City of Mesa
Housing and Community Development

CDBG
ON-SITE MONITORING
PROCEDURES

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OVERVIEW

The City of Mesa Housing and Community Development Division (HCD) has developed a Monitoring Plan (Plan) to address the various financial and programmatic monitoring requirements for CDBG-funded activities. In addition to on-site monitoring, HCD requires funded agencies to submit either monthly or quarterly reports on the status of their projects.

Project reimbursement requests are held until monthly or quarterly reports are current and approved by the Revitalization Specialists. Projects that are not substantially meeting contract goals are discussed for possible action. Projects that continue to fall behind meeting goals could be subject to withholding reimbursement until corrective action is productive.

This document only addresses CDBG monitoring procedures, and replaces previous versions used by HCD. Monitoring procedures for the HOME Program and Emergency Solutions Grants are currently being revised and will be available by fall 2018

PREPARING FOR MONITORING

Successful monitoring depends both on effective use of time and knowledgeable reviewers. For purposes of this discussion, pre-monitoring preparation includes:

A. <u>Individual Monitoring Strategy</u>. Whether monitoring is conducted remotely or on-site, the development of an individual, written monitoring strategy is needed to define the scope and focus the monitoring efforts. It identifies:

    1. the programs/technical areas to be reviewed;
    2. data or information to be submitted by the program participant prior to monitoring (if any);
    3. the names of any participant staff members who will need to be consulted during the monitoring;
    4. anticipated staff who will conduct the monitoring;
    5. clearly defined areas of responsibilities for each reviewer (to avoid duplication) if more than one staff person will be conducting the monitoring;
    6. a schedule for carrying out the monitoring tasks and the anticipated time frames; and
    7. required resources.

B. <u>Pre-Monitoring Preparation</u>. City of Mesa (COM) reviewers are responsible for being thoroughly familiar with the Federal program to be monitored and knowledgeable of the organization or organizations to be monitored. Such comprehension is crucial for making the most of scarce time and resources and effectively determining compliance and accomplishments, especially given program complexities. It also enables the reviewer to make observations and provide technical assistance or develop recommendations to improve program performance.

    This preparation process involves:

    1. understanding the governing statutes, regulations and official guidance;
    2. reviewing and analyzing participant reports, available data, audits and financial information, previous monitoring reports and issues; and
    3. obtaining other relevant information from knowledgeable Department staff.

CONDUCTING THE MONITORING

All program monitoring consists of the following elements:

A. <u>Notification to the Program Participant</u>. After the monitoring strategy has been developed, communicate with the program participant to establish a date (whether on-site or remote or internal). Once a date has been set, a formal written letter to the program participant is to be sent. Unless there are extenuating circumstances, this letter should be sent at least two weeks prior to the monitoring. The letter should discuss the monitoring schedule, identify the areas to be reviewed, and the names and titles of the COM staff conducting the monitoring. It should also request that the necessary participant staff be available during the monitoring. For on-site monitoring, the letter should confirm the need for any required services (e.g., conference rooms, telephones, computers, access to electronic recordkeeping systems). For either on-site or remote monitoring, the letter should identify specific information to be submitted by the program participant and a timeframe for submission.

B. <u>Entrance Conference</u>. The purpose of the entrance conference is to:

   1. explain how the monitoring will be conducted;
   2. identify/confirm key program participant staff who will assist during the monitoring;
   3. set up or confirm meeting or interview times (including any clients who may be interviewed) and, if applicable, schedule physical inspections;
   4. verify the programs/activities to be reviewed and, if on-site, how access to files and work areas will be granted (some programs files can be sensitive; some work areas can be hazardous).

C. <u>The Assessment Process</u>. The "real work" of monitoring entails interviews and file reviews to verify and document compliance and performance (and can include physical inspections if monitoring is conducted on-site).

   1. <u>Evaluate</u>. The Exhibit questions are designed to assess and document compliance with program requirements based upon:

      a. file reviews to determine the accuracy of the information, using both automated and manual data and reports submitted to COM by the program participant;

      b. interviews with program participant staff, contractors, subrecipients, and clients to clarify and determine the accuracy of the information, assess level of satisfaction with the provision of services or the "end products," and document performance; and

c. in the case of internal monitoring, exhibit questions will be used in order to assist COM staff with preparing files that have information necessary to determine program or project eligibility.

