AGENDA ITEM: 8
DATE OF MEETING: January 24, 2013
ACTION: ______
INFORMATION: __X__

REQUEST TO TRANSFER $40 MILLION TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) FOR EARLY START SERVICES

SUMMARY OF REQUEST

As forecasted in the State Budget for Fiscal Year (FY) 2012-13, the Department of Developmental Services (DDS) submitted a request that the Commission provide $40 million in funding for Early Start services for children ages 0 to 2. DDS represents that the funding would not supplant any general fund dollars for existing services. This item is presented to the Commission for discussion only. Staff recommends that DDS provide more detailed information about past expenditures of Proposition 10 funding and the impact of the requested funds on the Early Start Program, to inform the Commission's deliberations.

BACKGROUND

1. <u>History of Budget Assumptions</u>

Beginning in FY 2008-09, the annual State Budget included an assumption that First 5 California would provide funding to fill gaps in certain departmental budgets as follows:

Table 1

Fiscal Year	Recipient Department			Totals
	MRMIB Healthy Families	DDS Early Start	DHCS Medi-Cal	
Approved Funding				
2008-09	$16,750,000			$16,750,000
2009-10	$81,400,000	$50,000,000		$131,400,000
2010-11	$81,400,000	$50,000,000		$131,400,000
2011-12		$50,000,000		$50,000,000
Subtotals	**$179,550,000**	**$150,000,000**	**0**	**$329,550,000**
Proposed Funding				
2012-13		*$40,000,000*	*$40,000,000*	*$80,000,000*
Totals	**$179,550,000**	**$190,000,000**	**$40,000,000**	**$409,555,000**

Given California's severe fiscal crisis which reduced the general fund, and the Commission's willingness to be part of the statewide solution, the Commission approved several funding requests from the California Managed Risk Medical Insurance Board (MRMIB) and Department of Developmental Services (DDS) to offset budget cuts as reflected in Table 1. Specifically:

- On December 15, 2008, the Commission approved funding of health care for children ages 0 to 5 for up to $16,750,000 to pay for health care premiums for children ages 0 to 5 who were new enrollees to the Healthy Families Program from December 18, 2008, through June 30, 2009, administered by MRMIB. The Commission authorized First 5 California to act as a fiscal agent for the collection of county funds to pay health care premiums for children ages 0 to 5. Forty-two First 5 county commissions contributed a total of $9,396,372 of the total $16,750,000 that First 5 California transferred to MRMIB.

- On August 13, 2009, the Commission approved First 5 California funding requested by MRMIB for up to $81.4 million to pay the health care premiums and related enrollment expenses in FY 2009-10 for eligible children ages 0 to 5 in the Healthy Families Program.

- On April 21, 2010, the Commission approved funding requested by DDS for up to $50 million in FY 2009-10 to pay for new Regional Center services provided to new children ages 0 to 5 in the Early Start Program, the Prevention Program, and pursuant to the Lanterman Developmental Disabilities Service Act.

- On January 26, 2011, the Commission approved funding requested by MRMIB for up to $81.4 million to pay the health care premiums and related enrollment expenses in FY 2010-11, and also approved funding requested by DDS for up to $50 million in FY 2010-11 to continue to support the Early Start Program. To fund these transfers, the Commission concurrently approved the postponement of the launch of the Child Signature Program for one year.

- On April 18, 2012, the Commission approved funding requested by DDS for up to $50 million in FY 2011-12 to support the Early Start Program. The scope of the funding was limited by the Commission to children ages 0 to 2 after discussion in which staff from DDS confirmed that the Lanterman Act, which provides mandatory services to people ages 3 and above, is an entitlement program, and that the State would need to fund the caseload regardless of First 5 California providing funding. Seeking to avoid impermissible supplanting of State general fund (GF) monies, the Commissioners expressly limited the transfer of funds to support *new services* to *new children* in the Early Start Program.

The Governor's Budget for FY 2012-13 presented on January 10, 2012, did not include any assumptions about First 5 California funding any other State children's programs.

The Agenda from the Assembly Subcommittee No. 1 on Health and Human Services dated March 28, 2012, notes:

> "In 2009-10, Governor Schwarzenegger vetoed $50 million GF from the budget for developmental services provided to children from birth to age five who have, or are at risk for, developmental delays or disabilities. The California Children and Families' Commission (created by Proposition 10 in 1998 and commonly known as the First 5 Commission) then provided $50 million to prevent the loss of services that would otherwise have resulted. The Legislature assumed the continuation of this First 5 funding in the final enacted budgets for 2010-11 and 2011-12. *The 2012-13 budget no longer assumes that these First 5 funds will be made available by the Commission and instead includes $50 million GF for these services" [emphasis added].*

At the April 18, 2012 Commission meeting, when DDS staff requested the $50 million for FY 2011-12, Commissioner Casey McKeever asked whether there was any way of projecting whether DDS would return for another request for FY 2012-13, DDS Chief Deputy Director Mark Hutchinson confirmed that the proposed budget for FY 2012-13 did not include assumptions about funding from First 5 California.

However, one month later, the Governor's FY 2012-13 May Revise included new assumptions that First 5 California would provide a total of $80 million in budget solutions for DDS to provide Early Start services, and for the Department of Health Care Services (DHCS) to fund Medi-Cal expenditures. The May Revise included the following assertions:

- For the Medi-Cal budget: "This proposal reflects $40 million to be provided by the First 5 California Children and Families Commission for programs servicing children ages birth through five. This would decrease Medi-Cal General Fund by $40 million." [May Revision 2012-13, Health and Human Services, p.53.]

- For the DDS budget: "This proposal reflects $40 million to be provided by the First 5 California Children and Families Commission for programs serving children ages birth through five. This funding will support the DDS Early Start Program, decreasing General Fund costs by $40 million." [May Revision 2012-13, Health and Human Services, p.59.]

In response to the May Revise, former Executive Director Kris Perry consulted with the Commission's advisory committee on legislation (Commissioners Casey McKeever and Conway Collis), and transmitted a letter to the Governor's administration, the members of the Legislature, and the Legislative Analyst's Office urging reconsideration of these two proposals. The letter clarified the current funding conditions for First 5 California—namely the reduced reserve resulting largely from approving $329 million over the prior four fiscal years for similar budget solutions—and described the potential harmful impacts to First 5 California's signature programs that would likely occur if the Commission were to approve the proposals. The letter also pointed to the statutory provision that prohibits the use of Proposition 10 revenues to supplant general fund program expenditures. (See F5CA Letter dated May 31, 2012, attached.) Nonetheless, the Budget Act passed by the Legislature and signed by the Governor maintained the assumption that First 5 California would provide a total of $80 million for budget solutions.

On January 10, 2013, the Governor's proposed budget for FY 2013-14 did not include any assumptions that First 5 California will provide budget solutions for general fund deficits. The Executive Summary states:

- For the DDS budget: An increase of $40 million General Fund to backfill the one-time support provided by the First 5 California Children and Families Commission for programs serving children birth through five in the 2012 Budget Act. [2013-14 Governor's Budget Summary, January 10, 2013, p.64.]

This statement presumes First 5 California will approve the $40 million DDS budget solution for current year (FY 2012-13). Budget language also misstates the support by First 5 California for developmental services as "one-time". As reflected above and as acknowledged by DDS in its current request, the Commission has approved a total of $150 million in three separate fiscal years, in addition to considering the present request.

2. Summary of the DDS Request for FY 2012-13

On October 11, 2012, DDS submitted a written request for $40 million to fund regional center services for children ages 0 to 2 under the Early Start Program. (See DDS Request dated October 11, 2012, attached.) Families whose infants or toddlers ages 0 through 2 who have a significant developmental delay or an established risk for developmental delay or disability can participate in the Early Start Program. The Early Start Program is partially funded through the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C., §§ 1400, *et seq.* Teams of service coordinators, healthcare providers, early intervention specialists, therapists, and parent resource specialists evaluate and assess infants and toddlers and provide appropriate early intervention services to children eligible for California's Early Intervention Program.

In support of its request, DDS asserts:

- The funds would be used to supplement existing regional center services for children ages 0 through 2.
- The funds would not supplant any general fund dollars.
- The funding is not allocated to the Regional Centers until the funds are approved by the Commission.
- The funds would support an "expansion" of the Early Start Program.
- Failure to approve the request will place the federal funds that DDS receives for the administration of the Early Start Program at risk.

DISCUSSION

This current request from DDS is different from prior year requests. Due to the reduction of First 5 California reserves over the past four years, the DDS request requires the Commission to have a detailed conversation regarding the feasibility of approving the request, as well as the consequences of the Commission's decision as to First 5 California's Signature Programs and DDS's Early Start Program. In deliberating whether to approve the request, staff recommends the Commission consider the following factors:

1. **First 5 California Goals and Priorities**

DDS points to First 5 California's 2008 Strategic Plan to justify the funding request. DDS highlights the objectives in the plan that seek to increase partnerships with state agencies with similar goals, and to facilitate policies and programs that facilitate and support: health care coverage and quality care; early care and education; and family self-sufficiency.

