Managing and Monitoring Subrecipients

2019 CDBG-DR Problem Solving Clinic
Kansas City – Overland Park | July 30 – August 1, 2019

Welcome & Speakers

- Session Objectives
  - Define subrecipient
  - Teach grantees about the requirements for managing and monitoring subrecipients
  - Provide tips and lessons learned regarding effective subrecipient management, oversight and monitoring
- Speaker
  - Kevin Roddy, ICF

Agenda

- Definition of "subrecipients" and other types of entities funded through CDBG-DR programs
- Process for selecting subrecipients
- Process for assessing the capacity and experience of subrecipients
- Oversight and monitoring responsibilities
- Monitoring preparation and execution
- Typical issues and challenges with subrecipients
- Available resources and tools
- Questions

Subrecipient Management

What is a Subrecipient?

- 24 CFR 570.500(c)
  - Public or private nonprofit agency, authority or organization, or a for-profit entity serving Microenterprises (24 CFR 570.201(o)) receiving CDBG-DR funds from the recipient or another subrecipient to undertake CDBG-DR eligible activities
- 2 CFR 200.93 & 200.330(a)
  - A non-Federal entity that receives a subaward to carry out part of a Federal program

What is a Subrecipient, really?

- A Subrecipient is a Grantee's partner in disaster recovery
    - Determines who is eligible to receive what Federal assistance
    - Has its performance measured in relation to whether objectives of a Federal program were met
    - Has responsibility for programmatic decision making
    - Is responsible for adherence to applicable Federal program requirements specified in the Federal award
    - In accordance with its agreement, uses the Federal funds to carry out a program **for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity**

Types of Subrecipients

- **Governmental Agencies -** public agencies, commissions, or authorities that are independent of the grantee's government (for example, a public housing authority or a park district)

- **Private Non-profits -** usually, but not always, corporations, associations, agencies, or faith-based organizations with non-profit status under the Internal Revenue Code (Section 501(c)(3)), usually with a board of directors and an executive director in charge of daily administration

- **Private For-profits -** for-profit entities that can qualify as subrecipients when facilitating economic development by assisting microenterprises under the provisions of (24 CFR 570.201(o))

State Grantees and Subrecipients

- With CDBG-DR, states may carry out activities in a variety of ways:
    - Directly
    - Method of Distribution: By funding units of general local government (UGLGs)
    - By funding subrecipients
    - By funding other state level departments
        - These agencies are not technically subrecipients but may be treated as such
        - Must have some sort of similar agreement outlining roles, responsibilities and requirements (e.g., MOU)
        - Regardless, only one agency may be the "lead agency" responsible for oversight

Who is not a Subrecipient?

- Contractor
  - Competitively procured and provides a specific scope of services
- Developer
  - Awarded funds for an affordable housing development
  - Can be either a for-profit or non-profit entity
  - Typically organized and/or formed for single purpose or undertaking (e.g., rental or homebuyer project)
- Business
  - Privately- or publicly-held for-profit entity receiving funds as a beneficiary under a program (e.g., business loan program)

Comparison of Subrecipients and Contractors

	Subrecipient	Contractor
Selection	• Designated by the grantee via a selection process	• Procured (e.g., 2 CFR 200)
Applicability of requirements	• Subject to all applicable administrative, financial and cross-cutting Federal rules and requirements • Can only charge actual costs to deliver activity	• Subject to requirements for the specified scope of work • Costs include profit
Monitoring and performance	• Must adhere to written agreement outlining responsibilities • Recipient monitors all aspects of program	• Must deliver services identified in the contract

Responsibilities of Subrecipients

- Meet the grantee's specific selection criteria
- Carry out specified program on behalf of grantee
- Comply with all Federal statutes, regulations and program requirements
- Comply with all terms and conditions of the subrecipient agreement
- Meet all established performance goals
- Ultimately the grantee is responsible for subrecipient compliance and performance

Selecting Subrecipients

- Grantees may use any reasonable criteria to select a subrecipient
    - Request for Qualifications
    - Notice of Funding Availability (NOFA)
    - A qualified non-profit serving a specific geography
    - A local government

Assessing Capacity of Subrecipients

- Grant management history (track record)
  - Grantee monitoring reports
  - Internal and external audits (i.e. Office of Inspector General (OIG) or Annual Single Audit in accordance with 2 CFR Part 200 Subpart F)
  - Ability to comply with Federal rules & regulations (capacity)
- Staffing
  - New or experienced
  - Turnover rate
- Program and activity experience
  - Knowledge of CDBG/CDBG-DR
  - Management of similar programs/activities

Assessing Capacity of Subrecipients (cont.)

