Monitoring and Recordkeeping

2018 CDBG-DR Problem Solving Clinic

Atlanta, GA | December 12-14, 2018

Welcome & Speakers

- Session Objectives
  - Monitoring
    - Explain the importance of monitoring and how to assess risk to guide monitoring efforts
    - Understand how to prepare for and what to expect during a HUD monitoring visit
    - Use monitoring reviews as tool to achieve continuous improvement
  - Recordkeeping
    - Explain recordkeeping requirements and provide compliance tips
    - How to help partners and subrecipients maintain strong records
    - How to create strong recordkeeping files
- Speaker
  - Kevin Roddy, ICF

Monitoring Tips and Tricks

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agenda

- Who gets monitored
- How to assess risk
- What to monitor
- Preparing for a HUD monitoring visit
- Common HUD Findings
- HUD sanctions

Why Monitor?

- Compliance with statutes and regulations
- Prevention of fraud, waste, and abuse
- Early detection of inefficiencies
- Integrate monitoring reviews as tool for continuous improvement to policies and procedures, operations and to build capacity
- Identification of best practices

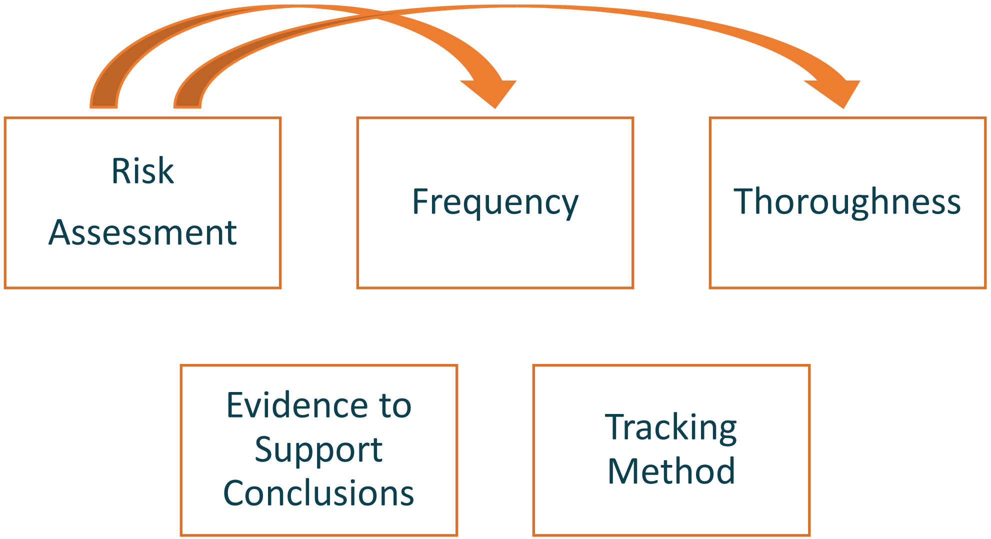
Who Does HUD Monitor?

- All CDBG-DR high risk grantees are monitored at least once per year
- HQ-held Sandy grantees: Once or twice a year based on HUD's risk analysis
- Field-held CDBG-DR grantees are monitored according to each Field Office's risk assessment

Who Should YOU Monitor?

- Subgrantees
- Subrecipients
- Contractors
- Yourselves
- ***Anyone who spends CDBG-DR funds***

The Five Habits of Highly Effective Subrecipient Monitoring



Risk Assessment Factors

- Financial Management
- Overall Management
- Satisfaction (Citizen Complaints)
- Services (Complexity of Programs)

Rating and Ranking

1. Rate each subrecipient/subgrantee

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Factor	Maximum Score	Points Assigned
1. Financial	47	16
2. Management	34	15
3. Satisfaction	4	2
4. Services	15	6
TOTAL	100	39

