

## **Compliance Monitoring and Evaluation 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 or the Native American Initiatives Programs. 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's Assistance Agreement before submitting your report(s). Generally, each Awardee is required to submit an Annual Report, Annual Financial Report, and an Annual Survey. Awardees receiving an Award after 2002 will be required to submit an Annual Report, which will comprise several components, including an Annual 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:  
[http://www.cdfifund.gov/awardees/pdf/explanation\\_of\\_noncompliance.pdf](http://www.cdfifund.gov/awardees/pdf/explanation_of_noncompliance.pdf) for more guidance.)
5. Awardee Certification signed by the Awardee's Authorized Representative
6. Standard Form 269-A (for TA and NACA Operating Grant awards only)

For Awardees whose awards were made prior to the FY 2003 funding round, the Annual Financial Report is generally comprised of financial statements *Reviewed* by a certified public accountant, and may include an 'A-133 Audit Report.'

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For Awardees whose awards were made prior to the FY 2003 funding round, the Annual Survey comprises the institution-level report. 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. Financial statements include a statement of financial position, a statement of operations (for-profit organizations), a statement of activities (non-profit organizations), and a statement of cash flow. An auditor or accountant's review report must accompany statements. All Awardee's, with the exception of regulated financial institutions, are required to submit financial statements. Non-profit organizations must submit a Reviewed financial statement and for-profit organizations must submit an Audited financial statement.

*Note: Regulated financial institutions are not required to submit a financial report, as the Fund will obtain financials from publicly available sources.*

### **5) Is my organization required to submit an audit performed in accordance with Office of Management and Budget's (OMB) 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

<http://www.cdfifund.gov/awardees/compliance.asp>.

### **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 outlining report due dates. Generally, awardees that are required to submit an A-133 must do so within 270 days after its fiscal year end date. Groups that are not required to submit an A-133 must submit to the Fund a statement signed by its Authorized Representative or Certified Public Accountant, asserting that it is not required to have a single audit pursuant to OMB Circular A-133.

### **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 Manager (GM) at either the office or e-mail

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addresses listed in #26. 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 three months prior to the period-end-date or benchmark date in question in order for the Fund and the Awardee to execute the amendment. 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. Should the Awardee wish to amend a benchmark for a particular period end (for example the performance benchmark for Goal 2, Measure 1 for period ending 12/31/06), the request should be received by the Fund by September 30, 2006. 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 e-mail 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 (GM) Manager at either the e-mail 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,

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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.

### **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 (GM) 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.

\*It is notable that the Fund does not consider a report submitted until it is complete. Incomplete reports are not acknowledged as received.

### **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

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web site

[http://www.cdfifund.gov/awardees/pdf/explanation\\_of\\_noncompliance.pdf](http://www.cdfifund.gov/awardees/pdf/explanation_of_noncompliance.pdf).

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 if my organization is determined to be “Noncompliant”?**

The Fund’s Compliance Monitoring and Evaluation (CME) 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.

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

If, after reviewing the Noncompliant report, the Fund determines 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 CME 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 CME Unit will contact the Awardee 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 award funds.

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### **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 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 CME 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:

[http://www.cdfifund.gov/awardees/pdf/explanation\\_of\\_noncompliance.pdf](http://www.cdfifund.gov/awardees/pdf/explanation_of_noncompliance.pdf).

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### **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) and their email addresses, phone and fax numbers. 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 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, including Notices of Award, debriefings, and application eligibility notices, to the Awardee via the AR’s and CP’s email addresses. Many of these notices are time sensitive and may require a response from the Awardee. It is the Awardee’s responsibility to update its contact information in its myCDFIFund user account(s). Additional information and instructions can be found at [www.cdfifund.gov](http://www.cdfifund.gov).

### **20) How do I update Awardee contact information?**

Individuals can update email addresses, mailing addresses, fax and phone numbers via their myCDFIFund User accounts.

### **21) How do I update my organization name, EIN number and or Account Administrator within my myCDFIFund organization account?**

Organizations can request an update to this information by submitting a completed form, signed by the organization’s AR to the Fund’s Grants Management (GM) Manager or IT Help Desk. Email the Fund’s GM unit at [gmc@cdfi.treas.gov](mailto:gmc@cdfi.treas.gov) or the IT Help Desk at [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov) to have the appropriate form emailed to you. Complete instructions are on the form itself.

### **22) 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

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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 (GM) Manager at either the email or office address listed below.

### **23) 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 (GM) Manager at either the email or office address listed below.

### **24) 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](http://www.opm.gov) under "Employment and Benefits" and "Pay Tables".

### **25) Can I request a waiver on the remittance of interest earned on my CDFI Fund Award?**

No. In general, all non-profit awardees of a certain dollar amount must remit to the federal government any and all interest earned in excess of \$250. Grantees should refer to OMB Circular A-110 for further guidance.



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**26) To whom do I submit reports, forms, and general inquiries?**

Please submit all reports, forms, and general inquiries to the Grants Management (GM) Unit at:

**CDFI Fund**

Attn: Grants Management (GM) Manager

601 13<sup>th</sup> Street, NW

Suite 200 South

Washington, DC 20005

Phone: (202) 622-8226

Fax: (202) 622-7754

[gmc@cdfi.treas.gov](mailto:gmc@cdfi.treas.gov)

**27) How do I contact the CDFI Fund with a specific Compliance question?**

Please submit specific compliance questions to: [cme@cdfi.treas.gov](mailto:cme@cdfi.treas.gov)