



**SAN ANDREAS REGIONAL CENTER FOLLOW-UP
REVIEW OF THE BUREAU OF STATE AUDITS (BSA)
REPORT ISSUED ON AUGUST 24, 2010**

Department of Developmental Services

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EXECUTIVE SUMMARY

The follow-up review of the San Andreas Regional Center's (SARC) Bureau of State Audits (BSA) findings regarding Policies and Procedures, Purchase of Service (POS) authorizations, Procurement of Services and Statewide/Regional Center Median Rates was conducted from December 7, 2010 through December 10, 2010 to ensure that corrective actions have been taken to resolve all the issues identified in the BSA audit report issued on August 24, 2010. The DDS follow-up review identified two findings in the BSA audit report that are still not resolved. SARC needs to fully comply with the recommendations and report to DDS on the corrective actions taken to resolve the findings.

I. Findings that need to be addressed.

Finding 1: Purchase of Service (POS) Authorizations Not Retained

The follow-up review of the BSA finding regarding SARC's lack of POS authorization retention, found that SARC mails paper copies of the POS authorizations to its vendors and consumers, but does not retain paper copies for its own vendor or consumer files. This is not in compliance with CCR, title 17, sections 50612(f) and 50612(c)(1)(A)(2).

Finding 2: Negotiated Rates Above the Statewide Median Rate

The follow-up review of the BSA finding regarding non-compliance with the Statewide median rate identified two negotiated vendor contracts that did not adhere to the Statewide median rate requirements implemented on July 1, 2008.

It was found that SARC reimbursed Aces Behavioral Services, vendor number ZS0530, service code 102, at a rate of \$87 per hour, when the Statewide median rate was \$47.53 per hour. This resulted in an overpayment of \$78,891.30.

SARC reimbursed the second vendor, Via Services, Inc., vendor number ZS0519, service code 056, at a rate of \$150 per hour, when the Statewide median rate was \$75 per hour. In November 2008, SARC established a contracted rate of \$900 per intake assessment rather than the \$150 per hour rate it had previously paid the vendor; however, it was found that the new rate was still higher than the Statewide median rate. This resulted in a total overpayment of \$663,217.00.

The total overpayment for the two vendors was \$742,108.30 for the months of November 2008 through December 2010. This is not in compliance with the requirements of the W&I Code, section 4691.9(b).

OBJECTIVES

This follow-up review was conducted as part of the overall DDS monitoring system that provides information on SARC's Corrective Action Plan regarding the findings identified in the BSA audit report. The objectives of this follow-up review are:

- To determine whether SARC has taken corrective action to resolve issues identified in the BSA audit report issued on August 24, 2010.
- To determine whether SARC is in compliance with the provisions of the Welfare and Institution (W&I) Code, CCR, title 17, and the State Contract.

Our review of SARC's internal control structure was conducted to gain an understanding of SARC's policies and procedures for the authorization of services, and the processes for reporting improprieties, procuring goods and services, and negotiated rate setting.

The audit procedures performed included the following:

I. Follow-Up Review on the Bureau of State Audits (BSA) Findings

The objective of the follow-up review was to determine whether SARC has instituted a Corrective Action Plan to resolve the issues identified in the BSA audit report.

II. Policy and Procedure Manual on the Purchase of Services (POS) Process

To determine whether SARC has a current and up to date policy and procedure manual for its Purchase of Service (POS) process, DDS performed the following procedure during the follow-up review:

Obtained a copy of the written guidelines including screen prints generated from the Uniform Fiscal System (UFS) with detailed instructions for the following procedures:

- Purchase of Services (POS) Requests
- Creating and Posting the POS Authorizations
- Processing of Vendor Invoices
- Payment Process for POS

III. Whistleblower Complaint Process

The regional centers were required by DDS to institute a board approved Whistleblower policy effective December 31, 2010, addressing the reporting of alleged improper regional center and vendor/contractor activities.

