NYSAC 57th Annual County Finance School

Preparing for OIG Pandemic Recovery Desktop Reviews. Are You Ready?

May 4, 2023
Key Conversation Points -

• Framing the Risk – How U.S. Treasury and other federal agencies assess risk and will conduct desk reviews and audits for federal COVID-19 funding

• Mapping & Monitoring Risks During Performance – Tactics for engineering risk management into program design and execution long before Desk Review prep

• Common Desk Review Negative Findings in Focus – Approaches to avoiding duplicating benefits and subrecipient misadventures

• Seeing the Finish Line (and that desk review) – Final considerations for preparing for U.S. Treasury’s visit

Presenter -

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Jeffrey is a national lead for KPMG in advising state and local governments on the design and implementation of programs and projects using grants and other regulated monies. This includes helping with organizational planning, fund pursuit, program design, and ongoing performance and regulatory compliance management.

Since the onset of the COVID-19 pandemic, Jeffrey has led several teams that are helping states and large counties and cities leverage their various sources of federal funding to meet policy and response objectives, while designing and executing processes to meet applicable fund use and related documentation rules.

Jeffrey is a licensed attorney with over twenty-five years of administrative law and public policy experience across a wide range of subject areas, including environmental policy, community and economic development, infrastructure investment, and disaster resilience.
How U.S. Treasury and other federal agencies assess risk and will conduct desk reviews and audits for federal COVID-19 funding
## U.S. Treasury Desk Reviews and Audits anticipated for all of its recent funding sources…

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Program Name</th>
<th>Single Audit</th>
<th>Compliance Supplement</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESF</td>
<td>Exchange Stabilization Fund (Loans to Air Carriers, Cargo Air Carriers, and Businesses Critical to National Security)</td>
<td>No</td>
<td>N/A</td>
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<tr>
<td>PSP</td>
<td>Payroll Support Program (Pandemic Relief for Aviation Workers)</td>
<td>No</td>
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<tr>
<td>CRF</td>
<td>Coronavirus Relief Fund</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>ERA</td>
<td>Emergency Rental Assistance Program</td>
<td>Yes</td>
<td>Yes</td>
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<td>HAF</td>
<td>Homeowner Assistance Fund</td>
<td>Yes</td>
<td>Yes</td>
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<td>SLFRF</td>
<td>Coronavirus State and Local Fiscal Recovery Funds</td>
<td>Yes</td>
<td>Yes</td>
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<td>CERTS</td>
<td>Coronavirus Economic Relief for Transportation Services Program</td>
<td>No</td>
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<td>CPF</td>
<td>Coronavirus Capital Projects Fund</td>
<td>Yes</td>
<td>Yes</td>
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<td>SSBCI</td>
<td>State Small Business Credit Initiative &amp; Technical Assistance</td>
<td>Yes (for TA)</td>
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<td>ECIP</td>
<td>Emergency Capital Investment Program</td>
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<tr>
<td>LATCF</td>
<td>Local Assistance and Tribal Consistency Fund</td>
<td>Yes</td>
<td>In Review</td>
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</table>
U.S. Treasury’s Risk Indicators in Determining Scale & Scope of Desk Reviews

U.S. Treasury uses 18 risk indicators to select entities for desk reviews and judgmental samples from them for review. Federal grant use history, grant size, fund use complexity, subrecipient size, reporting deficiencies, data anomalies, and key words indicative of higher risk uses are elements of Treasury’s Risk Analytics. Recommended risk indicators for use in establishing a simulated judgmental sampling include:

1) Negative audit findings w/in past 3 years (e.g., “Growing Concern; “Material Weakness;” “Reportable Condition;” or “Material Non-Compliance”)

2) Disbursement of funding among subrecipients on “SAM sensitive file” (Federal delinquent debts, Shared Bank Accounts), with SAM Debarments, or on Federal Awardee Performance and Integrity Information System (FAPIIS)

3) Departments or subrecipients subject to Treasury OIG Hotline complaints

4) Departments or subrecipients that are Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR) program recipients

5) Departments with transactions differing significantly from what was budgeted

6) Transactions identified as potentially duplicative

7) Transactions that do not report exact cents (in this case, the risk is attributed to the subrecipient for not reporting exact expenditure details)

8) Transactions that were identified as moderate or high risk during internal assessments

9) Top 10% of CRF use among departments that is disbursed to aggregate recipients

10) Top 10% of CRF use among departments that is disbursed to individual recipients

11) Top 10% of CRF use among departments that is disbursed to subrecipients for “small business assistance”

12) Top 10% of CRF use among departments that is disbursed to subrecipients for “Items Not Listed Above” expenditure category

13) Prime and/or subrecipients were identified where the country is not the "US"

14) Subrecipients with expenditure category of “Item Not Listed Above” and description contains keywords: miscellaneous, various, n/a, null, payroll, hazard pay, tourism, construction, renovations, infrastructure, patrol, security, vehicle, truck, FEMA, acquisitions, financial assistance
Treasury’s CRF Review Methodology will include, but is not limited to…

