

Grants Management and Compliance Compliance Related Frequently Asked Questions

1) What is a CDFI Program Assistance Agreement?

A CDFI Program Assistance Agreement is the agreement between the CDFI Fund and an organization that receives an award through one of the components of the CDFI Programs or the Native American Initiatives. The Fund refers to an organization that receives an award through one of these funding programs as an "Awardee". The Assistance Agreement outlines the general award terms and conditions of the award and contains all the applicable reporting schedules and requirements. Therefore, it is very important for you to retain a copy of your Assistance Agreement for future reference.

2) What does a CDFI Fund Assistance Agreement look like?

An Assistance Agreement is a form document that the Fund will adapt and tailor to your organization's award. It may comprise several sections or Schedules. Each Assistance Agreement contains the Awardee's name and award number on the first page of the Agreement. The document is generally more than 50 pages long and contains all of the Awardee's reporting requirements.

3) What reports is my organization required to submit to the Fund?

Award Assistance Agreements are tailored to each Awardee on an award-by-award basis. You should consult with the reporting sections, schedules, and appendices of your award Assistance Agreement before submitting your report(s). Generally, each Awardee is required to submit an Annual Report, Financial Report, and an Annual Survey. FY 2003 Awardees will be required to submit an Annual Report, which will comprise several components, including a Financial Report and an Annual Survey.

For Awardees whose awards were made prior to the FY 2003 funding round, the Annual Report generally comprises the following components:

1. Actual performance with the Awardee's performance goals and measures and/or financial soundness covenants
2. Unaudited financial statements
3. Narrative Progress Report explaining how the Fund's assistance was used
4. Explanation of Noncompliance if performance benchmarks are not met at the "Satisfactory" level (See Explanation of Noncompliance questions on the Fund's website www.cdfifund.gov for more guidance. Refer to the Grants Management and Compliance section of the Awardee web page.)
5. Awardee Certification signed by the Awardee's Authorized Representative
6. Standard Form 269-A (TA Awardees Only)

For Awardees whose awards were made prior to the FY 2003 funding round, the Financial Report generally comprises financial statements audited by a certified public accountant. Depending on your Assistance Agreement, the Financial Report may be submitted as part of your Annual Report.

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For Awardees whose awards were made prior to the FY 2003 funding round, the Annual Survey comprises institution-level and, for some Awardees, transaction-level data. The Fund will inform all Awardees, either through their Assistance Agreements, or through written notification of the survey due date.

Again, these are general guidelines. You should refer to your Assistance Agreement(s) for further guidance.

4) Is my organization required to submit audited financial statements to the CDFI Fund?

Assistance Agreements are tailored to each Awardee on an award-by-award basis. You should consult the appropriate reporting section of your Assistance Agreement for further guidance. Generally, Awardees are required to submit to the Fund financial statements audited by a certified public accountant unless otherwise stated in the Assistance Agreement. If the Awardee is not required to perform or submit audited financial statements, then the Awardee is required to send the Fund a letter, signed by its Authorized Representative, stating as such, by the reporting due date.

5) Is my organization required to submit an audit performed in accordance with OMB's Circular A-133?

You should consult with your auditor. Please refer to the CDFI Fund's Supplement to OMB's Circular A-133. The Circular and the Fund's Supplement explain, in detail, the requirements for such an audit. Both documents can be found on the Fund's website www.cdfifund.gov. Refer to the Grants Management and Compliance section of the Awardee web page.

6) If I am required to perform and submit an A-133 audit, when is the report due to the Fund?

Each Assistance Agreement contains a reporting schedule. Please refer to this reporting schedule for the due date of your Financial Report or Sub-Report.

7) How do I request an amendment to my Assistance Agreement?

