



Advancing independence and inclusion of older adults and people with disabilities

Program Instructions

ACL-AoD-PI-2024-1

Issued: May 8, 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:

Updated Instructions - Liquidation waiver process, eligibility, and process for unliquidated obligations at the end of the liquidation period for State Councils on Developmental Disabilities (DD Councils or SCDD) and Protection & Advocacy (P&A) grant awards

Legal and Related References:

42 USC § 15001 et seq. Developmental Disabilities Assistance and Bill of Rights Act of 2000
45 CFR § 1326.2 Obligation of Funds
45 CFR § 1326.3 Liquidation of Obligations
ACL issued Notice of Awards

Related Information Memorandum:

ACL-AoD-IM-2024-1: Administrative Requirements of Federal Grant Funds pertaining to Obligation, Liquidation, and Date of Completion of Work Authorized

Background:

The purpose of this Program Instruction (PI) is to update previous instructions released in AIDD-PI-19-01.

Discussion:

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) provides State Councils on Developmental Disabilities (SCDDs) and the Protection & Advocacy Systems (P&A) for Individuals with Developmental Disabilities (PADD) annual mandatory grant awards with a three-year timeline. Grantees have a two-year period to obligate funds starting from the first day of Federal fiscal year (FFY) in which the award was issued (45 CFR § 1326.2(a)). Grantees receive an additional year (third year) to liquidate and close out the grants (45 CFR § 1326.3(a)). The liquidation period,

for DD Council and P&A grantees, is the timeframe when all obligations made within the obligation period must be liquidated. Grantees may only use award funds to pay for expenses incurred and activities completed within the applicable project period.

In prior fiscal years, ACL applied the DD Act obligation and liquidation requirements to the Protection & Advocacy for Traumatic Brain Injury (PATBI) and Protection & Advocacy for Assistive Technology (PAAT) grant programs even though they are authorized under different statutes. Starting with FFY 2023 PATBI and PAAT awards, ACL has removed the DD Act obligation and liquidation requirements and requests you review your Notice of Awards for the updated project period, obligation, and liquidation requirements.

Please note that these updated instructions use the definition of “State” found in the DD Act. Under that definition State “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.” (42 USC § 15002(28)).

Liquidation Waiver:

A liquidation waiver may be issued for the liquidation of specific obligations; all other liquidations must be completed by the end of the FFY (September 30th of the third year), as required by statute and programmatic regulations. Liquidation waivers are not designed to be annual requests and should be utilized in the limited circumstances described below. Repeated annual requests for liquidation waivers could lead to denial of liquidation waiver requests. The DD Act program regulations (45 CFR § 1326.3(b)) allow for liquidation waivers of federal funds at the discretion of the Secretary of the U.S. Department of Health & Human Services or his/her designee, in the following circumstances:

- When State law impedes liquidation, or
- The amount of funds to be liquidated is in dispute.

The Administration on Disabilities (AoD) will also consider a liquidation waiver request when there is a Presidentially declared disaster that prevents a grantee from liquidating funds.

AoD notes that a State having a different fiscal year than the FFY is not a valid request for a liquidation waiver.

Liquidation Waiver Conditions for Eligibility:

1. One of the below circumstances is met:
 - i. State law is impeding the liquidation of funds; or
 - ii. The amount of funds to be liquidated is in dispute; or

- iii. A Presidentially declared disaster prevents the grantee from meeting liquidation deadline, as approved by the Secretary of the U.S. Department of Health & Human Services or his/her designee.
- 2. Liquidation waivers will only be considered for grant awards in the final FFY (third year).
- 3. Liquidation waivers will be for liquidation purposes only, and not for purposes of obligating funds or implementing activities.
- 4. All SF-270 and SF-425 financial reports must be current and submitted in the required format.
- 5. All State Plans/Statements of Goals and Priorities (SGPs), amendments, and programmatic reports due before the liquidation waiver request deadline must be submitted in the required reporting format.
- 6. If the SF-270s, SF-425s, State Plans/SGPs, amendments, and programmatic reports are not current, the liquidation waiver cannot be processed.

Instructions for Submitting a Liquidation Waiver Request:

- 1. The request for a waiver must be received by the AoD Project Officer no later than 60 calendar days (August 1st) before the end of the FFY for which the request is made. If 60 calendar days falls during a non-business day, the due date is the closest preceding business day by 11:59 P.M. eastern time.
 - a. Requests received past this deadline will not be considered.
 - b. However, 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.
- 2. The waiver request must be an official letter on grantee letterhead, scanned, and sent via email to the AoD Project Officer.
- 3. The waiver request must be signed by:
 - a. Executive Director of the SCDD and Designated Stated Agency (DSA) for SCDDs; or
 - b. Executive Director of the SCDD in cases that the SCDD is its own DSA; or
 - c. Executive Director of the P&A grant program for P&As.
- 4. The waiver request must indicate that it has also been sent to:
 - a. The Chair of DD Council (for DD Councils), or
 - b. The Chair of the P&A Governing Board (for P&As).
- 5. The waiver request must include:
 - a. The ACL grant number;
 - b. The original date of the obligation(s) of funds with supporting documentation attached to demonstrate date of obligation(s);
 - c. The total amount that needs to be liquidated; and
 - d. Justification with documentation as to how:
 - i. State law is impeding the liquidation of funds; or
 - ii. The amount of funds to be liquidated is in dispute; or
 - iii. A Presidentially declared disaster prevents the grantee from meeting liquidation deadline.

- e. Expected date of liquidation.

Federal Review Process:

1. AoD Project Officers will ensure that liquidation waiver requests are received no later than 60 calendar days (August 1st) before the end of the FFY for which the request is made. If 60 calendar days falls during a non-business day, the due date is the closest preceding business day by 11:59 P.M. eastern time.
 - a. Requests received past this deadline will not be considered, except in the instance described in 1(b).
 - b. However, 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.
2. AoD Project Officers will acknowledge receipt of Liquidation Waiver request.
3. AoD Project Officers will determine eligibility, based on the above requirements, and make recommendations to the Secretary of the U.S. Department of Health & Human Services or his/her designee per 45 CFR § 1326.3.
4. AoD Project Officers will notify grantees if the required documentation is incomplete.
5. Grantees will have a time limited opportunity to submit corrected and/or completed documents as determined by AoD.
6. AoD Project Officers will notify grantees:
 - a. If the liquidation waiver has been approved or denied;
 - b. If approved, the deadline for the approved liquidation waiver; and
 - c. Conditions of the waiver, if any.
7. All other grant liquidations must occur by the liquidation deadline, which is the end of the FFY (September 30th) two FFY years after the grant was awarded (45 CFR § 1326.3(a)).
8. If the liquidation waiver is not approved, funds will not be available after September 30th, of the FFY for liquidation and the grantee is responsible for meeting obligations.

FOR MORE INFORMATION:

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

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Administration on Disabilities
Administration for Community Living

cc: David Jones, Director, Office of Intellectual and Developmental Disabilities
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