.

Authority: Section 11152 Government Code; Section 4857.1, 4859(a), and 4866, Welfare and Institutions Code. Reference: Sections 4859 and 4861(b), Welfare and Institutions Code.

**Section 58863. Required Due Dates for Submission of Information.**
(a) Beginning September 30, 2005, the Cost Statement data and year-end financial statements, audited or un-audited, and any reconciliation shall be submitted to the Department and a copy to the vendoring regional center three months after the end of the vendors' fiscal year but no later than May 31, 2006 and no later than each alternate May 31st thereafter. This establishes the cost statement due date.
(b) An independent audit or review report of the historical period shall be submitted to the Department and a copy to the vendoring regional center within three months of ~~submitting~~ the cost statement due date. Schools, hospitals and public agencies are exempt from this requirement.
(c) The Department may extend deadlines for submission of cost statements and audits or review reports if such extensions may be accommodated by the Department.

(d) The vendor shall request extensions at least two weeks prior to the due date set by the Department.
(e) Failure to submit the cost statement on required forms and audits or review reports, on time, shall result in Departmental action pursuant to California Code of Regulations, Section 58861(a).

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4859 and 4861(b), Welfare and Institutions Code.

**Section 58864. Required Cost Statement Information.**
(a) The vendor shall report all revenue and expenses biennially in the form and time period required by the Department, utilizing the Rate Computation Sheet, Form DS 1950 (1~~0~~/0~~3~~5), Staff Survey Report, Form DS 1951 (1~~0~~/0~~3~~5)~~-~~, Space Utilization Report, Form DS1952 (1/05), Revenue Statement, Form DS 1953 (1~~0~~/0~~3~~5), Expense Statement, Form DS 1954 (1/05), Other Expenses Statement, Form DS 1955 (1~~0~~/0~~3~~5), Revenue and Expenses Statement Reconciliation, Form DS 1956 (1/05), Consumer Survey Report for Vocational Rehabilitation Consumers, Form DS 1957 (1/05), Consumer Survey Report – Other, Form DS 1958 (1/05), Habilitation Services Allocation Guidelines, Form DS 1959 (1/05), and General Information/Certification, Form DS 1960 (1~~0~~/0~~3~~5).
(b) The vendor shall report, on the Consumer Survey Report, Form DS 1957(1~~0~~/0~~3~~5), actual attendance of all consumers and non-client production workers, and productivity rates of all Work Activity Program consumers.
(c) For each of the forms listed below the specified objective and required documentation which must be retained for review and audit is as follows:
(1) Rate Computation Sheet, Form DS 1950 (1/05),
(A) Objective: To calculate daily or hourly rates for Work Activity Programs;
(2) Space Utilization Report, Form DS 1952 (1/05);
(A) Objective: To report, by cost center, the use of buildings owned or leased by the facility for use in allocating costs related to the building;
(B) Required Documentation: The floor plan identifying size and area;
(3) Revenue Statement, Form DS 1953 (1/05);
(A) Objective: To report all revenue (cash and in— kind) received by the service provider;
(B) Required Documentation: All revenue records;
(4) Expense Statement, Form DS 1954 (1/05);
(A) Objective: To report all expenses incurred by the facility.
(B) Required Documentation: All expense records, including ledgers, journals, invoices, and canceled checks, depreciation records, records of the basis for allocating all expenses.
(5) Revenue and Expenses Statement Reconciliation, Form DS 1956 (1/05);
(A) Objective: To reconcile the year—end financial statements with the Revenue and Expense Statements (Forms DS 1953 (1/05) and DS 1954 (1/05) to ensure accuracy.
(B) Required Documentation: Year-end financial statements (audited or unaudited), annual reviews or independent audit reports, including management letters from independent auditors;
(6) Consumer Survey Report for Vocational Rehabilitation Consumers, Form DS 1957 (1/05);
(A) Objectives: (i) To provide a basis for allocating work activity program costs based upon client and worker participation and HSP client productivity. (ii) To provide a basis for determining the unit cost for HSP clients.
(B) Required Documentation: Consumer attendance records (should be summarized monthly), consumer payroll records, records of individual consumer productivity rates, consumer productivity rate calculations (should be summarized monthly), workdays or work hours for non-consumer production workers (should be summarized monthly);

(7) General Information/Certification, Form DS 1960 (1/05).
(A) Objective: This form is required and shall be completed after the ratesetting forms are completed. To provide an overview of the organization and to obtain assurance from the directors of the facilities that, to the best of their knowledge, all of the data submitted for the setting of the rate is accurate.
(d) The vendor shall consistently use the same headings or titles for services or programs on all reporting forms required by the Department.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code. Reference: Section 4859(a), Welfare and Institutions Code.

