

April 6, 2018

AIDD – PI – 18 – 01: Cooperative Effort Between States and State Councils on Developmental Disabilities

To:

Directors, Designated State Agencies
Directors, State Councils on Developmental Disabilities
National Association of Councils on Developmental Disabilities

Subject:

Memoranda of Understanding and Cooperative Efforts Between States and State Councils on Development Disabilities

Legal and Related References:

Public Law 106-402, Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002 et seq) & 45 CFR 75.33.

Content:

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) allows State Councils on Developmental Disabilities (SCDDs) to enter into interstate collaborations/cooperative efforts and Memorandum of Understandings (MOU) with each other under Section 122(d) of the DD Act. The Administration on Intellectual and Developmental Disabilities (AIDD) at the Administration for Community Living (ACL) has had a number of inquiries regarding how to establish a cooperative effort or MOU between SCDDs following the number of natural disasters that occurred in the fall of 2017.

ACL and AIDD reaffirm that the Designated State Agency (DSA) of the SCDD, if other than the SCDD, is the legal awardee for SCDD funds (Sec. 125(d)(C) of the Act) and SCDDs have the ability to make grants, contracts, and other financial agreements as defined in the DD Act. ACL reminds DDCs of the responsibilities and requirements of awarding grants, contracts, or entering into collaborations which can be found in 45 CFR 75.353.

As required in 45 CFR 75.33, SCDDs must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and terms and conditions of the subaward and are required to "monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and terms and conditions of the subaward." Monitoring practices must include reviewing financial and performance reports and "following-up and ensuring that the subrecipient takes timely and

appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.”

SCDDs should be aware of the financial status of all organizations it enters into financial agreements with, including other SCDDs. SCDDs should make themselves aware of the financial status of the SCDD that is originating the request for the MOU or receiving the majority of funds.

If the receiving SCDD is not compliant with federal and state spending requirements, the DSAs and SCDDs that participate in the funding of the collaboration are liable for any inappropriate or non-timely use of funds and could risk future programmatic funds.

All SCDDs participating in the collaboration or MOU must identify which part of their State Plan goals and activities the collaboration or MOU will be carried out under. State Plans can be changed through the State Plan amendment process that is identified in the DD Act and associated rule.

Financial and Reporting Requirements of SCDD that is identified as originator/beneficiary of MOU or receives majority of collaborative funds:

- A. Receive, account for and disburse funds in accordance with the state and federal law and as authorized by designated staff, or otherwise initiate charges or expenses against funds available to receiving SCDD without specific authorization in advance by receiving SCDD from participating SCDDs.
- B. Provide the fiscal controls and fund accounting procedures necessary for proper disbursement of and accounting for SCDD funds as required by federal and state laws.
- C. Prepare financial reports regarding expenses using SCDD funds and submit to all participating SCDDs and the project staff at the Administration on Intellectual and Developmental Disabilities.
- D. Receiving SCDD develops performance measures for use of funds.
- E. SCDD Tracks and report on populations served, community based activities, and lessons learned.
- F. A beginning and end date of the MOU/collaboration shall be included with the ability to opt out by the SCDDs that are financially participating.

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