



Advancing independence and inclusion of older adults and people with disabilities

Information Memorandum

ACL-AoD-IM-2024-01

Issued: June 24, 2024

TO:

Director, Designated State Agencies
Executive Directors, State Councils on Developmental Disabilities
Executive Directors, Protection & Advocacy Systems
Chairpersons, State Councils on Developmental Disabilities

SUBJECT:

Administrative Requirements of Federal Grant Funds pertaining to Obligation, Liquidation, and Date of Completion.

GRANT TERMS AND CONDITIONS:

42 USC § 15001 et seq. Developmental Disabilities Assistance and Bill of Rights Act of 2000
45 CFR § 1325 *Requirements Applicable to the Developmental Disabilities Program*
45 CFR § 1326 *Formula Grant Programs*
45 CFR § 75 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements For HHS Awards*
ACL issued Notice of Award

BACKGROUND:

The purpose of this Information Memorandum (IM) is to update previous guidance released through AIDD-IM-19-01.

DISCUSSION:

The Developmental Disabilities Assistance and Bill of Rights (DD Act) of 2000 (42 USC § 15001 et seq.) authorizes State Councils on Developmental Disabilities (SCDDs) and the Protection & Advocacy Systems (P&A) for Individuals with Developmental Disabilities (PADD) grant programs. New regulations to implement the changes made by the reauthorization of the DD Act were issued in July 2015 and can be found in 45 CFR §§ 1325-1328. Effective with Federal fiscal year (FFY) 2015 awards, ACL implemented the uniform administrative requirements, cost principles, and audit requirements found in 45 CFR § 75. Please note that while this IM provides updates with current law, regulations, and policies, the requirements of the SCDD and PADD programs remain unaltered with respect to the obligation and liquidation of awarded funds and the date of completion of authorized work. It is noted that 42 USC § 15002 also defines “State” as, “except as otherwise provided, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”

The DD Act regulations published in 45 CFR § 1326.2 and 45 CFR § 1326.3 clarify the States' responsibilities for the obligation and liquidation of Federal funds. 45 CFR § 75.2 defines several key terms related to the obligation and liquidation of Federal grant funds, including:

- **Obligations** “when used in connection with a non-Federal entity's utilization of funds under a Federal award, means orders placed for property and services, contracts and sub awards made, and similar transactions during a given period that requires payment by the non-Federal entity during the same or a future period.”
- **Project Costs** are “total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.”
- **Period of Performance** (also referred to as Project Period) is “the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award.”
- **Unliquidated obligations** “means for financial reports prepared on a cash basis, obligations incurred by the non-Federal entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the non-Federal entity for which an expenditure has not been recorded.”
- **Unobligated balance** is “the amount of funds authorized under a Federal award that the non-Federal entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-Federal entity's unliquidated obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the Federal awarding agency or pass-through entity authorized the non-Federal entity to obligate.”

The key DD Act regulatory references for SCDD and PADD obligation and liquidation requirements include:

- **Obligation** – Funds which the Federal Government allots during a Federal fiscal year are available for obligation by States for a two-year period beginning with the first day of the Federal fiscal year in which the grant is awarded. (45 CFR § 1326.2(a))
- **Liquidation** – All obligations incurred pursuant to a grant made under the Act for a specific FFY must be liquidated within two years of the close of the Federal fiscal year in which the grant was awarded. (45 CFR § 1326.3(a))

The current SCDD and PADD program regulations provide an opportunity for States to request a waiver of the two-year liquidation time requirement if (a) the State law impeded implementation of the requirement, or (b) the amount of obligated funds to be liquidated is in dispute (45 CFR § 1326.3(b)). Additionally, if there is a Presidentially declared disaster that prevents a grantee from meeting the liquidation deadline, the grantee should immediately submit a request for a

liquidation waiver to their AoD Project Officer. Guidance on submitting a liquidation waiver is outlined in ACL-AoD-PI-2024-01

If a grantee requests and receives a no-cost extension, ACL will issue an updated Notice of Award extending the award project period. This project period extension will have no impact on the obligation or liquidation deadlines. The extension will provide grantees more time to implement the project activities, but no additional time will be granted to obligate funds. No obligations may occur after two years, and all funds must be liquidated by the end of third year.

45 CFR § 1326.32(a) and 45 CFR § 1326.22(b) establish semiannual financial reporting requirements for the SCDD and PADD programs. ACL will implement the semiannual requirement by obtaining a written or verbal financial update and one formal financial report (SF-425) each fiscal year. The written or verbal financial update will be obtained by ACL around the mid-period of the Federal fiscal year. The formal financial report (SF-425) will be submitted annually for the period ending September 30th.

Grantees will report on obligated and liquidated amounts in the Federal Financial Report (FFR or SF-425). Each award requires the three FFR submissions: (1) Annual (end of first year), (2) Annual (end of second year), and (3) Final (end of third year).

- In the second annual FFR (end of second year), grantees will record their award obligations in line 10g (*Total Federal Share*). The amount recorded in line 10g represents the amount of award funds obligated by the two-year obligation period deadline. If the grantee failed to obligate award funds within two years, the unobligated balance will be recorded in line 10h (*Unobligated Balance of Federal Funds*). The amount recorded in line 10h will be deobligated by ACL and an updated Notice of Award will be issued. Any award funds not obligated within two years and drawn from the Payment Management System (PMS) will be subject to repayment.
- In the Final FFR (end of third year), grantees shall provide a final reconciliation of award accounting. The amount recorded in line 10g of the Final FFR should never exceed the line 10g amount from the second annual FFR. If a grantee fails to liquidate funds by the end of the third year, the unliquidated amount should be recorded in line 10h. All PMS disbursements must be completed by the end of third year (liquidation deadline). Any funds drawn down after the third-year end date will be subject to repayment.

DECISION:

This document updates the guidance provided in AIDD-IM-19-01. ACL will implement this policy and accompanying compliance approaches in two phases:

1. For the period ending September 30, 2024, ACL will review FFR submissions and provide technical assistance to grantees if non-compliance concerns are identified.
2. For the period ending September 30, 2025, ACL will review FFR submissions and begin taking actions to address non-compliance such as deobligation of award funds that have not been obligated by end of year two.

ACL will provide training on these requirements during FY 2024 and provide technical assistance support to SCDD and PADD awardees that displayed potential non-compliance concerns in past FFR submissions.

FOR MORE INFORMATION:

For more information, please contact Allison Cruz at Allison.Cruz@acl.hhs.gov.

Sincerely,



Jennifer Johnson
Deputy Commissioner
Administration on Disabilities

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Emmanuel Ekwo

Director

Office of Fiscal Operations

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