

**Compliance Monitoring and Evaluation
CDFI Program
Compliance-Related Frequently Asked Questions**

1) What is a CDFI Program Assistance or Award Agreement?

A CDFI Program Assistance or Award 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 or Award 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 or Award Agreement for future reference.

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

An Assistance or Award Agreement is a form document that the Fund will adapt and tailor to your organization's award. It will contain several sections and schedules. Each Agreement contains general and specific information pertaining to the Awardee including but not limited to the award amount and award type on the first page of the Agreement. The document is generally very detailed and contains all of the Awardee's reporting requirements.

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

Award and Assistance Agreements are tailored to each Awardee on an award-by-award basis. You should consult with the reporting sections and schedules of your Agreement before submitting your report(s). Generally, each Awardee is required to submit an Annual Report comprised of several components, see below:

The **Annual Report** *generally* comprises the following components:

1. Financial Report (Financial Statements and Auditor's / Accountant's Review Report. See "Financial Reports" below for more details);
2. Institution Level Report (ILR). All awardees of TA, FA and BEA as of FY09 Awardees must submit an ILR.
3. Transaction Level Report (TLR). Only recipients of FA must submit a TLR. The ILR and TLR are accessible through the Awardee's myCDFIFund account (Additional information regarding this account may be found at www.cdfifund.gov) via CIIS (Additional information regarding CIIS can be found at http://www.cdfifund.gov/what_we_do/ciis.asp).
4. Federal Financial Report (OMB Standard Form 425, found at http://www.whitehouse.gov/omb/grants/standard_forms/ff_report.pdf and/or Schedule

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- 7-B of the Assistance or Award Agreement). This form is applicable only to recipients of TA; (For more information on completing the form, go to: http://www.whitehouse.gov/omb/assets/omb/grants/standard_forms/fr_attachment_instructions.pdf). As of April 1, 2009, this form must be used and replaces the previously used SF 269-A.
5. Uses of Financial Assistance and Matching Funds Report (Schedule 7-C of the Assistance Agreement). This form is applicable only to recipients of FA;
 6. Uses of Technical Assistance Report (Schedule 7-F of the Assistance Agreement). This form is applicable only to recipients of TA;
 7. Uses of BEA Award Report (Schedule 7-G of the Award Agreement). This form is applicable only to recipients of BEA.
 8. If the Awardee fails to meet any Performance Goal or measure at the "Satisfactory" level, Explanation of Non-compliance (Schedule 7-D of the Assistance or Award Agreement, http://www.cdfifund.gov/awardees/pdf/explanation_of_noncompliance.pdf);
 9. If the Assistance is in the form of an equity investment, Shareholders Report (Schedule 7-E of the Assistance or Award Agreement).

Financial Reports

For all Awardees, Financial Reports are due 180 days after the Awardee's fiscal year end. Non-profit organizations (excluding regulated financial institutions) are to provide reviewed financial statements and the related accountant's review report (audited financial statements can be used in lieu of reviewed financial statements, if available); and for-profit organizations (excluding regulated financial institutions) are to provide audited financial statements and the related auditor's report.

A-133 Audit Report

An Awardee should consult with their auditor to determine if this report is required. Also, please refer to the CDFI Fund's Supplement to OMB's Circular A-133 (<http://www.cdfifund.gov/awardees/compliance.asp>). However, in general, if the Awardee is a non-profit organization that expended at least \$500,000 in Federal awards in any one fiscal year, the Awardee is required to submit a single audit reporting package pursuant to OMB Circular A-133.¹ **The CDFI Fund considers an Awardee to have expended the CDFI Fund's financial assistance upon receipt of such funds.** Thus, if the Awardee expends \$500,000 or more of financial assistance in a given fiscal year, the Awardee will be required to arrange for and submit a single audit reporting package to the CDFI Fund, no later than 270 days after the end of the Awardee's fiscal year. All organizations that are NOT required to have financial statements audited pursuant to OMB Circular A-133, must submit to the CDFI Fund no

¹ For additional information see www.whitehouse.gov/omb/circulars/a133/a133.html.

