

HIV/AIDS Bureau

Policy Notice - Notice 12-02 - Part A and Part B Unobligated Balances and Carryover Provisions

Dear Part A and Part B Ryan White HIV/AIDS Program Grantees:

Part A and B funds awarded under the Ryan White HIV/AIDS Program are subject to unobligated balances (UOB) provisions contained in Title XXVI of the Public Health Service (PHS) Act. The Health Resources Services Administration's (HRSA) HIV/AIDS Bureau (HAB) provides the enclosed Policy Notice 12-02 regarding UOB provisions and how they relate to permissible carryover of grant funds per statute.

Moreover, Policy Notice 12-02 explains the UOB requirements and potential penalties imposed on grantees that do not comply with the requirements contained in sections 2603(c) and 2622 of the PHS Act, **Timeframe for Obligation and Expenditure of Grant Funds** effective September 30, 2009. Prior Policy Notice 10-01 has been revised to clarify the required time-frame for the reporting and use of UOB and the interaction between UOB and carryover.

This is a deviation from the language reflected in the Funding Opportunity Announcements (FOA) Part A HIV Emergency Relief Grant Program: HRSA-12-128, and Part B State/Territories Formula & AIDS Drug Assistance Program (ADAP) Supplemental Awards: HRSA-12-132 published August 20, 2011, and August 18, 2011, respectively. After a review of the language reflected in the two FOAs regarding the freezing of FY 2011 funds with the Division of Payment Management (DPM), HRSA has determined that the date be changed from September 1 to October 1 for this process. This is with the understanding that the final FFR submitted on or before July 30 be reconciled with the grantee Payment Management System account.

Due to the importance of the revised UOB reporting requirements, HAB will provide, in addition to this mailing, technical assistance to grantees regarding unobligated balances and carryover of grant funds.

If you have any questions regarding the content of this HAB Policy Notice, please contact your project officer. Thank you for your attention to this important matter.

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Attachments

- #1 Part A Grantees
- #2 Part B Grantees
- #3 Examples
- #4 Timelines

Policy Notice 12-02: Part A and Part B Unobligated Balances and Carryover Provisions

The purpose of all Ryan White HIV/AIDS Program funds is to ensure that eligible HIV-infected persons and families gain and/or maintain access to medical care. In accordance with the provisions of Title XXVI of the Public Health Service (PHS) Act, the following policy establishes guidelines for the unobligated balances (UOB) provisions affecting grantees under Parts A and B, including eligible metropolitan areas (EMAs), transitional grant areas (TGAs), States and United States Territories. It also explains the interaction between the UOB provisions and permissible carryover of grant funds.

Part A

Formula Funds

The Ryan White HIV/AIDS Program legislation requires that before the end of each grant year, a waiver to request carryover of unobligated formula funds is necessary regardless of the amount of remaining funds. A carryover waiver application, together with the estimated UOB, must be submitted to HRSA/HAB before the end of the grant year stating the purpose for which such funds will be expended during the carryover year. Once approved, carryover permits unobligated funds from one grant year to be added to funds in the following grant year.

Part A grantees must submit a waiver/carryover request **NO LATER THAN DECEMBER 31 OF EACH YEAR (with an automatic extension to the first workday following December 31, should it be a weekend or holiday). Failure to submit a timely carryover request and estimated UOB to HRSA will result in a grantee being ineligible to receive Ryan White HIV/AIDS Program Part A formula carryover funds.** If a grantee does not submit a carryover request by December 31 because there is no anticipated UOB, and then later identifies and reports Part A formula UOB on the final Federal Financial Report (FFR), the grantee is **not** eligible to submit a final Ryan White HIV/AIDS Program Part A carryover request, and no such request will be honored. If a waiver for carryover is approved, and, if at the end of the grant year, funds remain unobligated, the grantee can expend the approved UOB in accordance with the approved carryover waiver application.

The exact amount of unobligated funds must be reported on an FFR due annually **on JULY 30** after the end of the grant year. **NO EXTENSIONS WILL BE GRANTED FOR LATE SUBMISSION OF THE FINAL FFR.** In addition, the grantee must submit a final carryover request with their final FFR or within 30 days of submitting the final FFR, containing the actual amount of UOB.

The timely submission of the final FFR is of critical importance to the successful administration of the Ryan White HIV/AIDS Program. Final FFRs are used by

HRSA/HAB to calculate statutory penalties; those penalties result in changes to the amounts of supplemental funds available for award in a subsequent fiscal year. Therefore, no final FFRs will be accepted after the due date of July 30, and grantees are put on notice that HRSA/HAB will utilize the grant balances available in the payment management system as of July 30 for the calculation of penalties. While UOB penalties are specific to UOB that exceeds five percent of the formula award, all grantees with UOB are subject to offset. An offset is a process in which reported unobligated funds that have not been approved for carryover are deobligated and utilized for future year supplemental awards, and the same amount of a grantee's UOB is reduced from the future year award.