All amendment requests or proposed remedies to Noncompliance must be submitted in writing to the Grants Management and Compliance Manager at either the office or email addresses listed below. Amendment requests must describe the section of the Assistance Agreement that you wish to amend, the reason(s) for such a request, and a justification for the request (i.e. if the Awardee is requesting a decrease in performance benchmarks, either for one year or for multiple years, the newly proposed satisfactory benchmark(s) should be clearly stated and accompanied by a narrative explaining how the proposed benchmarks were derived). The Fund will contact you about proposed amendments.

*Please note that all amendment requests must be received by the Fund at least

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three months prior to the affected date of the amendment in order for the Fund and the Awardee to execute the amendment prior to the affected date. For example, if you are requesting an amendment to a report due date, the request must be received by the Fund at least three months prior to the reporting due date you wish to amend so that the change may be made prior to the date in the Agreement. If you are requesting an amendment to a “date-by-which” performance benchmark, the request should be received by the Fund three months prior to the benchmark due date so that the benchmark may be changed prior to the “Satisfactory” date in the Assistance Agreement. If the amendment is not executed prior to the applicable date in the Assistance Agreement, the Awardee will be required to report actual activity against the current terms and conditions of the Agreement and find that it may be reporting information that will place it in Noncompliance. See the question and answers about Noncompliance below.

8) How do I request an additional copy of my Assistance Agreement?

When you execute an Assistance Agreement, you should retain a copy of it for your files and for future reference. If necessary, however, the Fund will provide you with a copy of the document. Your organization’s Authorized Representative should submit an email or letter requesting an additional copy of the Assistance Agreement. The request must include the award number of the Assistance Agreement and should be sent to the attention of the Fund’s Grants Management and Compliance Manager at either the email or office address listed below.

9) What is “Compliance”?

Compliance is a term used to describe an Awardee’s status in meeting the specific terms and conditions explained in its Assistance Agreement with the CDFI Fund. Each Awardee signs an Assistance Agreement with the Fund prior to award disbursement and each Assistance Agreement includes terms and conditions that are mutually agreed upon by the Awardee and the Fund. Assistance Agreements include, among other items, CDFI certification and reporting requirements, performance goals and measures and, in some cases, financial and managerial soundness covenants. If an Awardee meets the specific terms and conditions of its Assistance Agreement, the Awardee is considered “Compliant” with the Assistance Agreement. Conversely, if an Awardee does not meet the terms and/or conditions of its Assistance Agreement the Awardee is considered “Noncompliant” with the Assistance Agreement (for example: Noncompliance may mean not meeting the Satisfactory level for goals and measures or not meeting a financial soundness covenant). Based on the information that the Awardee provides the Fund, through its Annual Reports, the Awardee will be determined to be (i) Compliant, (ii) Noncompliant and *in default* of its Assistance Agreement, or (iii) Noncompliant and NOT in default of its Assistance Agreement.

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10) What does it mean to be “Compliant”?

An Awardee is determined to be “Compliant” or “in Compliance” when it has (i) submitted complete reports to the Fund’s Grants Management and Compliance Manager, (ii) in a timely manner, and that the Awardee, (iii) at a minimum, satisfactorily met all of the terms set forth in the Assistance Agreement. For example:

- Compliance with an Annual Report or a Performance Goals Report/Annual Survey means that the report was submitted on time, is complete, and Performance Goals and Measures and/or Financial Soundness Covenants are met at the satisfactory benchmark or higher.

- Compliance with the Financial Report means that the report was submitted on time, is complete (OMB Circular A-133 requirements if applicable), and in the case where the Awardee is required to submit financial statements audited by a certified public accountant, the auditor presented an unqualified opinion with no reportable conditions or material weaknesses.

- Compliance with Annual Surveys or the Survey portion of an Annual Report means that the survey was submitted with all applicable attachments in a timely manner.

11) What does it mean to be “Noncompliant”?

An Awardee can be found “Noncompliant” with an Assistance Agreement if any report is late, incomplete, or indicates that the Awardee failed to meet the terms set forth in the Assistance Agreement. If your organization is Noncompliant with any performance benchmark or financial soundness covenant, you must submit to the Fund an explanation for the noncompliance. A template of questions that will facilitate the Fund’s review of the Noncompliance can be found on the Fund’s web site www.cdfifund.gov. Refer to the Grants Management and Compliance section of the Awardee web page.