Specific responses to the Exhibit questions are expected. Although this approach can take more time up-front, it yields higher quality reviews that provide a better picture of a program participant's grant program for supervisory staff, future COM Representatives for the program participant, and others who have a need to review the program participant's performance. The responses to each question provide important documentation for COM's administrative record.

Because it is unlikely that the COM reviewer will be able to monitor all of a program participant's activities, projects and/or functions, or even review activities in a specific area spanning a participant's entire program year, **sampling** is generally expected to form the basis for drawing conclusions about the program participant's performance.

Use a common-sense approach and engage in a thorough evaluation of data and other information to draw **defensible and supportable conclusions**. Always keep in mind that the main objective of monitoring is to **assist program participants in carrying out their program responsibilities.** Ask yourself, "Is the program purpose being accomplished? Are the program beneficiaries being served as intended? Are program requirements being met?"

2. Communicate. Throughout the monitoring, maintain an ongoing dialogue with the program participant. Such communication keeps the participant informed as to how the monitoring is progressing, enables discussions of any problem areas encountered, and provides the participant an opportunity to make "on-the-spot" adjustments or corrections or present additional information to help the reviewer. It also minimizes the potential for surprises to the participant when the exit conference is held as well as when the monitoring results are formally communicated in writing.

3. Document. The responses to the questions form the basis for monitoring conclusions and are supplemented by program participant records copied or reviewed during the monitoring.

D. Exit Conference. At the end of the monitoring review, COM should conduct an exit conference with the appropriate participant officials or staff to discuss preliminary conclusions. In part, this serves to confirm the accuracy and completeness of the information used to form the basis for the monitoring conclusions. It may also highlight areas of disagreement between COM and the participant.

The COM reviewer is responsible for using the "Monitoring Summary Form" not only to prepare for the exit conference by clearly and concisely summarizing the conclusions, but

also to document the issues discussed at the exit conference, the date and time of the meeting, and the names and titles of the attendees. To the extent that a program participant signifies disagreement, the basis for any objections should be noted. These summarizations are used to develop the monitoring letter.

MONITORING CONCLUSIONS

A. Decision Categories. As a result of monitoring, COM staff may reach one or more conclusions that:

1. performance was adequate or exemplary;
2. there were significant achievements;
3. there were concerns that need to be brought to the attention of the program participant;
4. technical assistance was provided or is needed; and/or
5. there were findings that require corrective actions.

All conclusions – positive or negative - must be **supportable, defensible, and adequately documented.**

B. Findings and Concerns. Where deficiencies are identified, the following procedures apply:

1. Findings - Where an identified deficiency results in a finding, the finding **must** include the **condition, criteria, cause, effect,** and **required corrective** action.

    a. The **condition** describes what was wrong or what the problem was.
    b. The **criteria** cite the regulatory or statutory requirements that were not met.
    c. The **cause** explains why the condition occurred.
    d. The **effect** describes what happened because of the condition or what could happen.
    e. The **corrective action** identifies the action(s) needed to resolve the problem and, unless inapplicable or there are extenuating circumstances, should include the time frame by which the participant is to respond to the finding.

2. Concerns - Monitoring concerns brought to the program participant's attention should include the **condition**, **cause**, and **effect**. The reviewer should suggest or recommend actions that the program participant can take to address a concern, based on sound management principles or other guidelines. However, corrective actions are not *required* for concerns.

SANCTIONS

The Process. Identified monitoring deficiencies that rise to the level of a "finding" require **corrective action**. Responsibility rests both with the reviewer and the entity being monitored. The reviewer must validate that there is **sufficient documented information and/or evidence to support a finding of noncompliance.** The entity being monitored has a responsibility to determine, or assist the reviewer in determining, the reason why a **requirement was violated or provide evidence of compliance.**

A key ingredient of effective monitoring is the ability to identify the root cause(s) of any identified deficiencies, whether the problem is an **isolated occurrence or systemic**. Such knowledge leads to the development of optimal corrective actions. Keep in mind that there may be any number of acceptable solutions to resolve a deficiency. Ideally, the program participant should agree with our assessment of the cause and offer a workable solution. In some cases, the reviewer may need to determine appropriate action if compliance is not possible, i.e., do we want money recovered, a grant reduced, limited or terminated? Contemplation of those or other serious corrective actions triggers the need for COM to contact the appropriate Headquarters program/technical office. Additionally, suspected instances of fraud or misconduct should be referred to the Office of the Inspector General for further investigation.