DDS is correct that developmental screenings and services are critically important to First 5 State and county commissions. To that end, current investments by First 5 county commissions include:

- In 2009, the First 5 Association of California and 23 First 5 county commissions spearheaded the First 5 Early Childhood Mental Health Project to develop a coordinated and effective early childhood mental health system. The project identifies and serves children ages 0 to 5 with mental health issues and focuses on developmental screenings and services for children with special needs and their families.[1]
- As reported by the First 5 Association of California at the October 2012 Commission meeting, a full 13% of the county commission's investments in FY 2012-13 were directed at developmental screenings and services for special needs children – this totals $66 million.
    - Thirty-seven counties are providing coordinated screening, assessments, and referrals for children with suspected developmental delays.
    - County-level programs include (among others):
        - parent-child ECE programs for children with special needs;
        - intervention services for children who do not qualify for Early Start under revised (more rigorous) guidelines adopted by DDS in 2008;
        - assessment centers focused on hard-to-diagnose children; and
        - intensive kindergarten transition case management.
- Another 14% of the counties' investments in FY 2012-13 funded services for at-risk mothers and children.
- First 5 Alameda, Fresno, and Orange have established county-wide *Help Me Grow* systems to provide a single point of contact to connect children ages 0 to 5 and

[1] See http://www.f5ac.org/files/ECMH_brochure.pdf.

their families to developmental services. Another 15 county commissions are developing *Help Me Grow* systems in their counties based on this national model.

Similarly, as part of the 2009 Project Legacy process flowing from the 2008 Strategic Plan, the State Commission identified developmental screening and services as measurable program goals (MPGs) under the Child and Teacher Signature Programs. An essential program element of the Child Signature Program (CSP) is for screenings to be completed in all CSP classrooms and coordination of appropriate services for special needs children.

As such, not only is the funding of developmental screening and services consistent with the 2008 Strategic Plan and the identified program goals of First 5 California. At both the State and county level, First 5 commissions are already meeting the intent and objectives of the strategic plan regarding developmental services for special needs children, aside from any transfer of funding to DDS.

2. <u>Financial Condition of First 5 California</u>

Even though financial support for developmental screening and services is aligned with the statutory requirements of the Act and the objectives of the 2008 Strategic Plan, the request for $40 million is substantial. This memorandum and its attachments address potential financial impacts of a $40 million transfer to DDS in FY 2012-13.

a. Today's Financial Condition

The materials supporting the Financial Update for the January 2013 Commission Meeting include the details of the “as-is” First 5 California Financial Plan for FY 2012-13 through FY 2014-15. Key facts gleaned from these documents about First 5 California's financial condition show:

- The January 10, 2013 projections by the Department of Finance show First 5 California's revenues declining from $94.6 million in FY 2011-12 to $83.9 million in FY 2014-15, *for a decrease of over 11 percent in three years.*
- First 5 California entered FY 2012-13 with a total of $111,582,857 in its six statutory accounts.
- Estimates from the Department of Finance project First 5 California's annual cigarette and tobacco revenue for FY 2012-13 at $89,785,800 (which is down approximately $3.2 million from FY 2011-12).
- First 5 California has budgeted for a total of $97,639,707 in expenditures for FY 2012-13, including Commission authorizations, contractual obligations, and costs of statutory mandates.
- The total balance of all accounts at the end of FY 2012-13 is projected at $104,563,700 (which is down approximately $7.0 million from the previous year).

The assessment of First 5 California's financial condition is complicated by two additional points:

i. Paying the Bills

In the budget and estimates process, the Department of Finance generally assumes total revenues and expenditures in any given fiscal year, when in reality both revenues and expenditures accrue to First 5 California's accounts monthly throughout the fiscal year. Cigarette and tobacco tax revenues are deposited monthly, and only after an accounting of actual tax revenues by the Board of Equalization. At the same time, First 5 California's statutory and contractual obligations become due and payable on a monthly basis throughout the fiscal year. This necessitates the prudent maintenance of the reserves in each account to have sufficient funds to pay out obligations under the Prompt Payment Act, particularly for invoices and other requests for payment early in the fiscal year that might outpace the monthly accrual of cigarette and tobacco tax revenues.

The Commission has not adopted a policy governing the maintenance of reserves in the accounts to ensure sufficient cash on hand to pay expected obligations. The Financial Plan prepared by staff includes a 15% reserve based on projected revenue as a prudent placeholder to forecast the financial condition and facilitate the management of agency revenues and expenditures, particularly the cash flow on a month-to-month basis. However, the Financial Plan does not include expenditures that have not been authorized by the Commission such as this $40 million request by DDS. So, while at a glance the current Financial Plan may appear to have ample funding to absorb this request, a closer examination is required based on particularized knowledge of the accuracy of revenue projections and the timing of actual revenues and expenditures throughout each fiscal year.

ii. Separate Statutory Accounts

The existing funds and new revenues deposited in each of the six statutory accounts are not readily transferrable in between accounts, even to manage the cash flow or balances in each account. Proposition 10 specifies the percentages for the deposit of revenues into each account, and defines the purposes for the funds in each account. Any time funds are to be moved from one account to another, the Commission must make a determination that the funds are not needed in the original account. As noted in the November 2012 Management Letter from the Department of Finance, any transfers from the named accounts to the Unallocated Account for the purpose of providing funds to DDS will require the Commission to make findings that the funds are not needed in each named account. Accordingly, when assessing the financial condition and the impact of any new expenditure such as this, all existing authorizations, obligations, or known expenditures must be examined on a per-account basis to ensure sufficient balances in each of the account are maintained.

b. Potential $40 Million Transfer to DDS

For discussion purposes only, staff has considered the consequences of two possible methodologies for allocating a potential $40 million transfer to DDS across the six statutory accounts: the Statutory Formula Plan, and the Targeted Reduction Plan.

i. Statutory Formula Plan

Under the first scenario, staff assumed that the $40 million transfer would be spread across the six accounts according to the statutory percentages applied to the annual revenues. The statutory share from each of the named accounts would first be transferred to the Unallocated Account, with the total payout to DDS being assessed to the Unallocated Account. Staff has prepared a draft financial plan depicting this allocation. (See Hypothetical $40M Plan, attached.) The $40M Plan incorporates staff's usual application of a 15% reserve.

Potential consequences of the Statutory Formula Plan include:

- First 5 California would be unable to pay invoices of counties, lead agencies and contractors under CARES Plus and CSP when the Child Care Account runs out of funding.
- The Commission might need to halt or reduce CARES Plus and CSP programs and contracts.
- CARES Plus and CSP program implementation would be disrupted, possibly during the school year.
- Quality enhancements for teachers and children would be reduced or eliminated.
- In some counties, entire classrooms would be eliminated.
- Because tobacco tax revenues are declining steadily, the loss of $40 million would permanently reduce First 5 California's long term sustainability and viability, and limits the Commission's development of goals and objectives in the new strategic plan.

ii. Targeted Reduction Plan

Because the Commission is required to determine that the funds are not needed in each named account before authorizing any expenditure, an alternative to the Statutory Formula Plan might be allocating the total amount transferred to DDS across the accounts differently to avoid unwanted consequences.

For example, the Commission might choose to protect the funding for the existing Signature Programs, to maximize their intended objectives and outcomes. This approach would allocate less of the DDS funding to the Child Care and Education accounts, and more to those which currently have unobligated carryover such as the Research and Development and Mass Media Communication accounts.

Additionally, staff recommends that the Targeted Reduction Plan avoids transfers from the Administration Account. The Act permits the transfer of funds from each of the named accounts to the Unallocated Account to be used for any purpose permitted by the Act—except for the administrative functions of the State Commission. This prohibits the transfer of any other Proposition 10 funds to cover the administrative costs of First 5 California. Although staff has been prudent with administrative expenditures in recent years, given the rise in personnel costs—particularly health benefits—the steadily declining balance in the Administration Account will eventually necessitate a reduction in staff and other administrative expenditures. Staff recommends preserving the existing balance to extend as long as possible the prudent expenditure of funds from that account.

Potential consequences of the Targeted Reduction Plan include:

- The Commission maintains more flexibility to protect existing Signature Program investments, ensure quality for children in CSP classrooms, and minimize disruption to our county partners implementing CSP and CARES Plus.
- The outreach and messaging campaign under the Parent Signature Program would be reduced, resulting in First 5 California information and resources reaching fewer parents and caregivers.
- First 5 California's ability to fund or carry out research and evaluation of child development programs and best practices would be significantly reduced.
- Overdrafts in all accounts including the Child Care Account would be avoided.
- The Administration Account would be protected to ensure that First 5 California staff has the resources to carry out the Commission's strategic plan.
- Because tobacco tax revenues are declining steadily, the loss of $40 million would permanently reduce First 5 California's long term sustainability and viability, and limits the Commission's development of goals and objectives in the new strategic plan.

If the Commission decides to approve the request to transfer $40 million to DDS, staff recommends using the Targeted Reduction Plan, including the following basic assumptions:

- **RECOMMENDATION:** The Commission should establish a policy regarding the minimum reserve that should be maintained in each account to facilitate cash flow of all statutory and contractual obligations throughout the fiscal year.

- **RECOMMENDATION:** Preserve and protect the funding and implementation plans for CSP and CARES Plus.

- **RECOMMENDATION:** Preserve and protect the existing fund balance in the Administration Account.

3. Accountability of DDS

In considering approval of the transfer the Commission may also want to consider additional accountability measures for DDS to adhere to. Below is background information and recommendations.

a. Financial Condition of DDS and the Early Start Program

Staff has insufficient information to make a comprehensive assessment of the beneficial or adverse impact of the $40 million transfer on the financial condition of DDS and the children served by the Early Start Program.

Based on a conversation with DDS staff, it is believed that DDS maintains a $4.2 billion budget for the Regional Centers, including $2.3 billion from the general fund. The Early Start Program budget appears to be roughly $300 million. Based on DDS's application for a federal grant award for Early Start for federal fiscal year 2012, the key elements of the Early Start budget were described as:

- $48,608,484 revenue from federal funds
    - $32,122,865 funds DDS staff
    - $14,200,00 funds local education agencies through California Department of Education
    - $2,750,000 funds Family Resource centers
- $264,828,000 revenue from state general funds for services for children ages 0 to 5 at the Regional Centers

The federal grant application narrative states "the funds allocated to regional centers under this [grant] address the increased cost for direct services due to the implementation of Early Start. Costs due to the implementation of Part C [of the federal grant] in California far exceed the Part C allocation. This impact over and above the Part C funds is born by the State's General Fund." No reference is made to past or planned funding provided by First 5 California.[2] Even so, DDS appears to have at least implicitly counted on this funding in presenting its federal grant application. The October 11, 2012 Request from DDS states that if the Commission doesn't approve this request, "the federal funds that DDS receives for the administration of the Early Start Program would be at risk."

