

# Module 9

## Monitoring/Risk Analysis/GMP



**MONITORING/Risk Analysis/GMP**

**Goal:** To provide participants with expanded knowledge about how to carry out monitoring of the State CDBG program. This session will include a discussion of Headquarters' expectations, important monitoring process components, available monitoring tools and other guidance.

**OBJECTIVES:** During and after the completion of this session, participants will be able to:

1. Demonstrate a renewed understanding of the monitoring process, with special emphasis on risk analysis and monitoring preparation, writing monitoring letters, and resolving identified issues.
2. Describe available tools and guidance relating to monitoring, as well as several ways they can be used to support the monitoring effort.
3. Restate Headquarters' recommendations in terms of priority review areas and frequency of review.
4. Prepare improved monitoring letters.
5. Name the options for categorizing and resolving monitoring issues, as well as available and appropriate sanctions.
6. Summarize difficult monitoring issues previously faced by other offices, and how these were resolved.

**Time:** 2 hours 15 minutes

Field Office Panel (Time needed: 60 Minutes)

**Suggested Participant Materials:**

Chapters 2 and 4 from Handbook 6509.2 Rev-5 CHG-2

## MODULE TALKING POINTS

**I. Monitoring Process including Risk Analysis**

- A. Monitoring is principal way to check what grantees are doing, note what works, and help correct problems. It is also how we spot fraud, waste and mismanagement. HQ will get involved in major findings that will require monetary repayment. We want to work with field office. Documentation is needed, and we know that field offices can get frustrated. We will talk about this at length later on. Monitoring is not gotcha, or blindfold, just objective evaluation.
- B. In March, 2008, revision 5, change 2 of the CPD Monitoring Handbook was released. Chapter 4 of the Handbook, contains the current version of the State CDBG monitoring checklists. Several years ago, departmental guidance was issued covering standards for monitoring all HUD programs (The Departmental Monitoring Desk Guide, and Compliance and Monitoring Training sessions.) Quality Management Reviews also check on results of monitoring in field offices. The key monitoring components outlined in Handbook 6509 address the process identified in HUD's Departmental Monitoring Desk Guide. These include:
- Risk Analysis – We will be talking in more detail about this component.
  - Local Office Strategy – monitoring plan for fiscal year covering all grantees. Who, what, when.
  - Previsit Coordination and Preparation – notify/schedule visit with grantee, update risk analysis for current events, research in-house data, talk to other divisions and specialists, prepare specific monitoring strategy.
  - Conducting Monitoring – entrance conference and detailed scheduling, interviews, file reviews, questions, exit conference.
  - Writing the Monitoring Letter – This will be covered in more detail later during this session.
  - Follow-up and Resolution of Monitoring Issues – We'll also discuss this in more detail later in the session.
- C. More on Risk Analysis and Grantee Selection for Monitoring -- Old days monitored 95+% of grantees, then almost no monitoring, now we are more strategic using Risk Analysis.

1. Monitoring workload is determined by Risk Analysis, and the Annual Comparative Review which fits into the field office's work plan and management plan goals.
- 2.. The new CPD Risk Analysis Notice 07-07, emphasizes that monitoring should be grantee focused, but that high risk programs should also be monitored, even if the grantee is not high risk.
3. The IG is interested in having a Risk Analysis process that ensures that the riskiest grantees get monitored. That being said, the proposed monitoring list should be able to be amended because of ongoing events. IG is concerned about the low hanging fruit approach to monitoring, whereby grantees are monitored because they are close and do not cost money to get to in times of tight travel budgets.

## **II. Headquarters Recommendations**

- A. Risk Analysis determines frequency of monitoring. Most states have grants of more than 10 million (40 points) and are considered high risk.
- B. If high risk (51 or more points) must be monitored unless monitored in last 2 years or an IG audit is taking place
- C. In general we would expect monitoring to focus on:
  1. Eligibility and National Objectives
  2. Conformance with the MOD
  3. Timely Distribution and Timely Expenditure
  4. State monitoring of State recipients.
  5. Other areas include areas of risk that were identified through risk analysis, the Annual Community Assessment, monitoring, audits, citizen complaints, etc. From our experience, Economic Development, Financial Management, and Recordkeeping need to be monitored more often than some other areas.
- D. Based on the issues brought to our attention, there appear to be recurring problem areas that a state rep should be aware of. These include the lack, or inadequacy of, public benefit documentation and funding decision documentation, including lack of specificity in MOD.
- E. Monitoring preparation should include reviewing the con plan, the annual action plan, as well as past monitoring letters, audit reports, PER's, IDIS, grantee correspondence and citizen complaints.

- F. At the conclusion of a monitoring visit, the rep should know how the State CDBG program works, the highlights of the MOD, the strengths and weaknesses of the program.
- G. Although it is not required to make a site visit to a State’s grantee, it is helpful to do this from time to time to get a sense of the State’s program in operation. This does not have to be done during a monitoring visit, and can be done during a TA trip. (DISCUSSION ITEM: ASK WHO DOES ON-SITE VISITS TO STATE GRANT RECIPIENTS, AND WHO’S NEVER DONE THIS.)
- H. What years to monitor? Depends on what type of activity you are monitoring. Some activities take longer than others to begin implementing. Try to look at activities that are underway, but not so near to completion that correcting problems, if identified, would be difficult.
- I. DISCUSSION ITEM: HOW BIG OF A SAMPLE IS ENOUGH?
- J. We would expect to be notified if there are major findings (especially if repayment is expected) coming out of the monitoring.
- K. We would also like to be involved if there is a dispute between program areas that cannot be resolved at the local level. (e.g. between FHEO and CPD on the AI.)
- L. What if you want/need HQ involvement in the monitoring visit itself? Invite/let us know of the need so we can plan ahead. Dependent on availability of staff time and travel budget.

