

**DEPARTMENT  
OF  
DEVELOPMENTAL SERVICES'  
AUDIT  
OF  
ACHIEVABLE GOALS, INC.**

**Service:**

Supported Living Service – PW5412

Audit Period: January 1, 2022, through December 31, 2022

**Audit Section**

**Auditors:** Hung Bang, Chief of Vendor Audit Unit  
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# ACHIEVABLE GOALS, INC.

## TABLE OF CONTENTS

Pages

EXECUTIVE SUMMARY .....	1
BACKGROUND.....	2
OBJECTIVE, SCOPE AND METHODOLOGY .....	2
CONCLUSION.....	4
VIEWS OF RESPONSIBLE OFFICIALS .....	4
RESTRICTED USE .....	4
FINDINGS AND RECOMMENDATIONS.....	5
ATTACHMENT A.....	12
ATTACHMENT B – VENDOR’S RESPONSE .....	13
ATTACHMENT C – DDS’ EVALUATION OF ACHIEVABLE GOALS, INC’S RESPONSE .....	14

## EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited Achievable Goals, Inc. (AGI). The audit was performed upon the Supported Living Service (SLS) for the period of January 1, 2022, through December 31, 2022.

The audit disclosed the following issues of non-compliance:

**Finding 1: Supported Living Service – Unsupported Billings**

The review of AGI's SLS, Vendor Number PW5412, revealed that AGI had a total of \$12,786 of unsupported billings to Westside Regional Center (WRC).

**Finding 2: Non-Compliance to Obtain an Independent Review of Financial Statements**

AGI did not comply with Welfare and Institutions (W&I) Code, Section 4652.5, which requires a vendor with more than or equal to \$500,000, but less than \$2,000,000, in purchase of service (POS) during Fiscal Year (FY) 2021-22 to obtain an independent review report of its financial statements for the entity's fiscal year that includes the last day of the most recent state fiscal year.

**Finding 3: Non-Compliance with State and Federal Tax Laws and Regulations**

The review of AGI's employee payroll records indicates that AGI may not have complied with State and Federal tax laws and regulations. AGI classified one employee as both an employee and an independent contractor and 10 other employees as independent contractors and failed to report wages to some employees to the appropriate taxing agencies.

The total of the findings identified in this audit amounts to \$12,786, which is due back to DDS. A detailed discussion of these findings is contained in the Findings and Recommendations section of this report.

## **BACKGROUND**

DDS is responsible, under the Lanterman Developmental Disabilities Services Act, for ensuring that persons with developmental disabilities receive the services and supports they need to lead more independent, productive and normal lives. DDS contracts with 21 private, nonprofit regional centers that provide fixed points of contact in the community for serving eligible individuals with developmental disabilities and their families in California. In order for regional centers to fulfill their objectives, they secure services and supports from qualified service providers and/or contractors. Pursuant to the Welfare and Institutions (W&I) Code, Section 4648.1, DDS has the authority to audit those service providers and/or contractors that provide services and supports to persons with developmental disabilities.

## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **Objective**

The audit was conducted to determine whether AGI's fiscal accountability requirement and its program were compliant with the W&I Code, California Code of Regulations (CCR), Title 17, State and Federal laws and regulations and the regional center's contracts with AGI for the period of January 1, 2022, through, December 31, 2022.

### **Scope**

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States. The auditors did not review the financial statements of AGI, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of AGI's internal controls to gain an understanding of the transaction flow and invoice preparation process, as necessary, to develop appropriate auditing procedures. The audit scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance that AGI complied with W&I Code and CCR, Title 17. Any complaints that DDS' Audit Section was aware of regarding non-compliance with laws and regulations were also reviewed and addressed during the course of the audit.

The audit scope was determined by reviewing the service provided to WRC that utilized AGI's services during the audit period. AGI provided one type of service, which DDS audited. By analyzing the information received from the vendor, an internal control questionnaire and a risk analysis, it was determined that a two-month sample period would be sufficient to fulfill the audit objectives.

## **Supported Living Service**

During the audit period, AGI operated one SLS program. The audit included the review of AGI's SLS program, Vendor Number PW5412, SC 896 and testing was done for the sampled months of November 2022 and December 2022.