**ARTICLE 8. RATESETTING METHODOLOGY FOR WORK ACTIVITY PROGRAMS.**
**Section 58870. General Provisions.**
(a) Work Activity Program rates shall be established, as applicable, according to the following sequence:
(1) Applying, as appropriate, all cost containment policies in accordance with Section 58871 through Section 58872.
(2) Setting of the historical rate from Cost Statement; Staff Survey Report, DS1951 (1~~0~~/0~~3~~5); Space Utilization Report, DS1952 (1~~0~~/0~~3~~5); Revenue Statement, DS1953 (1~~0~~/0~~3~~5); Expense Statement, DS1954 (1~~0~~/0~~3~~5); Other Expense Statement, DS1955 (1~~0~~/0~~3~~5); Revenue and Expense Statement Reconciliation, DS1956 (1~~0~~/0~~3~~5); Consumer Survey Report For Vocational Rehabilitation Consumers, DS1957 (1~~0~~/0~~3~~5); Rate Computation Sheet, DS1950 (1~~0~~/0~~3~~5); Consumer Survey Report-Other, DS1958 (1~~0~~/0~~3~~5) DS 1959 (1/05) Habilitation Services Allocation Guidelines; according to the established policies and procedures;
(3) Computing the base rate;
(4) As appropriate, reducing the rate in accordance with the maximum daily rate policy specified in Section 58873.
(5) Adjusting the rate, as appropriate, in accordance with policies on rate adjustments specified in Sections 58876 through 58878.
(b) If vendor operations during the historical period are dependent upon grant funds which will terminate before the payment year for which the rate is being set, the Department shall not apply such grant funds as a recovery in its computation of the rate.
(c) When a vendor dependent on grant funds has not been in operation long enough to establish a historical period, the daily rate shall be the statewide average rate.

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Sections 4859, 4860 and 4866, Welfare and Institutions Code.

**Section 58871. Cost Containment ~~- Administrative Costs.~~Policies**
(a) All cost containment policies shall be applied to historical period costs.
(b) Administrative costs of a Work Activity Program shall be determined by the Department to be excessive when, as a percentage of the total gross cost of the Work Activity Program in the historical period, such costs exceed the maximum of 32.12%. The procedure to determine administrative costs is:
(1) To determine the percentage of administrative cost to total gross cost of each Work Activity Program, the Department shall divide the gross administrative cost applicable to the Work Activity

Program by the total gross cost of the Work Activity Program.
(2) To establish the maximum administrative cost percentage for Work Activity Programs, the Department shall compute the mean and standard deviation from the Cost Statements for all Work Activity Programs meeting the time line specified in this section. The maximum shall be set at the mean plus one (1) standard deviation.
(3) If a Work Activity Program's administrative cost percentage exceeds the maximum allowable percentage, the Department shall reduce the administrative cost to the maximum level.
(4) The only exception to the above policy is that a service provider's cost of administration of the Work Activity Program shall not be reduced below the minimum cost necessary to support the salaries and overhead for the basic core administrative staff which is defined as the director, clerical, and fiscal support staff.

~~Authority: Section 11152 Government Code; Sections, 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Sections 4859 and 4861(b), Welfare and Institutions Code.~~