- Financial and Tracking Systems
  - Adherence to uniform standards (2 CFR 200)
  - Invoice and payment functionality
  - Experience in handling program income
  - A-133/2 CFR 200 – Subpart F – annual audit reports
  - Outstanding audit findings, if any
- Contractor Oversight (if applicable)
  - Knowledge of procurement requirements
  - Monitoring systems in place
  - Understand specific scope of service

Subrecipient Agreements

- Legal means to convey all applicable requirements, roles & responsibilities (see CDBG regulations 24 CFR 570.503) including:
  - Statement of work/scope of services
  - Detailed budget, including all sources of funds to project or activity
  - Period of performance
  - Records to be maintained, reports to be submitted
  - Uniform admin/financial & cross-cutting requirements
  - Provisions on suspension/termination, reversion of assets and enforcement
- Amend over time as necessary

Subrecipient Oversight

- In order to ensure subrecipients are properly carrying out activities, the grantee must have oversight mechanisms in place to track progress and monitor performance
- Consider:
  - How to staff oversight responsibilities
    - Consider components to be reviewed and monitored (administrative, financial, programmatic, technical)
  - Creating and Maintaining policies, procedures and tools
  - How issues such as nonperformance & findings will get resolved in a timely manner

Subrecipient Oversight (cont.)

- Use the results of the subrecipient's assessment to develop any required training and/or technical assistance
- Determine the level of risk associated with subrecipients by using some of the following factors:
  - Knowledge of program requirements & cross-cutting Federal requirements
  - Size and complexity of the program
  - Financial management indicators (e.g., expenditure rates, findings)
  - Management factors (e.g., staff turnover)
  - Citizen complaints

Subrecipient Oversight (cont.)

- Based on the level of risk, identify a schedule for reviewing subrecipient activities and share the schedule with the subrecipient
- Establish milestones, and include them in the subrecipient agreement
- Track financial progress monthly by comparing actual expenditures against subrecipient's budget
- Track programmatic progress quarterly by using information provided for the Quarterly Performance Report (QPR)

Subrecipient Oversight (cont.)

- If progress is not made:
  - Provide feedback to subrecipient
  - Work together to identify a solution
  - Develop a plan to meet performance requirements
- If performance does not improve according to the plan, follow through on identified corrective action
- Subrecipients are also reviewed during the grantee's normal monitoring schedule
- HUD encourages grantees to monitor subrecipients at least annually

Subrecipient Oversight (cont.)

- Subrecipient Procurement
  - Subrecipients should seek guidance from the HUD grantee on procurement requirements to be followed and the applicability of 2 CFR 200.318 – 326
  - Subrecipients (and grantees) MUST include an evaluation of the cost or price of a product or service in advance of opening bids in each procurement action
  - Grantees must monitor the procurement actions of their subrecipients as part of their oversight

