CHAPTER 13
MONITOR REVIEW

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CHAPTER 13
MONITOR REVIEW

13.0 Introduction

The Texas Community Development Block Grant (TxCDBG) Program of the Texas Department of Agriculture (TDA), Office of Rural Affairs is responsible for ensuring that CDBG activities are completed and funds expended in accordance with contract provisions and applicable state and federal rules, regulations, policies, and related statutes. In accordance with this responsibility, TDA has established the contract compliance process.

TDA has established risk-based procedures to determine compliance with contract provisions and applicable state and federal rules, regulations, policies, and related statutes that include Grant Recipient self-administered monitoring reviews, TDA desk reviews, or on-site reviews and visits of project sites as part of the monitoring process. The monitor review includes an analysis of Grant Recipient records. TDA views this process as an important part of contract compliance, and it is important that responses to monitoring reports be submitted in a timely manner.

Program compliance is conducted to meet the following objectives:

- Review Grant Recipient performance. A Grant Recipient's performance will be monitored to ensure that activities have been completed and beneficiaries served in accordance with a contract's Performance Statement and that funds have been expended as identified in the budget.

- Review contract records for compliance. A Grant Recipient's performance will be monitored to ensure compliance with TDA requirements, as outlined in the TxCDBG contract and other applicable state and federal rules, regulations, policies, and related statutes.

- Prevent fraud and abuse. A Grant Recipient's systems and other policies and procedures used to administer TxCDBG funds will be monitored to ensure that adequate protections against fraud and misuse of funds are in place.

- Identify any necessary corrective actions. Compliance monitoring performed through a self-monitoring review or through a TDA desk review or on-site review could result in prescribed corrective measures to be carried out by the Grant Recipient in order to remediate non-compliance or to address performance deficiencies.

- Identify technical assistance needs. A self-monitoring review, desk review, or on-site review may reveal a need for additional technical assistance.

Recurrent unsatisfactory performance and delays in submitting responses to documents requests, Monitor Review Reports and delays in timely submitting close-out documents may result in a reduction in funding or it may affect a Grant Recipient's eligibility for future TxCDBG funding.

13.1 Monitor Review Methods

TDA utilizes several methods for conducting comprehensive monitoring reviews of Grant Recipient compliance with TxCDBG programmatic and contractual requirements. The methods are self-monitoring, desk review, and on-site review. TDA uses a risk assessment tool to objectively evaluate the programmatic compliance risk of TxCDBG-funded projects, which is then used to determine the method of compliance monitoring. Each method of review requires an examination of the Grant Recipient's project records to assess compliance with a specified scope of program requirements in the standard categories listed below. The scope of compliance duties is the same for all methods of review. However, non-standard checklist categories may be included in the review for special types of projects- for instance, housing rehabilitation or projects requiring relocation of displaced persons.

- Procurement of Professional Services/Administration Services
- Environmental Review (unless previously selected for review by TDA's Environmental Compliance Specialist)
- Construction/Materials Contract Procurement Review
- Special Conditions Review
- Labor Standards Review
- Civil Rights Review
- Acquisition of Real Property Review
- Force Account Review

A Monitoring Review for all methods will generally be conducted when:

- The contract has not been previously monitored, at least seventy-five percent of the TxCDBG funds are drawn, and the construction or project activities are substantially completed; or
- TDA has received a Project Completion Report, regardless of the percentage of funds drawn.

13.1.1 Self-Monitoring Review

A TxCDBG contract rated as low risk generally qualifies a compliance review to be conducted through Self-Monitoring. At least 10% of low risk contracts will be randomly selected for a desk review. This method allows the Grant Recipient and a TxCDBG certified administrator to review the source documentation used to determine compliance with federal, state, and program requirements and certify the results. The TDA Program Monitor will then review the certified results, including any findings and corrective actions taken. TDA Program Monitoring staff will conduct a concurrent desk review of the Grant Recipient's financial management records to assess performance for adequate controls, recordkeeping, cost eligibility, and appropriate receipt and disbursement of project funds.

The self-monitoring review includes the following steps by TDA staff:

1. Notify the Grant Recipient of the TxCDBG contract(s) selected for self-monitoring review, and explain the purpose of the review.
2. Request the necessary documentation:
    a. all financial management records to be mailed, emailed or hand-delivered to the Compliance program monitor at TDA headquarters, and
    b. completed self-monitoring checklist, certified by the chief local official and the certified administrator completing the review;

3. Review the applicable financial documents and evaluate compliance, which includes notifying the Grant Recipient of required corrective action and requesting additional documents and information as needed; and
4. Follow up after receiving the certified results of the self-monitoring review with an acceptance of the completed checklists or with instructions for additional corrective action required by the Grant Recipient to address any outstanding compliance issues in the scope of the review. The acceptance letter will also note satisfactory completion of the financial management desk-review.

