



## Five simple steps to ensure state award compliance

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The Ohio Attorney General's 2014 Annual Report, which reviews compliance with grant, tax credit and loan agreements that "matured" during the previous year, highlights the Ohio Development Service Agency's (OSDA) achievement of a higher compliance rate among state award recipients. The report announced that 70.6 percent of the awardees fulfilled their agreements and met certain performance metrics, such as creating or retaining jobs, training workers or maintaining a certain employee hourly wage. With the 2012 and 2013 compliance rate hovering around 50 percent, this is the highest success rate in years.

According to OSDA Director David Goodman, the increase in compliance can be attributed to the streamlining and strengthening of OSDA remedial actions and clawback processes. Additionally, the 2014 annual report verification process to validate company data was improved. Stronger monitoring has diminished noncompliance. For example, in 2013 seven companies failed to file their closeout reports, causing automatic noncompliance. In 2014, only three of the 255 companies reviewed failed to file.

With the OSDA's strengthened emphasis on monitoring and its proactive approach to agreement compliance, it is important for companies who are receiving grant money, tax credit or special loans to take a smart, preemptive approach to their compliance. The following tips help companies ensure the success of their state awards:

1.    ◦ **Know what's in your award agreement.**

It's important to have multiple people within an organization who are aware of and monitoring compliance or enlist the help of outside experts to do so. Often, companies negotiate for assistance in the heat of a business expansion or relocation and then file away the award agreements without monitoring their performance. Or one or more employees involved in the negotiations move on to other jobs, and no one knows what promises the company has made.

◦ **File the annual report.**

Each year, companies are required to advise ODSA of their progress in meeting performance metrics. Each company needs to annually review what it has agreed to do and thoroughly complete the annual report. Once the ODSA receives annual metrics, it can help if the company is struggling.

◦ **Communicate with ODSA.**

If a company discovers that its metrics are off track when preparing its annual reports, individuals from the company should communicate with ODSA, so the agency can offer assistance.

◦ **Negotiate with ODSA.**

If a company concludes it cannot meet standards set in the original agreement, individuals from the company, or hired external experts, can negotiate with the ODSA for resolution. The resolution may include a finding of "substantial compliance" with no penalty, a continuance of the award agreement with reduced benefits (less tax exemption), an agreed termination of an award agreement or a repayment of benefits (clawbacks) at a reduced, negotiated rate. In this case, proactivity is key to a favorable outcome.

◦ **File the Closeout Report.**

Filing a closeout report is a simple step toward compliance. If a company fails to file its closeout reports, the result is an automatic finding of noncompliance by the Attorney General, even if the company has met all of the seemingly more important metrics, such as job creation or retention.

# Authors

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