DDS conducted a review to determine whether SARC has implemented a policy consistent with the DDS directive entitled “Department of Developmental Services Whistleblower Complaint Process” dated July 28, 2010 which must:

- Allow for multiple employees within the regional center to be available to accept complaints.
- Include a process to access the Board of Directors for the purpose of filling complaints.
- Ensure that the policy clearly indicates that the regional center will not retaliate against any complaints.
- Ensure that a process is in place to investigate and take appropriate action on complaints, including complaints of retaliation.

- Ensure that complaints are confidentially addressed in a manner that preserves the health and safety of the consumers and is consistent with the State's Whistleblower Policy.
- Include a process which ensures that employees, board members, consumer/families, and the vendor community are notified of both the regional center and the State's Whistleblower policies within 30 days of the effective date of the regional center's policy and annually thereafter.
- Ensure that SARC has both the regional center's and DDS' Whistleblower policies posted on the regional center's website by January 15, 2011.

IV. Procurement

DDS reviewed the Request for Proposal (RFP) process. The RFP process was implemented to ensure regional centers outline its vendor selection process or uniform procurement process for all negotiated service codes by requiring an RFP. As of January 1, 2011, DDS will require regional centers to document their contracting practices as well as how particular vendors were selected to provide consumer services. In addition, by implementing a procurement process, regional centers would ensure the most cost effective service providers amongst comparable services are selected as required by the W&I Code and the regional center's State Contract.

To determine whether SARC is working towards implementing the required RFP process by January 1, 2011, DDS performed the following procedures during our audit review:

- Reviewed the SARC contracting process to ensure the existence of a Board approved Procurement Policy, and to verify that the RFP process ensures competitive bidding as required per the W&I Code, section 4648(a)(6)(D), and the State Contract, article II.
- Reviewed the RFP contracting guidelines to determine whether the protocols in place include applicable reasonable dollar thresholds based on the average dollar amount of all negotiated contracts.
- Reviewed the RFP notification process to verify that it is open to the public and clearly communicated to all vendors. All submitted proposals are evaluated by a team of individuals and are properly documented, recorded and authorized by appropriate officials at SARC. The process was reviewed to ensure that the vendor selection process is transparent, impartial, and avoids the appearance of favoritism. Also verified that supporting documentation is retained for the selection process and in instances which a vendor with a higher bid is selected, written documentation is retained as justification for such a selection.

- Selected a sample of Operational, Start-Up and negotiated Purchase of Service (POS) contracts subject to competitive bidding to ensure SARC notified the vendor community and the public of contracting opportunities available. Verified that SARC has adequate and detailed documentation for the selection and evaluation process of vendor proposals, written justifications for final vendor selection decisions, and contracts are properly signed and executed by both parties to the contract.
- Reviewed SARC Board approved POS, Start-Up and Operational vendor contracts, disbursement policies and procedures to ensure the inclusion of a provision for fair and equitable recoupment of funds for vendors that cease to provide services to consumers. Ensure funds provided are specifically used to establish new or additional services to consumers and that the usage of funds are of direct benefit to the consumer and that contracts are supported with sufficiently detailed and measurable performance expectations and results.

The process above was conducted in order to assess SARC's current RFP process as well as to determine whether the process in place satisfies the W&I Code and SARC's State Contract requirements as amended.

V. Statewide/Regional Center Median Rates and Rate Freeze

The statewide or regional center median rates were implemented on July 1, 2008 to ensure regional centers are not negotiating rates higher than the set median rates for services. Despite the median rate requirement, rate increases could be obtained from DDS under a Health and Safety Waiver from DDS for circumstances where regional centers demonstrate that it is necessary for the health and safety of the consumers.

To determine whether SARC is in compliance with the Lanterman Act, DDS performed the following procedures during our follow-up review:

- Reviewed sampled vendor files to determine whether SARC is using appropriately vendorized service providers and correct service codes, that they are paying authorized contract rates and complying with the requirements of the W&I Code, section 4691.9 and SARC's contract with DDS.
- Reviewed vendor contracts to verify SARC is reimbursing vendors using authorized contract median rates and to ensure that rates paid represent the lower of the statewide or regional center median rate set after June 30, 2008.
- Ensured that the regional center, as required by the W&I Code, section 4648.4(b)(2), did not pay any providers rates that are greater than the rates that are in effect on or after June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or

the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

CONCLUSION

Based upon the procedures performed, DDS has determined that except for the items identified in the Findings and Recommendations section, SARC has taken corrective actions to resolve some of the issues identified in the BSA audit report issued on August 24, 2010. However, there are two findings that have not been resolved by SARC. SARC needs to take immediate action to resolve these two findings and reimburse DDS any funds that were overpaid to the vendors.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued a draft follow-up review on July 1, 2011. The findings in the report were discussed at a formal exit conference with SARC on July 7, 2011. At the exit conference, DDS stated it would incorporate the views of responsible officials in the final report.