### **Methodology**

The following methodology was used by DDS to ensure the audit objectives were met. The methodology was designed to obtain a reasonable assurance that the evidence provided was sufficient and appropriate to support the findings and conclusions in relation to the audit objectives. The procedures performed included, but were not limited to, the following:

- Reviewed vendor files for contracts, rate letters, program designs, POS authorizations and correspondence pertinent to the review.
- Interviewed regional center staff for vendor background information and to obtain insight into the vendor's operations.
- Interviewed vendor staff and management to gain an understanding of the vendor's accounting procedures and processes for regional center billing.
- Obtained and reviewed the vendor's internal control questionnaire.
- Reviewed vendor service/attendance records to determine if the vendor had sufficient and appropriate evidence to support the direct care services billed to the regional center.
- Analyzed the vendor's payroll and attendance/service records to determine if the appropriate level of staffing was provided.

## **CONCLUSION**

Based upon items identified in the Findings and Recommendations section, AGI had findings of non-compliance with the requirements of CCR, Title 17.

## **VIEWS OF RESPONSIBLE OFFICIALS**

DDS issued a draft audit report on July 10, 2024. The findings in the report were discussed at an exit conference, via Zoom, with AGI on July 11, 2024. Subsequent to the exit conference, on August 23, 2024, AGI sent a response by mail stating that AGI agreed with the findings.

## **RESTRICTED USE**

This report is solely for the information and use of DDS, Department of Health Care Services, WRC, and AGI. This restriction is not intended to limit distribution of this report, which is a matter of public record.

## **FINDINGS AND RECOMMENDATIONS**

### **Finding 1: Supported Living Service – Unsupported Billings**

The review of AGI's SLS program, Vendor Number PW5412, for the sampled months of November 2022 and December 2022, revealed that AGI had unsupported billings for services billed to WRC. Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to WRC and non-compliance with the CCR, Title 17.

DDS reviewed the direct care service hours documented on the employee timecards and payroll records and compared those hours to the direct care service hours billed to WRC. DDS noted that the direct care service hours on the timecards and payroll records were 426 hours less than the direct care service hours billed to WRC. In addition to the direct care SLS billings, AGI's contract with WRC permitted the billing for administration fees amounting to 15.49 percent of overall costs. Due to the unsupported direct care SLS hours, AGI overstated the administration fees it billed to WRC. The lack of documentation resulted in unsupported billings to WRC in the total amount of \$12,786, which is due back to DDS. (See Attachment A)

W&I Code, Section 4648.1(e)(1) states:

“(e) A regional center or the department may recover from the provider funds paid for services when the department or the regional center determines that either of the following has occurred:

- (1) The services were not provided in accordance with the regional center's contract or authorization with the provider, or with applicable state laws or regulations.”

CCR, Title 17, Section 54326(a)(3) and (10) states:

“(a) All vendors shall:

- (3) Maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed:
- (10) Bill only for services which are actually provided to consumers, and which have been authorized by the referring regional center.”

CCR, Title 17, Section 50604(d) and (e) states:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program

(e) All service providers’ records shall be supported by source documentation.”

**Recommendation:**

AGI must reimburse to DDS \$12,786 for the unsupported billings. In addition, AGI should comply with the CCR, Title 17 as stated above to ensure that proper documentation is maintained to support the amounts billed to WRC.

**Vendor’s Response:**

AGI stated in the response dated August 23, 2024, that it agreed with the finding.

See Attachment B for the full text of AGI’s response to the draft audit report and Attachment C for DDS’ evaluation of AGI’s response.

**Finding 2: Non-Compliance to Obtain an Independent Review of Financial Statements**

AGI did not comply with W&I Code, Section 4652.5, which requires a vendor with more than or equal to \$500,000, but less than \$2,000,000, in POS expenditures during Fiscal Year (FY) 2021-22 to obtain an independent review report of its financial statements for the entity’s fiscal year that includes the last day of the most recent state fiscal year.

W&I Code, Section 4652.5(a) states:

“(a) (1) An entity that receives payments from one or more regional centers shall contract with an independent accounting firm to obtain an independent audit or independent review report of its financial statements relating to payments made by regional centers, subject to both of the following:



- (A) If the amount received from the regional center or regional centers during each state fiscal year is more than or equal to five hundred thousand dollars (\$500,000), but less than two million dollars (\$2,000,000), the entity shall obtain an independent review report of its financial statements for the entity's fiscal year that includes the last day of the most recent state fiscal year.
- (b) An entity subject to subdivision (a) shall provide copies of the independent audit or independent review report required by subdivision (a), and accompanying management letters, to the vendoring regional center within nine months of the end of the entity's fiscal year.
- (c) Regional centers receiving the audit or review reports required by subdivision (b) shall review and require resolution by the entity for issues identified in the report that have an impact on regional center services. Regional centers shall take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues."

