MONITORING THE COUNCIL'S INVESTMENTS

Reducing Risk in Council Business

Welcome!

This presentation was developed jointly by the Information and Technical Assistance Center for Councils on Developmental Disabilities, Administration for Community Living, and Administration on Intellectual and Developmental Disabilities staff.

SPEAKERS

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- Note: See complete speaker bios in the "Speaker Bio" handout

LEARNING OBJECTIVES

- Increase knowledge about monitoring activities;
- Explore the broad categories of risk and actions to lessen risk;
- Considerations for developing and implementing a monitoring plan.

Our learning objectives for this session are:

WHAT ARE YOUR RESOURCES?

PL 106-402
DD Act

§125 (c)(7)(A-I)
Reports
and §125 (c) (8)(C)
Budget

45 CFR 75
• Subpart D – Post federal award requirements

• §75.342 Monitoring
• §75.351 Subrecipient monitoring and management

Notice of Award
• Including any attachments and/or enclosures

As mentioned in the plenary session, there are a number of statutory, regulatory, and other programmatic guidance documents available to recipients of federal funds.

In this session – we are highlighting the following resources:
DD Act – specifically reports and budget
45 CFR 75 – Subpart D
Notice of Award

MONITORING

Required by law to ensure:

- Proper use of federal funds
- Accomplishment of program objectives

Objectives of monitoring:

- Ensure program performance
- Ensure expenditures are allowable
- Ensure compliance with applicable laws and regulations

Effects of monitoring

- Identifies areas of noncompliance or non-performance so that corrective action or technical assistance can be provided
- Identifies areas of strength so success can be recognized and built on

We'll begin with the why monitoring is required and then look at the objectives and effects of monitoring –

WHAT IS MONITORING (CONT'D)

- Monitoring is a component of internal controls
- Monitoring should be conducted periodically

- Monitoring requires:
  - Periodic assessments
  - Response to deficiencies

| Evaluate findings | → | Determine response | → | Complete corrective action |

Monitoring is a component of internal controls

Internal control consists of five components: control environment, risk assessment, information and communication, control activities and monitoring. These work in tandem to mitigate the risk of an organization's failure to achieve its objectives. If left unmonitored, controls tend to deteriorate over time. Monitoring helps ensure that internal controls continue to operate effectively

Internal control, as defined in accounting and auditing, is a process for assuring achievement of an organization's objectives in operational effectiveness and efficiency, reliable financial reporting, and compliance with laws, regulations and policies.

Monitoring activities should be made up of both regular ongoing processes as well as specific separate evaluations in response to deficiencies (a deficiency is something that does not meet minimum standards of performance).

As a result of monitoring – the Council will evaluate the findings, determine the response to the findings, and ultimately determine what corrective action will be needed to remedy the finding.

In the case of subrecipients, the Council should communicate the findings clearly, and indicate what type of documentation or remedy will be needed to satisfy the finding. Timelines and expectations regarding corrections should also be clearly communicated with the subrecipient.

OPERATIONALIZING A MONITORING PROCESS

Monitoring "plan"

EFFECTIVE MONITORING IS BEST ACHIEVED WITH…

A supportive tone at the top

An effective organizational structure that assigns monitoring roles to people with appropriate capabilities, objectivity, and authority; and

A starting point or "baseline" of known effective internal control from which ongoing monitoring and separate evaluations can be established

Effective monitoring can best be achieved when it is based on three broad elements including (a) a supportive tone at the top; (b) an effective organizational structure that assigns monitoring roles to people with appropriate capabilities, objectivity and authority; and (c) a starting point or "baseline" of known effective internal control from which ongoing monitoring and separate evaluations can be established.

MONITORING PLAN

- What is it?
- A monitoring plan consists of policies and procedures that guide the scope and frequency of your monitoring activities, including follow up on corrective actions.

- To whom should the plan be made available?
- It should be widely disseminated to program staff within your organization as well as to subgrantees.
- It must also be available to auditors and federal program officials

We are using the word "plan" globally – meaning the place where documentation on policies and procedures about monitoring will exist.

When we think about operationalizing the task and requirement of monitoring – we are talking about the documentation that a Council develops in the way of policies and procedures a Council will use to evaluate each of their subrecipient's risk of non-compliance with program law and grant terms and conditions.