Note that the carryover formula funds will be used in the year prior to the offset, reduction, and ineligibility, as those penalties cannot be taken until after the final FFR is submitted. A timeline that demonstrates the interactions between the grant years is included as Attachment #4.

For a complete flowchart detailing Part A Grantees and UOBs, see Attachment #1

UOB Penalties

If unobligated balances of formula award exceed five percent, two penalties are imposed:

1. Future year award is reduced by amount of UOB less the amount of approved carryover; and
2. The grantee is not eligible for a future year supplemental award

NOTE that like all other grantees with UOB, the amount of UOB not covered by a waiver for carryover is subject to an offset, described above.

If the grantee reports unobligated formula funds of five percent or less, no penalties are imposed, although a future year award will be subject to offset. Please see the examples in Attachment #3.

Supplemental Funds

Under the Ryan White HIV/AIDS Program legislation, the Secretary has flexibility regarding supplemental funds. Grantees may not submit a carryover request for supplemental funds, which would permit those funds to be added to the subsequent grant year. Instead, UOB supplemental funds are subject to an offset. UOB supplemental funds do not make a grantee ineligible for a future year supplemental award.

Note that utilization of unused supplemental funds and the corresponding reduction will take place in the same grant year; as such actions are based on the final FFR due annually July 30 after the end of the grant year. **NO EXTENSIONS WILL BE GRANTED FOR LATE SUBMISSION OF THE FINAL FFR.**

Minority AIDS Initiative and Supplemental Funds

The unobligated balance provision does not apply to funds granted through the Minority AIDS Initiative (MAI) under section 2693 of the PHS Act. All grantees must track MAI funds separately and may request carryover of MAI funds to address the disproportionate impact of HIV/AIDS on racial and ethnic minorities.

Part B

The UOB Policy for Part B Formula, Supplemental and MAI funds is identical to the policy for Part A (see attachments), except that Part B grantees must submit a waiver and estimated carryover request **NO LATER THAN JANUARY 31 OF EACH YEAR**. Part B formula funds include the Part B Base and ADAP earmark formula awards; and supplemental funds include the ADAP Supplemental, Emerging Communities and Part B Supplemental awards. In addition, the following policy applies:

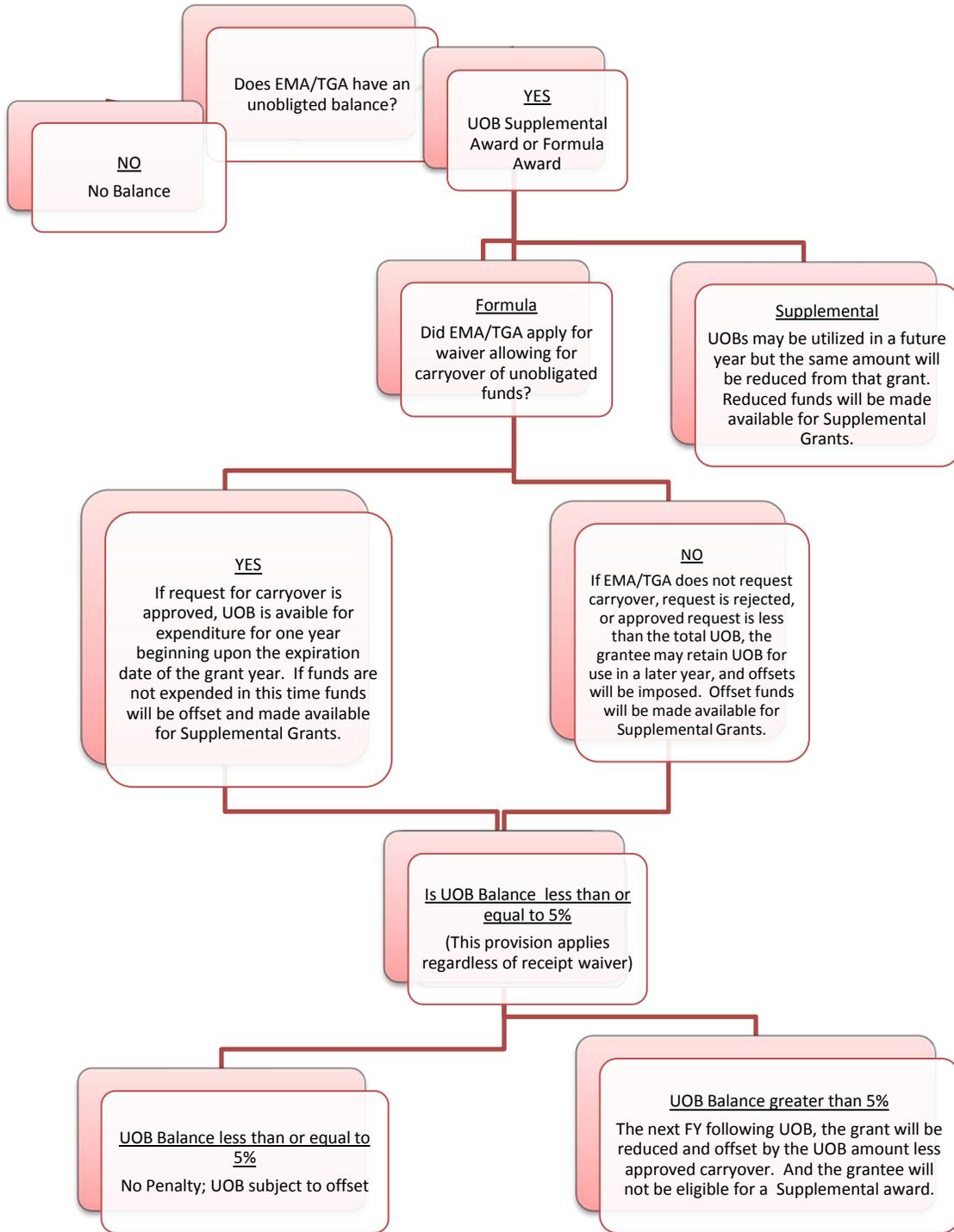
Drug Rebates

The unobligated balance provision does not apply to funds from drug rebates under Part B. By law, drug rebate amounts are not considered part of the grant award and are not subject to the unobligated balances provisions. **Rebate funds should never be recorded as UOB on any FFR.** Rebates should be accounted for on the FFR not on line 10b. Instead, the total amount of rebates received during the reporting period should be identified under line 12 Remarks with attachment(s) as necessary. In accordance with 45 CFR section 92.21(f)(2), grantees must disburse rebates, and any earned interest on them, prior to requesting additional payments under their grant award. However, the Ryan White HIV/AIDS Program legislation has a specific exemption from the UOB penalties provision when grantees are unable to obligate grant funds because rebate funds must be obligated first. Grantees that would otherwise incur a penalty may request that the amount of the UOB equal to the amount of obligated rebate funds be carried forward to the next budget period without penalty. Such a request should accompany the final FFR and final carryover request due July 30, and no later than August 30. Any grantee that fails to request an adjustment based on rebate expenditures will be subject to the full UOB penalty.