- Review the prime recipient’s quarterly Treasury submission(s)
- Review other audit reports and other applicable Federal agency OIG reports for internal control or other deficiencies that may pose risk or impact the prime recipient’s uses of CRF proceeds
- Review the National Association of State Auditors, Comptrollers, and Treasurers newsletter for issues that may pose risk or impact the prime recipient’s uses of CRF proceeds
- Review Office of Investigations, Pandemic Response Accountability Committee (PRAC), and Office of Counsel leads on issues that may pose risk or impact the prime recipient’s uses of CRF proceeds
- Select a judgmental sample of contracts, grants, loans, transfers to other governments, direct payments, and aggregate reporting based on risks identified in other audit reports, Treasury’s reporting portal, reporting deficiencies identified by the monitoring/approval team, and anomalies identified by Treasury’s Data Analytics manager tracking the following use flags:
  1. analysis of projects completed using CRF proceeds;
  2. analysis of the prime recipient’s use of CRF by expenditure category to identify high dollar and unique expenditure types
  3. trend analysis by expenditure category, and
  4. identification of anomalies within obligation and expenditure data, projects (if any), and sub-recipient population reported
- Obtain and evaluate the prime recipient’s documentation and records used to support the quarterly submission(s);
- Interview the prime recipient preparer(s) and certifier as deemed appropriate;
- Interview State/County/City Auditors and other applicable oversight agency personnel as deemed necessary; and conduct site visits to the prime recipient, as deemed necessary.
Specific to transaction level reviews, Desk Reviews will look for the following…

For Loans >= $50,000
- Does the documentation sufficiently support the selected loan’s obligation and expenditures, loan date, and project, if any?
- Does the documentation support the selected expenditure/payment category (noted above)?
- Are loan repayment proceeds used or plan to be used for other CRF allowable uses or returned to Treasury?
- Are there internal control deficiencies in Single Audit and other audit reports suggesting risk to recipient using CRF for loans?

For Transfers to Other Government Entities >= $50,000
- Does the documentation sufficiently support the selected transfer’s obligations, expenditures, transfer date, and project, if any?
- Does the documentation support the selected expenditure category?
- Are there internal control deficiencies in Single Audit and other audit reports suggesting risk to recipient’s use of CRF for transfers?

For Direct Payments >= $50,000
- Does the documentation support the selected direct payment’s obligations, expenditures, payment date, and associated project?
- Does the documentation support the selected expenditure category (noted above)?
- Are there internal control deficiencies in Single Audit and other audit reports suggesting risk to recipient’s use of CRF as payments?

For Aggregate Reporting < $50,000
- Does the documentation sufficiently support the selected payment type’s obligations, expenditures, and payment dates?
- Are there internal control deficiencies in Single Audit and other audit reports suggesting a risk to recipient’s use of CRF as aggregate?

Aggregate Payments to Individuals (in any amount)
- Does the documentation sufficiently support the selected payment type’s obligations, expenditures, and payment dates?
- Are there internal control deficiencies in Single Audit and other audit reports suggesting risk in recipient’s use of CRF for aggregate payments?
Observed Desk Review Findings to Date…

• Expenditures outside period of performance (services or purchases before/after the allowable periods to obligate funds)

• Lack of supporting documentation

• Non-compliance with Procurement policies and procedures to include verifying vendor Suspension and Debarment status

• Inadequate Sub-recipient monitoring

• Inaccuracies in the Schedule of Federal Expenditure Awards

• Payroll expenses – Documentation that expenses are related to public health and safety or substantially dedicated to COVID-19 response

• Findings would likely occur in other Treasury programs if not corrected due to the similarities in the recipient population
Simulated Federal Desk Review of Colorado’s Use of U.S. Treasury Funding

Anticipated Focus of Emergency Rental Aid Desk Reviews…

Objective: to assess a grantee’s level of compliance with the program requirements and to make a risk-based decision about a full-scope audit.

a) Program activities were allowable;

b) Program costs related to the activities were allowable, allocable and reasonable;

c) Grantees followed proper eligibility standards in assisting beneficiaries;

d) Grantees complied with statutes, regulations, and Treasury reporting requirements;

e) Grantees monitored their sub recipients;

f) Grantees designed and implemented reasonable internal controls over a-e above.
Mapping & Monitoring Risks During Performance

Tactics for engineering risk management into program design and execution long before Desk Review prep
Using Workshops to Design Programs with Compliance & Performance in Mind

**Session #1**
Program Update & Session Overview

- Outline applicable federal policy and process mandates relevant to project
- Discuss current status of project scope and implementation
- Identify priority design and execution needs and risks for focus in sessions
- Review Project Profile content for completion over course of sessions
- Discuss recommended internal controls for development