A monitoring plan consists of policies and procedures that guide the scope and frequency of your monitoring activities, including follow up on corrective actions.

It should be widely disseminated to program staff within your Council as well as to subrecipients.

It must also be available to auditors and federal program officials.

MONITORING PLAN CONT'D

- Required items
- Methods for monitoring;
    - Onsite visits
    - Desk reviews
    - Self-assessments
    - Review of reports
    - Phone conversations, emails, etc.
- Schedule of periodic monitoring methods for each subrecipient;
- Factors used to determine frequency and methods for monitoring subrecipients.

There are a few legally required details – The required items are: the methods you will use for monitoring, such as onsite visits, desk reviews, self-assessments, reviewing reports, phone conversations, emails, and so forth; the schedule of periodic monitoring methods for each subrecipient; and the factors you will use to determine the frequency and methods for monitoring subrecipients. Reference 45 CFR 75; 75.352

Remember, there may be different levels of monitoring based on the level of risk (we'll talk about that in a bit) – meaning, a high risk subrecipient may have regular oversight and monitoring ~~than~~ while a low risk subrecipient who may only have periodic monitoring. These are the types of factors that should be included in the monitoring plan.

SUGGESTED BEST PRACTICES FOR A MONITORING "PLAN"

- Develop a checklist that specifies compliance requirements for Councils and subrecipients related to federal programs, Government-wide policies, and state and local administrations
    - Helps internally and externally
- Include a citation to the relevant law or regulations for each requirement on the checklist for easy referral.
- Use a risk-based approach to identify subrecipients that are most likely to have problems in meeting goals or requirements.
- Evaluate monitoring plan annually to keep up with changes to rules, regulations, programs, and subrecipients.

In addition to the required items, there are also some suggested best practices to follow when developing a monitoring plan.

Develop a checklist that specifies compliance requirements for programs and subrecipients related to federal programs, Government-wide policies, and state and local administrations. Remember – there is a difference between the monitoring plan and the checklist – the plan lays out the methods, schedule, and factors that are used to determine levels of monitoring – and the checklist is specific to the items that will be reviewed in determining compliance with programmatic, financial, and other sub-award specifications.
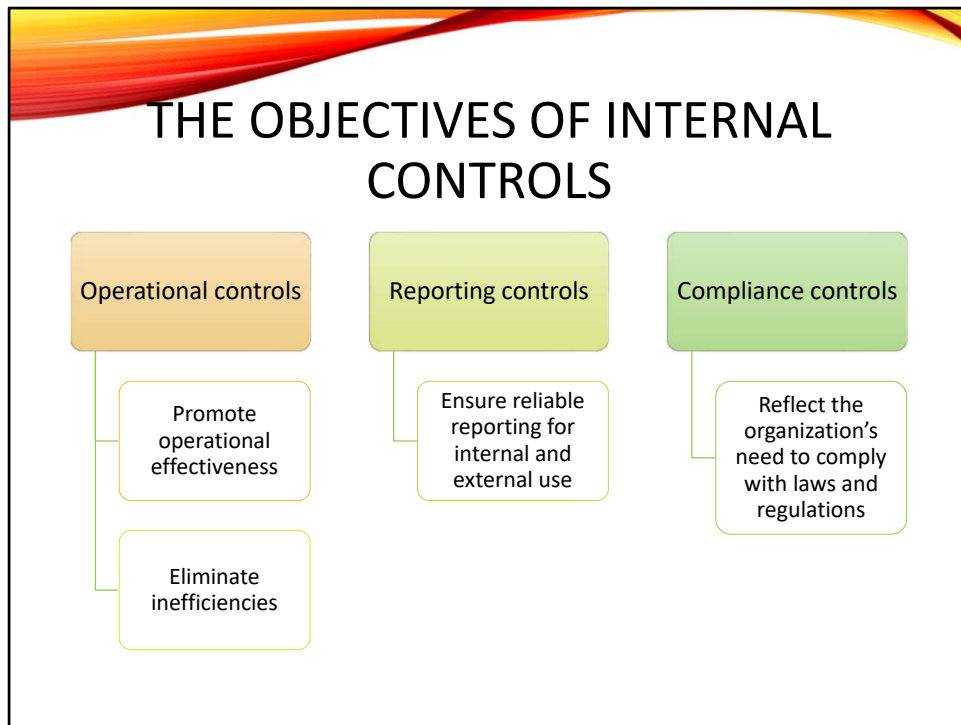
Some common compliance areas are documentation and allowability of related to expenses (remember the cost principles?); match documentation, programmatic outcomes; timeliness of reporting and invoicing (as consistent with formal agreement) etc.

