

**CHAPTER 8  
MONITORING**

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## CHAPTER 8 MONITORING

To fulfill its administrative responsibilities, the Office of Community Renewal (OCR) will monitor the program activities of Recipients sometime during the term of the grant agreement. Monitoring is the mechanism by which OCR provides administrative oversight to Recipients. Monitoring serves several purposes for both the state and Recipients. First, monitoring is the primary means by which OCR carries out its program management responsibilities including ensuring that funds are expended in a timely manner for the purpose for which they were made available; ensuring that programs are carried out in accordance with applicable laws, rules, and regulations; and minimizing opportunities for fraud, waste, and mismanagement.

Monitoring activities also assist Recipients in systematically assessing the progress of their program, identifying obstacles to successful program implementation and alternatives or solutions to problems. Therefore, monitoring is an important part of OCR's effort to work with communities in a cooperative manner toward common objectives. Whenever possible, deficiencies are corrected through discussion, negotiation, or technical assistance and in a manner which preserves local discretion.

Recipients and sub-recipients are responsible for administering their NYS CDBG projects in accordance with all applicable state, federal and program requirements. In addition to OCR's monitoring of the program, Recipients of NYS CDBG funds have the responsibility to ensure that sub-recipients are carrying out their projects in accordance with these requirements.

### I. RECIPIENT MONITORING

To demonstrate compliance with applicable requirements, implement a successful program and enable self-monitoring, Recipients must maintain accurate records. Chapter 6, File Maintenance of this manual is a good guide to help you meet the record retention requirements and to prepare your files for a monitoring visit. **Such records must be maintained in the offices of the Recipient.** Remember that NYS CDBG files are public records and anyone wishing to view your files has the right to do so. Incomplete files can prompt legal disputes and forfeiture of funds.

**Since our monitoring analysis is based on the review of maintained files, it is imperative that each Recipient establish an effective file-keeping system. In addition, record keeping is a requirement governed by the Code of Federal Regulations, which states that files must be sufficient to facilitate reviews and audits to determine compliance. In light of these requirements, we have included a section on file maintenance in the manual.**

It is OCR's policy to conduct all monitoring activities in a positive, helpful manner. The monitoring system adopted by OCR is designed not as a means of levying sanctions on grant Recipients, but rather to identify concerns and problems in order to assist Recipients in solving problems and completing projects in accordance with all program requirements. If

the problems cannot be resolved and there are disallowed costs, funds must be repaid to the federal government.

Problems should be identified and addressed as they happen, rather than waiting until the monitoring visit. Routine telephone contact with your OCR Community/Economic Developer can be very helpful in avoiding problems during the implementation of your program, as well as at the end of your program. Remember it is best to deal with problems at their onset than to wait.

## **A. Objectives**

The objectives of monitoring and reporting are to determine if Recipients:

1. Are carrying out their NYS CDBG projects as described in their grant agreement with the NYS Housing Trust Fund Corporation and have obtained and organized documentation to support all actions and national objective compliance;
2. Are carrying out the project in a timely manner in accordance with the time frames required by the grant agreement;
3. Are charging costs to the program or project that are eligible under applicable regulations;
4. Are complying with all applicable procedures, policies, laws, regulations and terms of the grant agreement;
5. Are conducting the program in a manner which minimizes the opportunity for fraud, waste and mismanagement; and
6. Have a continuing capacity to carry out the approved program or project.

## **B. Assessing Performance**

In carrying out these objectives, your program will be reviewed by assessing the administration of the program and compliance with program and regulatory requirements.

### **1. Program Administration**

Your program progress will be monitored by evaluating the progress of individual activities and the program as a whole. On-site reviews include the review of records, interviews with staff and site inspections. The OCR Community/Economic Developer will determine whether the activities were carried out in a timely manner and if they were conducted in a manner that is compliant with the requirements of the program.

Progress will be judged against the program schedule, which is part of the grant agreement. As the entity responsible for administering the CDBG program, the Recipient is contractually obligated to complete project activities in a timely manner.

OCR must determine if the Recipient is carrying out activities in a timely manner and whether or not the Recipient has the continuing capacity to carry out activities in a timely manner. Timeliness is closely related to capacity and, therefore, it is your responsibility to notify your OCR Community/Economic Developer of any delays, the reason for the delay and any actions you propose to correct the situation. Timeliness and capacity determinations will be reflective of program progress.