**~~Section 58872. Cost Containment - Retirement Plan Expenses.~~**
(~~a~~c) Retirement plan expenses costs shall be contained as follows:
(1) The Department shall allow as an expense FICA contributions actually incurred during the historical period as described in (b) and (c) below. In addition, the contribution made by the employer to a qualified plan shall be allowed subject to the exceptions, conditions, and limitations contained herein.
(A) As used in this section, "Qualified Plan" means a pension, retirement, or other similar deferred compensation plan that has been approved, certified, and is legal as required by federal and state laws, regulations, and case law.
(B) As used in this section, "FICA Rate" means the employer's portion of the FICA contribution rate expressed as a percent of gross wages. The rate used shall be the rate in effect during the historical period.
(~~b~~2) If the employee was covered by FICA during the historical period, the allowed percentage for the employer contributions to a qualified plan shall be five percent (5%).
(~~c~~3) If the employee was not covered by FICA during the historical period, the allowed percentage shall be the sum of the FICA rate plus five percent (5%).
(~~d~~4) The total allowable expense of this section shall not exceed the amount defined by either (~~b~~2) or (~~c~~3) above.
(~~e~~5) Notwithstanding any other provision of this section, the maximum allowance for employer contributions to a qualified plan shall not exceed the lesser of either:
(~~1~~A) The required employer contribution as determined by the trustee of the qualified plan; or
(~~2~~B) The contribution required to keep the plan actuarially sound.
(~~f~~6) To determine the percentage allowed for retirement plans, the Department shall divide the total amount reported for indirect expenses for retirement by the total amount reported for staff salaries.
(~~g~~7) If the percentage is less than or equal to the allowed percentage, no adjustment shall be made.
(~~h~~8) If the percentage is more than the allowed percentage, the expense applicable to the excess percentage not allowed shall be deducted from the amount reported for retirement on a prorated basis from each cost center.

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866,

Welfare and Institutions Code. Reference: Section 4859 and 4861(b), Welfare and Institutions Code.

**Section 58872. Program Expansion Policy and Procedure**

(a) Through its ratesetting procedure, the Department shall allow increased costs incurred in the historical period for program expansion only if such costs for expansion were approved by the Department, in writing, prior to the expenditure. This policy shall apply only to major line items (related to staff, occupancy, and equipment) and shall not apply to any costs incurred by a Work Activity Program prior to the date of the filing of these regulations.

(b) Work Activity Programs shall adhere to the following procedure to submit costs related to program expansion:

(1) A Work Activity Program planning to incur increased costs for program expansion which are likely to exceed the Consumer Price Index (CPI) percent increase as reported in California Abstract for "all items", shall submit a written request for approval of those costs to the Department. The request shall include all applicable information as required for vendorization as a new service provider.

(2) In consultation with the regional center and the Department of Rehabilitation, the Department shall review and evaluate the request.

(3) The Department shall apply criteria as they are relevant to the pertinent policies and procedures relating to: local needs assessment, service capacity, standards, and evaluation of all alternative options to meet the identified need that apply to the vendorization of new service providers.

(4) The Department shall submit a written response to the director of the Work Activity Program within 45 days of the receipt of the request. The response shall specify the rationale applied for approval (in full or in part) or for denial of the request.

(5) If the request is approved, the director of the Work Activity Program shall include a copy of the written letter of approval with the Cost Statement for the historical period in which those costs were incurred.

(6) If the letter of approval does not accompany the Cost Statement, the Department, during the desk audit, shall compare current Cost Statement expense line items to those of the prior year. If increases have occurred above the CPI, the Department shall require the Work Activity Program to provide an explanation of the increased costs. If the increases were due to disapproved program expansion, the costs shall be disallowed in the computation of the rate.

**Section 58873. Maximum Daily Rate.**

(a) The Department shall, biennially, set the maximum daily rate for Work Activity Program services.

(b) The Department shall set three (3) maximums, dependent on the total number of consumers served in the Work Activity Program during the historical period.

(c) The maximums shall be established biennially based on the Cost Statements submitted and received by the Department, in a form permitting such determination, by June 1 preceding the payment year for which they are submitted.

(d) For each vendor submitting a Cost Statement meeting the time constraints stated in (c) above, the Department shall calculate the gross rate.

(e) The Department shall group the above gross rates based on the number of all consumers served in the Work Activity Program during the historical period covered by the Cost Statements. The vendor groupings are as follows:

(1) Small vendors: 0 - 30 consumers;

(2) Medium vendors: 31 - 100 consumers;
(3) Large vendors: 101 or more consumers.
(f) For each grouping of gross rates calculated, the Department shall compute the mean (average) and standard deviation for that grouping.
(g) The mean plus one standard deviation shall be the maximum allowable rate for each grouping for the payment year.
(h) If a vendor's rate exceeds the maximum established for its number of consumers, following application of any other cost containment measures in Sections 58871 through 58872, the rate shall be reduced to the maximum for that grouping.