A checklist is helpful, internally, for monitoring activities, and also externally to help subrecipients maintain compliance.

Include a citation to the relevant law or regulation for each requirement on the checklist for easy referral.

As another best practice, some Councils find it helpful to use a risk-based approach to identify subgrantees that are most likely to have problems in meeting goals or requirements. By identifying the greatest concentration of risk, you can adjust your monitoring plan to focus attention and resources on subrecipients that are most likely to have problems in meeting program goals.

It is a good idea to evaluate your monitoring plan at least annually to keep up with changes to rules, regulations, programs, and subrecipients.

THE OBJECTIVES OF INTERNAL CONTROLS

Operational controls
- Promote operational effectiveness
- Eliminate inefficiencies

Reporting controls
- Ensure reliable reporting for internal and external use

Compliance controls
- Reflect the organization's need to comply with laws and regulations

As we mentioned previously, monitoring is a **component** of internal controls – let's briefly review the objectives of internal controls.

The objectives and related risks addressed by internal controls are organized into three main categories: the effectiveness and efficiency of operations, the reliability of reporting, and compliance with applicable laws and regulations.

Next, we will turn our attention to each category.

The operational controls reflects an organization's need to promote operational effectiveness and eliminate inefficiencies. This affects the Council or the Council's subrecipients people, assets, and ability to achieve its mission. Operational control often takes the form of management oversight.

The reporting objective reflects the Council's need to ensure reliable reporting for internal and external use. For example, financial reporting in ledger accounts, financial statements, and activity reporting should complete, accurate, and reliable.

The compliance objective reflects the Council's need to comply with the applicable laws and regulations, such as those addressing financial management, programmatic management, and monitoring and procurement standards.

OPERATIONALIZING INTERNAL CONTROLS

What do Councils do?

OPERATIONAL CONTROLS:
COMMON AND BASIC AMONG COUNCILS

Documentation for Sub-Grantees	• Processes • Policies • Procedures
Documentation for Staff (indicating "who does what")	• Processes • Policies • Procedures
Regular Progress Reports	• Programmatic activities, outputs, outcomes, and other results • Tied to expenditures
Financial Processes	• Invoice requirements • Match documentation requirements • 4 tests and cost principles • Communication with DSA about balances (attend to unobligated funds)

When we think about operational controls, obviously, we want to share some **common** and basic ways Councils operationalize internal controls related to monitoring. (We did not attempt to cover all operational controls – these are just some of the most common among Councils).

Documentation (councils sometimes call these manuals) are an effective way to organize processes, policies, and procedures for subrecipients as well as for staff members. Sometimes Councils will develop "companion" internal manuals for Council staff members to show the "chain of command", the person who has authority to approve certain processes, indicators for separation of duties (meaning – showing what staff members are involved in completing particular fiscal process), and who reviews and approves specific reports and/or transactions.

Regular (sometimes quarterly or more frequent) progress reports are very common in Council operations. Most Councils with subrecipients engage in some type of progress reporting and require subrecipients to report programmatic activities to include data on outputs as well as information about outcomes and other results. Frequently, Councils will tie the programmatic report to the invoice – meaning, the invoice will not be reviewed, approved, or processed without a programmatic report to help document work performed and expenses incurred as a result of the work.

Common financial processes include a review of the invoiced expenditures to the original budget line items (in the case of subrecipients) and a review of expenses related to the Council administrative budget; calculating the percentage of funds spent to date, or year-to-date totals; reviewing the amount of match submitted to support the request for funds on the invoice (and then documenting match submitted on a master sheet to support the non-federal share on the annual SF-425). Reviewing expenditures using the 4 tests and the cost principles. Regular communication with the DSA (if your Council has a DSA) is necessary to determine status about grant award balances. It is important to pay attention to unobligated funds balances as there are statutory timeframes that come

into "play". (The afternoon plenary will focus on the DSA/Council relationship and communication).