Beyond these broad brush strokes, there is little information available about the financial impact of past First 5 California funding on the results and outcomes for children served by the Regional Centers. The sole element of programmatic and fiscal data requested of DDS in the interagency agreement for FY 2011-12 states:

[2] See https://dds.ca.gov/EarlyStart/docs/PartC_Application_Final.pdf.

- By January 31, 2013, provide a report to First 5 California that includes the number of eligible new children ages 0 through 2 whose services are funded under this Agreement and the cost of those services.

On October 15, 2012, DDS submitted a report including the total number of “consumers” and total expenditures of all services provided to those consumers, broken out by each Regional Center. DDS reports serving 17,016 eligible children at a cost of $50,000,003.13. There is no further detail, although the letter states that a detailed listing of the claims can be provided at the request of the Commission. (See DDS Letter dated October 15, 2012, attached.)

Each of the interagency agreements between First 5 California and DDS has required DDS to obtain an independent audit of the Proposition 10 funding, confirming compliance with the eligibility and expenditures requirements specified under the agreements. The audits for FY 2009-10 and FY 2010-11 both were performed by Macias Consulting Group and contained no findings. (See Independent Accountant’s Report on Applying Agreed-Upon Procedures for the Period Between July 1, 2009 and June 30, 2010, and Audit of California First 5 2010/11 Grant, attached.)

- **RECOMMENDATION:** Staff recommends that DDS provide additional information regarding its financial condition no later than April 1, 2013, to assist the Commission with assessing the impact of approving or denying this request, or of modifying the request by approving a reduced amount. Recommended program and expenditure information includes:
    - Total Budget for Early Start, for fiscal years 2010-11, 2011-12, and 2012-13 including all sources of revenue and all major categories of expenditures. Expenditures for each fiscal year should be detailed to describe:
        - Cost and number of all children ages 0 to 5 screened, by Regional Center.
        - Cost and number of all children ages 0 to 2 screened, by Regional Center.
        - Cost and number of all children screened funded by First 5 California funding, by Regional Center.
        - Cost and number of all children ages 0 to 5 provided services, by Regional Center.
        - Cost and number of all children ages 0 to 2 provided services, by Regional Center.
        - Cost and number of all children provided services funded by First 5 California funding, by Regional Center.
        - Of the children provided services funded by First 5 California, the breakdown of types and costs of services, by Regional Center.
    - A detailed narrative describing the impact on the Early Start Program if the Commission were to reject all or part of DDS’s request for $40 million in FY 2012-13. As appropriate, the narrative should cite to specific terms and conditions of federal or state law, regulations, or agreements to assist the Commission with understanding the potential fiscal and programmatic

consequences of its decision. It should also describe the impact to screenings and services of children newly eligible for services this fiscal year.

- A discussion of alternative fiscal strategies if the Commission rejects the request, including applying for a general fund deficiency, funding shifts, local partnerships, etc.

b. Results and Evaluation

Staff observes that the interagency agreements for fiscal years 2009-10, 2010-11, and 2011-12 did not establish expectations that DDS would provide data sufficient for an analysis of the results and impact of First 5 California's funding. Of the $150 million expended by DDS to date, First 5 California has little in the form of program or fiscal data, to conduct the analyses articulated in the Evaluation Framework or those expected by the Principles on Equity.

The adopted *Guidelines for Implementing the California Children and Families Act (Guidelines)* call for all First 5 California programs to be designed toward strategic results. The adopted *Principles on Equity*—which are foundational to the design of the Commission's programs and investments to overcome gaps and disparities in services for children in diverse populations and those with special need—identify Results-Based Accountability as a hallmark priority. The Commission's *Evaluation Framework* adopted in 2005 describes the specification of strategic results as a first step in meeting the statutory mandate of the California Children and Families Act (the Act), and provides a basis for defining, gathering, and analyzing data elements to be used in assessing the overall impact of the Act.

Without sufficient data to perform an analysis of the impact of the developmental screenings and services funded by First 5 California in the past, staff is restricted in its ability to provide the Commission with an assessment and/or recommendation regarding the value of continued funding in terms of the outcomes on the children and families served, according to the benchmarks that guide the design and evaluation of the Commission's Signature Programs.

Staff involved in prior discussions regarding the development of the interagency agreements report that DDS has generally cited the Health Information Portability and Accountability Act (HIPAA, Pub. L. 104-191, 110 Stat. 1936, enacted August 21, 1996) as a reason for limited data collection and disclosure.

For FY 2011-12, the interagency agreement required DDS to:

- Identify children eligible under the Early Start Program who are receiving services as defined in Exhibit A, Section 3, Definition of New Regional Center Services, and Section 4, Definition of New Children, within the funding limits and time authorized through this Agreement.

- Maintain records of eligible children including birth date, date entering the system, and services purchased for the child as identified in the child's Individual Family Service Plan or Individual Program Plan.

Underscoring the recollections of staff, the agreement further states:

- Recognizing the constraints on the disclosure of personal information imposed by the Privacy Rule of the Health Insurance Portability and Accountability Act, 45 CFR, Part 164, and the Information Practices Act, Civil Code §§ 1798 *et seq*., as well as the constraints on the disclosure of rates contained in the Public Records Act, Government Code, §§ 6250 *et seq.,* the records described above shall be provided only to designated independent audit entities that include the Contractor's auditor and upon request, First 5 California's independent auditor and/or the Bureau of State Audits. Neither the Contractor nor the designated independent audit entities shall further disclose the records or any part thereof unless required by law to do so.

Staff has recently discussed the need for greater accountability and evaluation of First 5 California's investments with DDS, and DDS staff indicates that providing more data and information should be feasible. First 5 California understands and respects the various laws protecting confidential and sensitive information. At the same time, there are sound methodologies that can be applied to aggregate or otherwise mask any private information. If any portion of the funding is approved for FY 2012-13, the agreement should include the ability of First 5 California's evaluation staff and consultants to define and access the data necessary to evaluate the results and outcomes of the expenditures.

- **RECOMMENDATION:** Staff recommends that any future interagency agreement with DDS includes terms and conditions describing the data required for First 5 California's reasonable evaluation of the results and outcomes of the funding provided for the Early Start Program, and ensuring access to the data sufficient for First 5 California's confidence in the credibility or the data while maintaining legally required protections of the data.

c. Supplantation

The DDS request represents that no general fund moneys will be supplanted by the receipt of First 5 California dollars. DDS states that the contracts between DDS and the Regional Centers do not currently include sufficient funding for Early Start services.

The controlling statute, Revenue and Taxation Code, § 30131.4(a) provides in its entirety:

> "All moneys raised pursuant to taxes imposed by Section 30131.2 shall be appropriated and expended only for the purposes expressed in the California Children and Families Act, and *shall be used only to supplement existing levels of service and not to fund existing levels of service*. No moneys in the California Children and Families Trust fund shall be used to

> supplant state or local General Fund money for any purpose" [emphasis added].

The DDS letter states:

> "Proposition 10 … provides that no moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose, and that these funds shall be used only to supplement existing levels of service and not to fund existing levels of service. The Attorney General's Office has interpreted this statute to mean that *no moneys from the California Children and Families Trust Fund shall be used to take the place of existing funding that currently exists for any purposes*, but rather, *moneys* collected pursuant to the California Children and Families Act *are to be used to add to existing levels of services that currently exist and to supplement those levels*. In short, Commission funds shall be used to augment, add to or enhance existing programs, funds, grants and/or services" [emphasis added].

The FY2011-12 interagency agreement stated:

> "California Revenue and Taxation Code §30131.4 provides that no moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose, and that these funds shall be used for *new services for new children* ages 0 through 2 and that no state General Fund dollars will be saved, reallocated or repurposed as a result of any action taken by First 5 California to provide funding for services currently being provided by the contractor."

This paraphrase uses different language than the statute, and provides a different interpretation from the opinion of the Attorney General's Office cited in the DDS letter. It replaces the statutory language emphasis on added *levels* of service with "new services for new children." The agreement is built upon the premise that children newly entering the developmental system within the term of the agreement constitute the required "supplement" to existing levels of service.

The audit reports submitted by DDS found that no supplantation occurred under the agreements for fiscal years 2009-10 and 2010-11. To measure supplantation in 2009-10, the auditor appears to rely on "DDS's position that Commission funds are *serving only participants new to the programs* in Fiscal Year 2009-10" [emphasis added]. In 2010-11, the language used by the auditor as a measuring stick for supplantation varies from the statutory language. The auditor defined its objective as: "Verifying that no monies from the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose and to be used to supplement existing levels of services, *rather than completing funding the services"* [emphasis added].

Staff questions whether shifting the focus from "levels of service" as stated in the Revenue and Taxation Code to "new services" for individuals may misstate the rule against supplantation. While not legally binding, the trial court in *Children and Families Commission of Fresno County v. Brown* implies that it is insufficient to ensure that a target population continues to receive essential services, and emphasizes that the legislative intent to "fund existing levels of service" runs afoul of the supplantation prohibition of Proposition 10. Because staff has no data for current and prior years regarding the levels of service for the Early Start Program as a whole including the portion funded by First 5 California, it is unable to assess what the levels of service are indeed "existing" versus "supplemental." If DDS provides the historic program and fiscal information requested above, staff will be better able to provide an assessment for the Commission.