RESTRICTED USE

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

FINDINGS AND RECOMMENDATIONS

I. Findings that need to be addressed.

Finding 1: Purchase of Service (POS) Authorizations Not Retained

The follow-up review of the BSA finding regarding SARC's lack of POS authorization retention found that SARC mails paper copies of the POS authorizations to its vendors and consumers, but does not retain paper copies for its own vendor or consumer files. SARC stated that it did not retain paper copies because the POS authorizations are electronically stored in the San Diego Information System (SANDIS). However, authorizations in SANDIS are not signed or dated as proof that individual consumers' services were authorized.

CCR, title 17, section 50612(f) states:

“A copy of the purchase of service authorization shall be retained by the regional center.”

In addition, CCR, title 17, section 50612(c)(1)(A)(2) states:

“(c) The authorization for the purchase of service shall be in the following form:

(1) The authorization shall be in writing, except as follows:

(A) A verbal authorization by the regional center director or his authorized agency representative shall be allowed to provide emergency services utilizing the following procedures:

(2) The verbal authorization is confirmed with a written authorization from the regional center as soon as possible, but no later than the regional center's next cyclical production of purchase of service authorization documents.”

Recommendation:

SARC should comply with CCR, title 17 regulations by retaining paper copies of the POS authorizations in its vendor and consumer files. This will ensure POS authorizations are consistent with the actual service payments and are traceable to the vendor and consumer copies.

Finding 2: Negotiated Rates Above the Statewide Median Rate

The follow-up review of the BSA finding regarding non-compliance with the statewide median rate identified two negotiated vendor contracts that did not adhere to the statewide median rate requirements implemented as of June 30, 2008. It was found that SARC reimbursed two vendors, Aces Behavioral Services, vendor number ZS0530, service code 102 and Via Services, Inc., vendor number ZS0519, service code 056 at rates which were higher than the Statewide median rates.

It was found that SARC reimbursed Aces Behavioral Services at a rate of \$87 per hour when the Statewide median rate was \$47.53 per hour. This resulted in an overpayment totaling \$78,891.30.

SARC reimbursed the second vendor, Via Services, Inc., at a rate of \$150 per hour for intake assessments, when the Statewide median rate was \$75 per hour. In November 2008, SARC negotiated a new contract rate for this vendor at \$900 per intake assessment with a maximum of six hours per intake. However, it was determined that this newly negotiated rate was still higher than the Statewide median rate of \$75 per hour. This resulted in a total overpayment of \$663,217.00 for services provided.

The total overpayment for the two vendors totaled \$742,108.30 for the months of November 2008 through December 2010. (See Attachment A)

W&I Code, section 4691.9(b) states:

- (b) “No regional center may negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation must conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification will be subject to verification through the department's biennial fiscal audit of the regional center.”

Recommendation:

SARC must reimburse DDS the \$742,108.30 in total overpayments made to the two vendors. SARC shall immediately renegotiate the rates for consistency with the statewide/SARC median rates and provide DDS with written confirmation of

the rate change by October 31, 2011. In addition, SARC must comply with the W&I Code, section 4691.9 and ensure that all rates negotiated after June 30, 2008 are below the Statewide/SARC median rates

EVALUATION OF RESPONSE

As part of the audit follow-up review process, SARC has been provided with a draft follow-up review and was requested to provide a response to each finding. SARC's response dated August 12, 2011, is provided as Appendix A. This review includes the complete text of the findings in the Findings and Recommendation section as well as a summary of the findings in the Executive Summary section.