Monitoring Subrecipients

The Five Habits of Highly Effective Subrecipient Monitoring

Risk Assessment

Frequency

Thoroughness

Evidence to Support Conclusions

Tracking Method
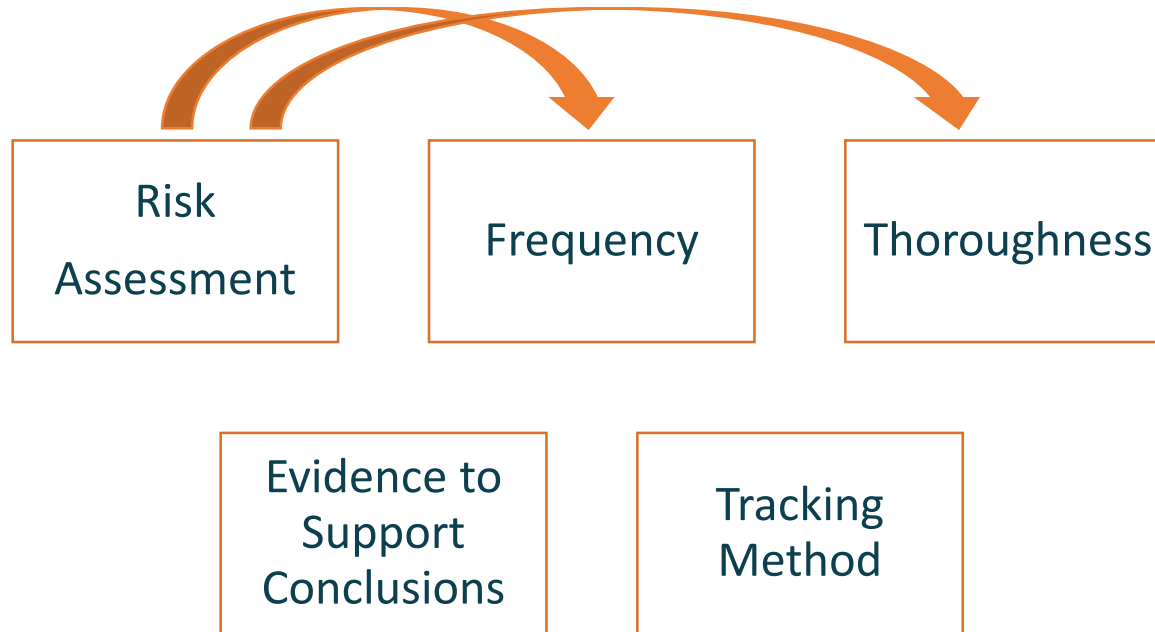
Risk Assessment Factors

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

Rating and Ranking

1. Rate each subrecipient/subgrantee

CITY OF ALTO		
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
   - **Must monitor subrecipients no-less than annually**
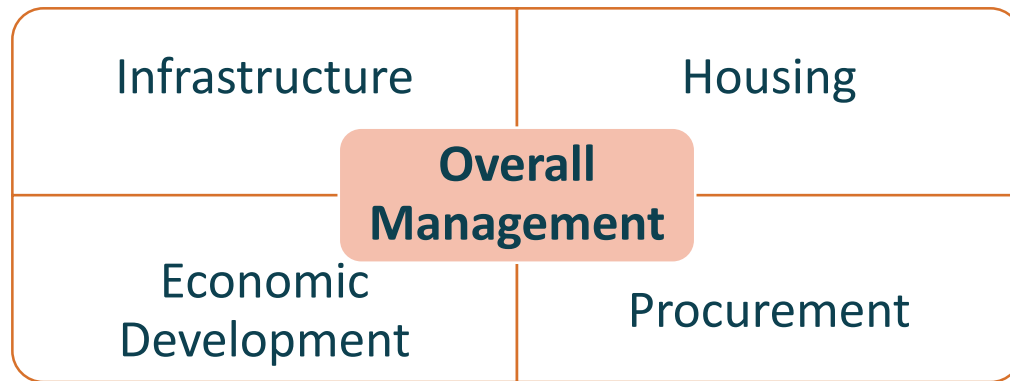
Essential Items that Must be Monitored

- Eligibility of activities and beneficiaries
- National Objectives
- Tie-back to qualified disaster
- Financial management/procurement
- Cross-cutting Federal requirements (i.e. labor, URA, environmental)
- 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

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
- Updated CDBG-DR specific Exhibits – Chapter 6

Infrastructure	Housing
Overall Management	
Economic Development	Procurement

Monitoring Exhibits

	Yes	No	N/A
a. Is the national objective adequately documented in the files? [24 CFR 570.506, 570.490, or applicable *Federal Register* notice]	☐	☐	☐
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?	☐	☐	☐
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?	☐	☐	☐
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?	☐	☐	☐
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	☐	☐	☐

https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2

Get organized

- **Create Checklists:** Assists to document whether required documents are present and are organized
- **Review Agreements:** Understand schedule, budget and objectives
- **Check record systems:** Hard copy files or computer system - where are required documents maintained and how
- **Monitoring approach:** Based upon risk – on-site or desk review?
- **Prepare in advance:** Identify relevant HUD Monitoring Exhibits based upon what will be reviewed, i.e. cross-cutting Federal requirements or financial systems

Findings and Concerns

Grantee 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. Grantee issues a Concern about program design or operations, when upon review, the practice could, if not corrected, result in noncompliance with a statutory, regulatory, or program requirement

Common Findings: Record keeping

- 24 CFR 570.490
  - "State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD…"
- Lack of record keeping 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"

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
- 2 CFR 200.323—Cost or Price Analysis in advance of issuing bid
- Lack of HUD-required provisions (e.g., Section 3; Minority and Women's Enterprise opportunities)
- 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

- Grantee must review a subrecipient's policies and procedures, and will often issue a Concern if policies and procedures are insufficiently detailed or do not align with program design

Resources

- 24 CFR 570:
  - http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr570_main_02.tpl
- HUD CPD Monitoring Handbook:
  - https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2
- DR Toolkits:
  - https://www.hudexchange.info/programs/cdbg-dr/toolkits/
- OIG Integrity Bulletin Summer 2016:
  - https://www.hudexchange.info/resources/documents/HUD-Integrity-Bulletin-Subrecipient-Oversight-Monitoring.pdf
- A Guidebook for Grantees on Subrecipient Oversight:
  - https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_17086.pdf
- 2016 CDBG-DR: Subrecipient Management and Record Keeping Webinar
  - https://www.hudexchange.info/trainings/courses/2016-cdbg-dr-subrecipient-management-and-recordkeeping-webinar/
- Buying Right CDBG-DR and Procurement: A Guide to Recovery
  - https://www.hudexchange.info/resource/5614/buying-right-cdbg-dr-and-procurement-a-guide-to-recovery/

Questions?

Kevin Roddy (Kevin.Roddy@icf.com)