



## ***DD Council Facts and Considerations in Becoming a Non-Profit***

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Currently there are three DD Councils which have 501(c) (3) Non-profit status; Florida, Montana and Rhode Island.

### **History:**

Florida was the first Council to receive non-profit status; then Montana and Rhode Island. When Montana and Rhode Island became non-profit organizations, AIDD required both DD Councils to have a DSA. Currently the DSA for Montana is the Department of Commerce and Rhode Island's DSA is the University of Rhode Island (NOT the UCEDD).

### **What Being Your Own Non-Profit Entails:**

DD Councils that serve as their own DSA need to assume ALL the roles and responsibilities of the DSA as outlined in the DD Act. This means the DD Council will account for, disburse report, assume match responsibilities, and ensure all elements of the assurances are met. In addition, the DD Council would handle all accounting, payroll, human resource, contracting, invoicing, legal service needs, budgeting, compliance with vendor rules, personnel and other services typically undertaken in state government. It is important to note that just because a DD Council is its own DSA; it does not mean the DD Council does not have to follow all applicable state and federal laws, policies and procedures. The DD Act requires the DD Council to do so. This may also include contracting and RFP processes.

### **Next Steps Nationally:**

Always have a conversation with AIDD before moving forward with non-profit status. They will provide direction on the current policies and what is required regarding a designated state agency.

In the past, DD Councils that desired becoming a non-profit needed to communicate directly with the AIDD Commissioner and AIDD DD Council Project Officer to request approval for the DD Council to move forward with the pursuit of becoming a non-profit.

### **Next Steps Locally:**

After speaking with AIDD, the DD Council will have a clearer understanding of how to proceed. The State is the only one who can change the designation in the state/territory. The DD Act indicates the State "shall" appoint a Designated State Agency to support the Council. Typically, the DSA designation is handled through the authorizing document for the Council, either an Executive Order issued by the

Governor, or through State statute created by a legislative body. Therefore, neither the DD Council nor the DSA has the sole authority to terminate their current DSA status.

**Other Considerations Regarding DD Council Independence:**

Currently, 10 DD Councils are their own DSA (this includes the 3 nonprofit organizations) and a total of 46 DD Councils have a DSA.

If a DD Council is seeking a new DSA, the new DSA cannot provide for or pay for services for people with developmental disabilities (this does not apply if the DD Council is named as the DSA). Sometimes this mandate limits the agency choices if a DD Council is looking for another state agency to serve in this role). If the DD Council's current DSA is "grandfathered in" on this mandate then it can remain as the DSA. To be "grandfathered in" the DSA must have been named before 1994 and be a service providing agency.

Often reviewing a current or establishing a new memorandum of understanding (MOU) can establish clear guidance on the roles and responsibilities between the DD Council and DSA. This may assist in issues around non-interference and allow for autonomy.

Without the DSA, many fiscal burdens are shifted to the DD Council which may take away from other budgeted areas. Also, with potential delays in appropriations, the financial responsibility to carry costs without immediate reimbursement falls to the DD Council.

Many DD Council staff members are state employees. By becoming its own non-profit the DD Council staff is no longer state employees and potentially lose the benefits of a state employee. However, with the independence of being a non-profit a DD Council often has greater discretion regarding the staff position descriptions and salaries. Similar to hiring practices, the DD Council may have more discretion in termination processes as well.

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