**Session #2**
Program Execution Practices

- Discuss process approaches to addressing priority design and execution needs and risks
- Recommend processes and templates for documenting beneficiary eligibility, subrecipient use, and other relevant Treasury Rule compliance
- Review draft content for sections of Project Profile relevant to program scope and execution

**Session #3**
Equitable Outcome & Performance Metrics

- Discuss Treasury’s mandated metrics for program type and
- Propose equitable outcome goals and metrics based on Treasury aims and department feedback
- Discuss practical key performance metrics by which to measure output and outcomes based on program aims
- Recommended processes for generating and tracking metrics data as part of program execution

**Session #4**
Fund Use Documenting Controls

- Present recommended internal policy and procedure formats for guiding compliance with 2 CFR 200 requirements
- Discuss any in-place controls related to use of federal funding and recommend enhancements
- As applicable, discuss recommended approach to monitoring Duplication of Benefits and fraud
- Present recommended approach for acting on suggestions

**Session #5**
Transition to Reporting

- Revisit priority issues from earlier sessions as warranted
- Review final draft of Project Profile and establish timeline for finalization
- Present checklist of recommended internal controls for development and recommended timeline
- Discuss quarterly performance and cost tracker and processes for Treasury reporting requirements
Identifying, Measuring & Monitoring Performance and Rule Compliance Risk as Part of Program Execution

1. Set Your Performance & Compliance Risk Metrics
   - Map mandates for all funds in use and gauge their burden-ease
   - Align rule compliance metrics with policy and other performance aims to streamline data gathering
   - Evaluate applicable Code of Federal Regulation elements and other federal rules (DOB, Davis-Bacon, NEPA, QCT/LMI alignment, equity, etc.)

2. Interview & Review
   - Meet with program implementing teams and partners
   - Review relevant department guidance related to funds to be used
   - Review subrecipient agreements, communication processes, and training and guidance materials
   - Integrate observations into Risk Assessment framework

3. Assess Risk
   - Craft Risk Assessment based on findings from Steps 1-2
   - Perform Assessment via submitted responses and follow-up sessions
   - Develop risk score to identify high-risk agencies and subrecipients and related programs for monitoring priority
   - Propose substantive and process improvements based on identified risks

4. Shape Monitoring Based Assessed Risk
   - Develop department tailored Monitoring Plans based on Risk Assessment findings and State SLFRF Leadership input
   - Include processes for statistical sampling, tools, questionnaires, checklists, etc.

5. Monitor!
   - Conduct ongoing monitoring of sampled agencies and subrecipients
   - Monitoring will be an iterative process based on agency and subrecipient level of risk and initial monitoring results

6. Communicate Findings & Recommendations
   - Provide departments and subrecipients with tailored monitoring reports -
     - Flag risks for potential clawbacks, negative audit findings, and corrective action recommendations
     - Outline training and process recommendations for realizing improvements

7. Help Correct, Improve & Train
   - Assist with implementation of recommended improvements through trainings, document drafting, and process design enhancements

8. Adapt, Evolve & Close
   - Evolve risk metrics and evals as funding use matures

<table>
<thead>
<tr>
<th>Best Practice</th>
<th>Description</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written policies and procedures</td>
<td>Formal documentation of recipient policies and procedures</td>
<td>Documented procedure for determining worker eligibility for premium pay</td>
</tr>
<tr>
<td>Written standards of conduct</td>
<td>Formal statement of mission, values, principles, and professional standards</td>
<td>Documented code of conduct / ethics for subcontractors</td>
</tr>
<tr>
<td>Risk-based due diligence</td>
<td>Pre-payment validations conducted according to an assessed level of risk</td>
<td>Enhanced eligibility review of subrecipient with imperfect performance history</td>
</tr>
<tr>
<td>Risk-based compliance monitoring</td>
<td>Ongoing validations conducted according to an assessed level of risk</td>
<td>Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics</td>
</tr>
<tr>
<td>Record maintenance and retention</td>
<td>Creation and storage of financial and non-financial records.</td>
<td>Storage of all subrecipient payment information.</td>
</tr>
</tbody>
</table>
Common Desk Review Negative Findings in Focus

Approaches to avoiding duplicating benefits and subrecipient misadventures
The Policy & Meaning Behind *Duplication of Benefits* Avoidance
What is a *Duplication of Benefits*?

A duplication occurs when a person, household, business, or other entity receives federal assistance from multiple grant sources for the same purpose, and the total assistance received for that purpose is more than the total need. The amount of the *Duplication of Benefit* (DOB) is the amount received in excess of the total need for the same purpose.

When total need for eligible activities is more than total assistance for the same purpose, the difference between these amounts is an “unmet need.” Grantees of federal grants must limit their assistance to unmet needs for eligible activities to prevent a DOB.
A DOB Heat Map of Recent Federal COVID-19, Infrastructure & Climate Change Funding
The Legal Basis for *Duplication of Benefits* Policy

To understand federal *Duplication of Benefit* rules, grantors should understand the underlying principles behind this policy and what sources to access for program specific rules as to what constitutes DOBs for particular fund uses.