For a complete flowchart detailing Part B Grantees and UOBs, see Attachment #2

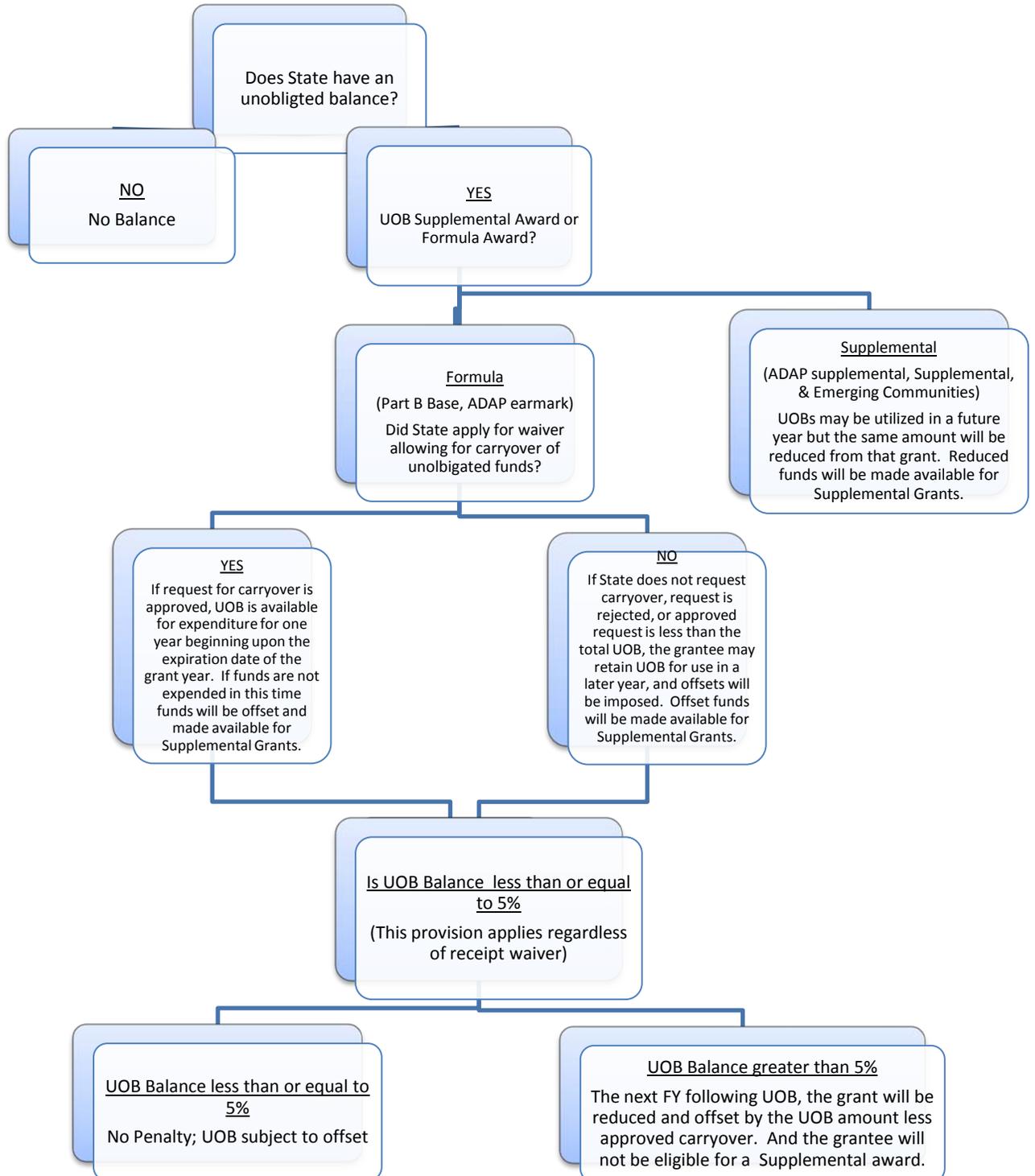
Part A Grantees

Attachment #1



Part B Grantees

Attachment # 2



Attachment #3

Examples

Examples of how the UOB penalties and carryover will apply in specific instances (note that the examples are based on the Part A funding cycle):

Example 1:

- Grantee X is awarded \$1.0 million for grant period March 1, 2010 – February 28, 2011.
- On or before December 31, 2010, Grantee requests a waiver and carryover of an estimated \$50,000 (FY 2010 into FY 2011), which is approved. The \$50,000 must be expended by February 28, 2012.
- Grantee submits a final FFR on July 30, 2011, that indicates a UOB for formula funds in the amount of \$50,000, which is 5 percent of the grant.
- Penalties imposed:
 - None. The grantee is not subject to any penalties because the amount of formula UOB is 5 percent or less of the grant, regardless of request and approval for carryover.

Example 2:

- Grantee X is awarded \$1.0 million for grant period March 1, 2010 – February 28, 2011.
- On or before December 31, 2010, Grantee requests a waiver and carryover of an estimated \$80,000 (FY 2010 into FY 2011), which is approved. The \$80,000 must be expended by February 28, 2012.
- Grantee submits a final FFR on July 30, 2011, that indicates a UOB for formula funds in the amount of \$80,000, which is greater than 5 percent of the grant.
- Penalties imposed:
 - Future year award (March 1, 2012 – February 28, 2013) will be reduced by the amount of UOB less the amount of approved carryover: \$0;
 - Future year (March 1, 2012 – February 28, 2013) ineligible for supplemental award
- In addition, future year award (March 1, 2012 – February 28, 2013) will be offset by the amount of the UOB less the amount of approved carryover: \$0.

Example 3:

- Grantee X is awarded \$1.0 million for grant period March 1, 2010 – February 28, 2011.
- On or before December 31, 2010, Grantee requests a waiver and carryover of an estimated \$50,000 in unobligated funds (FY 2010 in to FY 2011), which is approved. The \$50,000 must be expended by February 28, 2012.
- Grantee submits a final FFR on July 30, 2011 that indicates a UOB for formula funds in the amount of \$80,000 which is greater than 5 percent of the grant. The amount approved for carryover remains \$50,000.