HIGHLIGHTED OPERATIONAL ITEM

- Programmatic Reports
  - Are typically used to measure progress towards the objectives of the projects and activities conducted by subrecipients or Council staff implemented activities;
  - Annually the programmatic reports are the foundation for developing the annual programmatic report (PPR)
  - Ultimately, programmatic reports are used to measure progress towards the Council's 5-year goals.
- Important!
  - Programmatic reports are always tied to financial requests for reimbursement of expenses or reconciliation of advances as all activity is tied to a Council investment.

Many Councils use programmatic reports to measure outcomes and results of their investments. Programmatic reports are typically used to monitor subrecipients that are conducting projects or activities of the State plan – but we need to also recognize that programmatic reports are also important for Council staff or Council led projects or activities.

Councils should develop and implement processes to monitor all work associated with activities of the State plan and use those processes consistently meaning – staff led activities or subrecipient led activities should be monitored in a consistent fashion.

The majority of Councils require periodic programmatic reports (quarterly is most frequent among Councils) – the programmatic reports should be compared to planned work, planned outputs, planned outcomes, and planned expenditures for the project/activity being undertaken (we'll look at budgets next) – the periodic programmatic reports serve as the foundation for annual programmatic reports to the Administration – as you know, the annual programmatic reports in total are used to measure progress towards the 5-year goals in the approved State plan.

FINANCIAL MONITORING
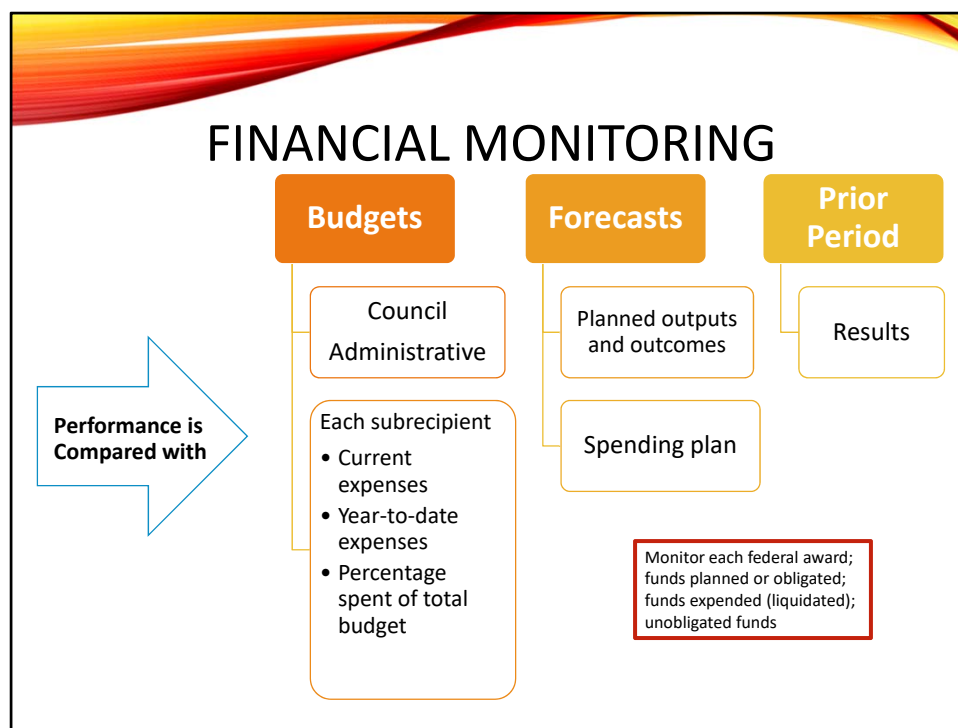
When monitoring financial aspects of Council work – performance should be compared with budgets, forecasts, and prior period performance.

The full budget of the Council should be monitored regularly – this will include the Administrative portion of the budget as well as the Programmatic portion of the budget. And should include a regular assessment of each federal grant award that is current.

Regular reviews should support an assessment and evaluation of expenses as compared to the budget, are expenses in line with the approved budget, are funds being expended too fast, or too slow? Are there areas where the budget needs to be amended? Does any amendment to the Administrative portion comply with the administrative percentage cap?