The following sources detail DOB principles and rules:

1) **Federal Uniform Administrative Requirements**, Cost Principles & Audit Requirements for Federal Awards, 2 Code of Federal Regulations (CFR) § 200.400-405 (*underlies all federal awards*)

2) **Section 312**, Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. § 5155)(44 CFR § 206.191) (*applies to federal funds in response to federally declared disasters and emergencies*)

3) Other statutes, Congressional appropriations, and related regulations involving federal funding used in whole or part as assistance to persons, businesses, or other entities (government or private)
Federal Uniform Requirements: General Principle Prohibiting *Duplication of Benefits* – Necessary & Reasonable Use of Federal Awards

Federal law establishes uniform requirements for using Federal grants to be administered using “sound management practices” (2 CFR § 200.400) and cover costs are “necessary and reasonable” (2 CFR § 200.403).

A cost is reasonable if it does not exceed that which would be incurred by a prudent person under the circumstances and is *ordinary and necessary for proper and efficient performance* of the grant given its purpose (2 CFR § 200.404).

Conversely, “any cost allocable to a particular Federal award…may not be charged to other Federal awards to overcome deficiencies, avoid statutory restrictions, regulations, terms and conditions, or for other reasons” (2 CFR § 200.405(c)).

Based on these factors, it is generally presumed that if a cost has been paid by another source, charging it to a Federal award violates the necessary and reasonable standard unless grant requirements permit reimbursement.
Federal Duplication of Benefits Policy for COVID-19 Response & Recovery Aid

Stafford Act, § 312(a): “[E]ach Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.”

Section 312(b)(4)(a) authorizes the President to waive DOB prohibitions when: 1) a Governor requests a waiver and 2) the President determines waiver is in public interest and will not result in waste, fraud, or abuse.

The following aid cannot be waived from DOB consideration:

✔  FEMA Public Assistance Grants
✔  FEMA Individual Assistance Grants
✔  Insurance money
✔  Overlapping money from non-disaster related programs
Specific Federal COVID-19 Funding Sources with Duplication of Benefits Related Rules and Guidance

In addition to Stafford Act DOB regulations, the following federal COVID-19 funding programs are known to have included DOB rules and guidance:

✔ State & Local Fiscal Recovery Funding (U.S. Treasury)
✔ Coronavirus Relief Funding (U.S. Treasury)
✔ Coronavirus Fiscal Recovery Funding (U.S. Treasury)
✔ Emergency Rental Assistance (U.S. Treasury)
✔ Homeowner Assistance Fund (U.S. Treasury)
✔ Community Development Block Grant Coronavirus (U.S. HUD)
✔ Higher Education Emergency Relief Funding (U.S. ED)
✔ Governor’s Emergency Education Relief Funds (U.S. ED)
✔ Paycheck Protection Program (U.S. SBA)
✔ Economic Injury Disaster Loan (U.S. SBA)
✔ Low Income Home Energy Assistance Program (U.S. HHS)
✔ Low Income Household Water Assistance Program (U.S. HHS)
SLFRF Expenditure Categories with Higher *Duplication of Benefits* Potential

The following ECs present higher risk due to the ability to create applicant base programs where beneficiaries would have possibly received government or philanthropic monies for the same purpose and/or the SLFRF grantee could be using multiple funds for salaries or administrative expenses.

<table>
<thead>
<tr>
<th>Expenditure Category</th>
<th>EC²⁹</th>
</tr>
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<tbody>
<tr>
<td>Household Assistance: Rent, Mortgage, and Utility Aid**</td>
<td>2.2</td>
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<tr>
<td>Household Assistance: Cash Transfers**</td>
<td>2.3</td>
</tr>
<tr>
<td>Household Assistance: Internet Access Programs**</td>
<td>2.4</td>
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<tr>
<td>Household Assistance: Paid Sick and Medical Leave*</td>
<td>2.5</td>
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<tr>
<td>Household Assistance: Health Insurance*</td>
<td>2.6</td>
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<tr>
<td>Household Assistance: Services for Un/Unbanked**</td>
<td>2.7</td>
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<tr>
<td>Household Assistance: Survivor’s Benefits*</td>
<td>2.8</td>
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<tr>
<td>Unemployment Benefits or Cash Assistance to Unemployed Workers**</td>
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<tr>
<td>Assistance to Unemployed or Underemployed Workers (e.g. job training, subsidized employment, employment supports or incentives)**</td>
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<td>Healthy Childhood Environments: Child Care**</td>
<td>2.11</td>
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<tr>
<td>Healthy Childhood Environments: Home Visiting**</td>
<td>2.12</td>
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<tr>
<td>Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System**</td>
<td>2.13</td>
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<tr>
<td>Healthy Childhood Environments: Early Learning**</td>
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<td>Long-term Housing Security: Affordable Housing**</td>
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<td>Long-term Housing Security: Services for Unhoused Persons**</td>
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<tr>
<td>Housing Support: Housing Vouchers and Relocation Assistance for Disproportionately Impacted Communities**</td>
<td>2.17</td>
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<tr>
<td>Housing Support: Other Housing Assistance**</td>
<td>2.18</td>
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<tr>
<td>Social Determinants of Health: Community Health Workers or Benefits Navigators**</td>
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<td>Social Determinants of Health: Lead Remediation**</td>
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<tr>
<td>Medical Facilities for Disproportionately Impacted Communities**</td>
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<tr>
<td>Strong Healthy Communities: Neighborhood Features that Promote Health and Safety*</td>
<td>2.22</td>
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<tr>
<td>Strong Healthy Communities: Demolition and Rehabilitation of Properties*</td>
<td>2.23</td>
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<tr>
<td>Addressing Educational Disparities: Aid to High-Poverty Districts**</td>
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<td>Addressing Educational Disparities: Academic, Social, and Emotional Services**</td>
<td>2.25</td>
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<td>Addressing Educational Disparities: Mental Health Services**</td>
<td>2.26</td>
</tr>
<tr>
<td>Addressing Impacts of Lost Instructional Time*</td>
<td>2.27</td>
</tr>
<tr>
<td>Contributions to UI Trust Funds*</td>
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</tr>
</tbody>
</table>