- **RECOMMENDATION:** In addition to providing all program and expenditure data requested above, staff recommends that in the independent audit for FY 2011-12 and subsequent years, the auditor use the statutory language for supplantation, or the definition included in any other binding interpretation of supplantation, rather than paraphrases or other informal interpretation.

d. Policy and Program Improvements

If the Commission approves all or a portion of the request to fund the Early Start Program, there are objectives in the State and county commissions' strategic plans which could be substantively furthered if the interagency agreement included additional deliverables and responsibilities. Upon consultation with the First 5 county commissions and the First 5 Association of California, staff offers the following recommendations for the Commission's consideration:

- **RECOMMENDATION:** First 5 California and First 5 county commissions should be recognized for major financial support for the Early Start Program. DDS and the Regional Centers should include fair representation of the Commission's collective monetary contribution in all key materials and venues, including but not limited to: written materials, brochures and reports describing the Early Start Program to consumers, providers, and voters; the budgets submitted to federal, state and local agencies and partners; DDS's website and other electronic media; oral presentations to the Governor's Office and the Legislature.

- **RECOMMENDATION:** DDS should work diligently with First 5 California and the county commissions to promptly develop a model protocol for Regional Centers addressing:
    - Coordinated and streamlined screening and intake, to reduce duplicative screening and promote the universal acceptance of the various assessment tools utilized by schools, providers and insurers.
    - Coordination with First 5 county commissions to "refer back" children ages 0 to 5 deemed ineligible for Early Start services, to enable First 5 to provide prevention services to at-risk children and their families.

- o Commitment to universal screening in counties where the First 5 county commission provides funding and leadership.
- o Coordinated, warm handoffs to schools, to ensure continuity of services for children aging out of Early Start.

➢ **RECOMMENDATION:** The agreement should include the commitments and timelines for First 5 California and DDS to collaborate as leaders of sister agencies to seek systems change that accomplish the following policy or program outcomes:
- o Universal Screenings: Convene state agencies, providers, health plans, consumers and philanthropic communities to develop and implement a state action plan for universal screenings of all children 0 to 5.
- o Required screenings under Medi-Cal: Update the Child Health and Disability Prevention (CHDP) periodicity schedule to require rather than recommend developmental screenings.
- o Administrative Efficiencies: Streamline the billing process for reimbursement of development screenings eligible for CHDP, and modify the CHDP assessment and billing form (PM-160).
- o Improved information and analysis: Work with the Department of Health Care Services (DHCS) to standardize and establish baseline data on coverage and utilization of screenings under Medi-Cal.

ADVISORY COMMITTEE REVIEW

This request was discussed with the Executive Committee of the Commission, including Chair Jennifer Kent and Vice Chair Patrick Duterte.

ATTACHMENTS

- A - F5CA Letter dated May 31, 2012
- B - DDS Request dated October 11, 2012
- C - Hypothetical $40M Plan
- D - DDS Letter dated October 15, 2012
- E - Independent Accountant’s Report on Applying Agreed-Upon Procedures for the Period Between July 1, 2009 and June 30, 2010
- F - Audit of California First 5 2010/11 Grant

May 31, 2012

The Honorable Members of the Senate
State Capitol
Sacramento, CA 95814

RE: $80 MILLION REDIRECTION FROM PROPOSITION 10 PROGRAMS

Dear Senator:

The staff and Commissioners of the First 5 California Children and Families Commission (Commission) are stewards of revenues raised by the voters and dedicated to the specific early childhood education and development programs and outcomes described in Proposition 10, the voter-approved initiative. We recognize that during a time of such dire State budget constraints it is especially important to strategically partner with sister agencies as long as we can do so within our statutory mandate. As outlined below, the Commission has not been hesitant to agree to these partnerships, especially where it does not damage the Commission's primary duties nor run afoul of specific prohibitions on the use of the money. We invite you and your staff to work with us to identify future opportunities for collaboration consistent with Proposition 10. In this context, I urge your reconsideration and further discussion of two line items in the May Revise Budget Proposal which will present significant programmatic, legal and policy decisions for First 5 California.

The work of the First 5 California and County Commissions was established in a voter-approved initiative.

The Commission's funding for First 5 California was established in 1998 by Proposition 10, an initiative which directs the 7-member Commission to create and implement integrated and comprehensive services to enhance early childhood development to ensure that California's children are ready to enter school. As recently as November 2009, the voters reconfirmed at the ballot box their support of First 5 California and rejected Proposition 1D which would have redirected over sixty percent of the Proposition 10 revenues over the next five years to offset General Fund expenditures. The only process by which the initiative may be amended is either by the voters themselves, or by two-thirds of the membership of both houses of the Legislature as long as such amendment is consistent with the purposes of Proposition 10.

The May Revise proposes an $80 million transfer from Proposition 10 commissions.
The Governor's revised budget for State FY2012-13 proposes that **$80 million** be redirected from the California Children and Families Trust Fund—administered by the Commission—to cover General Fund reductions in early childhood programs under Medi-Cal and Developmental Services. The language from the May Revise Summary is:

- Proposition 10 Funding – This proposal reflects $40 million to be provided by the First 5 California Children and Families Commission for programs serving children ages birth through five. This would decrease Medi-Cal General Fund by $40 million.
- Proposition 10 Funding – This proposal reflects $40 million to be provided by the First 5 California Children and Families Commission for programs serving children ages birth through five. This funding would support the [Department of Developmental Services] Early Start Program, decreasing General Fund costs by $40 million.

The May Revise rests on the assumption that the Commission will agree to transfer the funds. As of this writing, the Commission's staff has not been contacted by the Department of Finance or any representative of the Administration.

The Commission has a strong track record of participating in joint budget solutions. Over the past four years, the Commission has cooperated by contributing **over $329 million** to the Early Start Program, and the Healthy Families Program administered by the Managed Risk Medical Insurance Board. The Commission drew these contributions from its unallocated funding, relying instead on the annual cigarette and tobacco tax revenue to support First 5 California's statewide signature programs for children, parents and teachers. Additionally, these voluntary contributions were made to our sister agencies upon assurance that there would be no conflicts with the language in Proposition 10 which provides: "No moneys in the California Children and Families Trust Fund shall be sued to supplant state or local General Fund money for any purpose."

The most recent budget proposal, however, presents a distinctly different context—and one with a potentially serious program, legal and policy ramifications.

The transfer will cause major rollbacks to First 5 state and county direct service programs.
The past four years of contributions to other State health programs have substantially reduced the Commission's statewide reserve. While our projected expenditures in FY2012-2013 are within the projected annual revenue of $86 million; the reserve no longer covers those projected expenditures. Thus, an $80 million transfer in FY2012-2013 will require the Commission to revisit its previous approvals to fund multi-year programs and grants supporting our signature programs for children, parents and teachers in furtherance of the First 5 California strategic plan.

The transfer will eliminate up to $80 million in matching grant funds for First 5 county programs.
Adjustments to the financial commitments made by First 5 California could result in work stoppage of the Commission's critical programs and services. Additionally, the County First 5 Commissions depend on and leverage state dollars in support of local early childhood development programs including teacher salaries and daily education services to vulnerable children. Small population counties may also lose funds.

The transfer may run afoul of Proposition 10's prohibition on supplantation.
Unlike the Commission's previous contributions to joint budget solutions, this transfer will not supplement or add to existing programs; rather it is facially proposed to decrease the General Fund contributions to the Early Start Program and Medi-Cal. To the extent that Medi-Cal and Early Start are entitlement programs, the State would be required to pay for those services even if First 5 California did not fund them. As the Fresno Superior Court noted in *Children and Families Commission of Fresno County v. Brown,* its ruling striking down last year's proposed redirection of $1 billion from the First 5 California and County Commissions, the State Commission's discretion on the use of its funds is limited, and is not immune from the anti-supplantation provision in Proposition 10. It appears that if this provision has any meaning at all, the prohibition on the use of revenue to supplant General Fund expenditures would block the proposal to shift funds from the Proposition 10 trust fund to offset expected General Fund program expenditures for existing programs or entitlements under Early Start and Medi-Cal.

The transfer would harm Proposition 10's specific purposes.
At a policy level, the proposed transfer of $80 million would contradict several policy mandates included in Proposition 10 as approved by the voters. By shifting virtually an entire year's revenue to these two health programs, the Commission would not be able to fulfill its statutory responsibility to promote, support and improve early childhood development through "integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services health care and research." (Health & Safety Code, section 130100.) The initiative dictates the formula for the allocation of First 5 California's annual revenues into specific accounts supporting the statutory purposes, and only permits transfer from those accounts if those funds are "not needed." Reductions to those First 5 accounts this year would impact its three signature programs:

- **Teacher** – CARES Plus program supporting the professional development of more than 5,000 participants in the early learning workforce in 34 counties,
- **Child** Signature Program providing quality pre-school education and early learning programs for 25,000 children in over 500 county facilities especially in at-risk communities, and
- **Parent** – reaching 1.5 million parents with children ages 0-5 through targeted online and other messaging, including the *Kit for New Parents*.

The Commission has previously approved multi-year contracts and grants to implement these programs to meet the statutory goals of Proposition 10. Any call for the Commission to revisit those commitments, and to fund two existing health programs to the exclusion of the array of child, parent and teacher education initiatives contemplated by Proposition 10, could place the Commissioners in a position to act contrary to the will of the voters.

Please feel free to contact me at (916) 263-1050 if you have any questions or would like to discuss this further.