### **III. Monitoring Tools and Guidance**

The Monitoring Handbook 6509.2 REV-5, CHG-2, Chapter 4, is SSCD’s latest guidance on monitoring the State CDBG program. There are fill-able exhibits on the web.

- A. In addition to chapter 4 of the Monitoring Handbook, and the forms and exhibits included there, is a chapter on general monitoring guidance and requirements which is found in chapter 2.
- B. Chapter 2-7 C3, states all exhibits must be answered including basis for conclusion unless unable to answer due to time constraints, problems in other area etc., can answer basis for conclusion see Question X.

C. Chapter 4-5 A1, states that in limited instances with the approval of the CPD Director, an exhibit may be completed by finishing the questionnaire and leaving the worksheet blank. This may be done when the reviewer is new to the program, the state has not been monitored in a long period of time, or the timetable does not allow for sampling in an area.

#### IV. Monitoring Letters

##### A. Required Content (6509.2) use 2-10 of Monitoring Handbook

1. Grant Number(s) Monitored
2. Participating Field Staff and Visit Date
3. Areas Reviewed/Activities Monitored
4. Conclusions, Both Positive and Negative
  - a. The monitoring letter should provide comments for both positive items and negative observations that don't represent findings or concerns, but are worth mentioning. Recognize where results were adequate, and point out items that appeared particularly well-designed.
  - b. Significant negative issues are identified either as Findings (noncompliance with statute or regulations or concerns (other items, often related to system or procedural weaknesses that may cause conditions that lead to Findings.)

##### B. Requirements for Findings

1. Condition – what we found, and what was wrong.
2. Criteria – regulatory or statutory citation for the requirement that was not met. (Talk about need to use only State regs and Statute, unless state has chosen to use entitlement regs, circulars, etc. If so, this fact should be identified.)
3. Cause – why the problem happened. (examples – staff turnover, procedures not clear, isolated clerical error)
4. Effect – what happened or is likely to happen because of the condition found. (examples – funds used for an ineligible activity, state system does not provide adequate oversight for recipient audit reports)

- 5. Requested Corrective Action – what the state needs to do to clear the finding and prevent recurrence. **MUST SPECIFY DUE DATE FOR ACTION/RESPONSE.**
  - 6. Describe process for state to contest finding if desired.
- C. Requirements for Concerns – Condition, Cause, Effect. Identify what was found, why it likely happened, and what the risks of not correcting condition are. Corrective actions not required, but can be suggested. Grantee responses to Concerns are not required, but accepted if offered.

**V. Resolving Monitoring Findings and Sanctions**

- A. Most findings are easy. State did or did not do something. They should change in the future and they will agree to make the change. During on-site monitoring, findings and corrective action should be discussed, and buy-in should be obtained from the State. Apply the least onerous sanction that will resolve the problem.
- B. For findings that the State is resisting, we need to find a common ground. See if there is a solution that the State will agree to. It is far easier to accomplish something amiably than to have to do it in an adversarial manner.
- C. DISCUSSION TOPIC: WHEN DO YOU ACCEPT ASSURANCES THAT THE PROBLEM WILL BE FIXED, VS. EVIDENCE THAT IT HAS BEEN FIXED.
- D. DISCUSSION TOPIC: HOW LONG DO YOU GO BACK AND FORTH WITH THE STATE BEFORE ESCALATING/THREATENING A SANCTION?
- E. DISCUSSION TOPIC: WHEN DO YOU ASK FOR REPAYMENT IF ED PROJECTS FAIL?
- F. Contested issues need to be well documented. Need to ensure that the paper trail will be there for Administrative Law Judge (ALJ) to rule on if necessary.
- G. Need to clearly state basis for what we ask for. Write E-mails as if they will be used in court. Follow Monitoring Handbook Chapter 2-13 in documenting the record.
- H. HQ CPD, OGC, and DEC will be involved in the process. Process will look at issues on National basis. We are aware of all the work that the

field office puts into developing issues. SSCD will talk to field offices about **all** of their concerns.

- I. It is noted that no CDBG issue has ever gone to an ALJ and the Department badly wants to win the first case.
- J. Sanctions Process is covered at §570.495 and §570.496.
  - 1. Under §570.495(a) HUD may:
    - a. Request corrective action plan from the state. State may also respond by contesting the finding.
    - b. Issue a letter of warning advising State of deficiency and puts state on notice that additional action will be taken if State does not correct the situation.
    - c. Advise State that AI or assurances will be required before certifications can be accepted for next year's grant.
    - d. Advise State to suspend or terminate disbursement of funds for a deficient activity or grant.
    - e. Advise State to reimburse its grant in any amount improperly expended.
    - f. Change method of payment to the State from advance to reimbursement.
    - g. Condition use of successive year's grant on appropriate corrective action by State.
  - 2. §570.496 activities can be initiated only after one or more of the actions in §570.495 have been taken without an adequate response.
    - a. State can then request a hearing before an ALJ.
    - b. Based on ALJ hearing, HUD can:
      - i. Terminate payments to State.
      - ii. Reduce payment for current or future grants by amount used in violation of CDBG requirements.

- iii. Limit availability of funds to activities not covered by non-compliance.
- iv. Condition use of grant funds upon appropriate corrective action.
- v. Require the State to withhold, reduce, or withdraw grant to UGLG except that amounts spent on eligible activities shall not be recaptured.

K. Note: HUD can refuse to fund the next year's grant without going through an ALJ.

**VI. Conclude with Panel Discussion:**

Monitoring, Risk Analysis and GMP

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Panelists: Bob Shumeyko: Boston CPD Field Office

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