| Assistance to Small Businesses | 2.29 |
| Technical Assistance, Counseling, or Business Planning** | 2.30 |
| Rehabilitation of Commercial Properties or Other Improvements* | 2.31 |
| Business Incubators and Start-Up or Expansion Assistance** | 2.32 |
| Enhanced Support to Microbusinesses** | 2.33 |
| Assistance to Non-Profits: Assistance to Impacted Nonprofit Organizations (Impacted or Disproportionately Impacted)* | 2.34 |

3: Public Health-Negative Economic Impact: Public Sector Capacity

<table>
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<tr>
<th>General Provisions</th>
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<tbody>
<tr>
<td>Public Sector Workforce: Pay and Benefits for Public Health, Public Safety, or Human Services Workers</td>
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<tr>
<td>Public Sector Workforce: Refiring Public Sector Staff</td>
<td>3.2</td>
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<tr>
<td>Public Sector Workforce: Other</td>
<td>3.3</td>
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<tr>
<td>Public Sector Capacity: Effective Service Delivery</td>
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<tr>
<td>Public Sector Capacity: Administrative Needs</td>
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</tbody>
</table>

4: Premium Pay

| Public Sector Employees | 4.1 |
| Private Sector: Grants to Other Employers | 4.2 |

7: Administrative

| Administrative Expenses | 7.1 |
| Transfers to Other Units of Government | 7.2 |
| Transfers to Non-entitlement Units (States and territories only) | - |
Consequences of Inadvertent *Duplication of Benefits* in using Federal Funds & Course Corrections
Federal Award Beneficiary Responsibility

Stafford Act Section 312(c) states that any persons, business concerns, or other entities that are the recipient of duplicative assistance is liable to the United States for the amount of duplicated aid and that the agency that provided the duplicative assistance is responsible for debt collection.

Grantees (cities, counties, and states receiving and administering federal funding as aid), along with as necessary the originating federal agency – and potentially U.S. FEMA as the top authority if involving federal disaster aid of any kind, will notify the recipient of the excess assistance, and after examining the debt, if it is determined that the likelihood of collecting the debt and the best interests of the Federal Government justify taking action, then funding recovery procedures are triggered.
Federal Grantee Responsibilities

Grantees must require any person or entity receiving federal aid (including sub-recipients and direct beneficiaries) to agree to repay assistance that is determined to be duplicative. This may be documented through a subrogation agreement or similar clause in a funding agreement.

Grantees should establish protocols to monitor compliance based on the risk of duplication for each activity. For federal disaster aid, FEMA will assess whether the funding agency is following adequate remedial procedures in the event of duplicated aid, and provide opportunity for the agency to take the required corrective action.

If the agency cannot fulfill remedial actions, FEMA will directly notify the recipient of the excess assistance and, if determined that the likelihood of collection is feasible and in the best interests of the Federal Government, collection proceedings will commence.
What Sources of Funding Constitute a *Duplication of Benefits*?
Grantees should conduct individualized applicant reviews to assess potential DOB because of the wide range of assistance types potentially available to any given applicant. In assessing an applicants total assistance relative to need, the following sources are typically construed as being potential DOB:

- Cash Awards
- Insurance Proceeds
- Government Subsidized and/or Guaranteed Loans (non-forgivable)
- Other Federal, State, and/or Local Government Grants or Loans
- Nonprofit/Charitable Funding

Total assistance for DOB review does not include personal assets (excluding insurance proceeds or government aid deposited into an applicant’s account); retirement accounts; credit cards and lines of credit; in-kind donations; and private loans.
Special Consideration Among Potential DOB Resources:

Insurance

✔ DOB may occur when an applicant has **non-specific insurance benefits** that can be used to cover costs for which aid is being sought.