An Awardee can be found Noncompliant and either *in default of its Assistance Agreement* or NOT *in default of its Assistance Agreement*.

12) What happens when if my organization is determined to be “Noncompliant”?

The Fund’s Grants Management and Compliance (GMC) Unit will contact your organization if it is found to be Noncompliant. The instance of Noncompliance will be reviewed by Fund management who will assess whether the Noncompliance should be deemed an event of default of the Awardee’s Assistance Agreement and/or if any proposed remedies toward future Compliance should be approved and implemented. The Awardee will be notified by the Fund of its final compliance status and any proposed remedies or sanctions.

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13) What does it mean to be in Noncompliant and in default of an Assistance Agreement?

If, after reviewing the Noncompliant report, the Fund may determine that an instance of Noncompliance is so grave that it constitutes an event of default, an Awardee is considered Noncompliant and in default of its Assistance Agreement (NCD). Such instances may include, but are not limited to, late reporting, fraud, mismanagement, and/or abuse. The Awardee will be contacted by the GMC Unit and informed of actions, remedies, or sanctions that will be taken by the Fund. Such actions, remedies, or sanctions are set forth in the Assistance Agreement and can include withholding future disbursements of CDFI Fund Awards, rendering the Awardee ineligible to for future Fund assistance, and requiring repayment of Assistance.

The Fund will not disburse on any portion of an outstanding balance of an award if an Awardee is considered NCD.

14) What does it mean to be Noncompliant and NOT in default of my Assistance Agreement?

An Awardee may be Noncompliant with its Assistance Agreement but the Fund may not deem the instance of Noncompliance an event of default. In such cases, the Awardee may be considered Noncompliant and not in default (NCND) of its Assistance Agreement. The GMC Unit will contact Awardees and remedies toward future Compliance (i.e. amendment(s) of an Assistance Agreement) may be negotiated between the Fund and the Awardee. Classification as NCND does not affect the disbursement of awards.

15) Can Noncompliance affect an initial or subsequent disbursement of a Fund award to an Awardee?

Yes. If an Awardee is considered Noncompliant due to overdue reports, has submitted a noncompliant report that the CDFI Fund is reviewing, or is considered Noncompliant and in default (NCD) of its Assistance Agreement for any reason, the Fund will not make subsequent disbursements on outstanding award balances. In order to receive a subsequent disbursement on an Award, all outstanding compliance issues must be resolved first.

FY 2002 or 2003 Bank Enterprise Award (BEA) Program Awardees should note that the Fund may, in its sole discretion, withhold initial or subsequent disbursements of FY 2002 and 2003 BEA awards if the BEA Awardee itself or its subsidiary(ies) or affiliate(s) is/are not in compliance with the terms and conditions of any other award under any component of the CDFI Program.

16) What do I do if I think my organization may be trending Noncompliant?

If an Awardee anticipates not being able to meet a reporting requirement or other term or condition of its Assistance Agreement (including not being able to

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meet a performance measure or financial soundness covenant), it may request an amendment or other form of remedy in advance of Noncompliance. See the amendment questions and answers in this document for further guidance.

17) What do I do if I realize when I am completing my report that my organization is Noncompliant?

If an Awardee realizes, when it is preparing a report, that it did not satisfactorily meet its reporting and/or Assistance Agreement terms and conditions, it should either submit a complete report as soon as possible and/or if specific terms, such as performance measures or financial soundness covenants are not met, include in the report in question: actual performance; a thorough explanation for the Noncompliance; and a statement about the likelihood that the Awardee will be Compliant in the future. The Awardee should affirm in the statement about future Compliance that it will meet the terms and requirements in the next reporting period or, if it will not meet the terms and requirements in the next reporting period, it should propose a remedy for future Compliance (such as an amendment to the benchmarks for future reporting periods). If an amendment is being proposed, the written request must include a justification of the newly projected benchmarks. A GMC Unit staff member will contact the Awardee after the Fund receives the Awardee's amendment request.