**Recommendation:**

AGI must obtain an independent review report of its financial statements and provide copies of the independent review report to WRC and DDS.

**Vendor's Response:**

AGI stated in the response dated August 23, 2024, that it agreed with the finding.

See Attachment B for the full text of AGI's response to the draft audit report and Attachment C for DDS' evaluation of AGI's response.

**Finding 3: Non-Compliance with State and Federal Tax Laws and Regulations**

The review of AGI's employee payroll records for the sampled months of November 2022 and December 2022 indicates that AGI failed to comply with State and Federal tax laws and regulations. DDS identified an issue of non-compliance in which AGI classified one employee as both an employee and an independent contractor and 10 employees as independent contractors and paid their wages by checks without payroll tax deductions.

### Staff Classification

AGI misclassified one direct care staff as both an independent contractor and an employee and 10 other employees as independent contractors. Based on AGI's program design, payroll records, service records and the services performed by the 11 workers, it appears likely that they should have been classified as employees.

The review of source documents suggested that the 11 direct-care staff and AGI had an employer-employee relationship. AGI controlled and directed how services were to be performed by the 11 workers. The 11 workers did not control or direct the means and methods for accomplishing the services provided.

### Under-reporting of payroll taxes

AGI did not report its 11 employees' wages that were paid by check and bank transfers to the appropriate taxing agencies. In addition, payroll taxes were not withheld from these wages, which is a violation of tax laws and regulations. AGI is required to deduct and withhold a determined tax amount from its employees' wages and file a withholding report. By classifying employees as independent contractors and under-reporting payroll taxes, AGI did not report its true tax liability.

### Code of Federal Regulations (CFR), Title 26, Section 31.3121(d)-1 states:

“(c) Common law employees.

- (1) Every individual is an employee if under the usual common law rules the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

- (2) Generally, such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so.... In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules.”

CFR, Title 20, Section 404.1007 (b) states:

- (b) Factors that show employee status. Some aspects of a job arrangement that may show you are an employee are as follows:
  - (1) The person you work for may fire you.
  - (3) You receive training from the person you work for or are required to follow that person’s instructions.
  - (4) You must do the work yourself.
  - (6) The person you work for sets your hours of work, requires you to work full-time, or restricts you from doing work for others.
  - (8) You are paid by the hour, week or month.”

Internal Revenue Code, Section 3402 (a) states:

“Requirement of withholding

(1) In General

Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures under this paragraph shall –

- (A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and
- (B) be in such form and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.”

Unemployment Insurance Code (UIC), Section 13020 (a)(1) states:

“(a)(1) Every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state, shall deduct and withhold from those wages, except as provided in subdivision (c) and Sections 13025 and 13026, for each payroll period, a tax computed in that manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054 of the Revenue and Taxation Code, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code resulting from the inclusion in the gross income of the employee of the wages which were subject to withholding. The method of determining the amount to be withheld shall be prescribed by the Franchise Tax Board pursuant to Section 18663 of the Revenue and Taxation Code.”

UIC, Section 13021 (a) states:

“(a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages or payments are paid in the quarter, file a withholding report, a quarterly return, as described in subdivision (a) of Section 1088, and a report of wages in a form prescribed by the department, and pay over the taxes so required to be withheld.”

**Recommendation:**

AGI should follow and abide by all applicable State and Federal tax laws and regulations with respect to payroll tax withholdings and with the classification of its direct care staff as employees and not as independent contractors.

**Vendor’s Response:**

AGI stated in the response dated August 23, 2024, that it agreed with the finding.

See Attachment B for the full text of AGI’s response to the draft audit report and Attachment C for DDS’ evaluation of AGI’s response.

# **ATTACHMENT A**

## **ACHIEVABLE GOALS, INC.**

**To request a copy of the attachment for this audit report, please contact the DDS Audit Section at (916) 654-3695.**

## **ATTACHMENT B – VENDOR’S RESPONSE**

**ACHIEVABLE GOALS, INC.**

**To request a copy of the vendor’s response to the audit findings, please contact the DDS Audit Section at (916) 654-3695.**

## **ATTACHMENT C – DDS’ EVALUATION OF ACHIEVABLE GOALS, INC’S RESPONSE**

DDS evaluated AGI’s written response to the draft audit report, dated August 13, 2024, and determined that AGI agreed with the findings.