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

Finding 1: Purchase of Service (POS) Authorizations Not Retained

SARC concurs with the finding and explained that it will maintain paper copies of the POS authorizations. In addition, the purchase requests along with the signed POS authorizations will be scanned into Laserfische, SARC's electronic storage system. DDS will conduct a follow-up review during the next scheduled audit to ensure this issue has been resolved.

Finding 2: Negotiated Rates Above the Statewide Median Rate

In its response, SARC stated that Aces Behavioral Services, vendor number ZS0530, service code 102, requested that it be allowed to use Harbor Regional Center's (HRC) rate, which would reduce the overstated amount of \$78,891.30 identified in the draft audit report to \$32,124.00. DDS disagrees with this request since Aces Behavioral Services was vendorized by SARC in September 2008, which is after the Statewide Median Rate became effective; therefore, SARC must utilize the Statewide Median Rate of \$47.53 per hour, instead of the HRC rate of \$72.00 per hour.

SARC agrees that it used incorrect rates to reimburse Via Services, Inc., vendor number, ZS0519, service code 056, which resulted in a total overstated amount of \$663,217.00. SARC explained in its response that it now has appropriate rates which adhere to the Statewide/SARC Median rate requirements for the service code and requests authorization from DDS to apply the new negotiated rates retroactively. However, DDS' analysis of SARC's new negotiated rates indicated the rates were still above the Statewide or SARC Median rate, which is \$75.00 per hour or \$56.00 per hour, respectively. Therefore, DDS disagrees with SARC's request to use the new rates. SARC must comply with W&I Code, section 4691.9(b), and utilize SARC's Median rate of \$56.00, which is the lower of the two median rates, instead of using their negotiated rates. The difference between

SARC's negotiated rate and SARC's Median rate, which is the lower of the two median rates, resulted in an overstated amount of \$663,217.00.

As a result, this issue remains unchanged; therefore, SARC must reimburse DDS \$742,108.30 paid to Aces Behavioral Services, and Via Services, Inc. In addition, SARC must ensure that the rates of these two vendors have been adjusted to comply with W&I Code, section 4691.9(b). Within 60 days from receipt of this report, SARC must provide DDS with written confirmation of the rate change as well as supporting documentation to show that the overpaid amount has been or will be reimbursed to DDS.

San Andreas Regional Center
Overpayments Due to Rate Above the Statewide Median Rate
Fiscal Years 2008-09 and 2009-10