When reviewing the programmatic portion of the budget, the same elements should be considered – and for subrecipients, evaluating the achieved outputs and outcomes compared to the planned outputs and outcomes as well as the actual spending compared to the spending plan prepared by the subrecipient.

Conducting a comparison with the prior period is helpful in providing some insight into programmatic results in correlation to the financial investment of the Council.

Each federal fiscal year Council grant award should be monitored to ensure the Council staff have approval from the Council to enter into obligations which will lead to the Council having obligations in place that correlate with the project period, and accurate information is being used to determine the amount of funds available to obligate.

Unobligated funds should be considered a priority for planning obligations. Remember – an obligation is not a Council vote to invest a certain amount of money in a specific area – an obligation is a legal promise to pay – so this means a contract or formal agreement that can be considered a legal promise to pay (the Council vote is approval to use Council funds – but falls short of a legal promise to pay).

Regular communication with the DSA about the financial status of DD Council grant awards for each grant award year is critical to the financial operation of the Council and implementation of the Council's 5-Year State plan. Remember, the DD Act requires the DSA provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, and liquidation by the Council - engaging in regular, open, ongoing communication with the DSA will increase efficiency.

COMPLIANCE MONITORING

Compliance

Financial

Operational
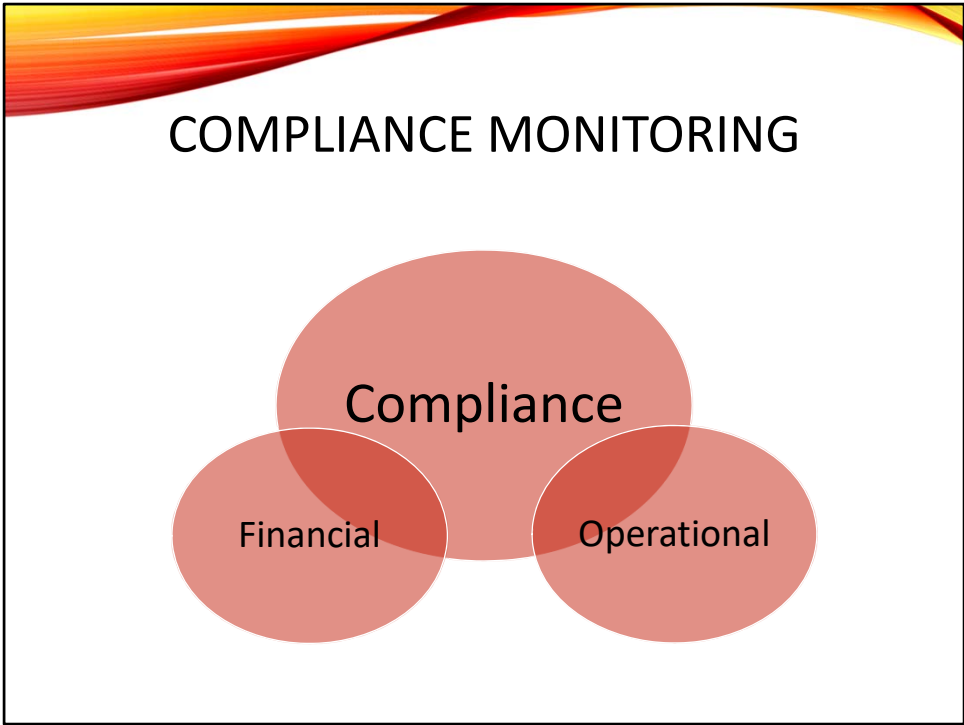
As you know, compliance monitoring cuts across all areas of Council business – and should be woven into all aspects of monitoring activities.