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later than 180 days after the end of the Awardee's fiscal year, a statement signed by the Awardee's Authorized Representative, Chief Financial Officer or auditor, asserting that the Awardee is not required to have a single audit pursuant to OMB Circular A-133.

For any award that is in the form of a loan, certification of deposit, secondary capital, common or preferred stock, partnership interest or debenture, the Awardee must submit annual financial statements to the CDFI Fund throughout the term of said loan or investment.

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

4) How long does my organization have to submit annual reports?

Award and Assistance Agreements are tailored to each Awardee on an award-by-award basis. Therefore, the length of time that your organization is required to submit reports will vary according to your organization and the type of award you have. For instance, TA only awards have a shorter reporting period than a FA only award. You should consult with the reporting sections and schedules of your Agreement to check for the final period of performance and submission dates. Again, any award that is in the form of a loan, certification of deposit, secondary capital, common or preferred stock, partnership interest or debenture, the Awardee must submit annual financial statements to the CDFI Fund throughout the term of said loan or investment.

5) How do I request an amendment to my Assistance or Award Agreement?

All amendment requests or proposed remedies to Noncompliance must be submitted in writing to the Compliance Manager at either the office or e-mail addresses listed in Question #23. Amendment requests must describe the section of the 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 date in the Agreement. Should the Awardee

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wish to amend a benchmark for a particular period end (for example the performance benchmark for Goal 2, Measure 1 for period ending 12/31/09), the request should be received by the Fund by September 30, 2009. If the amendment is not executed prior to the applicable date in the Assistance or Award 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.

6) How do I request an additional copy of my Assistance or Award Agreement?

When you execute an Assistance or Award Agreement, you should retain a copy of it for your files and for future reference. However, if necessary, the Fund will provide you with a copy of the document. The Authorized Representative for that award may submit an e-mail or letter requesting an additional copy of the Assistance or Award Agreement. The request must include the award number of the Assistance or Award Agreement and should be sent to the attention of the Fund's Grants Manager at either the e-mail or office address listed below in Question #20.

7) What is "Compliance"?

Compliance is a term used to describe an Awardee's status in meeting the specific terms and conditions outlined in its Assistance or Award Agreement with the CDFI Fund. Each Awardee signs an Assistance or Award Agreement with the Fund prior to award disbursement and each Assistance or Award Agreement includes terms and conditions that are mutually agreed upon by the Awardee and the Fund. Assistance or Award Agreements include, among other items, CDFI certification, reporting requirements, and performance goals and measures. If an Awardee meets the specific terms and conditions of its Assistance or Award Agreement, the Awardee is considered "Compliant" with the Assistance or Award Agreement. 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 or Award Agreement, or (iii) Noncompliant and NOT in default of its Assistance or Award Agreement.

8) What does it mean to be "Compliant"?

An Awardee is determined to be "Compliant" or "in Compliance" when it has (i) submitted complete reports (including subcomponents, see Question #3) to the Fund's Compliance Manager, in a timely manner, and that the Awardee (ii) at a minimum, satisfactorily met all of the terms set forth in the Assistance or Award Agreement. For example:

- Compliance with an Annual Report means that the report was submitted on time, was complete, and Performance Goals and Measures were met at the satisfactory benchmark.

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- Compliance with the Financial Report means that the report was submitted on time, was 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 material weaknesses.
- Compliance with the Institution Level Report/Transaction Level Report of an Annual Report means that the report was submitted in a timely manner and was complete.

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

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

An Awardee can be found “Noncompliant” with an Assistance or Award Agreement if any report is late, incomplete, or indicates that the Awardee failed to meet the terms set forth in the Assistance or Award Agreement. If your organization is Noncompliant with any performance benchmark, 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 http://www.cdfifund.gov/awardees/pdf/explanation_of_noncompliance.pdf.

After review and analysis, an Awardee can be found Noncompliant and either *in default of its Assistance or Award Agreement* or NOT *in default of its Assistance or Award Agreement*.

10) 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. An explanation of noncompliance is required (http://www.cdfifund.gov/awardees/pdf/explanation_of_noncompliance.pdf). See also the applicable Notice of Funds Availability (NOFA) on the Fund’s website, www.cdfifund.gov, for more information. 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 or Award 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.