✔ Insurance provided for a different purpose (e.g., insurance for loss of contents and personal property versus renting costs) is non-duplicative.

✔ Insurance can be **duplicate** if impractical to identify non-duplicative portions.

✔ **Insurance that could have been reasonably received** (taking same practical steps as similarly situated others) or for which an applicant was legal entitled but does not possess is considered duplicative. (U.S. HUD rule)

✔ Insurance of a previous owner of an asset for which an applicant is seeking aid is not duplicative unless current owner is a co-recipient of proceeds.

✔ If insurance applicable to the purpose of the aid is **legally used towards other costs** (e.g., unpaid mortgage principal but not repair costs), then coverage is not duplicative.

✔ If an insured can use proceeds towards object for which aid is sought but uses it alternatively for another purpose the coverage is still considered duplicative (e.g., commercial rehab coverage used for operations costs).
While private loans are not considered assistance for DOB purposes, current DOB regulations among federal agencies provide deep guidance on how to assess governmentally subsidized loans:

- Full amount of a subsidized loan available to an applicant for the same purpose as the aid sought should be factored.
- Subsidized loan becomes a DOB when loan is accepted (e.g., borrower signed note).
- Short-term subsidized loans for costs that could be reimbursed by future sought aid are not duplicative when the loan sought was available before the eventual aid.
- Subsidized loans that are declined by the lender or cancelled are not DOB. The cancelled loan amount is the amount that is no longer available.
A DOB occurs if an individual, business, or government entity receives assistance for a specific purpose from multiple sources that exceeds the need for that particular purpose.

For example, if a business needs $50,000 for pandemic related losses and they receive $25,000 from business interruption insurance and $5,000 from charitable organizations, the maximum amount of money they can receive from a federally funded aid program is $20,000.

Funds also must be spent on the purpose for which they were intended. If the business spent the $5,000 from charity on the purchase of new equipment, it must still be counted as a DOB against the amount of total aid possible.
Special Consideration Among Potential DOB Resources:
What constitutes “available assistance”?

For DOB determinations, total assistance includes available assistance that:

(1) could have been reasonably received (but not requested or received);

(2) has been received by entity that has legal control over use of the assistance; or

(3) Formally awarded and accepted assistance that is reasonably anticipated but not yet received (i.e., signed loan agreement but money not yet wired).

(4) HUD and other agencies hold as available assistance aid that is awarded to an entity but paid direct to and administered by another party (e.g., aid paid direct to a subrecipient or contractor).
Special Consideration Among Potential DOB Resources:
What constitutes “assistance for a different purpose”?

Assistance provided for a purpose different from the purpose of the sought-after aid or

Assistance that is provided for a general, non-specific purpose and not used for the same purpose

should be excluded from total assistance when calculating DOB.

Example:
Aid to redress pandemic related business losses is non-duplicative to aid provided to that same business for the purpose of investing in ventilation systems to improve airflow as a pandemic related precaution.
Steps to Take in Assessing Potential Duplication of Benefits
Steps in Determining Potential Duplication of Benefit

Typically, the steps to assessing the presence of a DOB are:

1) Determine the entity (applicant)'s total need

2) Verify total assistance available from all funding sources that could be DOB

3) Exclude non-duplicative assistance from total assistance

4) Reducing total award that entity was to receive by the amount of DOB

5) Obtain an agreement from applicants to repay duplicative assistance
Deeper Dive in Determining Potential Duplication of Benefit:
Determine Need based on Actual Costs & Known In-Kind Aid

“Total need” is calculated without regard to the grantor’s program-specific caps on the amount of assistance but in line with the requirements or parameters of the grantor’s program or activity.

For example, for economic recovery related aid, total need could be guided by standard underwriting guidelines, particularly if part of a special economic development project.

Further, some federal agencies require that a grantor’s assessment of total need also consider known in-kind donations of materials or services that a grantee (applicant) had in possession at time the grantor calculates need and makes the award. In-kind donations are non-cash contributions, such as donations of professional services, use of construction equipment, or contributions of building materials.

This latter consideration is not a DOB but in the above context is used to reduce the total need calculation.
Deeper Dive in Determining Potential Duplication of Benefit:
Sequencing for Identifying Total Assistance to Calculate DOB

“Total assistance” includes all reasonably identifiable financial assistance available to an applicant…
  includes aid already received or likely to be received “if acting reasonably to evaluate need and available resources.”

Duplication typically occurs when an agency provides assistance that was the primary or similar responsibility of another agency.

The following delivery sequence of aid is recommended for use by “downstream” aid providers to chart DOB assessments.