- Penalties imposed:
 - Future year award (March 1, 2012 – February 28, 2013) is offset by the amount of UOB less the amount of approved carryover: \$30,000;
 - Future year award (March 1, 2012 – February 28, 2013) is reduced by the amount of UOB less the amount of approved carryover: \$30,000;
 - Future year (March 1, 2012 – February 28, 2013) ineligible for supplemental award.
 - Because some of the UOB was not approved for carryover, expenditure of that portion is the same as with supplemental funds: the grantee may use the funds in a future year (March 1, 2012 – February 28, 2013), but the funds must be offset by the same amount, and the offset will be added to that same year’s supplemental pool of funds.

Example 4:

- Grantee X is awarded \$1.0 million for grant period March 1, 2010 – February 28, 2011.
- Grantee does not anticipate a need for carryover, and does not submit any waiver or estimated carryover request as of December 31, 2010.
- Grantee submits a final FFR on July 30, 2011 that indicates a UOB for formula funds in the amount of \$50,000, which is 5 percent of the grant.
- Penalties imposed:
 - None. The grantee is not subject to any penalties because the amount of formula UOB is 5 percent or less of the grant, regardless of request and approval for carryover.
 - Because the UOB was not approved for carryover, expenditure is the same as with supplemental funds: the grantee may use the funds in a future year (March 1, 2012 – February 28, 2013), but the funds must be offset by the same amount, and the offset will be added to that same year’s supplemental pool of funds.

Supplemental Funds

- Grantee X is awarded \$1.0 million for grant period March 1, 2010 – February 28, 2011.
- Grantee reports UOB supplemental funds on a final FFR submitted July 30, 2011; the grantee may retain those funds for use in the next following grant year, March 1, 2012 – February 28, 2013.
- That same future grant year’s supplemental award (March 1, 2012 – February 28, 2013) will be reduced by the amount of the UOB supplemental funds.

Attachment #4

Timelines

Part A:

- March 1: Grant year 1 begins.
- December 31: Grantee submits grant year 1 waiver request and estimated carryover request, including intended use of funds. IF NOT SUBMITTED, NO CARRYOVER WILL BE PERMITTED.
- February 28: Grant year 1 ends.
 - March 1: Grant year 2 begins.
- July 30: Grantee submits grant year 1 final FFR and final carryover request. NO EXTENSIONS.
- October 1: HRSA/HAB finalizes grant year 1 carryover requests, both approvals and denials, and calculates penalties.
 - December 31: Grantee submits grant year 2 waiver request and estimated carryover request, including intended use of funds. IF NOT SUBMITTED, NO CARRYOVER WILL BE PERMITTED.
 - February 28: Grant year 2 ends.
 - March 1: Grant year 3 begins; funds available for supplemental awards include penalties calculated from grant year 1.
 - July 30: Grantee submits grant year 2 final FFR and final carryover request. NO EXTENSIONS.
 - October 1: HRSA/HAB finalizes grant year 2 carryover requests, both approvals and denials, and calculates penalties.
 - December 31: Grantee submits grant year 3 waiver request and estimated carryover request, including intended use of funds. IF NOT SUBMITTED, NO CARRYOVER WILL BE PERMITTED.
 - February 28: Grant year 3 ends.
 - March 1: Grant year 4 begins; funds available for supplemental awards include penalties calculated from grant year 2.

Part B:

- April 1: Grant year 1 begins.
- January 31: Grantee submits grant year 1 waiver request and estimated carryover request, including intended use of funds. IF NOT SUBMITTED, NO CARRYOVER WILL BE PERMITTED.
- March 31: Grant year 1 ends.
 - April 1: Grant year 2 begins.
- July 30: Grantee submits grant year 1 final FFR and final carryover request. NO EXTENSIONS.
- October 1: HRSA/HAB finalizes grant year 1 carryover requests, both approvals and denials, and calculates penalties.
 - January 31: Grantee submits grant year 2 waiver request and estimated carryover request, including intended use of funds. IF NOT SUBMITTED, NO CARRYOVER WILL BE PERMITTED.
 - March 31: Grant year 2 ends.
 - April 1: Grant year 3 begins; funds available for supplemental awards include penalties calculated from grant year 1.
 - July 30: Grantee submits grant year 2 final FFR and final carryover request. NO EXTENSIONS.
 - October 1: HRSA/HAB finalizes grant year 2 carryover requests, both approvals and denials, and calculates penalties.
 - January 31: Grantee submits grant year 3 waiver request and estimated carryover request, including intended use of funds. IF NOT SUBMITTED, NO CARRYOVER WILL BE PERMITTED.
 - March 31: Grant year 3 ends.
 - April 1: Grant year 4 begins; funds available for supplemental awards include penalties calculated from grant year 2.