The Monitoring Letter. Within 30 days after completion of monitoring, COM sends written correspondence to the program participant and internal staff describing the results – in sufficient detail to clearly describe the areas that were covered and the basis for the conclusions. Each monitoring letter is to include:

A.   the program, project or entity monitored;
B.   the dates of the monitoring;
C.   the name(s) and title(s) of the COM staff who performed the monitoring review;
D.   a listing of the program/project/activity areas reviewed (which, in most cases, will repeat the areas outlined in the notification letter to the participant);
E.   if applicable, a brief explanation of the reasons why an area specified in the notification letter was not monitored or other schedule deviations (e.g., time constraints, unanticipated problems arising in another area);
F.   monitoring conclusions;
G.   if applicable, clearly labeled findings and concerns;
H.   if there are findings, an opportunity for the program participant to demonstrate, within a time prescribed by COM staff, that the participant has, in fact, complied with the requirements;
I.   response time frames, if needed;
J.   if applicable, identification of FHEO issues that are being referred to a fair housing agency or HUD Fair Housing and Equal Opportunity for follow-up; and
K.   an offer of technical assistance, if needed, or a description of technical assistance provided during the monitoring.

Because we work in partnership with the organizations we fund, generally, the tone of the monitoring letter should be positive, in recognition of our common goal to responsibly and effectively implement our programs. Include significant accomplishments or positive changes to establish and maintain positive relationships and to recognize the dedication and commitment of the program participant staff to our program missions. However, the monitoring letter **should <u>not</u> include general statements that the program participant "complied with all applicable rules and regulations."** Such broad general statements can negate our ability to apply sanctions, if deemed necessary at a later date. Monitoring reviews cover selected program or technical areas and, oftentimes, are based on a selected sample. Monitoring conclusions, therefore, **should be qualified, i.e., "based upon the materials reviewed and the staff interviews, the activity/area was found to be in compliance with (specify requirements)."**

Additionally, the monitoring letter should not include any **personally identifiable information** ("PII") regarding assisted individuals. PII includes any information that can be used to distinguish or trace an individual's identity, such as their name, social security number or other identifying information. OMB guidance requires that agencies minimize the use of PII. Therefore, it is inappropriate to include PII in these letters.

REQUIRED CONCURRENCES

<u>Supervisor or Designee</u>.   Prior to sending the monitoring letter to the program participant, the reviewer's supervisor, or authorized designee, concurs on the monitoring **letter <u>after</u> evaluating the supporting documentation to assure that the conclusions are clearly supportable by the Exhibits, working papers and materials generated during the monitoring.** While recognizing that this review can be time-intensive, it is integral to the monitoring process and serves to:

A.   enable the supervisor or designee to assess the quality and accuracy of the monitoring;
B.   confirm that performance problems are properly detected and the selected corrective actions are appropriate to remedy noncompliance; and
C.   provide a quality assurance mechanism that monitoring reviewers are making appropriate, supportable judgments and drawing sound conclusions such that the program participant has a clear understanding of COM's evaluation of its performance during a specific time period.

Supervisory concurrence is also required for follow-up correspondence.

CLOSING FINDINGS

A. <u>General</u>. Follow-up serves two purposes:

1. it provides an opportunity to evaluate the effectiveness of our monitoring efforts in maintaining or improving participant performance; and
2. it enables us to determine that required corrective actions are implemented.

B. <u>Follow-Up</u>. All follow-up actions are documented and communicated to program participants. Target dates are assigned when corrective actions are required and relayed to the participant in the monitoring letter.

1. In the event that a program participant fails to meet a target date - and has not alerted COM as to the reasons prior to the date (and, if appropriate and agreed upon, establish a new date) - the reviewer is to follow-up either by telephone or email, with a reminder. Either form of contact **must** be documented.

2. If the program participant has not responded within 30 days after the date of the reminder, a letter is to be sent to the program participant requesting the status of the corrective action(s) and warning the participant of the possible consequences (under the applicable program requirements) of a failure to comply.

3. When the program participant notifies COM that the corrective actions have been implemented, the appropriate staff are to review the submitted information within 15 working days. Regardless of whether the response is acceptable (and/or sufficient to close a monitoring finding) or inadequate, a letter is to be sent to the program participant within 30 calendar days of receipt of its submission. The correspondence will either inform the participant that a finding has been closed; acknowledge any interim actions that have been taken and reaffirm an existing date; or state that additional information/action is needed and establish a new target date to resolve the deficiency.