(1) Nonprofit/Charitable Assistance
(2) Insurance
(3) Interim public emergency aid (FEMA, etc.)
(4) Small Business Administration Economic Injury/Disaster Loans
(5) Other prior and current COVID-19 federal, state, or local aid (e.g., CRF, ERAP, HAF)
(6) Other federal funded aid programs (longer-term recovery focused)
(7) Volunteer agencies’ “additional assistance” programs

An agency's position in the aid sequence should determine the aid to be provided and what other resources it must consider before it does so. Assistance should offer assistance without regard to duplication with a program later in the sequence.
Checklist for Assessing & Conducting DOB Examinations

The following is recommended as an internal checklist for assessing the thoroughness of and conducting DOB examinations for funding disbursal:

✔ Description/definition of DOB in program rules (preferably within application)
✔ Process for identifying applicant’s total need
✔ Process for identifying sources of assistance provided to applicant (in-hand or that which should have been reasonably pursued)
  o Verify charitable support (letter from applicant or provider)
  o Verify any short-term emergency public funding (e.g., FEMA) (data from applicant or gov’t issuer)
  o Verify any funding from other federal, state, or local sources for same purpose as what SLFRF would be offered
  o Verify insurance proceeds (letter/data from insurer)
  o Verify SBA or subsidized loan products (letter/data from lender)
  o Verify grants or other aid from other public sources for same purpose
✔ Award calculation
✔ Subrogation agreement
✔ Recapture policies & procedures
Recommendations for spotting (and minimizing) subrecipient misadventures with your regulated funding
Framing the Mission – How the Feds view a Subrecipient versus Beneficiary

**Subrecipient**

- An entity that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award.
- The entity is responsible for compliance with terms and conditions of the agreement that flow down from the Federal award.
- **Example:** Local education agency receiving federal funds from state department of education.

**Beneficiary**

- A person, group of people, or entity that benefits from the outcome of the award.
- Beneficiaries include individuals and/or entities that directly or indirectly receive an advantage through the operation of a federally assisted program.
- Beneficiaries are not required to comply with terms and conditions of the Federal award.
- **Example:** Student in school.
Subrecipient Monitoring Procedures

Subrecipient monitoring is more granular than at the department level. A sampling of entities is created based on a risk profile type but then every transaction involving the use of sub-granted monies among that cohort is evaluated to assess compliance with grant terms, other applicable rules, and leading subrecipient management practices. Key monitoring measures may include, but are not limited to, the following:

- Does the dollar amount within the supporting documentation reconcile to the amounts entered by the subrecipient?
- Is the sum of the dollar amounts entered by the subrecipient greater than or equal to the total award amount?
- Is the provider’s attendance less than or equal to the provider’s licensed capacity for each of the three most recent months?
- Does documentation show the grant award was spent on/incurred for an allowable expenditure? (Procedure to be applied to each expenditure).
- Was payment made for costs incurred within period of performance? (Procedure applied to each individual expenditure)
- Does supporting documentation show proof of payment by the subrecipient? (Procedure applied to each individual expenditure.)
- Are rent, mortgage, or other expenses necessary for the provider’s business less than or equal to allowable expenses?
- Does supporting documentation show proof of payment by the subrecipient?

**Supporting Documentation Examples**

- Paid invoices, receipts, checks
- Payroll registrar or payroll records
- Employer payments for benefits
- Employer payroll taxes
- Summary report from payroll company
- Attendance reports from past 3 months
- Budget to actual files and general ledgers
- Award letter
- Documentation of subrecipient spending
Recommended Approach to Subrecipient Monitoring

Step #1

Create a risk assessment for selecting subrecipients for monitoring. The risk assessment should ideally select approximately 25% of possible providers using the State’s subgranted monies.

To identify the 25% sample population of providers subject to monitoring, we would first develop a risk assessment customized to program aims, mandates, and complexities. This risk assessment will help determine an overall score for each provider that represents the risk of potential noncompliance or nonperformance.

For example, one approach of conducting this risk assessment may:

- Identify relevant and readily-available data points (such as existing metrics, performance measures, etc.) that may impact the risk of potential noncompliance.

- Define scales for each data point (for example: if the data point is provider capacity, we will develop a scale to define small/medium/large) and assign weights to these scales.

- Pull data and apply the methodology described above to the data to determine overall risk score of that provider.

- Develop a methodology to select the sample 25% of providers leveraging the results of this risk assessment and other considerations (for example: a sample can be selected by choosing the providers with the highest score, a mix of scores, etc. and can also be pulled using a statistical sampling methodology that considers specific results from the risk assessment).
Case Study: Monitoring Childcare Providers using Childcare Stabilization Funding

Example data points that may be considered for the risk assessment and the rationale for the impact are provided in the table below:

<table>
<thead>
<tr>
<th>Example Data Point</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sum of Grant Awards</td>
<td>Higher grant award amount received may equal increased difficulty in expenditure tracking or increased likelihood of federal audit for child care providers</td>
</tr>
<tr>
<td>Licensed Capacity of Provider</td>
<td>The outliers on both the larger or smaller side may increase likelihood of noncompliance</td>
</tr>
<tr>
<td>Capacity Percentage of Facility in Use</td>
<td>Under-capacity providers may indicate they are not fulfilling the requirement to stay open and enrolling children</td>
</tr>
<tr>
<td>Denied Application</td>
<td>Denied applications may represent inaccurately reported data from child care providers</td>
</tr>
<tr>
<td>Currently Closed</td>
<td>Child care providers may not want to reopen their facility (since open/closed status may not impact their award amount)</td>
</tr>
</tbody>
</table>
Recommended Approach to Subrecipient Monitoring

Step #2
Communicate with selected providers and issue engagement letters and requests for documentation.