Rating and Ranking

2. Rank subrecipients by risk level

Grantee	Total Score	Rank
Alto	39	3
Wells	67	1
Lufkin	55	2

3. Use ranking to develop monitoring schedule

Essential Items that Must be Monitored

- Eligibility of activities and beneficiaries
- National Objectives
- Tie to disaster
- Flood insurance status
- Ensuring home was a primary residence
- Financial management/procurement
- Cross-cutting Federal requirements (i.e. labor, URA, environ.)
- Prevention of duplication of benefits from FEMA, SBA, insurance, and other sources
- Program policies and procedures, i.e. internal controls and separation of duties
- Reporting and recordkeeping
- Any additional requirements a grantee places in its own Subrecipient Agreements or contracts

CPD Monitoring Handbook

- Contains sample exhibits used by HUD for monitoring CDBG-DR grantees
- Grantees should review the Handbook to understand what HUD reviews during monitoring visits (including CDBG-DR specific Exhibits)

Infrastructure	Housing
Economic Development	Procurement

Overall Management

Monitoring Exhibits

a. Is the national objective adequately documented in the files? [24 CFR 570.506, 570.490, or applicable *Federal Register* notice]	☐ Yes ☐ No ☐ N/A
Describe Basis for Conclusion:	
b. For single family properties:	
i. If benefiting a low-to-moderate income (LMI) household, does the file document that the household is at or below 80 percent of Area Median Income?	☐ Yes ☐ No ☐ N/A
Describe Basis for Conclusion:	
ii. If using the Slum/Blight national objective on an Area basis, does the file demonstrate that the area meets the definition of a slum, blighted, deteriorated or deteriorating area under state or local law?	☐ Yes ☐ No ☐ N/A
Describe Basis for Conclusion:	
iii. If using the Slum/Blight national objective on a Spot basis, is the rehabilitation *limited* to those conditions that are detrimental to public health and safety?	☐ Yes ☐ No ☐ N/A
Describe Basis for Conclusion:	
iv. For an activity classified as Urgent Need, was the need demonstrated (via publication in the program participant's Action Plan) within 18	☐ Yes ☐ No ☐ N/A

Google: CPD Monitoring Handbook

Preparing for HUD…

- Create uniform recordkeeping and file management system
- Assign knowledgeable personnel to prepare for monitoring visit and ensure all files are accessible to HUD staff
- Review files and records in advance using checklists as guide
- Ensure all files are accessible to HUD staff
- Designate someone to assist HUD staff during the entirety of the monitoring visit
- Provide access to IT “system of record” (if available) to key HUD monitoring staff prior to their visit to trouble shoot any access issues

Get organized

- Create Checklists: Put it in the file and have staff check to ensure that all required documents are present and final
- Check systems: Create a road map for the system to ensure moving from screen to screen is user-friendly, that it's 100% clear where to go to find required documents and that all relevant documents are uploaded into the system
- Rehearse: Walk through a file using the HUD Monitoring Exhibits. Can you answer all the questions using only the information found in the file? Check for any duplicate or incomplete records.

Findings and Concerns

HUD monitoring reviews may result in Findings or Concerns:

- **Finding:** A Finding is a deficiency in program performance based on a statutory, regulatory, or program requirement for which sanctions or other corrective actions are authorized
- **Concern:** A Concern is a deficiency in program performance not based on a statutory, regulatory or other program requirement. HUD issues a Concern about program design or operations when in HUD's judgment the practice could, if not corrected, result in noncompliance with a statutory, regulatory, or program requirement.

When Working With HUD…

- HUD is a partner, not an adversary
- Learn and use HUD terms to be effective
- Provide documentation when requested
- Findings are not personal, and may ultimately prevent even more consequential findings

After HUD Leaves…

- HUD Monitoring Report issued within 90 days
- Grantee has 30 days to respond
- Findings (Corrective Action) versus Concerns (Recommended Action)
- Monitoring Reports are FOIA-able, but are generally not shared with third parties unless requested

Common Findings: Recordkeeping

- 24 CFR 570.490
  - “State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD…”
- Lack of recordkeeping may signify deeper deficiencies