If an Awardee anticipates Noncompliance with a performance measure(s) or financial soundness covenant(s), it should either refer to the appropriate section of its Assistance Agreement, or download a copy of the "Explanation of Noncompliance" from the Fund's website www.cdfifund.gov. The document can be found on the Grants Management and Compliance section of the Awardee web page.

18) What is Awardee "contact information"?

The Awardee's contact information comprises the Awardee's proper name, address, and current Authorized Representative (AR) and Contact Person (CP). The AR is the official authorized by the Awardee to execute all agreements on behalf of the Awardee (typically a member of the Awardee's Board of Directors or other high ranking official in the organization). Generally, the CP is the person that the Awardee designates as the one who the Fund should contact with respect to the required activities of the Awardee's Assistance Agreement, including but not limited to, meeting the performance benchmarks and financial soundness covenants, and compiling and submitting reports to the Fund. The Awardee's AR and CP may be the same person.

19) Why is it important to keep Awardee contact information current?

It is essential that the Awardee notify the Fund of any changes in contact

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information (including phone numbers and email addresses) to ensure that the Fund is able to contact the Awardee with information regarding its award. Periodically, the Fund will send announcements to the Awardee via the AR's and CP's email addresses. It is the Awardee's responsibility to notify the Fund, in writing, of any changes of the Awardee's contact information.

20) How do I update Awardee contact information?

To update the Awardee contact information, complete the "Awardee Contact Information Update Form" on the Fund's website (www.cdfifund.gov). The form can be found on the Grants Management and Compliance section of the Awardee web page. Once completed, the form can be sent to the attention of the Grants Management and Compliance Manager at either the email or office address below.

21) What do I do if my organization plans to merge with or be acquired by another organization?

Under the Assistance Agreement, the Awardee is required to contact the Fund regarding all events materially affecting the organization, including mergers or acquisitions. If your organization plans to merge with or be acquired by another organization, you must contact the Fund – immediately - providing a letter outlining the merger or acquisition, including a timeline of events and the name and contact information of the key people involved in the action. Fund staff will contact the appropriate parties to determine whether the merger or acquisition constitutes an event of default or if the Agreement should be restated or terminated and whether any portion of the award returned to the Department of Treasury.

Please send such a letter to the attention of the Grants Management and Compliance Manager at either the email or office address listed below.

22) What do I do if my organization is about to be or has been liquidated?

Under the Assistance Agreement, the Awardee is required to contact the Fund regarding all events materially affecting the organization, including liquidation of assets. If your organization is about to be or has been liquidated, you must contact the Fund – immediately - providing a letter outlining the liquidation, including a timeline of events and the name and contact information of the key people involved in the action. Fund staff will contact the appropriate parties to determine whether the liquidation constitutes an event of default or the Agreement should be restated or terminated, and whether any portion of the award should be returned to the Department of Treasury. Please send such a letter to the attention of the Grants Management and Compliance Manager at either the email or office address listed below.

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23) Where can I find the daily rate of pay allowable for consultants?

The daily rate of pay can be found on the Office of Personnel Management's (OPM) "Executive Schedule". The schedule can be located on OPM's website www.opm.gov under "Employment and Benefits" and "Pay Tables".

24) Can I request a waiver on the remittance of interest earned on my technical assistance Award?

Yes. Your Authorized Representative may send a letter requesting such a waiver to the attention of the Grants Management and Compliance Manager at either the email or office address listed below. Include in your request the amount of interest earned.

25) How do I contact the Grants Management and Compliance Unit?

Contact the Grants Management and Compliance Unit at:

CDFI Fund

Attn: Grants Management and Compliance Manager
601 13th Street, NW
Suite 200 South
Washington, DC 20005
Phone: (202) 622-8226
Fax: (202) 622-9625
gmc@cdfi.treas.gov