RISK

What is it, general categories, and how to lessen
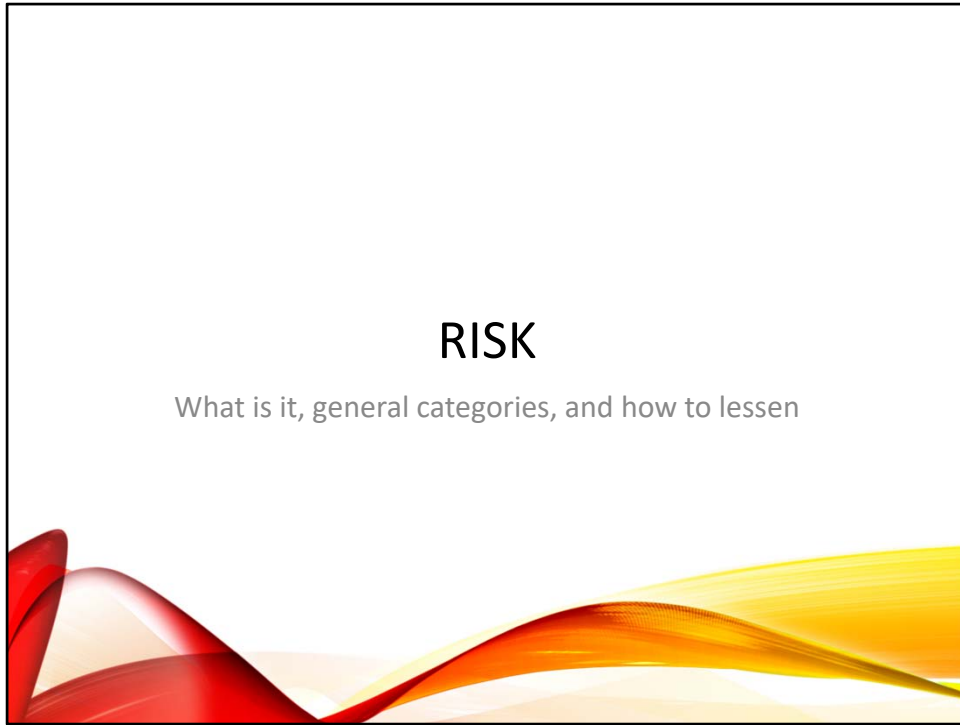
Let's turn our attention to the topic of risk

RISK ASSESSMENT

- What is risk?
  - The chance that a threat, or a particular vulnerability causes something negative to happen – and if it does to which the organization is impacted.
- Assess risk and develop appropriate responses.

Risk is a measure of the likelihood of a recipient achieving overall program objectives, including financial reporting and compliance, within defined requirements related to statues, regulations, and grant management practices.

In other words, risk measures the likelihood of waste, fraud, and abuse. It also measures the likelihood of non-compliance with laws, regulations, or policies.

Finally, it measures the likelihood of an organization not successfully completing a project because of many reasons inherent in managing a program; for example, employee turnover, lack of staff expertise, and external roadblocks.

GENERAL CATEGORIES OF RISK

Programmatic (Failure to)	Personnel (Failure to)	Financial (Failure to)

• Achieve intended result
• Follow laws
• Monitor program
• Provide reliable information
• Safeguard sensitive information
	• Fill positions with experienced staff
	• Meet recruiting needs
	• Train staff effectively
		• Prevent
		  • Fraud
		  • Corruption
		• Avoid improper payments
		• Prevent waste

Risk comes in all forms, but here are some general categories of risk of which you should be aware. Programmatic risks include the failure to: achieve the intended program goals; follow laws or regulations or organizational policies and procedures; adequately monitor the organization's programs; provide reliable information for decision making; and prevent the mishandling of sensitive information.

Personnel risks include the failure to: staff positions with employees with the appropriate experience; effectively recruit employees; and meet the training demands required.

Financial risks include the failure to prevent fraud, bribes, and other forms of corruption, such as kickbacks from consultants, contractors, and employees. Organizations must avoid improper payments, such as overpayment, duplicate payments, payments for services not received. Financial risk awareness also includes prevention or minimization of waste, as well as effective project and resource management.

CONTROL ACTIVITIES: A RESPONSE TO IDENTIFIED RISKS

- Control activities are ACTIONS TAKEN to reduce risk
- Control activities are the policies, procedures, techniques and mechanisms that help management develop a response to reduce risks identified during the risk assessment process.
- Control activities can be preventive or detective

Preventive	Designed to deter the occurrence of an undesirable event; Designed to predict potential problems before they occur; Implement procedures to avoid them
Detective	Designed to identify undesirable events that occur and alert management about what happened Designed so management can take corrective action immediately

Control activities are the policies, procedures, techniques, and mechanisms that help ensure that management's response to reduce risks identified during the risk assessment process is carried out. In other words, control activities are **actions taken** to minimize risk. The need for a control activity is established in the risk assessment process. When the assessment identifies a significant risk to the achievement of an agency's objective, a corresponding control activity or activities is determined and implemented.