Common Findings: Duplication of Benefits

- Section 312 of the Stafford Act (42 U.S.C. 5155)
- Questions HUD will ask:
  - Did you do it?
  - Did you do it right?
- Commonly leads to repayment
- Applies to all assistance (housing, infrastructure, and economic development)

Common Findings: National Objective

- 24 CFR 570.483
- Not as common in CDBG-DR program where grantees can utilize the low-documentation urgent need national objective in accordance with Federal Register Notice
- Most commonly cited for wrongly calculating Low/Moderate Income (LMI) Area Benefit service areas

Common Findings: Financial Management

- 24 CFR 570.489(d), Fiscal Controls and Accounting Procedures
- 2 CFR 200
- Not just monitored as part of HUD Financial Management review but also a part of Overall Management
- HUD will:
  - Check Financial Management 07B Reports
  - Interview Staff
  - Review source documentation that establishes “basis of cost”
  - Review internal auditor function

Common Findings: Procurement

- 24 CFR 570.489(g)—vendors
- 24 CFR 570.489(h)—conflict of interest
- Sole Source/Non-competitive Procurement/Plus Up of Existing Contracts
- Lack of HUD-required provisions (e.g., Section 3)
- Benchmarks
  - Performance Requirements
  - "Penalties" or Liquidated Damages – applies to ALL contracts (including those for administrative services)
- Overuse of Change Orders

Common Findings: Environmental Compliance

- 24 CFR Part 58
- 24 CFR Part 50
- Incorrect environmental assessment undertaken
- Recognizing “Choice Limiting Actions”
- Expenditures prior to “Authorization to Use Grant Funds” (AUGF)
- Follow up “mitigating actions” – i.e. elevation of structure

Common Concerns: Policies & Procedures

- HUD will review a grantee’s policies and procedures, and will often issue a Concern if policies and procedures are insufficiently detailed or do not align with program design

Sanctions

- States: 24 CFR 570.495
- Entitlements: 24 CFR 570.910
- May include but not limited to:
  - Advising grantee not to do it again
  - Advising grantee to suspend or terminate payment
  - Making grantee repay funds out of non-federal funds

Questions

Recordkeeping

Agenda

- Why is recordkeeping important?
- Primary recordkeeping requirements for:
  - General Administration
  - Financial Management
  - Eligibility of Projects and Activities
  - National Objectives
  - Income Eligibility
  - UGLGs & Subrecipients
  - Waivers & Alternative Requirements
- Record retention and access
- Tips for recordkeeping
- Website requirements
- Questions

Why is Recordkeeping Important?

- Accurate recordkeeping is crucial to the successful management of CDBG-DR funded activities
  - Insufficient documentation is likely to lead to monitoring Findings, even if project implementation has been “successful”
  - Could also lead to IG or other audit issues or the appearance of fraud, waste or abuse
- A record of a project or activity should “tell the story” on its own and completely

Key Grantee Responsibilities for Recordkeeping

- Maintain a clearly defined process for acquiring, organizing, storing, retrieving and reporting information about CDBG-DR funded activities
  - If using electronic records, grantee must have ownership of the records and be able to access the information long term
- Have a clearly identified person(s) responsible for recordkeeping & reporting tasks
  - Ensure they are properly trained & supported
- Create standardized policies & procedures to ensure no gaps, consistency and streamlining
- Post key info on web site (more later)

Federal Registers, Waivers and Alternative Requirements

- CDBG Disaster Grantees have additional recordkeeping requirements:
  - Example: Duplication of Benefits
  - Described in *Federal Register* Notices to comply with Appropriations Acts, waivers & alternative requirements
- Grantees should check:
  - *Federal Register* Notices and ensuing policy guidance for additional recordkeeping requirements; and
  - With CPD Rep to determine what additional records, if any, should be kept to comply with waiver requests approved by HUD