To carry out a program in a timely manner, Recipients must have a system that monitors the progress of activities. The system you choose should help you identify problems and take corrective actions to correct the problems before they affect the timeliness of grant execution.

In addition to program progress, monitoring will also focus on programmatic and financial compliance specific to project eligibility, national objective compliance, citizen participation, environmental review, civil rights, labor standards including retention of certified payrolls (where applicable), relocation and acquisition, financial management, etc.

## 2. Compliance

Compliance monitoring consists of programmatic and financial monitoring activities.

### *Programmatic*

Programmatic monitoring activities will focus primarily on the following areas:

- a. National objective compliance and record keeping. Recipient must maintain income surveys and documentation when used to determine eligibility.
- b. General organization of files. Refer to Chapter 7, File Maintenance.
- c. Financial and general grant management. Have all bank records available.
- d. Environmental compliance. Recipient is responsible for maintaining the complete Environmental Review Record.
- e. Public participation and complaint procedures. Retain public notices and minutes for public hearings held for the application.
- f. Labor standards compliance documentation. The Recipient **MUST** retain all payroll documentation for projects involving Davis-Bacon prevailing wages, if the Recipient is using force account labor, payroll records related to the project must be retained as well.
- g. Civil Rights benefits to minority persons.
- h. Construction contracts. The recipient must retain all documentation related to bidding, bid award, and all construction related documentation.
- i. Property acquisition, relocation or displacement.

## ***Financial***

Financial monitoring will focus on the following areas:

- a. Capacity of the accounting system and the maintenance of financial records
- b. Internal controls. For example, the person authorized to sign disbursement requests, Form 1-4 and 1-4A should not be the same person signing checks disbursing NYS CDBG funds.
- c. Adequate sources of documentation. For example, documentation that demonstrates the NYS CDBG-funded activities and expenditures are eligible and that supports the trail of funds.

## **C. Types of Monitoring**

One of OCR's primary duties is to ensure that Recipients are provided with the best information and service in the administration of their grants. As such, OCR will conduct a minimum of one on-site monitoring visit for each grant that is awarded through the CDBG program. This monitoring will not only provide technical assistance and guidance in the administration of the Recipient's grant, but will also ensure compliance with all statutory and regulatory requirements. There are three types of on-site monitoring activities that may be conducted: technical assistance visit; abbreviated monitoring; and comprehensive monitoring.

### **1. Technical Assistance Visit**

When a Recipient appears to be having difficulties in expending funds or making sufficient progress toward completing its program, it may be determined that a technical assistance visit is necessary. A technical assistance visit may be scheduled when one of the following occurs:

- A Recipient has not completed the environmental review record and Request for Release of Funds within three months (90 days) of the execution of the grant agreement.
- A Recipient has not expended/requested any NYS CDBG funds within 6 months (180 days) of the date of the grant agreement.

There are several circumstances that may warrant the scheduling of a technical assistance visit by a Recipient's Community/Economic Developer. Examples include, but are not limited to:

- Delays in the project schedule including requesting grant funds

- Concerns with the administration of the project
- Significant number of citizen complaints
- Poor communication between parties
- Overall poor performance
- The inability to expend the funds according to the grant application
- Non compliance with program regulations, guidelines, and requirements

A Recipient may also request a technical assistance visit. If a Recipient feels that it will benefit from a visit by their OCR Community/Economic Developer, the Recipient may provide a written request outlining the items that are in question or for which assistance is requested. Once the request is received, the Recipient will be contact contacted to arrange for the technical assistance visit. An abbreviated monitoring may also be conducted during the technical assistance visit.

## **2. Abbreviated Monitoring**

An abbreviated monitoring is a tool that is used to gauge the progress of a Recipient's project and to determine if the statutory and regulatory requirements are being met. Although most often conducted during a technical assistance visit, the abbreviated monitoring may also be conducted when it is determined that non-compliance with program guidelines, regulations, and requirements may have occurred.

An abbreviated monitoring will include a review of the Recipient's program files. Of particular importance is file maintenance. Prior to the visit, a Recipient should take the opportunity to review the file maintenance section of this manual and organize the files accordingly. This will help facilitate the monitoring visit.

## **3. Comprehensive Monitoring**

Before a grant can be closed out, a Comprehensive Monitoring of the Recipient's program must be conducted. This type of monitoring is an in-depth review of a Recipient's performance in meeting program statutory and regulatory requirements.