Sincerely,

Kris Perry
Executive Director

cc: The Honorable Members of the Assembly
Analysts at Department of Finance and the Legislative Analyst’s Office
Commissioners, First 5 California
First 5 County Commissions

DEPARTMENT OF DEVELOPMENTAL SERVICES
1600 NINTH STREET, Room 240, MS 2-13
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1897

October 11, 2012

Jennifer Kent, Chair
California Children and Families Commission
2389 Gateway Oaks, Suite 260
Sacramento, CA 95833

Dear Ms. Kent:

DEPARTMENT OF DEVELOPMENTAL SERVICES REQUEST FOR FUNDING

The Department of Developmental Services (Department or DDS) is greatly appreciative of the First 5 California Children and Families Commission's (Commission) support of essential health and early intervention services for children with developmental disabilities. The Department is submitting its request for fiscal year (FY) 2012–13.

I. SUMMARY OF REQUEST

The Department requests that the Commission fund $40,000,000 for regional center services provided to children aged 0 through 2 through the Early Start Program pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act). Critical services need to be funded.

II. BACKGROUND

DDS provides community-based services to approximately 258,000 individuals with developmental disabilities (consumers) and their families through a statewide system of 21 regional centers. Regional centers are private, nonprofit agencies that DDS contracts with for the provision of services and supports to persons with developmental disabilities.

Regional centers assess eligibility for individuals; and help plan, access, coordinate and monitor the necessary services and supports for consumers, as identified in their individualized plan.

The Department administers a statewide service system for children ages 0 through 5 under the California Early Intervention Services Act and the Lanterman Act as follows:

Individuals Aged 0 to 2

Families whose infants or toddlers age 0 through 2 have a significant developmental delay or an established risk for developmental delay or disability can participate in the Early Start Program. The Early Start Program is partially funded through the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400, et seq. Teams of service coordinators, healthcare providers, early intervention specialists, therapists, and parent resource specialists can evaluate and assess infants and toddlers and provide appropriate early intervention services to children eligible for California's Early Intervention Program.

Individuals Aged 3 and Older

Pursuant to the Lanterman Act, families with minor children who have developmental disabilities and adults with developmental disabilities are entitled to community-based services and supports from regional centers. Depending on the individual needs of the consumer, the services and supports could include: day program or residential services, information, referrals, assessments, diagnoses, assistance in finding and utilizing community and other resources, and family support

Under the Lanterman Act, quality services are provided to children three through five years of age with mental retardation, cerebral palsy, epilepsy, autism and other disabling conditions requiring treatment similar to mental retardation. Based on assessed need, a variety of services are provided to support development and to maintain the child in the family home.

The Commission funded regional center services for children in FY 2009-10, FY 2010-11, and FY 2011-12. FY 2012-13 funding is again needed by DDS to provide necessary services to children. As part of this funding DDS will:

A. Continue to receive federal funds that partially support Early Start services;

B. Ensure access to services for young children early enough to make a long term difference in their developmental outcomes;

C. Sustain the existing service system upon which services are built; and

D. Fund growth in the program which is consistent with the Commission's 2008 Strategic Plan.

Regional centers continue to experience growth in the number of new infants and toddlers requesting services from the system. The continued growth of children needing early childhood services has outpaced resources. The DDS budget appropriation for FY 2012-13 reflects the need of $40,000,000 budgeted for services to children who are eligible for funding from the Commission. The funding is needed to continue to provide the critical services.

III. LEGAL STANDARD FOR COMMISSION FUNDING REQUESTS

Proposition 10, the California Children and Families Act, was approved by voters in November 1998. The original ballot measure contained a section that is codified in Revenue and Taxation Code, Section 30131.4. This section provides that no moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose, and that these funds shall be used only to supplement existing levels of service and not to fund existing levels of service. The Attorney General's Office has interpreted this statute to mean that no moneys from the California Children and Families Trust Fund shall be used to take the place of existing funding that currently exists for any purposes, but rather, moneys collected pursuant to the California Children and Families Act are to be used to add to existing levels of services that currently exist and to supplement those levels. In short, Commission funds shall be used to augment, add to or enhance existing programs, funds, grants and/or services.

IV. ANALYSIS

DDS's request for $40,000,000 is consistent with California Revenue and Taxation Code, Section 30131.4. First, the funds DDS seeks would be used to supplement existing regional center services for children aged 0 through 2.

Second, the funds DDS seeks would not supplant any General Fund dollars. The DDS contracts with the regional centers do not currently include sufficient funding for these services. This funding will not be allocated to the regional centers in the contracts between DDS and the regional centers until the funds are approved by the Commission.

Additionally, it is well established that a child's overall health and development can make an important difference in how he or she will do in school. A child who does not receive necessary audiology or vision services or speech therapy might struggle to keep up with peers and even experience learning difficulties. Likewise, a child who does not receive critical nutritional or health services might miss school due to poor health. Further, more than any other time in their lives, infants and toddlers are growing and developing at an amazing rate. They must receive adequate nutrition, intervention services, and treatment for chronic and acute conditions. In addition, the parents of a child with a developmental disability or at risk of a developmental disability must receive critical information from health care professionals to help their child maximize his or her potential. Furthermore, funding an expansion of Early Start Program and Lanterman Act services for children between 0 and 2 years of age is consistent with the Commission's 2008 Strategic Plan. Specifically, the expansion is consistent with the Commission's vision that all children enter school ready to achieve their greatest potential, as well as:

- *Strategy 1.1* – Increase the number and depth of state and national partnerships and affiliations.
- *Strategy 1.3* – Facilitate and support health care coverage and quality care for all children 0 to 5.
- *Strategy 1.4* – Facilitate and support early care and educational development for all children 0 to 5.
- *Strategy 1.5* – Facilitate and support policies and programs that promote family self-sufficiency.
- *Strategy 3.2* – Share information and messages with California's diverse populations through partnerships.
- *Objective 3.2.2* – Establish partnerships with at least two public agencies with similar goals, linking First 5 California's name and/or program with their name for increased effectiveness.

Finally, if the Commission chooses not to fund the new services for the regional centers' infant and toddler caseload growth in the current fiscal year, DDS will be unable to provide all of the necessary services to the infants and toddlers in need of regional center services, jeopardizing the individuals' progress toward minimizing the risk of developing a developmental disability or ameliorating the impact of their disability. In addition, the federal funds that DDS receives for the administration of the Early Start Program would be at risk.

V. CONCLUSION

DDS respectfully requests that the Commission provide funding for regional center services for children between 0 and 2 years of age. The regional centers serve a critical role for the affected children. Providing the supplemental funding of $40,000,000 is consistent with the Commission's statutory authority and mission statement, and no reasonable alternatives exist to serve the relevant infants and toddlers. Therefore, DDS requests the Commission approve this request.

Sincerely,

TERRI DELGADILLO
Director

Draft Financial Plan Including Transfer
Proposed by State FY 2012-13 Budget ($40 million transfer to DDS)

Account/Project	FY 12-13	FY 13-14	FY 14-15
Mass Media Communications (0631)			
Projected Carryover	$19,731,055	$7,566,748	$8,600,202
Beginning Balance	**$19,731,055**	**$7,566,748**	**$8,600,202**
Parent Signature Program - Education and Outreach	$10,376,587	$10,376,587	$11,696,348
Parent Signature Program - 1-800 Number	$167,599	$150,000	$150,000
Parent Signature Program - *Kit for New Parents*	$7,107,054	$5,000,000	$5,000,000
Child Signature Program - Power of Preschool	$10,000,000	$10,000,000	$10,000,000
SCO/PRORATA/ADJUSTMENTS	$8,000	$8,000	$8,000
Total Budgeted Expenditures	$27,659,240	$25,534,587	$26,854,348
Prior Year Adjustments			
Adjusted Fund Balance Expenditures	$27,659,240	$25,534,587	$26,854,348
Subtotal	($7,928,185)	($17,967,838)	($18,254,146)
Projected Revenue	**$26,935,740**	**$26,009,340**	**$25,169,340**
Adjustment to Balance			
Projected Interest	$59,193	$58,700	$61,801
Other Revenue (Federal Reimbursement for Kit)	$500,000	$500,000	$500,000
Transfer to Unallocated	($12,000,000)		
Year End Balance	**$7,566,748**	**$8,600,202**	**$7,476,994**
15% Reserve	**$4,040,361**	**$3,901,401**	**$3,775,401**
Net Year End Balance	**$3,526,387**	**$4,698,801**	**$3,701,593**
Education (0634)			
Projected Carryover	$21,236,975	$10,489,136	$8,467,053
Beginning Balance	**$21,236,975**	**$10,489,136**	**$8,467,053**
Statewide Conference	$150,000	$150,000	$150,000
Co-Sponsorship Funding	$150,000	$150,000	$150,000
Child Signature Program - Educare	$2,950,000	$2,950,000	
Teacher Signature Program - CARES Plus		$500,000	$500,000
Child Signature Program	$20,000,000	$20,000,000	$20,000,000
SCO/PRORATA/ADJUSTMENTS	$8,000	$8,000	$8,000
Total Budgeted Expenditures	$23,258,000	$23,758,000	$20,808,000
Prior Year Adjustments			
Adjusted Fund Balance Expenditures	$23,258,000	$23,758,000	$20,808,000
Subtotal	($2,021,025)	($13,268,864)	($12,340,947)
Projected Revenue	**$22,446,450**	**$21,674,450**	**$20,974,450**
Adjustment to Balance			
Projected Interest	$63,711	$61,467	$55,401
Other Revenue			
Transfer to Unallocated	($10,000,000)		
Year End Balance	**$10,489,136**	**$8,467,053**	**$8,688,904**
15% Reserve	**$3,366,968**	**$3,251,168**	**$3,146,168**
Net Year End Balance	**$7,122,168**	**$5,215,886**	**$5,542,737**
Orange: Amount paid to DDS for Early Start.			
Purple: Amount pending Commission approval.			
Royal Blue: Amount projected if Commission approves sustained level of effort.			
Green: Subtotal amounts.			