Control activities can be preventive or detective:

Preventive activities are designed to deter the occurrence of an undesirable event. The development of these controls involves predicting potential problems before they occur and implementing procedures to avoid them.

Detective activities are designed to identify undesirable events that do occur and alert management about what has happened. This enables management to take corrective action promptly.

Internal control activities can be incorporated into the following:

Policies

Procedures

Sequences or combinations of procedures

Assignments of duties, responsibilities, and authorities

Physical arrangements or processes

Combinations of the above.

INTERNAL CONTROL ACTIVITIES CAN BE INCORPORATED INTO THE FOLLOWING

Policies

Procedures

Sequences or combinations of procedures

Assignments of duties, responsibilities, and authorities

Physical arrangements or processes

Combinations of the above.

RISK ASSESSMENT AND CONTROL ACTIVITIES

The need for a control activity is established in the risk assessment process.

Commonly used control activities
- Education and training
- Performance planning and evaluation
- Reconciliation
- Authorization
- Review and approval
- Verification

Remember to document all control activities!

The need for a control activity is established in the risk assessment process.

Commonly used control activities are:

      Education and training
      Performance planning and evaluation
      Reconciliation
      Authorization
      Review and approval
      Verification

HIGHLIGHTED ITEM: RISK-BASED APPROACH

- Risk-based approach
- Internal risks:
    - History of noncompliance
    - High staff turnover
    - New subgrantee
- Risk associated with the program:
    - Complexity of program
    - Size of program portfolio
    - Amount of the award

We'd like to review the risk based approach as a highlighted item. The risk-based approach has two areas – Internal risks and risks associated with the program - Examples of internal risk factors include having a history of non-compliance or high rates of staff turnover, or being a new subrecipient. Risks associated with a program itself include a complex program, a large grant portfolio to manage, and a large award amount.   As your Council staff thinks about the methods and factors you will use to categorize sub-recipients and their risk status, these are the basic items seen in a risk-based approach.

Note that the bigger the award, the greater the risk!

INFORMATION AND COMMUNICATION

Information must be:	Communication must be:
• Compiled to analyze program achievement • Relevant • Valid • Reliable • Timely • Recorded promptly • Classified promptly	• Shared across all levels of the Council • Shared with external organizations • Clear • Used to emphasize importance of internal controls

Council staff need program information to determine whether or not programs are working effectively and are achieving their goals and objectives. Additionally, program information is needed for both external and internal uses to make decisions, monitor performance, and allocate resources.

Information must be relevant, valid, reliable, and timely. A precondition for reliable and relevant information is the prompt recording and proper classification of transactions and events. Pertinent information should be identified, captured, and communicated in a form and timeframe that enables staff to carry out their internal control and other responsibilities.

For a Council to be well run and in control of its operations, it must be able to communicate its information effectively. Information should be communicated to personnel at all levels within the Council. It should flow down, across and up, throughout all components of the Council structure, and out to external organizations as well. All personnel should receive a clear message from management that control responsibilities should be taken seriously. They should understand their own roles in the internal control process and how their individual activities relate to the overall internal control system of the Council.

EXAMPLES OF INFO & COMMUNICATION

Receiving feedback

Timely and accurate reporting

Updated guidance

Requirements

Coordinating with data management staff

Here are some basic examples of information and communication that can be used in monitoring activities.

WHAT ABOUT NONCOMPLIANCE?

§ 75.371 Remedies for noncompliance

Highlights -

Can be imposed by HHS or the pass-through entity

➢Temporarily withhold cash payments until the correction of the deficiency is made;

➢Disallow all or part of the cost of the activity/action not in compliance;

➢Wholly or partly suspend or terminate the activity.