The following guidelines will be used by the OCR to determine when Comprehensive Monitoring should be conducted:

- Housing rehabilitation and homeownership programs that have expended 70% of project funds.
- All other grant projects that have expended 80% of project funds

## **D. The Monitoring Visit**

### **1. Scheduling the Visit**

Once it is determined that an abbreviated or comprehensive monitoring visit is required, the Community/Economic Developer contacts the Recipient's Chief Elected

Official to arrange a time for the visit. The initial contact will be followed by a letter confirming the date and time of the visit.

## **2. The Visit**

The following is an outline of an abbreviated and comprehensive monitoring visit. OCR tries to be as flexible as possible, but the Chief Elected Official must be available for an exit interview to discuss the results of the monitoring visit. If the Chief Elected Office will not be available, the Visit may be rescheduled or the exit interview conducted via telephone.

- a. The Community/Economic Developer will conduct an entrance interview with the Chief Elected Official, if available, and key staff involved with accomplishing the activity.
- b. After the entrance interview, the Community/Economic Developer will ask for an area in which to work with access to all program files. At this time, the key staff and Chief Elected Official are requested to conduct their normal routine.
- c. A representative of the Recipient should be prepared to accompany the Community/Economic Developer on a site visit of the project site or sites. Prior to a monitoring visit for Housing Rehabilitation and Homeownership projects, the Community/Economic Developer will request a list of the projects completed and underway and will notify the Recipient as to which properties he/she would like to visit during the monitoring.
- d. At the end of the day, the Community/Economic Developer will conduct an exit interview with the Chief Elected Official (mandatory attendance) and staff to discuss the conclusions, Findings, Concerns, or Recommendations of the monitoring visit.

A Finding is specific noncompliance with federal or state regulatory requirements or OCR policies and procedures. Findings must be addressed within 30 days of receipt of the monitoring report. If a response is not received, OCR will begin the process of suspending funds for all open grants. Consideration of funding of future applications may be impacted if these issues are not resolved in a timely manner.

A Concern is a potential problem that, if not addressed and corrected, may later result in a "finding." The first violation of an OCR policy or procedure will be considered a concern. However, subsequent violations of the same policy or procedure will be elevated to a finding. Recipients must provide OCR with a written explanation as to how the concern will be corrected for current and future grant awards. OCR staff will closely examine areas of concern during future monitoring visits. If a concern was identified in a prior monitoring visit and the issue persists, it will result in a finding.

A Recommendation is a suggestion that may be followed to assist in the implementation of your program. It is up to the Recipient to determine whether recommendations will be followed or not. No action is required and no concerns or findings will result if you choose not to follow the recommendations.

Monitoring will cover all aspects of program administration and management. At a minimum, the following areas will be reviewed during the monitoring visit:

➤ ***Program Administration***

During the monitoring visit, the Recipient's general administrative procedures and policies and maintenance of files will be reviewed. For projects involving a third party such as a subrecipient or consultant, the Community/Economic Developer will also review the procedures of those entities and will verify that the Recipient is maintaining appropriate oversight of the third parties.

➤ ***Civil Rights***

A review of the Recipient's Civil Rights compliance will include a review of the following:

- Policies and procedures pertaining to both the Recipient's employment practices and project activity practices.
- Compliance with the Fair Housing policy, recipients are required to have a Fair Housing Officer regardless of the type of activity and is required to maintain a Fair Housing Plan.
- Compliance with Section 504 (American's with Disabilities Act)
- Policies and procedures that encourage the hiring of Minority and Women's Business Enterprises (M/WBE) and the hiring of low- and very low-income persons (Section 3 compliance).

➤ ***Citizen Participation***

The Community/Economic Developer will conduct a review of the Recipient's Citizen Participation Plan including all documents pertaining to the public hearings associated with the NYS CDBG program. At a minimum, the Recipient should maintain files that include newspaper notices, meeting minutes, and list of meeting attendees for all public hearings and meetings associated with the NYS CDBG program and any correspondence including citizen complaints received during the project's implementation.