	Vendor Number	Vendor Name	Service Code	Payment Period	Overpayments
Overpayments Due to Rate Above the Statewide Median Rate for FY 2008-09					
1	ZS0519	VIA Services Inc.	056	Jul-08	\$10,152.00
2	ZS0519	VIA Services Inc.	056	Aug-08	\$16,920.00
3	ZS0519	VIA Services Inc.	056	Sep-08	\$20,915.00
4	ZS0519	VIA Services Inc.	056	Oct-08	\$24,722.00
5	ZS0519	VIA Services Inc.	056	Nov-08	\$17,484.00
6	ZS0519	VIA Services Inc.	056	Dec-08	\$23,124.00
7	ZS0519	VIA Services Inc.	056	Jan-09	\$21,996.00
8	ZS0519	VIA Services Inc.	056	Feb-09	\$22,560.00
9	ZS0519	VIA Services Inc.	056	Mar-09	\$26,508.00
10	ZS0519	VIA Services Inc.	056	Apr-09	\$21,432.00
11	ZS0519	VIA Services Inc.	056	May-09	\$24,816.00
12	ZS0519	VIA Services Inc.	056	Jun-09	\$33,276.00
13	ZS0530	Aces Behavioral Services	102	Dec-08	\$246.69
14	ZS0530	Aces Behavioral Services	102	Jan-09	\$1,430.79
15	ZS0530	Aces Behavioral Services	102	Feb-09	\$4,301.40
16	ZS0530	Aces Behavioral Services	102	Mar-09	\$7,815.06
17	ZS0530	Aces Behavioral Services	102	Apr-09	\$4,371.30
18	ZS0530	Aces Behavioral Services	102	May-09	\$4,489.72
19	ZS0530	Aces Behavioral Services	102	Jun-09	\$3,177.34
Total Overpayments Due to Rate Above the Statewide Median Rate for FY 2008-09					\$289,737.30
Overpayments Due to Rate Above the Statewide Median Rate for FY 2009-10					
20	ZS0519	VIA Services Inc.	056	Jul-09	\$25,380.00
21	ZS0519	VIA Services Inc.	056	Aug-09	\$28,200.00
22	ZS0519	VIA Services Inc.	056	Sep-09	\$32,712.00
23	ZS0519	VIA Services Inc.	056	Oct-09	\$27,636.00
24	ZS0519	VIA Services Inc.	056	Nov-09	\$20,868.00
25	ZS0519	VIA Services Inc.	056	Dec-09	\$15,228.00
26	ZS0519	VIA Services Inc.	056	Jan-10	\$19,740.00
27	ZS0519	VIA Services Inc.	056	Feb-10	\$17,484.00
28	ZS0519	VIA Services Inc.	056	Mar-10	\$26,508.00
29	ZS0519	VIA Services Inc.	056	Apr-10	\$21,996.00
30	ZS0519	VIA Services Inc.	056	May-10	\$24,252.00
31	ZS0519	VIA Services Inc.	056	Jun-10	\$30,456.00
32	ZS0530	Aces Behavioral Services	102	Jul-09	\$3,098.40
33	ZS0530	Aces Behavioral Services	102	Aug-09	\$2,545.82
34	ZS0530	Aces Behavioral Services	102	Sep-09	\$2,062.31
35	ZS0530	Aces Behavioral Services	102	Oct-09	\$3,769.39
36	ZS0530	Aces Behavioral Services	102	Nov-09	\$2,042.58

**San Andreas Regional Center
Overpayments Due to Rate Above the Statewide Median Rate
Fiscal Years 2008-09 and 2009-10**

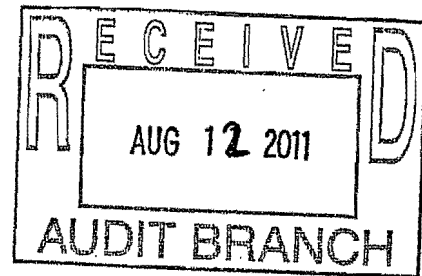
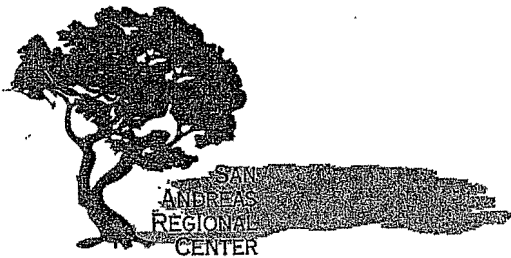
	Vendor Number	Vendor Name	Service Code	Payment Period	Overpayments
37	ZS0530	Aces Behavioral Services	102	Dec-09	\$6,275.73
38	ZS0530	Aces Behavioral Services	102	Jan-10	\$532.85
39	ZS0530	Aces Behavioral Services	102	Feb-10	\$1,588.67
40	ZS0530	Aces Behavioral Services	102	Mar-10	\$3,424.01
41	ZS0530	Aces Behavioral Services	102	Apr-10	\$4,116.16
42	ZS0530	Aces Behavioral Services	102	May-10	\$5,200.18
43	ZS0530	Aces Behavioral Services	102	Jun-10	\$5,042.30
Total Overpayments Due to Rate Above the Statewide Median for FY 2009-10					\$330,158.40
Overpayments Due to Rate Above the Statewide Median Rate for FY 2010-11					
44	ZS0519	VIA Services Inc.	056	Jul-10	\$25,380.00
45	ZS0519	VIA Services Inc.	056	Aug-10	\$29,328.00
46	ZS0519	VIA Services Inc.	056	Sep-10	\$28,200.00
47	ZS0519	VIA Services Inc.	056	Oct-10	\$25,944.00
48	ZS0530	Aces Behavioral Services	102	Jul-10	\$4,854.81
49	ZS0530	Aces Behavioral Services	102	Aug-10	\$5,140.97
50	ZS0530	Aces Behavioral Services	102	Sep-10	\$3,364.82
Total Overpayments Due to Rate Above the Statewide Median for FY 2010-11					\$122,212.60
Total Overpayments					\$742,108.30