General Administrative Records

- Published Action Plans and amendments, certifications, etc.
- Executed grant agreement(s)
- Description, geographic location and budget of each activity
- Eligibility and national objective determinations for each activity
- Personnel files
- HUD monitoring correspondence
- Citizen participation compliance documentation
- Fair Housing and Equal Opportunity records
- Environmental review records
- Documentation of compliance with crosscutting requirements (e.g., Davis-Bacon, Uniform Relocation Act, and Lead-Based Paint)
- Limited English Proficiency documentation

Financial Records

- Budget
- Accounting procedures, including internal controls
- Accounting journals, ledgers & chart of accounts
- Source documentation (purchase orders, invoices, canceled checks, relevant financial correspondence)
- Procurement files (including independent cost estimates, bids, contracts, etc.)
- Real property & equipment inventory info
- Bank account records (including PI & RLF records, if applicable)
- Draw down requests
- Payroll records and reports
- Financial reports
- Audit reports and documentation

Project and Activity Records

- Eligibility and national objective of the activity
- UGLG or subrecipient agreement (if applicable)
- Any bids or contracts – including documentation of SAMS review
- Characteristics and location of the beneficiaries
  - Including race and ethnicity of beneficiaries
- Compliance with special program requirements (e.g. environmental review records)
- Budget and expenditure information (including draw requests)
- The status of the project/activity

Documenting "Tie Back" to the Disaster

- **All** activities and projects must be related to **recovery** from the disaster(s) covered by the appropriation
- For **every** funded applicant or project, the grantee must document a tie to the storm. There are generally two possible approaches:
  - Applicant suffered physical or economic damage from the storm OR
  - Funded project will help to economically revitalize an impacted community, including new construction
- Documentation could include damage or building estimates for physical losses or post-disaster analyses or assessments for economic or non-physical losses

Documenting Duplication of Benefits

- Overall policies and procedures on DOB, data sharing with SBA, NFIP and FEMA
- For individual files:
  - Identification of CDBG-DR need
  - Identification of sources of assistance
    - For example: FEMA award letter, insurance letter, SBA data provided to grantee
  - Verification of sources of assistance
  - Calculation of CDBG-DR award
  - Subrogation agreement (or similar agreement)
  - Treatment of SBA declined loans (following existing guidance until HUD issues new rules)

Documenting National Objective

NATIONAL OBJECTIVES

- LOW/MOD
  - Area Benefit
  - Limited Clientele
  - Housing
  - Jobs
  - 1. Buyout (LMB)
    2. Housing incentive (LMHI)
- SLUM/BLIGHT
  - Area Basis
  - Spot Basis
  - Urban Renewal
- URGENT NEED

Documenting Urgent Need

- Urgent Need (UN) is used to address emergency situations, including disaster recovery
- Does NOT count toward the LMI Overall Benefit calculation so income of beneficiaries is not a consideration
- Without a waiver or alternative requirement – in order to meet the Urgent Need test in CDBG requires:
  - Existing conditions pose serious & immediate threat to health/welfare of community
  - Existing conditions are recent or recently became urgent
    - Generally 18 months in the main CDBG program
  - Recipient cannot finance on its own
  - Other funding sources not available

Documenting Urgent Need in DR

- Often referred to as the "Low-Doc" Urgent Need alternative requirement
  - Grantees do not need to issue a formal certification statement to qualify an activity as meeting the Urgent Need national objective
  - Instead – Grantees must document how each program and/or activity funded under the Urgent Need national objective responds to a disaster-related impact.
  - Grantees must reference in the needs assessment the type, scale, and location of the disaster-related impacts that each program and/or activity is addressing
- Urgent Need national objective is not a "parking lot" for activities that do not meet an LMI national objective.

Documenting Urgent Need in DR (cont.)

- In previous FR Notices, there is a 24 month timeline on the use of the low-doc Urgent Need alternative requirement.
  - Following the 24-month period, no new program or activity intended to meet the urgent need national objective may be introduced and allocated funds without a waiver from HUD
- The Feb 9, 2018 FR Notice eliminated the 24 month timeline, and allows all activities funded with CDBG-DR dollars allocated under that notice to use the low-doc alternative requirement.