➤ ***Environmental Compliance***

Recipients are required to maintain an Environmental Review Record (ERR) that includes all required information and forms. The ERR should include the following:

- NEPA documentation and classification
- SEQRA documentation and classification
- Environmental Assessment
- Statutory Checklist
- SHPO correspondence

- Environmental Impact Statement (if required)
- FONSI/NOI/RROF as published and the affidavit of publication
- Release of Funds from OCR
- Any additional agency comments

➤ ***Procurement***

Procurement policies and procedures are an important part of the Monitoring review. Recipients should ensure that for projects involving any or all of the following types of procurement, that the appropriate documentation of compliance is available for review:

- Procurement by Sealed Bids
- Procurement by Competitive Proposals
- Procurement by Non-Competitive Proposals
- Small Purchase Procurement

➤ ***Bonding Requirements and Contract Provisions***

For construction projects involving procurement using competitive negotiations and sealed bids resulting in a contract totaling \$100,000 or more, the Community/Economic Developer will review the contracts to verify that both the required bonding and contract provisions are included. If more than one contract in excess of \$100,000 was issued, a minimum of two contracts will be reviewed.

➤ ***Conflict of Interest***

The Community/Economic Developer will conduct a review of the procurement files and program files to determine if there is any evidence, either real or apparent, of a conflict of interest.

➤ ***Financial Management***

One of the most important aspects of the monitoring visit will include a review of financial management procedures. The following will be reviewed during the monitoring visit:

- **General Financial Management:** a review of the Recipient's financial management procedures and controls.
- **Accounts Management:** a minimum of 20% of the Recipient's requests for funds will be reviewed from invoice to payment. All financial records must be available for review and the person responsible for financial management must be available to discuss any issues.
- **Program Income:** if a Recipient has received program income (income of \$25,000 or more in one fiscal year) all files pertaining to the program income will be reviewed.

➤ ***Labor Standards Compliance***

For projects requiring compliance with federal or state labor standards, all files relating to such will be reviewed including those pertaining to wage determination verification, payrolls, employee interviews, and all other pertinent information.

➤ ***Property Acquisition and Management***

When a Recipient acquires real property using NYS CDBG funds for the purpose of a public facility, public sewer or public water project, certain regulations must be followed. To ensure that all regulatory requirements for acquisition have been met, the Community/Economic Developer will review the following:

- Initial notification documents
- Determination of Fair Market Value including all appraisals
- Documentation of offer and negotiations procedures, if used
- Eminent domain/condemnation procedures, if used
- Donated property documentation, if used
- Evidence of acquisition payments

➤ ***Displacement, Relocation and Replacement***

All projects that may result in the displacement or relocation of occupants of housing must have prepared an Anti-Displacement and Relocation Assistance plan. In addition to the review of this plan, the Community/Economic Developer will also review all individual case files for displacement and relocation, and the files for replacement housing assistance.

➤ ***Project Type Specific***

Each NYS CDBG project has certain rules and regulations that pertain to its type of program. The Community/Economic Developer will review the program-specific files.

For Housing Projects (Homeownership, Housing Rehabilitation, New Construction, and Water/Sewer Laterals), the Program Administration will review files to ensure compliance with the national objective, marketing and outreach, and general policies. A minimum of 20% of the case files will be reviewed to determine compliance with the Recipient's program requirements, NYS CDBG program requirements, and lead based paint requirements.

Monitoring of Public Facilities projects will include a review of the policies and procedures as well as a review of the construction files.

Micro Enterprise activities will include the basic policies and procedures review and a review of approximately 20% of the case files. At a minimum, the Community/Economic Developer will review applicant eligibility, job reporting, technical assistance provided, and loan/ underwriting documents.

Economic Development projects will be reviewed based on the type of assistance provided either direct assistance or infrastructure. As with all grants, a review of the policies and procedures will also be conducted.

**To more clearly understand the requirements of file maintenance, each Recipient should review the File Maintenance Section of this Manual.**

### **3. Results of the Monitoring Visit**

Approximately 45 days after the monitoring visit, the Recipient will receive a monitoring report outlining the results of the visit. The report will state at least one of the following:

- a. The Recipient is in compliance with all requirements and there are no recommendations.
- b. A Recommendation which suggests minor changes or modifications in the implementation of the program. Recommendations should be incorporated into the administration policies for all future grants. Failure to address recommendations could result in a concern.
- c. A Concern is a problem with statutory or regulatory requirements or OCR policies and procedures. Failure to address concerns could result in a finding during future monitoring. The Community/Economic Developer will closely examine areas of concern during future monitoring visits. Recipients must provide a written explanation as to how the concerns will be addressed for all current and future grants.
- d. A Finding which is a specific noncompliance with federal or state regulatory requirements or OCR policies and procedures. The Recipient must respond to any findings within 30 days of receipt of the monitoring report.