APPENDIX A

SAN ANDREAS REGIONAL CENTER

**RESPONSE
TO AUDIT FINDINGS**

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



August 12, 2011

SANTA CLARA COUNTY

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Dear Sir:

**SOUTH SANTA CLARA AND
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This is our response to San Andreas Regional Center Follow-Up Review of the Bureau of State Audits (BSA) Report issued on August 24, 2010. The two findings are as follows:

Finding 1: Purchase of Service (POS) Authorizations Not Retained

SARC did not retain paper copies of POS authorizations contrary to CCR, Title 17, Section 50612(f) that states:

"A copy of the purchase of service authorization shall be retained by the regional center."

SARC Response:

SARC agrees with the finding and will start keeping the paper copies of POS authorizations issued to vendors and consumers. SARC will scan all the signed POS authorizations together with the Purchase Requests. The Purchase Requests have the signatures of the requestor (Service Coordinators). If the Purchase Request is of an exceptional nature, it also has the signature of the Chief Counselor. All signed Purchase Requests together with the signed POS Authorizations will be scanned into Laserfische, SARC's electronic storage system. Once scanned into Laserfische, we can access a copy anytime as the need arises.

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Finding No. 2: Negotiated Rates above the Statewide Median Rate

The review identified two negotiated vendor contracts that did not comply with the statewide median rate requirements implemented as of June 30, 2008. The over billing for these two vendors are as follows:

www.sarc.org

Member of the Association
of Regional Center Agencies

- 2a) Aces Behavioral Services (ACES) –ZS0530 for service code 102 SARC reimbursed the vendor at \$87.00 per hour when the median rate was \$47.53 per hour and resulted to a total overpayment of \$78,891.30.

SARC Response:

ACES has requested that we apply the rate assigned to them by Harbor Regional Center in a Vendorization dating to back to before December 31, 2004. ACES has cited, to San Andreas, the BSA Audit document (“California State Auditor Report 2009” published in August, 2010). In that document on page 10 in a paragraph entitled “Vendor-Provided Services”, the auditor’s state, “Once approved, the service provider may be used by any regional center in the State.” ACES also cited DDS as follows, “7. Do I have to be vendored by each regional center that uses my service?” “No, you must be vendored by the regional center in whose catchment area you are located only. Once vendored, any regional center may refer consumers to that program.” Based on this, ACES has requested that San Andreas request permission to apply the Harbor Regional Center rate to their San Andreas vendorization.

Attached please find a spreadsheet showing the calculations for the payments in this finding using the Harbor Regional Center rate of \$72/hr.

SARC Payments	\$78,891.30
Proposed overpayments	46,767.14
Discrepancy	<u>\$32,124.17</u>

- 2b) Via Services Inc –ZS0519 for service code 056. SARC reimbursed the vendor at \$150.00 per hour for intake assessment when the median rate was \$75.00 per hour. However in November, 2008, SARC reimbursed Via at \$900.00 per intake assessment with a maximum of 6 hours. However, this rate was even higher than the State Median rate of \$75.00 per hour. This resulted to an overpayment of \$742,108.30.

SARC’s Response:

We have not yet requested payment from the provider who was assigned this rate, VIA Services, as we feel we applied the wrong rate. We now have an appropriate rate, one which falls within the statewide median rates for this service code, and we request authorization to apply the appropriate rate retroactively across the period in this audit finding.

Attached please find a spreadsheet showing the calculations for the payments in this finding using the rates we are requesting authorization to use.

SARC Payments	\$1,054,107.76
Statewide Median	<u>1,057,811.91</u>
Discrepancy	<u>\$ 3,704.15</u>

Should you have any questions regarding this audit response, please contact Jeffery Darling, Resource Manager at (408)341-3540 or sadarling@sarc.org.

Very truly yours,



Santi J. Rogers
Executive Director

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