Understanding that States and Counties have diverse groups of providers and subrecipients, not only in the languages they speak, but also in their familiarity with grant funding and methods for tracking grant expenditures; we would establish a communication plan so that providers receive timely and transparent communication about their monitoring from start to finish.

Any such Communication Plan should include draft templates for initial outreach, documentation and information requests, ongoing follow ups, and closure reports based on communication providers are already used to seeing from the department. Templates would also be tailored to reflect different types of providers and their functions.

Ultimately the goal of the Communication Plan is to be minimal in disruption, clear in conveying requests, and reliable in providing guidance and instruction throughout.
Recommended Approach to Subrecipient Monitoring

| Step #3 | Review and approve all documentation provided by program providers and other subrecipients. |

The core approach to monitoring subrecipients is to establish test procedures related to the allowability of use, documentation of use, and general management of entrusted funds by each provider selected for review. The process begins with a monitoring plan that should include the following elements for each of the selected transactions:

— The criteria (usually from a regulation or leading practice) that is driving the test procedure (i.e., specific regulatory requirements for how the funds may be spent)
— The objective of the test procedure
— The specific activities our reviewers will follow to meet the objective
— The supporting documentation reviewed to conduct the test procedure
— The results of the test procedure (such as pass, fail, or pass with exception)
— Notes or explanations to support the test procedure results
— Opportunities for improvement

In addition to transaction-specific test procedures, monitoring should identify supplemental information that may apply more holistically to the provider (e.g., reconciliation of total spend against records of funds awarded, DOB evidence, internal control quality related to grants in use)
Recommended Approach to Subrecipient Monitoring

| Step #4 | Conduct special inquiries of any subrecipients reported for potential fraud (perform fact finding and initial monitoring and turn over to department for further review for substantiated fraud) |

Multi layered fraud detection can be integrated into the monitoring process to help the department identify potential suspicious behavior among program participants.

Among other tools, the internal fraud decision methodology can leverage data to identify potential instances of fraud, waste, and abuse that is separate from any provider specific test procedures that are incorporated within the monitoring plan.

This approach can include:

— Working with the department to identify risk factors that may indicate potential for fraud, waste, or abuse.
— Identifying if the department has data readily available or if data can be obtained as part of the monitoring efforts of this engagement, that will provide these risk factors.
— Finalizing the list of risk factors that can be leveraged from data available
— Applying the risk factors to our internal fraud decision methodology to flag any providers that meet the criteria of at least one risk factor.
— Sharing with the department, information related to the providers that were identified as part of the fraud decision solution.
Final considerations for preparing for U.S. Treasury’s visit

Seeing the Finish Line (and that desk review) –
Suggested Simulated CRF Desktop Review Approach

Applying U.S. Treasury OIGs own playbook for desktop reviews, the following activities are recommended as a simulated review:

**Apply Treasury’s Risk Indicators to Anticipate Control Weaknesses & Targeted Uses**

- Based on prior assessments, department feedback, and fund use complexities, map areas that would be likely areas of focus for Treasury reviews.

**Select a Judgmental Sample to Simulate Review**

- Select judgmental sample of contracts, loans, grants, transfers, direct payments, and aggregate reporting to undergo CRF desktop review.
- Judgmental categories to be based on reviews of quarterly Treasury submissions, expenditure reports, other audit reports or applicable OIG reports, previous audit or negative findings, risk factors, etc.
- Based on judgmental sample, conduct statistical analysis to select specific expenditures within the selected categories.
- Develop monitoring plans/assessment criteria based on final selected sample of expenditures.

**Simulate the Review & Course Correct**

- Conduct review of sampled expenses against set of standardized criteria.
- Obtain and evaluate documentation and records used to support quarterly submissions.
- Conduct interviews with the recipient, report preparers, etc. and follow-up with questions.
- Conduct interviews with State Auditors and other applicable oversight agency personnel.
- Develop desktop monitoring report that summarizes findings and identifies corrective actions, as needed.
- Deliverable would be a desktop monitoring report and list of corrective actions.

**Key Assessment Questions:**

- Does documentation sufficiently support obligations and expenditures, period of performance, and project?
- Does documentation sufficiently support selected expenditure category?
- Are there internal control deficiencies that pose a risk to recipient's use of CRF?
- Does documentation describe any circumstances for noncompliance?