### **E. Recipient Responsibilities**

Throughout the administration of the grant, Recipients have certain responsibilities regarding file maintenance and program management. Even though a Recipient may have hired a consultant or subrecipient to handle to day-to-day administration of the grant, the ultimate responsibility for the storage and maintenance of the grant files lies with the Recipient and all files must be available in the Recipient's office for review. It will be considered a finding if the project and administrative files are maintained at the consultant or subrecipient's offices rather than the Recipient's office.

The following are some guidelines that should be followed by the Recipient to ensure that the monitoring visit is as efficient as possible.

- Maintain complete and detailed records for every aspect of administration and program implementation

- Organize the files according to the File Maintenance section of this Grant Administration Manual.
- Prior to the monitoring visit, review the appropriate sections of the Grant Administration Manual, including project specific sections.
- Provide access to program files and financial records.
- Ensure that all pertinent staff are available to address any questions.
- Contact property owners in advance to schedule site visits on the day of the monitoring. Community/Economic Developers will provide a list of the properties they wish to visit.

#### **F. Resolving Monitoring Findings**

If the monitoring report identified concerns or findings, the Recipient must provide documentation within the stated time period that those items have been corrected. If a Recipient has not sufficiently responded within the time frame mandated in the monitoring letter, further payments to the Recipient will be withheld until the Recipient submits the required responses and/or takes the required corrective actions and those responses or actions are determined to be acceptable. If responses or corrective actions are determined to be unacceptable, funds will continue to be withheld until satisfactory actions are taken.

When reviews of all documentation of corrective actions taken by the Recipient indicate that the identified concerns or findings have been corrected to the satisfaction of OCR, a letter will be mailed to the authorized official of the Recipient stating that the findings are resolved. All findings from monitoring visits must be cleared prior to closeout.

#### **G. Maintenance of Monitoring Records**

All monitoring materials received by the Recipient must be maintained in the grant administration files of the Recipient. These are considered public record and are subject to the regulations of the Freedom of Information Act.

## **II. SUBRECIPIENT MONITORING**

It is very common for communities to involve and utilize other organizations to accomplish mutually shared goals and objectives. This is most common in the delivery of social services, housing and economic development. It can be extremely advantageous for Recipients of NYS CDBG funds to accomplish their program objectives through the utilization of subrecipients. If a Recipient chooses to contract with a subrecipient, the most important responsibility the Recipient has in the effective management of its project is in monitoring the subrecipient's performance. It is not only good management practice to monitor, but it is required.

**Subrecipients must be monitored to ensure compliance with all of the requirements outlined in their agreement with the Recipient.** A well thought out and clear agreement is essential in avoiding problems. Most agreements are project-specific, with many of the

general requirements only referenced. Monitoring is, in effect, a method of determining if the subrecipient is either in default of the agreement or will be in default, if things are allowed to continue.

**Monitoring should not be a one-time event. To be an effective tool for avoiding problems and improving performance, monitoring must be an on-going process.** The most successful strategy is one of establishing a monitoring plan at the beginning of the project. The frequency and coverage of monitoring is highly dependent on the risk associated with a particular project, as measured by:

- The experience of the subrecipient with the NYS CDBG program. Obviously, an organization which has never been exposed to NYS CDBG requirements needs a lot more training and “hand-holding” than one which has years of experience (unless, of course, that experience has been consistently negative);
- The stability of the subrecipient’s organization, particularly as measured by staff turnover;
- Previous experience with the execution of government-funded programs, particularly if there were previous compliance or performance problems; and
- The complexity of the project and/or activities. HUD views certain activities as “risky” by definition, especially housing rehabilitation and economic development.

Complexity is an issue primarily to the extent that a project involves third and fourth parties (businesses, homeowners, financial institutions, etc.) in project execution.

**Recipients should develop a monitoring plan that specifies the areas to be examined during the course of any given monitoring visit.** It should be clear to the subrecipient what documents, processes, reports and files will be examined during any given visit.

After the monitoring visit, the Recipient should supply the subrecipient with a report of the monitoring visit informing the subrecipient of the results of the monitoring.