

CONTRACT MONITORING PROCEDURE

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Last Reviewed By:

PURPOSE:

The Department monitors contracts in order to ensure funds are used for authorized purposes and that performance objects are achieved. An effective contract monitoring process mitigates risk, with risk defined as the probability of an event or action having an adverse effect on the Department. Effective contract monitoring minimizes or eliminates problems and potential claims and disputes.

Not every contract will require the same level of monitoring. All contracts should be reviewed periodically, taking into account risk, size or contract value, sensitivity and type of contract and services to be provided in order to determine the monitoring methods to be conducted or if monitoring is needed. The Division Director is responsible for ensuring contracts in their division are monitored and correct action is taken.

REFERENCES:

State of Utah, Division of Purchasing-Contract Administration and Monitoring Guide

DEFINITIONS:

1. **Agreement:** For the purpose of this procedure, an agreement is a written document that defines the terms of a DWS award to a subrecipient or recipient.
2. **Centralized Repository:** The identified location determined by the department for contract documents to be stored. The storage location is managed by the Contract Analysts and is located on the I: drive or WebGrants.
3. **Contract Analyst:** Individual responsible for assisting the contract owner through the contract process. The contract analyst has oversight of the technical aspects of the contract process.
4. **Contract Owner:** Individual responsible for ensuring the agreement or contract is in compliance with requirements and that performance expectations are being achieved. The Contract Owner is the primary person responsible for program monitoring.
5. **Contract:** Award for the purpose of obtaining goods and services for DWS's own use and creates a procurement relationship with the organization. For the purpose of this procedure a contract can be an MOU, MOA or other agreement not determined to be a Subrecipient.
6. **Fiscal Monitoring:** Any set of activities designed to determine compliance with fiscal requirements.

7. **Fiscal Grant Manager:** Individuals responsible for ensuring the agreement or contract is in compliance with fiscal requirements. The Fiscal Grant Manager is the primary person responsible for fiscal monitoring.
8. **Monitoring Activities:** Any activity or review that is designed to ensure that the contract or agreement is used for authorized purposes, compliance with the terms and conditions of the contract, and that contract performance goals are achieved. Monitoring may include both programmatic and fiscal activities. Monitoring activities may also be performed by the Contract Analyst, and other Department staff as necessary. Monitoring may also be performed by a third party.

PROCEDURE:

1. Subrecipient/Contractor Determination

- A. Prior to awarding a federally-funded agreement or entering into a federally-funded contract, the Contract Owner completes a Contractor/Subrecipient Determination form and forwards the completed form to the Fiscal Grant Manager for review and approval. A memorandum of understanding (MOU), agreement, or contract that does not involve the exchange of funds is excluded from this requirement. In instances where a state-funded agreement or contract is used for the purposes of meeting federal matching and/or maintenance of effort requirements, the entity should be treated as a subrecipient for purposes of this procedure.
 - a. The Subrecipient/Contractor Determination form is included with the Contract Request Form.
- B. If the **entity is determined to be a Contractor** the contract will be subject to monitoring outlined in this procedure.
- C. If the **entity is determined to be a Subrecipient** the agreement will be subject to monitoring outlined in the Subrecipient Monitoring Procedure.

2. Monitoring Responsibilities

- A. Programmatic monitoring is performed by the Contract Owner and may also include the Contract Analyst, Fiscal Grant Manager or other DWS personnel as deemed necessary to provide reasonable assurance of compliance.
- B. Fiscal monitoring is performed by the Fiscal Grant Manager and may also include the Contract Owner and other DWS personnel as deemed necessary.
- C. When monitoring activities are conducted by a third party, the Contract Owner must outline the monitoring responsibilities for the third party through an MOU or contract. Monitoring activities performed by the third party must demonstrate that the organization has achieved the significant outcomes and deliverables in the agreement.

3. Determine Monitoring Methods

- A. The contract owner in collaboration with the Division Director or designee should determine the method of monitoring. There are different types of monitoring available, including but not limited to: site visit, desk review, expenditure document review and monitoring by third parties. Depending on the type and scope of the contract one or more methods, or a combination of methods, may be used. Monitoring methods include:
 - a. Site Visit (Full and limited scope)
 - i. Full scope site visits are typically scheduled visits to the organization's place of business/physical location of service

provided. Limited scope site visits typically focus on a particular problem.

- b. Desk Review
 - i. Reviews of reports submitted by the organization to the agency. Contract Owners review actual performance against the contract requirements, actual expenditures to the approved budget, and current reporting period to prior periods.
- c. Invoice Review
 - i. Review of invoices by Contract Owner and Fiscal Grant Manager to determine if the rates and services are allowable per the contract. May include a review of supporting documents to adequately support the request for payment.
- d. Monitoring by Third Parties
 - i. In some instances, the obligation of monitoring the progress of a contract is assigned to a third party. When a third party does the monitoring the Contract Owner must outline the monitoring responsibilities for the third party through an MOU or contract and ensure the monitoring activities demonstrate contract compliance and performance.
 - 1. For example, in the case of a construction contract, the task of ensuring progress in accordance with the contract may be performed by the architectural firm that provided the construction plans. For highly technical work, consultant subject matter experts may perform monitoring services independently or in conjunction with DWS staff.

4. Develop a Monitoring Plan

- A. The Contract Owner, working with the Contract Analyst, creates a monitoring tool during the development of the contract. Creation of the monitoring tool may include a review of the scope of work, required outcomes and deliverables, contract terms, and expectations in the contract. Requirements, including significant outcomes and deliverables should be included on the monitoring tool.

5. Determining When to Monitor

- A. New Organization
 - a. If the organization has not previously provided services for the department, the Contract Owner in collaboration with the Division Director or designee should consider monitoring at the early onset of the contract to ensure compliance with the requirements and answer any questions that may arise.
- B. Known Organization
 - b. If the organization has previously provided services for DWS the contract owner in collaboration with the Division Director or designee will determine, based on prior organization performance, the degree to which the contract will be monitored and how often.

6. Monitoring Documentation

- A. Contract Owners keep detailed records of monitoring activities and results. Sufficient detail is documented in a manner that monitoring results can be recreated. Documentation should include, but is not limited to, the following:

- a. Monitoring procedures performed, documentation reviewed, results of monitoring, follow up activities and whether compliance requirements have been met.
 - b. Who monitored and the dates the monitoring occurred.
 - c. Written justification for departure from DWS Monitoring Policy.
 - i. Requires prior approval from Division Director or designee
- B. The Contract Owner provides all monitoring documentation to the Contract Analyst to ensure documents are stored and organized in the contracts folder on the centralized repository. Invoices and associated supporting documents are stored in the State's centralized accounting system (FINET), not the centralized repository.
- a. All monitoring documents are retained for a period of seven (7) years after agreement termination or until all audits/litigation concerning the agreement have been completed, whichever is later.

7. Quality Control of Monitoring Documentation

- A. Program Monitoring
The Division Director or designee conducts quality control reviews of program monitoring activities as considered necessary.
- a. If deficiencies in program monitoring activities are found, the Division Director or designee will work with the Contract Owner to ensure compliance with monitoring and documentation requirements.
 - b. Results of the quality control reviews are documented and stored with the performance records for the Contract Owner.
- B. Fiscal Monitoring
- a. The Finance Director or designee conducts quality control reviews of fiscal monitoring activities as considered necessary. If deficiencies in fiscal monitoring activities are found, the Finance Director or designee will work with the Fiscal Grant Manager to ensure compliance with the monitoring and documentation requirements.
 - b. Results of the quality control reviews are documented and stored with the performance records for the Fiscal Grant Manager.