Draft Financial Plan Including Transfer
Proposed by State FY 2012-13 Budget ($40 million transfer to DDS)

Account/Project	FY 12-13	FY 13-14	FY 14-15
Child Care (0636)			
Projected Carryover	$24,499,428	$8,814,662	$4,135,776
Beginning Balance	**$24,499,428**	**$8,814,662**	**$4,135,776**
Child Signature Program	$5,000,000	$5,000,000	$5,000,000
Teacher Signature Program - CARES Plus	$18,218,135	$12,720,000	$12,720,000
SCO/PRORATA/ADJUSTMENTS	$8,000	$8,000	$8,000
Total Budgeted Expenditures	$23,226,135	$17,728,000	$17,728,000
Prior Year Adjustments			
Adjusted Fund Balance Expenditures	$23,226,135	$17,728,000	$17,728,000
Subtotal	$1,273,294	($8,913,338)	($13,592,224)
Projected Revenue	**$13,467,870**	**$13,004,670**	**$12,584,670**
Adjustment to Balance			
Projected Interest	$73,498	$44,444	$30,407
Other Revenue			
Transfer to Unallocated	($6,000,000)		
Year End Balance	**$8,814,662**	**$4,135,776**	**($977,147)**
15% Reserve	**$2,020,181**	**$1,950,701**	**$1,887,701**
Net Year End Balance	**$6,794,481**	**$2,185,075**	**($2,864,847)**
Research and Development (0637)			
Projected Carryover	$12,384,327	$12,678,441	$19,051,146
Beginning Balance	**$12,384,327**	**$12,678,441**	**$19,051,146**
Annual Report	$159,950	$150,000	$150,000
PEDS Maintenance	$73,680		
General Research Software	$24,110		
CARES Plus Program Data Collection and Storage	$1,000,000	$780,000	$780,000
California Health Interview Survey 2011	$750,000	$750,000	$750,000
IT Development	$187,020	$0	
Child Signature Program - RFA Development	$8,150		
Child Signature Program	$5,000,000	$5,000,000	$5,000,000
SCO/PRORATA/ADJUSTMENTS	$8,000	$8,000	$8,000
Total Budgeted Expenditures	$7,210,910	$6,688,000	$6,688,000
Prior Year Adjustments			
Adjusted Fund Balance Expenditures	$7,210,910	$6,688,000	$6,688,000
Subtotal	$5,173,418	$5,990,440	$12,363,146
Projected Revenue	**$13,467,870**	**$13,004,670**	**$12,584,670**
Adjustment to Balance			
Projected Interest	$37,153	$56,035	$75,153
Other Revenue			
Transfer to Unallocated	($6,000,000)		
Year End Balance	**$12,678,441**	**$19,051,146**	**$25,022,969**
15% Reserve	**$2,020,181**	**$1,950,701**	**$1,887,701**
Net Year End Balance	**$10,658,260**	**$17,100,445**	**$23,135,269**

Draft Financial Plan Including Transfer
Proposed by State FY 2012-13 Budget ($40 million transfer to DDS)

Account/Project	FY 12-13	FY 13-14	FY 14-15
Unallocated (0639)			
Projected Carryover	$10,641,650	$6,573,910	$6,192,412
Beginning Balance	**$10,641,650**	**$6,573,910**	**$6,192,412**
Transfer to DDS/Medi-Cal for State Budget Solutions	**$40,000,000**		
Small County Augmentations	$2,995,547	$3,000,000	$3,000,000
California Smoker's Helpline	$999,698	$1,000,000	$1,000,000
Strategic Planning Consultant	**$75,000**	**$75,000**	
Child Signature Program	$5,000,000	$5,000,000	$5,000,000
SCO/PRORATA/ADJUSTMENTS	$8,000	$8,000	$8,000
Total Budgeted Expenditures	$49,078,245	$9,083,000	$9,008,000
Prior Year Adjustments			
Adjusted Fund Balance Expenditures	$49,078,245	$9,083,000	$9,008,000
Subtotal	($38,436,595)	($2,509,090)	($2,815,588)
Projected Revenue	**$8,978,580**	**$8,669,780**	**$8,389,780**
Adjustment to Balance			
Projected Interest	$31,925	$31,722	$30,577
Transfer from Media 0631	$12,000,000		
Transfer from Education 0634	$10,000,000		
Transfer from Child Care 0636	$6,000,000		
Transfer from Research and Develop 0637	$6,000,000		
Transfer from Administration 0638	$2,000,000		
Other Revenue			
Year End Balance	**$6,573,910**	**$6,192,412**	**$5,604,769**
15% Reserve	**$1,346,787**	**$1,300,467**	**$1,258,467**
Net Year End Balance	**$5,227,123**	**$4,891,945**	**$4,346,302**
0631, 0634, 0636, 0637, 0639 Totals:			
Total cigarette and tobacco tax revenue	**$85,296,510**	**$82,362,910**	**$79,702,910**
Total resources per year	$176,555,426	$129,238,175	$126,902,838
Total expenditures per year	$130,432,530	$82,791,587	$81,086,348
Total Over/Under:	**$46,122,897**	**$46,446,588**	**$45,816,490**
Total 15% Reserve	$12,794,477	$12,354,437	$11,955,437
	$33,328,420	$34,092,152	$33,861,054
Administration (0638)			
Projected Carryover	$23,089,422	$18,440,803	$15,400,256
Beginning Balance	**$23,089,422**	**$18,440,803**	**$15,400,256**
Administrative Expense	$6,862,718	$7,230,193	$7,323,232
Furlough Buyback			
SCO/PRORATA/ADJUSTMENTS	$344,459	$206,566	$382,000
Total Budgeted Expenditures	$7,207,177	$7,436,759	$7,705,232
Prior Year Adjustments			
Adjusted Fund Balance Expenditures	$7,207,177	$7,436,759	$7,705,232
Subtotal	$15,882,245	$11,004,044	$7,695,024
Projected Revenue	$4,489,290	$4,334,890	$4,194,890
Projected Interest	$69,268	$61,322	$52,201
Transfer	($2,000,000)		
Other Revenue			
Year End Balance	**$18,440,803**	**$15,400,256**	**$11,942,115**
15% Reserve	**$673,394**	**$650,234**	**$629,234**
Net Year End Balance	**$17,767,409**	**$14,750,022**	**$11,312,881**
ALL FIRST 5 CALIFORNIA FUNDS			
Total cigarette and tobacco tax revenue	**$89,785,800**	**$86,697,800**	**$83,897,800**
Total resources per year	$202,203,406	$152,075,191	$146,550,185
Total expenditures per year	$137,639,707	$90,228,347	$88,791,580
Total Over/Under:	**$64,563,700**	**$61,846,844**	**$57,758,605**
Total 15% Reserve	$13,467,870	$13,004,670	$12,584,670
	$51,095,830	$48,842,174	$45,173,935

DEPARTMENT OF DEVELOPMENTAL SERVICES
1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1958

October 15, 2012

Diane M. Levin, Chief Deputy Director
First 5 California
California Children and Families Commission
2389 Gateway Oaks Drive, Suite 260
Sacramento, CA 95833-4270

Dear Ms. Levin:

Pursuant to the interagency agreement CFF 7234, Exhibit A, Section 5C, the Department of Developmental Services (DDS) reports to First 5 California the following information for fiscal year 2011/ 2012:

A total of 17,016 children, ages newborn through two years of age, entered the system and received services according to the interagency agreement. The total cost of these services was $50,000,003.13, of which First 5 California funded $50 million. A detailed listing of claims can be provided at the request of the Commission.

If you have any questions, please contact Don Braeger, Manager, Children & Family Services Branch at (916) 654-3681.

Sincerely,

Original signed by

NANCY BARGMANN
Deputy Director
Community Services Division

Enclosure

cc: Caroline Castaneda, DDS
Don Braeger, DDS

Department of Developmental Services
Regional Center Expenditure of First 5 Funding
Fiscal Year 2011-12

	Total Services	Consumer Count
Alta	$ 1,355,335.81	829
Central Valley	$ 1,874,424.01	776
East Los Angeles	$ 1,926,651.62	1,121
Far Northern	$ 56,458.68	49
Lanterman	$ 2,266,880.80	1,077
Golden Gate	$ 1,116,099.89	344
Harbor	$ 455,325.90	100
Inland	$ 4,219,662.88	1,920
Kern	$ 252,011.47	93
North Bay	$ 1,445,154.27	977
North Los Angeles	$ 5,967,528.14	2,044
East Bay	$ 3,863,797.42	1,179
Orange County	$ 5,045,128.37	1,004
Redwood Coast	$ 303,771.21	127
San Andreas	$ 4,504,136.97	928
South Central Los Angeles	$ 1,927,859.05	525
San Diego	$ 4,355,286.70	925
San Gabriel/Pomona	$ 2,053,145.52	1,048
Tri-Counties	$ 3,502,004.16	1,623
Valley Mountain	$ 2,524,277.11	60
Westside	$ 985,063.15	267
Grand Total	**$ 50,000,003.13**	**17,016**

CALIFORNIA DEPARTMENT OF DEVELOPMENTAL SERVICES

INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES

For the Period Between
July 1, 2009 and June 30, 2010

Table of Contents

MACIAS
CONSULTING GROUP

INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES

California Department of Developmental Services
Sacramento, CA

We have performed the procedures enumerated below, which were agreed to by the Department of Developmental Services (DDS), solely to assist the specified parties in evaluating DDS's compliance with the provisions of the First 5 California Children and Families Commission's (Commission) grant to DDS to provide services to eligible participants in Fiscal Year 2009-2010. Management is responsible for DDS's compliance with those requirements. This agreed-upon procedures engagement was conducted in accordance with attestation procedures established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those specified parties in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our objectives, procedures and findings are as follows:

Objective: Verify Commission funds were only used for eligible children entering the Early Start or Lanterman service system between July 1, 2009 and June 30, 2010.