Authority: Section 11152 Government Code; Section 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Section 4859 and 4861(b), Welfare and Institutions Code.

**Section 58874. Reporting Requirements.**
(a) To receive a rate based on allowable cost, in accordance with these regulations, a vendor shall establish a historical period. In the case of new vendors meeting all other criteria for vendorization, the historical period need not extend a full year, but it shall occupy at least three months ending no later than March 31 preceding the payment year for which the Work Activity Program's rate is being established. That historical period shall be representative of the vendor's ongoing operating costs excluding start-up costs.
(b) The vendor shall submit, as required by the Department, a completed Cost Statement for the historical period in accordance with the principles, policies, procedures, and instructions specified in Section 58864. Using representative cost and consumer data in the Cost Statement, the Department shall apply the policies and procedures in these regulations to establish the rate for the upcoming payment year. If service provider operations during the historical period are dependent upon establishment grant funds which will terminate before the payment year for which the rate is being set, the Department shall not apply such grant funds as a recovery in its computation of the rate.
(c) If the Department determines that the minimum required historical period is not sufficiently representative of cost and consumer data as the basis for establishing the rate, the policy set forth in Section 58861(b) shall be in effect. To be sufficiently representative, the historical period shall not contain costs that are essentially start—up costs (security deposits, moving expenses, etc.), and the consumer attendance during the historical period shall reasonably approximate the caseload level that had been anticipated in the service provider's request -for vendorization.
(d) Expenses for other programs not provided as part of the Work Activity Program shall be reported separately from the expenses of Work Activity Program services. However, such expenses may be consolidated under one cost center unless a portion of those expenses are allowable Work Activity Program expenses.
(e) An independent review of financial statements performed by an accountant may be submitted instead of an independent audit and shall cover at a minimum the following:
(1) An inquiry as to the vendor's accounting principles and practices and methods used in applying them;
(2) An inquiry as to the vendor's procedures for recording, classifying, and summarizing transactions and accumulating information;
(3) Analytical procedures designed to identify relationships or items that appear to be unusual;
(4) An inquiry about budgetary actions taken at meetings of board of directors or other comparable meetings;
(5) An inquiry about whether the financial statements have been properly prepared in conformity

with Generally Accepted Accounting Principles and whether any events subsequent to the date of the financial statements would have a material effect on the statements under review;
(6) Working papers prepared in connection with a review of financial statements describing the items covered as well as any unusual items, including their disposition.
(f) An independent review report shall accompany the financial statements reviewed by an accountant and shall cover the following points:
(1) A review was performed in accordance with standards established by the American Institute of Certified Public Accountants;
(2) The statements are representations of management;
(3) The review consisted of inquiries and analytical procedures that are less in scope than those of an audit; thus, no opinion is expressed regarding the financial statements as a whole;
(4) The accountant is not aware of any material modifications that need to be made to the statements for them to be in conformity with Generally Accepted Accounting Principles.
(g) If there are material changes as the result of the independent review or independent audit report, the vendor shall revise the Cost Statement to reconcile with the review or audit and resubmit them. The Department shall revise the rate accordingly.

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Sections 4859 and 4861(b), Welfare and Institutions Code.

**Section 58875. Non-Allowable Costs.**
(a) The historical period shall not contain costs that are start-up costs, such as security deposits, moving expenses.
(b) The value of private donations or grants for rent, goods, services, assets, or staff shall not be reported either as an indirect expense or a recovery. The value of private donations shall be reported as income, the expense for which the donation was used shall be reported as a direct expense, when applicable, or as an item on the Habilitation Services Cost Statement - Revenue and Expenses Statement Reconciliation, Form DS 1956 (1~~0~~/0~~3~~5).
(c) The following expenses shall not be allowable for the purposes of establishing a historical rate:
(1) Bad debts of vendors;
(2) Bad debts to vendors;
(3) Donations from vendors to other parties;
(4) Sales discounts to other parties;
(5) Theft of materials, products, or assets;
(6) Federal and State tax penalties and interest;
(7) Breakage and spoilage of materials and products used in production only;
(8) Client stipends;
(9) Insurance to protect against ratesetting or funding decisions made by the Department;
(10) Losses from food service programs;
(11) Losses from sales of fixed assets;
(12) Other losses from business transactions or operations;
(13) Legal fees resulting from suits against the department or regional centers;
(14) All expenses related to the following in Work Activity Programs:
(A) Medical, psychological, and/or nursing services;
(B) Physical and/or occupational therapy services;
(C) Diagnostic laboratory or x-ray services;
(D) Dietary services;