So…after a Council implements a monitoring plan and activities – a common question raised is…"what do we do if a sub-recipient is out of compliance?" – well, it depends on the compliance area and compliance with federal statute or regulation or Council policy – at times, Councils develop a corrective plan for a subrecipient, but when that is not found to be successful other remedies are supported in the CFR. For example, a subrecipient has a requirement to submit monthly invoices for project related expenses and the monitoring process finds the subrecipient submitted invoices quarterly. A corrective action plan could be developed to ensure the subrecipient understands the contractual requirement and/or policy of the Council needs to be met. Or…another example we hear about is the subrecipient is not achieving any outcomes or results they proposed to work towards and are not making any efforts to change processes or direction to make progress. Some DD Councils assess the findings and move to terminate the project/activity with the current subrecipient in order to not waste federal dollars and then make decisions about other ways to make progress towards the 5-year goals in the State plan. Frequently, Councils find expenses included on invoices that are not allowable with federal funds. Council staff disallow the items not in compliance with 45 CFR 75 and pay the balance of the invoice with communication offered to the subrecipient about why the cost was disallowed and how to approach costs in the future.

There are a number of remedies provided for noncompliance with Federal statutes, regulations, and the terms and conditions for the Federal award.

This section of 45 CFR 75 provides guidance on this topic.

HOW LONG DO WE KEEP THE RECORDS?

Federal Guidance

RECORDS RETENTION REQUIREMENTS
45 CFR 361

- Records required to be maintained on-site for 3 years (exceptions audit findings, legal issues – then 3 years from that final submission):
  - Funded state plan and grant awards
  - Previous audits/site visit reports
  - Annual performance reports
  - State plan amendments/updates
  - Budget
  - Expenditure and procurement documentation
  - Efforts reports and compensation for Council resources

DSA's, Councils, and subrecipients must maintain, on-site, specific documentation pertinent to the award. These records must be retained for a period of three years from the date of the submission of the organization's final expenditure report and the program performance report.

If the project is being litigated, then the records must be maintained until such period is final and if there are audit findings, records must be maintained until the findings have been resolved and documented.

The records required to be maintained include: funded application and all grant award documentation including revisions; previous audits and site visit reports; annual performance reports; documentation pertaining to project revisions and prior approval requests; the current budget; expenditure and procurement documentation; and effort reports and compensation detail for individuals working on the plan.

DSA's and Councils are also responsible for submitting valid and reliable reports to the state or the Administration for Community Living/Administration on Intellectual and Developmental Disabilities, as required, in a timely and reliable manner.

Councils are responsible for ensuring reports are submitted by subrecipients and are responsible for monitoring subrecipient's activities and their compliance with requirements and performance goals.

RECORDS RETENTION...CONTINUED

- Important!

- If Councils have not submitted final SF-425's or Program Performance Reports, destruction of documents should not occur until the reports are submitted.

- All record-keeping systems need to meet reporting requirements.

Here are a couple of important items related to records retention

CHECK YOUR STATE RETENTION REQUIREMENTS!

RESOURCES AVAILABLE FROM ASSOCIATION OF GOVERNMENT ACCOUNTANTS

- Intergov
- Intergov features tools that officials from any level of government can use to improve program performance and enhance accountability.
- Subrecipient Monitoring and Self-Assessment Guide
- Risk Assessment Monitoring Tool
- AGA Home Page
- https://www.agacgfm.org/home.aspx

Tools designed to help government financial management professionals do their jobs better. Intergov features tools that officials from any level of government can use to improve program performance and enhance accountability. These tools can be used to prevent fraud, reduce improper payments, improve outcomes, mitigate risk and enhance collaboration. They can be used by auditors, accountants, grants managers, IT professionals, program managers and others.

Subrecipient Monitoring and Self-Assessment Guide
Provides a consistent approach for pass-through entities to monitor a grant subrecipient's compliance with federal administrative requirements.

Risk Assessment Monitoring Tool
This risk assessment tool provides pass-through entities with a method for assessing subrecipient risk across federal granting and monitoring authorities. Although never intended to replace risk assessment tools already in use by awarding and monitoring agencies, this guide likely would not be considered a "monitoring tool" by todays technological standards; however, the information within is still relevant and reliable and can be used in conjunction with the Subrecipient Monitoring and Self-Assessment Tool.

As with all generally available tools, Councils must be aware of the statutory and regulatory requirements for the Council grant award – (45 CFR 75 for HHS grant

awards)

THOUGHTS, COMMENTS, QUESTIONS?