Obtain a data file containing the claims information used to support DDS's report of expenditures incurred in Fiscal Year 2009-2010 to the Commission on May 4, 2011 and perform the following procedures:

1) Using a data mining tool, determine if the data file contains any claims for services incurred before the start of Fiscal Year 2009-2010 on July 1, 2009.

   Results: Procedure performed with the following exceptions: 1259 claims totaling $612,566 were identified with service dates prior to July 1, 2009.

2) Determine from sampling an additional file of claims provided by DDS, valued at $650,775 to replace the ineligible claims found in step 1), if these claims meet the eligibility criterion that services must have been provided in Fiscal Year 2009-2010. Note: DDS provided these additional claims because they had mistakenly drawn the data based on the dates claims were

3000 S Street, Suite 300 • Sacramento, CA 95816 • 916.928.4600 TEL • 916.928.2755 FAX
www.maciasconsulting.com

paid rather than the dates services were *incurred*. The Commission guidance only allows payments for services incurred in Fiscal Year 2009-2010.

Results: Procedure performed with no exceptions.

3) Agree the total value of claims in the file with the total amount reported to the Commission.

   Results: Procedure performed with the following exceptions: The total value of claims in the file provided to us amounted to $50,010,248. The amount reported to the Commission was $50,005,956, resulting in a difference of $4,292.

Objective: Verify that accurate records were maintained of eligible children, including birth date, date entering the system, and services purchased for the child.

1) Determine from a sample of 25 claims taken at the Alta California Regional Center (Alta), if the names, dates of birth, dates of service, claim amounts and service providers are (a) in agreement with the main data file when compared to Alta's records and (b) supported by documentation confirming that the services were authorized and paid by the Regional Center.

   Results: Procedure performed with no exceptions.

Objective: Analyze the processes in place for the tracking and payment of the First 5 funds at DDS.

1) Using DDS reimbursement data from February and May 2010 for Alta, determine (a) if Alta submitted an invoice to DDS for those months, (b) that the invoice was paid, and (c) that the 4 Alta claims appearing on these listings, which were also a part of our original sample were in agreement with the reimbursement data.

   Results: Procedures performed with no exceptions.

2) Using a data mining tool, determine if there are any duplicate claims in the data file containing the same name, birthdate, participant number, vendor, regional center, service code, claim amount, date of service, authorization number and paid date.

   Results: Procedure performed with the following exceptions: the tool produced 727 claim lines where one or more were possibly duplicated. A sample of 5 Alta claims from this list were all identified as duplicates. The 5 claims were included on the same invoice along with other claims totaling $2146. According to Alta officials, this invoice was mistakenly entered twice. Additional sampling of 3 possible duplicates was performed at each of two other regional centers—Orange County and North Los Angeles. No additional duplicate claims were identified. Alta agreed to refund to DDS the double reimbursement. According to DDS officials, their audit branch regularly tests for duplicate payments during annual audits of regional centers and service providers.

3) Determine whether the final amount of eligible expenditures meets or exceeds the $50 million grant total.

   Results: Procedure performed with no exceptions. The total confirmed by this procedure amounts to $50,046,291. This was based on starting with $50,010,248, subtracting $612,566 of ineligible claims and the $2146 duplicate claim and adding back $650,775 in replacement claims.

Objective: Verify that the Commission's funds were used to supplement existing programs and did not supplant state or local General Fund money for any purpose.

Obtain documentation and conduct interviews about how DDS ensures that Commission funds are not supplanting State or local General Fund money.

1) Gather information about DDS's position that Commission funds are serving only participants new to the programs in Fiscal Year 2009-2010. Using data from two separate samples of 25, determine if the participants were new to the program in Fiscal Year 2009-2010.

   Results: Procedure performed with no exceptions.

2) Review past audits of the Early Start Program to determine if DDS is using Commission and Federal funds for the same purpose.

   Results: Procedures performed with no exceptions. In 2008 and 2009 the State of California's Bureau of State Audits (BSA) performed single audits of DDS on behalf of the US Department of Education. In both years the auditors found that DDS did not have sufficient controls in place to prevent or detect the supplanting of State and local funds with Federal funds in the Early Start program. Specifically, the BSA auditors found in 2008 that DDS could not demonstrate with certainty compliance with Early Start's maintenance of effort requirement. That is because DDS did not separately budget State funds to regional centers for Early Start. The DDS budgets funds to the regional centers for a variety of programs and does not specify by program. This finding was repeated in a 2009 audit. In a letter to DDS from the US Department of Education (Department), dated December 9, 2010, the Department specifically directed DDS to provide documentation as evidence it has implemented a series of measures to prevent or detect the supplanting of State and local funds with Federal funds within 60 days. The required measures were included in the letter. In a follow-up by the Department, a Final Program Determination Letter (PDL) was issued on March 29, 2011, which stated its satisfaction that DDS had, in fact, taken steps to adequately address all prior audit findings by successfully implementing the measures outlined in the December letter. The Department now considers the audit closed.

3) Review documents related to how Commission funds were used for the program after DDS's budget was cut in this area to determine if this action violated the Commission's supplanting rule.

   Results: Procedures performed with no exceptions. In an email to the Commission, we asked if DDS's request for $50 million to replace the $50 million cut by the governor from the budget violated the Commission's requirement that "no State funds be saved as a result of this request". The Commission responded by providing DDS's request letter which specifically addresses this issue. In the letter DDS states that the governor deleted $50 million from DDS's budget request because it was for expansion of services to 0-5 youth and thus eligible for Commission funding. DDS, in requesting the funds, specifically stated that the final budget did not contain the needed monies for providing new services to new program participants. The Commission agreed with this position and granted DDS $50 million.

__**Objective:**__ Determine how DDS resolves conflicts of interest and prevents Commission funds from being paid to lobbyists or lobbying organizations.

Obtain information about how DDS deals with conflicts of interest and ascertain that DDS paid no Commission funds to lobbyists or lobbying organizations.

1) Conduct interviews with officials to determine if DDS maintains an active conflict of interest program.

   Results: Procedures performed with no exceptions. We inquired and found that DDS and the regional centers maintain an active program to detect conflicts of interest on the part of employees, officers, board members, contractors and sub-contractors. According to DDS officials, the current law requires all employees to fill out conflict of interest statements upon employment, and board members must do so annually. Statements for employees are reviewed at each regional center, while board member statements must be approved at DDS. If any board member conflicts are identified they must be resolved and approved by DDS, by Area Disabilities Boards, and by the State Council on Disabilities. Beginning in 2012, the conflict of interest requirements are being revised to require annual certification for all DDS and regional center employees.

2) From the two samples of 24 participants, determine if any payments were made by Regional Centers to lobbyists or lobbying organizations.

   Results: Procedures performed with no exceptions.

We were not engaged to, and did not conduct an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported.

This report is intended solely for the information and use of the DDS and is not intended to be and should not be used by anyone other than those specified parties.

Macias Consulting Group

Macias Consulting Group
Sacramento, CA
October 28, 2011

Appendix A – Program Background

In 1998 voters passed and enacted the California Children and Families Act, which tasks the First 5 California Children and Families Commission (Commission) and 58 County Commissions with improving the development of children in their first 5 years of life. The Commission has determined that early intervention services are an essential means by which to promote, support and improve the early development of children. DDS provides a statewide service system for children ages 0 through 5 under the California Early Intervention Services Act and the Lanterman Developmental Disabilities Services Act (Lanterman Act).

DDS provides services to children with developmental disabilities and their families through a statewide system of 21 regional centers. Regional centers are private, nonprofit agencies that DDS contracts with for the purchase of services and supports to persons with developmental disabilities. Regional centers diagnose individuals, coordinate and monitor the necessary services and supports for clients. The purchases of services included in this grant were procured from third party contractors/service providers chosen and paid directly by the regional centers. Regional centers then submit monthly claims for reimbursement directly to DDS.

In April 2010, DDS requested the Commission fund $50 million for new regional center services provided to new children aged 0 to 5 through the Early Start Program, the Prevention Program, and pursuant to the Lanterman Act in Fiscal Year 2009-2010.

The necessity for this grant became apparent when the DDS Fiscal Year 2009-2010 budget appropriation was $50 million below the anticipated need for the cost of services. Specifically, Governor Schwarzenegger vetoed $50 million from DDS's budget , stating in part "I am reducing Regional Center Purchase of Services by $50,000,000 for services to children up to age five, as these services are due to program growth and thus eligible for funding from the California Children and Families Commission. I am directing the Secretary of Health and Human Services Agency, the Department of Developmental Services, and the Department of Finance to immediately request funds from the Commission for this purpose". DDS requested the funds on April 8, 2010 and the Commission acted quickly, approving the request on April 28, 2010. According to DDS, between July 2009 and January 2010, the regional centers had already spent $51,058,820 on services for new consumers and individuals at risk of developmental disabilities between the ages of 0 and 5. The additional $50 million was intended to fill the gap caused by the budget reduction.

The Commission required DDS to arrange for an independent audit to confirm that expenditures met the required criteria under the Standard Agreement between the parties. DDS engaged Macias Consulting Group (Macias) to conduct the audit and report back on its findings.

Department of Developmental Services

Audit of California First 5 2010/2011 Grant

June 29, 2012

MACIAS
CONSULTING GROUP

Table of Contents

Highlights

Why Macias Consulting Group Did This Review

The First 5 California Children and Families Commission awarded the Department of Developmental Services a $50 million grant to provide services to developmentally disabled children who met certain criteria. The grant required DDS to engage an independent auditor to confirm that expenditures met the required criteria outlined in the Standard Agreement between the parties.