Documenting LMI Housing in DR

- The total cost of the activity, including both CDBG and non-CDBG funds
- The size, annual income, and FHEO characteristics of households occupying CDBG-assisted and designated LMI units
- A copy of the written agreement indicating the total number of dwelling units and the number of LMI units
- For rental housing only:
  - Rent charged (or to be charged) after assistance for each assisted unit
  - Documentation showing the affordability of units occupied (or to be occupied) by LMI households
  - Pro-rata option if authorized by HUD

Documenting LMI Buyout (LMB) in DR

- The size, annual income, and FHEO characteristics of each household occupying CDBG-DR buyout units
- Sufficient supporting documentation establishing award amount exceeds "current market value" of property
- Documentation or plan that buyout parcel will be "open or green space" upon grantee acquisition

Documenting LMI Housing-Incentive (LMHI) in DR

- The size, annual income, and FHEO characteristics of each LMI household receiving the Housing Incentive (HI) benefit
- Supporting documentation detailing one of the following requirements:
  - Replacement unit purchased with the HI is outside flood hazard zone or floodway (maps, deed, photos), or
  - Improvement or Replacement of a residential structure with the HI that, upon completion, will be occupied by the LMI household.
- Methodology for incentive award over pre-storm value of buyout unit, to ensure the amount of the HI is <u>necessary and reasonable</u>

Documenting Job Creation and Retention

- Three ways to meet the LMI Jobs National Objective
  - Job Creation – 51% of new jobs held by or made available to LMI persons
  - Job Retention – 51% of jobs retained held by LMI
  - Area benefit – business provides goods or services to area that is more than 51% LMI (must be able to document service area)
- Measured by Full Time Equivalent (FTE) positions
- Alternative requirement for documentation of LMI jobs

  For each LMI person/job: salary/wages for job must be at or under the HUD-established income limit for a one-person household for hat jurisdiction

Determining and Documenting Income

- Applies to direct benefit LMI activities such as housing and jobs
- Annual income is gross amount of income anticipated by all adults in a family during the 12 months following the effective date of the determination
- Three definitions of income:
    - Annual income as defined under Section 8 (24 CFR 5.609);
    - Adjusted gross income as defined for purposes of reporting under IRS Form 1040 (long form) for Federal individual income tax purposes; and
    - Annual income as defined for reporting under the American Community Survey (ACS)

Determining and Documenting Income

- To document income-eligibility grantees can also maintain:
  - Evidence that the household/person assisted qualified under another program as least as restrictive as that used in the definitions of LMI household/person; **or**
  - Evidence that the assisted person is homeless; **or**
  - Verifiable certification from the assisted person that his/her family income does not exceed the applicable income limit; **or**
  - Referral from a state, county or local employment agency or other entity that agrees to refer individuals who are LMI persons and agrees to maintain documentation.

Documenting Slum/Blight Area

- Boundaries of the area
- Description of conditions demonstrating how the area met qualifying criteria (i.e. the area meets a definition of a slum, blighted, or deteriorated/ing area under state or local law)
- How the assisted activity addressed one or more of the conditions that contributed to the deterioration of the area.
- For each residential rehabilitation activity:
  - Local definition of "substandard" that must be at least as stringent as the Housing Quality Standards (HQS) used in the Section 8 Housing Assistance Payment Program—Existing Housing
  - Pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated
  - Details and scope of CDBG-DR assisted rehab by structure

Documenting Slum/Blight Spot

- A description of the specific condition of blight or physical decay treated; and
- For rehabilitation carried out under this category, a description of the structure, including:
  - The specific conditions detrimental to public health and safety that were identified; and
  - Details and scope of the CDBG-DR assisted rehabilitation, by structure

Records on UGLGs and Subrecipients

- Application/selection documentation
- Written agreement, including scope of services
- Audit reports
- Progress and other required reports
- Draw requests (with source documentation, including invoices, purchase orders, etc.)
- Monitoring reports and correspondence including resolution of issues