(E) Pharmacy services;
(F) Speech pathology services;
(G) Audiological services;
(H) Prosthetics and/or orthotics fitting;
(I) Dentistry services;
(J) Optometric services;
(K) Camps, field trips, recreational or social activities;
(L) Expenses for payment to holding companies for items such as occupancy, equipment, and vehicles that exceed the expense that would have been incurred by the vendor if the holding company did not exist.
(d) It is not necessary to allocate unallowable expenses. These shall be reconciling items between the Expense Statement, Form DS 1954 (1~~0~~/05~~3~~) and the Revenue and Expense Statement Reconciliation, Form DS 1956 (1~~0~~/0~~3~~5).

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), and 4866, Welfare and Institutions Code. Reference: Sections 4859 and 4861(b), Welfare and Institutions Code.

**Section 58876. Rate Adjustment and Rate Revision ~~General~~ Provisions.**
(a) The Department shall adjust base rates following the addition of any State-approved COLA's except as provided in Section 58877(a)(7) and 58878(i).
(b) The Department shall make rate adjustments only before the payment year begins and make them effective July 1 of the payment year, except in cases of occupancy adjustments due to disasters such as earthquakes, floods, and fires pursuant to Section 58877.
(c) If the basis for the adjustment will not take effect until after the beginning of the payment year, the Department shall prorate the adjustment over the entire payment year effective July 1.
(d) In all cases the vendor shall actually incur the cost to be eligible for a rate adjustment.
(e) Documentation submitted by a vendor as the basis for an adjustment shall be subject to Departmental review and Departmental and/or regional center audit, as well as to all policies and procedures pertaining to such reviews and audits.
(f) No rate adjustment shall result in a rate exceeding the approved maximum daily rate for the vendor based on vendor grouping pursuant to section 58873 (a) through (h).

~~Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Section 4859 and 4861(b), Welfare and Institutions Code.~~

**~~Section 58877. Rate Adjustment Due to an Increase in Occupancy Cost.~~**
(~~a~~g) The Department shall take into account, as a basis for a rate adjustment, increases in occupancy cost (limited to rent, lease, mortgage interest, and building depreciation) from the historical period to the payment period, only if all of the following apply:
(1) The increase in rent, lease, mortgage interest, and/or building depreciation for the payment year exceeds the corresponding cost(s) in the historical period;
(2) The increased cost:
(A) Resulted in needed and more normalized or improved services to consumers and was approved in writing by the Department before it was incurred; or
(B) Was unavoidable, such as loss of lease or disaster, and the replacement vendor site, or portion thereof, was obtained at a cost consistent with the average cost paid for buildings in the area; or

(3) The vendor submits the request for adjustment in writing prior to July 1 of the payment year, except in cases of disasters such as earthquakes, floods, and fires, and in the form required by the Department;
(4) The vendor shall complete a Request for Rate Adjustment B Occupancy on a form specified by the Department and submit it to the Department with a copy to the vendoring regional center prior to July 1 of the payment year for which the adjustment is being requested, except in the case of disaster when the form shall be submitted before new occupancy commitments are made;
(5) If the cost increase meets all of the requirements specified in (a)(1) through (3) above, the Department shall deduct that amount from the historical period cost, and use the difference to compute the rate adjustment;
(6) If space utilization differs from that of the historical period, the vendor shall submit a Space Utilization Report, Form DS 1952 (1~~0~~/0~~3~~5), as a basis for distribution of the increased costs. If there is no change, the costs shall be distributed as in the historical period;
(7) The Department shall use all historical consumer data to calculate the adjustment for the payment year. However, because costs are payment year costs, no COLA increases shall be applied in the year of the adjustment.