13.1.2 Desk Review

TDA Program Monitors generally conduct a desk review for medium-risk contracts. A desk review may also be conducted for the following situations:

- A low risk contract that has been randomly selected for a full desk review;
- An interim review for an alleged program policy violation which has been referred to the Program Monitoring section for compliance review; and/or
- TDA reserves the right to conduct a desk review at its discretion.

At least two weeks prior, the Compliance program monitor notifies the Grant Recipient in writing of a scheduled desk review.

The monitoring desk review includes the following steps by TDA staff:

1. Notify the Grant Recipient of the TxCDBG contract(s) selected for desk review, explain the purpose of the review, and request contract and project related documents to be mailed, emailed or hand-delivered to the Compliance program monitor at TDA headquarters;
2. Review the applicable contract documents and evaluate compliance; and
3. Follow up within 30 days of the desk review with a formal written report of the Grant Recipient's overall performance.

13.1.3 On-Site Review

The on-site review may be conducted in the following situations:

- TDA policy requires on-site review of the contract records and project site for specially funded grants;
- Risk assessment of the contract results in a high risk rating and at least fifty percent of the TxCDBG funds are drawn;

- A complaint is received or TDA becomes aware of a serious matter of alleged non-compliance which warrants an on-site monitoring visit; and/or
- TDA reserves the right to conduct an on-site review at its discretion.

At least two weeks prior, the Compliance program monitor contacts the Grant Recipient to schedule and to explain the purpose of the on-site review.

The following steps by TDA staff are an integral part of the on-site monitor review:

1. Conduct an entrance conference with appropriate local officials and their representatives to explain the purpose of the visit and schedule an exit conference;
2. Review the applicable contract files;
3. Interview members of the Grant Recipient's staff, engineers, consultants and/or project beneficiaries, as appropriate, to discuss project-related issues;
4. Tour project site(s); (a local official and/or other local staff who are knowledgeable about the project activities should accompany the monitor on the project site tour to answer questions about quantitative accomplishments, projected construction completion, and whether beneficiaries are being served, etc);
5. Conduct an exit conference to present the preliminary conclusions that may be a result of the review; and
6. Follow up within 30 days after with a formal written report of the on-site review.

13.1.4 Monitoring Checklist

TDA's monitors utilize a *TxCDBG Monitor Review Checklist* (**Form 1301**)**,** which includes the review criteria that are used by the Compliance Monitor Review staff as a guide to monitor contract performance. Grant Recipients conducting self-monitoring reviews must use the current *Self-Monitoring Review Checklist and Certification* (Form A1302). These Checklists can be found on the TDA website.

TDA reserves the right to modify the procedures and tools at any time as deemed necessary.

13.2 Results of the Monitor Review

13.2.1 Decision Categories

As a result of the review, the monitor may reach one or more conclusions that indicate the following:

- The Grant Recipient's performance was in compliance with the requirements of the TxCDBG program;
- Project achievements were substantially the same as outlined in the contract Performance Statement;
- Concerns about the project's performance must be brought to the attention of the Grant Recipient;
- Technical assistance was provided and/or is necessary; and/or
- Findings are revealed that require corrective actions.

The Monitor Review Report conclusion(s), positive or negative, are supportable, defensible, and adequately documented. The Monitor Review Report fully identifies every finding and concern.

According to HUD rules:

- A "**finding**" is a violation of law, regulation, or program policy that can result in a sanction.
- A "**concern**" is a matter that, if not properly addressed, can become a finding and can result in a sanction.

13.2.2. Non-Compliance Procedures

If the monitor review reveals findings and/or concerns, the monitor prepares a report that outlines the non-compliance findings and/or concerns, and identifies resolutions and/or recommendations for each contract that is reviewed. The Monitor Review Report is generally mailed to the Grant Recipient within thirty days of the on-site monitor review. If a response to the Monitor Review Report is required, the Grant Recipient must respond to TDA within thirty days from the date indicated on the Monitor Review Report or by the specified due date contained in the report. Failure to resolve non-compliance findings and/or concerns may result in the following actions:

- The remaining balance of the TxCDBG funds is placed on hold, or de-obligated;
- Unresolved findings of questioned costs or use of funds result in the disallowance of the related expenditures and require repayment of funds to TDA;
- Violations regarding the following categories may cause a reduction in the reimbursement of administrative fees in accordance with the table below:

Violation	Amount of Reduction
o Acquisition	10%
o Environmental Clearance	15%
o Equal Employment Opportunity/Fair Housing	10%
o Labor Standards	15%
o Inaccurate or incomplete reporting	10%

  - Progress Reports
  - Project Completion Report
  - "Section 3" Reports;
- The Grant Recipient is penalized in the scoring process for future funding;
- The Grant Recipient is prohibited from applying for future funds in a certain TxCDBG grant fund category or all fund categories for a period of time based on the level of the noncompliant issues and required resolutions; and
- The Grant Recipient is penalized by other sanctions that are deemed allowable by program rules, regulations, policies, contractual provisions, and law.