What the Review Found

We found that the Department of Developmental Services has fully complied with the grant provisions set forth by the First 5 California Children and Families Commission in its fiscal year 2010/2011 award.

What the Review Recommends

As a result of this audit we make no recommendations.

Background

In 1998 voters passed and enacted the California Children and Families Act, which tasks the First 5 California Children and Families Commission (Commission) and 58 County Commissions with improving the development of children in their first 5 years of life. The Commission has determined that early intervention services are an essential means by which to promote, support and improve the early development of children. DDS provides a statewide service system for children ages 0 through 5 under the California Early Intervention Services Act and the Lanterman Developmental Disabilities Services Act (Lanterman Act). In January 2011, DDS requested the Commission fund $50 million for regional center services provided to newly served children aged 0 to 5 to be used primarily for the Early Start Program in fiscal year 2010-2011. The Commission, in a January 26, 2011 proceeding, approved the request for services provided to new children in the Early Start Program, the Prevention Program, and pursuant to the Lanterman Developmental Disabilities Services Act as it had in the prior fiscal year.

DDS provides services to children with developmental disabilities and their families through a statewide system of 21 regional centers. Regional centers are private, nonprofit agencies that DDS contracts with for the purchase of services and supports to persons with developmental disabilities. Regional centers diagnose individuals, coordinate and monitor the necessary services and supports for clients. The purchases of services included in this grant were procured from third party contractors/service providers chosen and paid directly by the regional centers. Regional centers then submit monthly claims for reimbursement directly to DDS.

Scope

The scope of this audit covers a grant of $50 million awarded to DDS to cover new participants entering the program during a two fiscal year period beginning in July 1, 2009 and ending in June 30, 2011 for services provided in the fiscal year 2010/2011.

Objectives

The objectives for the audit of the Commission's grant to DDS included:

- Analyzing the processes in place for the tracking and payment of the Commission's funds at DDS.
- Verifying that funds are only used for eligible children entering the Early Start or Lanterman Act service system between July 1, 2009 and June 30, 2010. Eligibility is defined as any child age 0 through 5 who is eligible for the Early Start and Lanterman Act.
- Verifying that records are maintained of eligible children including birth date, date entering the system, and services purchased for the child.
- Verifying that no monies from the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose and to be used to supplement existing levels of services, rather than completing funding the services.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Additionally, we protected all information obtained from DDS and Regional Centers, including confidential consumer information, as required by the Welfare and Institutions Code, Sections 4514 and 5328 et seq.

Methodology

To accomplish the audit objectives we conducted interviews, reviewed documentation and analyzed DDS databases using IDEA Data Analysis software. Our specific tasks, audit objectives and activities are shown in the chart to the right:

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Additionally, we protected all information obtained from DDS and Regional Centers, including confidential consumer information, as required by the Welfare and Institutions Code, Sections 4514 and 5328 et seq.

Table 1.0 Audit Approach

Audit Objective	Activities
Analyze processes for tracking and payment of funds.	• Reviewed internal controls • Obtained and analyzed database of program participants and amounts paid to vendors by Regional Centers • Obtained sample of monthly invoices paid by DDS to reimburse Regional Centers for payments to vendors • Obtained sample of journal entries made to post payments to DDS General Ledger • Tested database for duplicate payments
Verify (1) only eligible participants are served and (2) accurate records are kept of patient names, dates of birth, dates entering the system and services purchased.	• Tested, on a sample basis, 25 invoiced payments (at each of two Regional Centers) from the database of program participants. Note: These records are kept at the individual centers and are not available at DDS. • For each payment, reviewed the patient history, authorization by medical professional, name, date of birth, authorization number, vendor number, date of service and amount paid. • Reviewed evidence of attendance to confirm service was actually delivered • Compared the information from the sample to the DDS database to confirm accuracy
Verify that no monies from the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose and to be used to supplement existing levels of services, rather than completing funding the services.	• Conducted interviews with key staff • Reviewed reports and documents on past federal and state audits regarding maintenance of effort and supplanting of funds at DDS • Reviewed spending patterns to determine if any reductions in spending occurred as a result of the Commission granting the $50 million to DDS

Principal Results

Finding 1: DDS Accurately Paid and Tracked Funds

DDS provides services through Regional Centers located throughout California. These Centers are the primary intake and evaluation points in the State system that serves developmentally challenged children. Once a child is approved for services a medical professional signs an authorization that describes the services required, the term of the treatment, the number of monthly hours and the fixed hourly rate. This information is put into a database known as SANDIS, which is available to DDS. The services are provided by vendors who work with each Regional Center. On a monthly basis the vendors invoice the Regional Centers who directly pay the vendors. The vendor payments made are then accumulated into a monthly invoice that is submitted to DDS. The individual vendor invoices and supporting documents are kept at the Regional Centers and are available to DDS internal auditors who are required to visit each Regional Center at least once every two years.

Our review of the payment process included reviewing the monthly invoices sent to DDS by two Regional Centers—Alta Sacramento and North Bay (Napa, CA). We also reviewed the journal entries that posted these payments to DDS' General Ledger. Additionally, we compared a sample of the individual payments on the invoices against available documentation at the two Regional Centers we visited. We found no errors or inconsistencies in this analysis.

Additionally, as an internal control test, we purged the database for duplicate payments using the IDEA Data Analysis software. We found one duplicate payment in the database. The duplicate payment amounted to $396.90. This payment, however, was discovered by the Regional Center not long after it was paid. The vendor immediately reimbursed the Regional Center, and eventually this amount was credited back to DDS.

Principal Results

Finding 2: DDS and Regional Centers Served Eligible Participants

A major grant provision is that the funds be used to serve children between the ages of 0 and 5 years who entered the system between July 1, 2009 and June 30, 2011 as specified in the Interagency Agreement covering this grant. We obtained a database from DDS showing payments amounting to $50 million for eligible program participants for services rendered in fiscal year 2010/2011. To verify the data, we tested 25 payments at each of two Regional Centers-Alta Sacramento and North Bay (Napa). For each sample selection, we verified the eligibility by reviewing the documents supporting the treatment plan. From this analysis, we could determine (1) when the participant actually entered the service system, (2) if the age of the child fell within the eligibility range, (3) if the service was provided within fiscal year 2010/2011 and (4) if the amount charged and paid agreed to the authorized hourly rates. Our review of 50 sampled transactions showed that all participants were eligible for the program.

Principal Results

Finding 3: DDS and Regional Centers Maintain Accurate Records

The Commission's grant also required that DDS accurately keep records which track the names, dates of birth, dates entering the service system and types of services provided for all program participants. To verify the accuracy of the records in the DDS database, we compared the name, date of birth, date entering the service system and type of service provided for each of the 50 sample items with locally maintained records. This cross checking routine resulted in no each of these data elements with local electronic and paper records on file. We found no discrepancies.

Finding 4: No Evidence that DDS Supplanted Funds

In its Interagency Agreement with DDS, the Commission specified that "no state general fund dollars are to be saved, reallocated or repurposed as a result of this Agreement" known as supplanting, this provision is intended to ensure that the grant is expanding the program, in other words, serving additional participants as a result of the grant. The federal government refers to this as "maintenance of effort." When providing funds for Early Start, the federal government expects the states to maintain a certain level of effort in order to justify the federal share.

DDS officials believe that supplanting is not an issue because they serve, through the Regional Centers, each and every child that is eligible, and once the various state and federal grants are used up, state general funds are applied. Further, the DDS director made a statement before a Commission proceeding in January 2011 stating that "the (grant) request is not supplantation because the previous funding ended when the Governor vetoed the $50 million last year (fiscal year 2009/2010), only children new to the program will be covered, and the program is growing at a rate that exceeds the request." Our testing confirmed only children new to the program were served, and the program appears to be growing, based on data provided by DDS to the federal government.

To illustrate, Table 2.0 on the following page shows the growing number of participants, DDS's spending profile over the last three years in the Early Start Program, which the Commission's grant primarily serves, shows a progressively higher number of participants served and higher annual state spending to support the program.

Principal Results

Finding 4: No Evidence that DDS Supplanted Funds (continued)

Table 2.0 Early Start Federal and State Spending Levels

Fiscal Year	Caseload	State General Funds (millions)	First 5 Grant (millions)	Total State Share (millions)	Total Federal Share (millions)	Total Spend (millions)
2009-2010	26,718	$165.938	$50.000	$215.938	$66.359	$282.297
2010-2011	27,443	$213.828	$50.000	$263.828	$31.243	$295.071
2011-2012	28,209	$214.834	$50.000	$264.834	$31.243	$296.077

Source: DDS Children and Family Services report to US Office of Education and California Bureau of State Audits, dated February 7, 2011

Principal Results

Finding 4: No Evidence that DDS Supplanted Funds (continued)

Additionally, it should be noted that DDS was cited by the Bureau of State Audits in 2008 and 2009 for not providing data that could not be broken down by program at the Regional Center level. This is necessary in order for the state auditors to measure DDS' maintenance of effort in Early Start. In a letter to DDS from the US Department of Education (Department), dated December 9, 2010, the Department specifically directed DDS to provide documentation as evidence it has implemented a series of measures to prevent or detect the supplanting of State and local funds with Federal funds within 60 days. The required measures were included in the letter. In a follow-up by the Department, a Final Program Determination Letter (PDL) was issued on March 29, 2011, which stated its satisfaction that DDS had, in fact, taken steps to adequately address all prior audit findings by successfully implementing the measures outlined in the December letter. The Department now considers the audit closed.

Our review showed no evidence of supplanting as a result of the award. The results of our work showed only new participants to the program were served. In addition, the program is serving an increasing number of program participants increasing state dollars expended.