11) What does it mean to be in Noncompliant and *in default of an Assistance or Award Agreement*?

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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 or Award Agreement. Such instances may include, but are not limited to, late reporting, fraud, mismanagement, and/or abuse. See also the applicable NOFA on the Fund's website, www.cdfifund.gov, for more information. 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 or Award Agreement and can include withholding future disbursements of CDFI Fund Awards, rendering the Awardee ineligible to apply for future Fund assistance, or requiring repayment of Assistance.

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

An Awardee may be Noncompliant with its Assistance or Award 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 of its Assistance or Award Agreement. The CME Unit will contact the Awardee and remedies toward future Compliance (i.e. amendment(s) of an Assistance or Award Agreement) may be negotiated between the Fund and the Awardee, if necessary.

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

Yes, the Fund may, in its sole discretion, withhold initial or subsequent disbursements of an award if the 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/NMTC Program. 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 of its Assistance or Award 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.

14) 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 or Award Agreement (including not being able to meet a performance measure), it may request an amendment or other form of remedy in advance of the anticipated Noncompliance. The Awardee can call the CME helpline or email the helpdesk (see Question #23) for guidance. See also the amendment questions and answers in this document for further guidance.

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15) 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 or Award Agreement terms and conditions, it should either submit a complete report as soon as possible and/or if specific terms, such as performance measures are not met, include in the report, Schedule 7-D Explanation of Noncompliance: 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 report.

If an Awardee anticipates Noncompliance with a performance measure(s), it should either refer to the appropriate section of its Assistance or Award 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.

16) 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 a member of the organization's upper management). 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 or Award Agreement, including but not limited to, meeting the performance benchmarks and compiling and submitting reports to the Fund. The Awardee's AR and CP may be the same person.

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

It is essential that the Awardee update its myCDFIFund account with 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.

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18) How do I update Awardee contact information?

Individuals can update his/her email addresses, mailing addresses, fax and phone numbers via their myCDFIFund User accounts. Only the Account Administrator has the authority to update information for the entire organization or grant access to an individual user to the organization's profile/account.

19) 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 Manager or IT Help Desk. Email the Fund's IT Help Desk at ithelpdesk@cdfi.treas.gov to have the appropriate form emailed to you. Complete instructions are on the form itself.

20) What do I do if my organization plans to be or has been liquidated, to merge with or be acquired by another organization?

Under the Assistance or Award 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 or has already done so, you must contact the Fund – immediately – providing a letter or material event form

(<http://www.cdfifund.gov/docs/certification/cdfi/Material%20Events%20Form.pdf>) outlining the merger, acquisition or 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 event 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 letter or form to the attention of the Grants Manager at either grantsmanagement@cdfi.treas.gov, fax number (202) 622-9625 or the address listed below:

CDFI Fund
Attn: Grants Management Manager
601 13th Street, NW
Suite 200 South
Washington, DC 20005

21) 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".

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22) 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 or contact the helpdesk of the Department of Health & Human Services, Division of Payment Management at 1 (877) 614-5533. Payments should be sent to:

Department of Health & Human Services
Attn: Division of Payment Management
Program Support Center
P.O. Box 6021
Rockville, MD 20852

23) To whom do I submit reports, forms, and specific compliance questions?

Please submit all reports, forms, and specific compliance questions to the Compliance Manager at:

CDFI Fund
Attn: Compliance Manager
601 13th Street, NW
Suite 200 South
Washington, DC 20005
Phone: (202) 622-6330
Fax: (202) 622-7754
cme@cdfi.treas.gov

24) Can I submit my annual reports to the Fund electronically?

At present, Awardees can submit annual reports via email, fax, regular mail. The ILR and TLR are the only reports that are submitted electronically and financial statements can also be submitted as an attachment to the ILR/TLR through your myCDFIFund account via CIIS. The Fund is currently testing a system that would allow Awardees to submit all the components of the annual report electronically through your myCDFIFund account. The Fund expects to have the electronic system available to Awardees in 2009.