13.2.3 Administratively Complete

When the non-compliance findings are resolved and acceptable close-out reports are received as described in **Chapter 12: Contract Closeout**, TDA issues a letter to the respective Grant Recipient that states the contract is administratively complete subject to the right to recover funds or questioned costs based upon the findings of the Single Audit, if applicable, and final review by the U.S. Department of Housing and Urban Development.

If the Monitor Review Report does not reveal any findings and/or concerns and acceptable closeout documents are submitted, an *administratively complete* Monitor Review Report is issued.

2 CFR 200.344 specifies the closeout of a CDBG award to Grant Recipients does not affect:

- TDA's right to disallow costs and /or recover funds on the basis of a later audit or other review;
- The Grant Recipient's obligation to return funds as a result of subsequent refunds, corrections or other transactions;
- The Grant Recipient's responsibilities for record retention;
- TxCDBG property management and disposition requirements; and/or
- Audit requirements.

13.3 CDBG Contract Support Documents

TDA's program monitors will request to review certain TxCDBG contract file support documents at the time of their review. Below is a list of the most commonly requested documents to be reviewed, however, depending on the type of project, other specialized contract support documents may be requested by the respective TxCDBG monitor at the time of the review.

PROCUREMENT (Administration Services)

1. Request For Proposals
2. Newspaper advertisement
3. Letters of solicitation; proof of mailing
4. Respondents reply to RFP
5. Rating Sheet(s)
6. Summary Score Sheet(s)
7. Minutes awarding administration firm
8. Executed contract(s)
9. Pre-Agreement Request/Approval, if applicable

PROCUREMENT (Engineering Services)

1. Request For Proposals
2. Newspaper advertisement
3. Letters of solicitation; proof of mailing
4. Respondents reply to RFP
5. Rating Sheet(s)
6. Summary Score Sheet(s)
7. Minutes awarding engineering firm
8. Executed contract(s)
9. Pre-Agreement Request/Approval, if applicable

FINANCIAL MANAGEMENT

1. Ledger/spreadsheet for TxCDBG funds
2. Ledger/spreadsheet for local match funds
3. Bank statements related to CDBG fund deposits and disbursements
4. Local match invoices or timesheets with personnel cost calculation worksheets
5. Fidelity Bond documents
6. Current Single Audit Report
7. Audit Certification Form

CONSTRUCTION MANAGEMENT

1. Newspaper bid advertisement(s)
2. Bid documents with labor standards provisions
3. Bid Tabulation Form
4. Minutes awarding construction company/firm
5. Executed contract(s)
6. Change Orders
7. Amendments/Modifications
8. Project pictures, if applicable, with signage

ENVIRONMENTAL REVIEW RECORD

Complete Environmental Review Record

(See Chapter 3 of this Manual)

LABOR STANDARDS

1. Appointment of Labor Standards Officer
2. General Wage Decision
3. 10-Day Confirmation (Also known as '10-Day Call') and/or Financial Interest Report
4. Request for Additional Classification and Wage Rate
5. Pre-Construction Conference documents
6. Payrolls and Statements of Compliance
7. Designation of Inspector for employee interviews
8. Employee Interviews
9. Wage violation documentation

ACQUISITION, if applicable

Complete Acquisition File

(See Chapter 6 of this Manual)

9. Small Purchase Procurement Record(s)
10. Project Map

CIVIL RIGHTS/FAIR HOUSING

1. Section 3 Local Opportunity Plan
2. Section 504 Procedures
3. Section 504 Notice (published, if more than 15 employees)
4. Section 504 Self-Evaluation Form
5. Designation of Civil Rights Officer Designation **Form A1008**
6. Grievance Procedures (adopted)
7. Complaint Procedures (adopted)
8. Excessive Force Policy
9. Fair Housing Activity
10. HUD investigations, if applicable

SECTION 3 POLICY

1. Section 3 Policy (A1002)
2. Copy of the prime construction contractor Section 3 Policy(**Form A1002**) and Equal Opportunities Guidelines for Construction Contractors (**Form A1001**)