~~Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Section 4859 and 4861(b), Welfare and Institutions Code.~~

**~~Section 58878. Rate Adjustment Due to a Change in Staff-to-Consumer Ratio.~~**
(~~a~~h) The Department shall make rate adjustments for staffing for the following reasons:
(1)If a vendor's Work Activity Program staff-to-consumer ratio in the historical period falls below the staffing level as defined here and the vendor elects to hire staff to attain this staffing level;
(A) The staffing level the Department will use as a basis for rate adjustments shall be applied to all consumers and staff in the combined programs offered by the Work Activity Program and is as follows:
(i) For direct service staff, three staff positions for the first ten consumers, and one additional staff position for each additional ten consumers;
(ii) These positions include the executive director, rehabilitation counselor, and all staff positions whose function is primarily to provide direct service to consumers including, but not limited to, supervision, training, and education;
(iii) The position(s) of executive director and/or rehabilitation counselor may be combined;
(B) For administrative support staff, one staff position to provide clerical support and one staff position to provide fiscal support.
(i) If the functions of the administrative support staff above are included in the duties of staff defined as service delivery staff, the position(s) shall be calculated on a pro rata basis between direct service and administrative support;
(ii) If the vendor's Work Activity Program staffing level is not maintained following payment of a rate adjustment for that purpose, no future adjustments shall be approved for this reason; and/or
(iii) If the vendor incurs a loss of subsidized staff, from the historical period, causing the staff-to-consumer ratio to fall below the staffing level above, and hires or retains staff to attain or maintain this staffing level;
(iv) If the vendor cannot confirm the loss of subsidized staff prior to the deadline for submission of a request for rate adjustment, the vendor shall obtain information from the source of subsidy, and on the basis of that information, submit a request if there is likelihood that substantial subsidy will be lost.

(~~b~~i) The adjustment, if approved, shall be based on the information as known, and if the subsidy is not reduced, the adjustment, in full or in part, will be rescinded retroactively.
(~~c~~j) In all cases, the vendor shall supply written documentation verifying the hiring or retention of the staff including the salary and fringe benefits to be paid to such staff.
(~~d~~k) The vendor shall complete a Request for Rate Adjustment B Staffing on a form specified by the Department and submit it to the Department with a copy to the vendoring regional center prior to July 1 of any future payment years for which the adjustment is being requested.
(~~e~~l) Following the request for a rate adjustment by the vendor, the Department shall review the data submitted on the Staff Survey Report(s), Form DS 1951(1~~0~~/0~~3~~5), the Consumer Survey Report(s), Forms DS 1957 (1~~0~~/0~~3~~5) and DS 1958 (1~~0~~/0~~3~~5) for the historical period to determine if the vendor met the staffing level as defined in this Section during the historical period, or if the loss of subsidized staff caused it to fall below that level for that period.
(~~f~~m) If the vendor did not meet the staffing level as defined in this Section, the Department shall prorate the annual salary and fringe benefits to staff to be hired, or retained, based on the date hiring or retention is to occur.
(~~g~~n) The Department shall enter the cost in (d) above on the Rate Computation Sheet, Form DS 1950 (1~~0~~/0~~3~~5) and distribute it based on the Staff Survey Report, Form DS 1951(1~~0~~/0~~3~~5).
(~~h~~o) The Department shall complete the rate calculation using all client data from the historical period.
(~~i~~p) The Department shall add no COLA increases in the year of the adjustment because costs used in calculating the rate adjustment are for current payment year costs.

Authority: Section 11152 Government Code; Sections 4857.1, 4859(a), 4860(b) and 4866, Welfare and Institutions Code. Reference: Sections 4859 and 4861(b), Welfare and Institutions Code.

**Section 58879. Ratesetting Requirements and Procedures for New Service Providers**
(a) Newly vendored service providers shall comply with the policies, procedures, and standards as set forth in these regulations, including the following:
(1) Service providers already accredited shall supply copies of their last accreditation report to the Department, and vendoring regional center and indicate the date their next accreditation review is due.
(2) In the case of newly vendored or developing service providers, the Department shall advise the service provider of the policies, procedures, and standards for Habilitation Services and offer consultation services and technical assistance regarding the steps necessary to meet such requirements.
(3) An important factor in the computation of the rate shall be the consumer productivity rate. Therefore, the service provider shall have a procedure for accurately measuring consumer productivity and shall supply documentation of its procedure. If the service provider does not have an adequate procedure for measuring and reporting consumer productivity, as determined by the Department, by the time the payment year for which the rate is being set begins, habilitation low productivity rates shall not be applied in the computation of the service provider's rate.
(b) The Department shall apply the ratesetting policies and procedures in these regulations and compute a rate.
(c) For an established habilitation service provider that has a historical period of costs for Work Activity Program services corresponding with that of service providers already vendorized, the Department shall apply all of the policies and procedures on ratesetting in these regulations to establish the service provider's rate. In such cases, however, since the service provider cannot