    When determining whether it is reasonable or appropriate to establish new target dates, consider the program participant's good faith efforts as well as any extenuating circumstances beyond the participant's control that impact timely and effective resolution.

BUILDING AN ADMINISTRATIVE RECORD

A. <u>The Basis for the Need</u>. An Administrative Record includes all documents considered, either directly or indirectly, by COM in reaching a final decision on an issue. Documents can include completed Exhibits, contracts, forms, agreements, internal memoranda and notes, correspondence, email, electronic submissions, and any other document considered by the decision-maker or his or her staff in reaching the decision. It can be used by COM to take enforcement actions (e.g., to reduce or terminate a participant's grant) or to defend COM's decision if COM is sued.

It is critical that COM has a sufficient administrative record that supports its decisions so that COM can defend itself against potential appeals of the decision.

B. <u>How to Make It Work for You</u>. Making the administrative record work for you and improve your ability to perform your job is mostly common sense. First, all basic documents should be readily available (and you should be familiar with their contents). Second, write correspondence with the **realization that it can be used effectively either for or against COM in litigation.** Therefore, any written correspondence "stands on its own," whether you initiate it or are replying to a submission from the participant (or outside of the Department). It should be understandable to a third party reading it for the first-time months or years later.

Return telephone calls you receive. When you take notes of such calls, include the date of the call, the names of the people who participated in the call, and the substance of the conversations. For nondocumentary materials, such as pictures, videotapes, recordings of interviews, etc., identify each item as to date, place, and names or narrators (if applicable).

C. <u>Errors to Avoid</u>. To the extent that compliance issues arise with a program participant that result in litigation, indefensible or incomplete administrative records hurt COM's ability to prove our case or can make COM look bad in court. Some of these problems are fixable; some are not. Problems that are difficult to fix include:

1. Letters from COM that deny a request but do not explain the basis for the denial or cite the wrong authority;

2. Letters from COM containing unreasonable requests, either in time or action;
3. Unfulfilled promises by COM;

4. Letters that demonstrate our lack of understanding of what a participant was asking for or proposing;

5. Actions taken by COM that do not follow our own procedures including inconsistencies in making findings;

6. Letters that do not stand on their own (i.e., are not understandable to a third party reading them for the first-time months or years later);

7.   Missing or illegible documents; and/or

8.   Letters that clear findings without stipulations or verification of compliance.

D.   <u>Potential Consequences</u>. Remember that almost all documents in COM files must be disclosed in litigation if the program participant requests it. Therefore, when you create any kind of document, particularly internal memos, avoid conclusions, predictions, or inferences - they can harm the City in litigation. Note that email messages are retained in back-up systems for several years after you delete them and, in most cases, must be disclosed in litigation. Voice mail messages are also retained.

Avoid the temptation to take shortcuts! All monitoring conclusions must be supported. If you are scrupulous in maintaining an administrative record with the possibility of litigation in mind, it will pay off in the end.

DOCUMENTATION

A. <u>General</u>. It is essential that each step of the monitoring process be adequately documented. Documenting preserves the valuable results, both positive and negative. All correspondence, documentation and working papers relating to the monitoring and conclusions are to be maintained in the official department files. Where appropriate or required, information can be maintained in electronic form.

B. <u>Documentation</u>. The cost to the City of not maintaining such documentation is substantial and potentially embarrassing. **This is especially true when a program participant has been carrying out similar activities or projects over a period of time and COM reviewers have been reassigned or changed**. Support documentation becomes extremely significant if COM seeks to take enforcement actions that are challenged by the recipient.

C. <u>Requirements</u>.   For COM, documenting the monitoring process consists of:

1. Copies of the annual work plans.

2. Copies of the individual monitoring strategies.

3. Copies of the notification letters to the program participants.

4. Copies of the completed monitoring exhibits with any support documentation obtained during the monitoring (e.g., contracts, budget forms, participant policies, work write-ups). This documentation should be attached to the appropriate exhibit and clearly labeled indicating what they are and what part of the monitoring they support. Exhibits must include the reviewer's name and the date that the form was completed.

5. Copies of the completed *Monitoring Summary Form*, with exit conference notes.

6. Copies of the official monitoring letters to the program participants, containing the necessary concurrences and signatures, date-stamped to reflect the date sent to the participant.

7. Copies of documentation relating to final resolution of identified deficiencies including responses both to and from program participants.