Record Retention

- CDBG Entitlement Communities
  - Must maintain records for four years following end of program year activity funded
- CDBG States, longer if:
  - Records of state and UGLG retained for **three years from** closeout of HUD's grant with state; OR
  - Keep records relating to State's Con Plan & use of program funds during **preceding five years**; OR
  - Other specified periods:
    - 24 CFR 570.487, other applicable laws
    - 24 CFR 570.488, displacement, relocation, etc.
- Records related to any open audits, reviews, or investigations should be retained
- Recommended to consult state laws as well

Access to Records

- HUD & Comptroller General representatives have the right to access grantee & UGLG program records
  - Electronic records are strongly encouraged but must be owned and operated by the grantee
  - Records should be kept orderly and located in an accessible space
- Requirements regarding public access to records include:
  - Grantees are required to provide citizens with reasonable access to records regarding the past use of CDBG-DR funds, consistent with applicable state and local laws regarding privacy and confidentiality
  - The Consolidated Plan regulations require that states provide citizens, public agencies and other interested parties with reasonable and timely access to information and records relating to the jurisdiction's Consolidated Plan and the use of assistance under the programs covered by the Consolidated Plan

Tips/Tricks for Improving Recordkeeping Practices

- How can the documentation and reporting systems be strengthened? *AKA: How to avoid Findings/Concerns!*
  - Create a file checklist for each type of activity. Put the checklist in the file and have someone ensure that all required documents are present and final.
  - If you have an electronic system – create a road map for the system to ensure that moving from screen to screen is user-friendly and that it's 100% clear where to go to find the required documents
  - Do your own records monitoring. Have someone-not familiar with that project walk through a file using the HUD Monitoring Exhibits. Can they answer all the questions using only the information found in the file? Have them check for any duplicate or incomplete records.

Tips/Tricks for Improving Recordkeeping Practices (continued)

- What types of records and reports could be automated?
  - Utilization of web-based reporting and file storage
  - Live data feeds to FEMA and SBA
  - Standardized digital intake processes across subrecipients
  - Use of DRGR data upload templates to:
    - Collect and insert beneficiary data into QPR
    - Create vouchers
  - Use of DRGR MicroStrategy reports for:
    - Financial analyses
    - Data clean up

Subrecipients and Recordkeeping

- Determine records to be kept by the grantee and those to be kept by the subrecipient
- Pass on recordkeeping requirements in written agreement with subrecipient
- Typical records kept by subrecipient
    - Program documentation (e.g., marketing, applications, tie to storm, beneficiary data, etc.)
    - Income eligibility of beneficiaries
    - Duplication of benefits
    - Financial management compliance
    - Applicable Federal cross-cutting requirements

Website Requirements

- General requirement is to maintain comprehensive website regarding all disaster recovery activities assisted with these funds
  - Vary by Appropriation & described in applicable Federal Register(s)
- Provide citizens easy and quick access to:
  - Available programs and key contacts
  - Plans and reports
  - Upcoming hearings and other citizen engagements
- Also help to achieve compliance with:
  - Citizen Participation requirements
  - Limited English Proficiency (LEP) plan

Website Requirements

- At a minimum, the DR grantee must maintain the following on its website:
  - Published Action Plan and all amendments
  - DRGR Action Plan and QPRs
  - Copies of first level contracts
  - Summary of all contracts and procurement policies
  - Citizen Participation requirements (notices, hearings, accessibility, etc.)
  - Information on programs and contacts
- New website requirements in 83 FR 5844 (published February 9, 2018)
- Refer to specific FR Notice associated with CDBG-DR appropriation for specific website requirements

Wrap Up

- Subrecipients & other partners are often critical to being able to carry out recovery programs in a timely manner
- **Keys to success**
  - Strategic decisions on which & how many partners to use
  - Track record & capacity of partners
  - Good recordkeeping at all levels
  - Hands-on & frequent oversight
  - Quick resolution of issues
- Thorough recordkeeping is your friend – Paints the picture of what is going on with the program & decreases the chances of findings or other issues

Questions