have served Habilitation consumers in the historical period, the Department shall base the rate on all allowable historical period costs relating to all cost centers, except those for other vendorized programs, and on the total attendance of all consumers served through those cost centers in the historical period. To determine the rate the Department will use the following procedure:
(1) Service providers shall submit in the time frame required by the Department a completed Cost Statement in accordance with the principles, policies, procedures, and instructions contained in these regulations;
(2) The Department shall apply the ratesetting policies and procedures in these regulations to compute the rate.
(3) The Department shall also determine if the computed rate is comparable (within one standard deviation of the mean) to those of service providers already vendorized that are similar in size, area, and consumer services.
(d) The Department shall limit the daily rate for services providers with insufficient historical period data to an interim daily rate which is the average daily rate among facilities participating in the HSP as of July 1 of the payment year in which payments to the service provider begin.
(e) Exceptions to the limit on the interim daily rate may be granted to service providers who have not yet established a historical period sufficient to set a rate and are providing an innovative approach deemed to be effective by the Department or the service provider may be meeting a special need defined by the Department. Because of the innovative approach or the nature of the special services, the service provider may also be facing higher than average operating costs. In such cases, the level of operating costs of the service provider shall permit operation under an interim rate that is the average daily rate (as of July 1 of the payment year in which I payments to the service provider begin) among service providers vendorized to provide habilitation services that use the same or similar innovative approaches or that meet the same or similar special needs.
(f) A new service provider dependent on grant funds may meet the criteria for vendorization in these regulations before the end of the grant period and before the beginning of an upcoming payment year. If such a service provider is already serving the number of consumers required by the grant and agreed upon as sufficient by the Department, the regional center may begin purchasing habilitation services from the service provider for additional consumers before the end of the grant period. When the service provider has not been in operation long enough to establish a historical period, the daily rate shall be the average daily rate for service providers already vendorized as of July 1 of that payment year. The procedure is as follows:
(1) The Department shall receive from the grant source (e.g., the Department of Rehabilitation Grants) a statement of the specific number of consumers expected to be served under the ongoing services period of the grant.
(2) The service provider shall provide to the grant source invoices that clearly distinguish between grant—funded consumers and consumers of the regional center that are in excess of the number of consumers to be served under the grant.
(3) The service provider shall also provide to the Department a copy of invoices sent to the grant source and a listing each month of grant- funded consumers and their attendance.
(4) The service provider shall include in its monthly invoices to the regional center for habilitation services only the attendance of regional center consumers over and above the number of consumers to be served under the grant. If a grant-funded consumer leaves the service provider and cannot be replaced immediately by another grant—funded consumer, a consumer under regional center funding shall be placed under grant funding effective the service day following the departure of the grant-funded consumer.

**Section 58879. Rate Appeals.**
(a) Any vendor disputing a departmental decision affecting its rate for Work Activity Program services may appeal the decision pursuant to Sections 57940 through 57948.

Authority: Chapter 722, Statutes of 1992, Section 147; and Sections 4691 and Welfare and Institutions Code. Reference: Sections 4691, Welfare and Institutions Code.

**ARTICLE 9. BILLING AND PAYMENT.**
**Section 58880. Work Activity Programs.**
(a) For each payment year, the Department shall establish a maximum number of service days per year, which shall be based on a maximum of five days per week, minus the number of nationally observed holidays. At the beginning of each payment year, all Work Activity Programs shall submit to the applicable regional center, for approval a schedule of the number of days per month for which reimbursement will be requested for services provided; the total number of days in that schedule shall not exceed the maximum number of service days established by the Department.
(b) The regional center shall make payment for services using a daily rate as follows:
(1) A Work Activity Program may bill for a full day of service when the Work Activity Program has written documentation that the consumer has received allowable Work Activity Program services as specified in Section 4851(h) of the Welfare and Institutions Code;
(2) A Work Activity Program may bill for a half-day of service when the Work Activity Program has written documentation that the consumer has received services as specified in Section 4851(i) of the Welfare and Institutions Code;
(3) A Work Activity Program may not bill for a consumer who is absent or who receives services for less than two hours, excluding the lunch period, except that the Department may authorize payment for absences which are the direct result of situations or occurrences for which a state of emergency has been declared. If payment for absences due to a state of emergency is authorized, the Work Activity Program shall bill only for daily absences in excess of the average percentage of daily absences experienced by the Work Activity Program, per client, in the same month of the year previous to the year in which the state of emergency was declared. If the Work Activity Program was not in operation in the previous year, the average percentage of absences per client shall be based on the most recent comparable month, as determined by the Department, in which billing was made to the regional center;
(4) Payment using a daily rate shall be as follows:
(A) For full-day and half-day billing, the Work Activity Program shall add the approved full-days and half-days of service for each client for each month and invoice the regional center after the month's end for the total number of billing days for each consumer, not to exceed the maximum number of billing days for the billing month per the schedule submitted to regional center.
(c) The regional center may make payment for services using an hourly rate determined by the regional center and specified by a service contract pursuant to Section 57540. The Work Activity Program or regional center shall request this option from the other party not less than 60 (sixty) days prior to the month in which billing using an hourly rate is requested. The Work Activity Program or regional center may refuse the request. The service contract shall be effective for a minimum of one year unless the regional center discontinues payment for services on an hourly basis if it determines that the information submitted is not supported by sufficient documentation, or if it determines that the cost of using an hourly rate is greater than the cost of utilizing a daily rate or other terms of the contract are not met.
(d) The hours billed for each consumer for each month shall be determined by totaling the number

of hours and minutes of services for each day. At the end of the month, the Work Activity Program shall round the total numbers of hours and minutes for each consumer to the nearest hour for the month, using simple rounding, i.e., round down for less than a half hour and round up for a half hour or more.
(e) The vendor shall maintain records for each consumer of all daily start and end times of the service, the daily lunch period, and any interruptions in the program day and as specified in Section 58822.
(f) The regional center shall make no payment for services to any person, including students of elementary or secondary schools, for whom any other agency has primary responsibility for providing such services according to Federal or State statute.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4863, 4864 and 4867, Welfare and Institutions Code.

**Section 58881. Supported Employment Programs.**
(a) Payment rates for Supported Employment Program services are specified in Welfare and Institutions Code 4860.
(b) Vendors must maintain adequate documentation to support the job coaching billed to the regional center as specified in Section 58831(a).
(c) A Supported Employment Program may not bill for group services when a job coach is not present, except that the Department may authorize payment for group services that were not provided when the work site was not accessible due to the direct result of situations or occurrences for which a state of emergency has been declared. If payment due to a state of emergency is authorized, the Supported Employment Program shall bill only for job coaching for days the work site was not accessible, as determined by the Department, in which billing was made to the regional center.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Section 4860, Welfare and Institutions Code.

**Section 58882. Billing for Temporary Transfers.**
(a) Procedure for Authorization of a temporary transfer:
(1) Temporary transfers should be anticipated and planned for during the IPP. The pre-authorization of a temporary transfer should specify the criteria and maximum number of days of the temporary transfer.
(2) Emergency authorization of a temporary transfer pursuant to Section 50612.
(b) The regional center may grant an extension of a temporary transfer if there is a delay in the return date to the job beyond the original 60-calendar day authorization for the temporary transfer;
(1) Delays may include:
(A) Temporary employer closures, e.g. school breaks, inventory, natural disasters;
(B) Adverse weather conditions;
(C) Other conditions as specified in the IPP.
(c) Billing for authorized temporary transfers:
(1) From Supported Employment - Group Placement to a Work Activity Program shall be billed for the consumer utilizing the Work Activity Program Purchase of Service and not under the Supported Employment Program B Group Placement Purchase of Service;
(2) From a Work Activity Program to Supported Employment Group Placement shall be billed for the consumer utilizing the Supported Employment Program - Group Placement Purchase of

Service and not the Work Activity Program Purchase of Service.

Authority: Section 11152 Government Code; Section 4866, Welfare and Institutions Code.
Reference: Sections 4854.1, 4857, 4860(b) and 4862(c)(1)(2), Welfare and Institutions Code.