



STATE OF DELAWARE

American Rescue Plan Act

Internal Compliance Review Policy

Version 1.0

Lindewirth, William R (Governor)
William.lindewirth@delaware.gov

SECTION 1 INTRODUCTION

1.1 SCOPE

This policy specifies the State's responsibilities for monitoring the programmatic and financial activities of its Subrecipients to ensure satisfactory performance and proper stewardship of awarded American Rescue Plan Act funds. This policy may be amended or updated from time to time. The most recent version of this policy can be located on the Governor's website,

<https://governor.delaware.gov/rescue-plan/> .

1.2 POLICY STATEMENT

This policy addresses institutional responsibilities for monitoring the programmatic and financial activities of Subrecipients of the State of Delaware American Rescue Plan Act allotment to ensure proper stewardship of the fund. The following policy applies to all Subrecipients issued under Final Rule Guidance of the American Rescue Plan Act. It is designed to assist program managers in utilization of funding and ensure recipients comply with applicable federal and State laws and regulations, with all applicable guidance from the federal or State government, and with the provisions that governs the agreement between the State of Delaware and Subrecipients.

1.3 DEFINITIONS

- **Program Manager/Director** - A member of Subrecipient staff who is responsible for the overall design, conduct, reporting and management of an externally sponsored project. This person is most familiar with the project's performance through e-mail, telephone conversations, technical meetings, progress reports, or site visits.
- **Project Agreement** - An award provided by the State of Delaware to a Subrecipient for the Subrecipient to carry out an ARPA authorized project or service. A subaward may be provided through any form of legal agreement, including an agreement that the State considers a contract.

- **Subrecipient** - An entity that receives a subaward from the State of Delaware American Rescue Plan Act allotment to carry out an authorized pre-approved project or service.
- **Budget Period** - The time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to expend the funds awarded. The budget period is stated in the funding agreement prior to disbursement of funds.
- **Finding** - Deficiencies which the reviewer is required to report in the schedule of findings and questioned costs.
- **Capital Asset** - Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Including land, buildings, equipment, additions and improvements beyond ordinary repairs and maintenance.
- **Capital Expenditure** - Expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.
- **Closeout** - The process by which the State determines that all applicable administrative actions and all required work of the award have been completed and takes actions as described.
- **Cooperative Compliance Resolution** - The use of compliance follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the State and the recipients.
- **Corrective Action** – Action taken by the reviewee in which corrects identified deficiencies, produces recommended improvements.

- **Disallowed Costs** - Those charges the Federal awarding agency or the State determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the contract/award.
- **Fixed Amount Award** - The Subrecipient agreement under which the funding is provided is reduced to the costs incurred during the project period not in excess of the awarded amount.
- **Improper Payment** - Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. When an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment should also be considered an improper payment.
- **Internal Controls** - Processes designed and implemented by the State in which Subrecipients and grantees are to provide reasonable assurance regarding the achievement of objectives in the following categories. Effectiveness and efficiency of operations; Reliability of reporting for internal and external use; and Compliance with applicable laws and regulations.
- **Performance goal** - A target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances, this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).
- **Federal Uniform Guidance** – The Uniform Administrative Requirements, Cost Principles, and Compliance Requirements for Federal Awards, found in Part 200 of Title 2 of the Code of Federal Regulations.

- **Coronavirus State and Local Fiscal Recovery Funds Final Rule** – The final rule promulgated by the U.S. Department of the Treasury relating to the use of State and Local Fiscal Recovery Funds, found in Title 31, Subpart A, Part 35 of the Code of Federal Regulations.

SECTION 2 METHODOLOGY AND RANKING

2.1 POLICY

Federal Uniform Guidance specifically states Grant recipients are to evaluate each Subrecipient's risk of noncompliance. This evaluation consists of monitoring the activities of Subrecipient organizations to ensure the funding utilization is in compliance with applicable Federal statutes and regulations and terms of the agreement, and verifying that Subrecipients are reviewed as required by The State and Local Fiscal Recovery Fund Final Rule, section 35.9.

Consistent with federal, state, and local regulations, and to ensure proper stewardship of sponsored projects, the grant awardee must undertake certain activities to monitor recipients, including but not limited to pre-qualification, reporting, site visits, regular contact, and other means to provide reasonable assurance that recipients administer and perform in compliance with applicable law, regulations, and the provisions of the State's signed agreements. Additionally, The State assesses, among other factors, the recipient organization's financial status and internal controls based on documentation from the Subrecipient in order to determine whether to proceed with the Subrecipient. Based on that assessment, terms and conditions are established in the Subaward agreement to be consistent with the level of perceived risk and then the State identifies specific monitoring activities.

Failure to adequately monitor the compliance of Subrecipients could result in reputational damage to the State and jeopardize current and future funding. It is the responsibility of State, as the prime recipient, to ensure the good stewardship of sponsored funding and ensure that all funds assigned receive the same diligence and attention.

2.2 Evaluating Subrecipient Risk Levels

The State of Delaware will use each Subrecipient's Prequalifying Questionnaire and provided financial documentation to develop a risk determination for each project. Also, for consideration will be the number of ARPA projects to an individual recipient, prior federal grant experience, length of service, communication responsiveness and other factors. The results of prior ARPA monitoring and compliance review will also influence ongoing risk level ranking and reevaluations. The State reserves the right to use any criteria it deems appropriate in developing and applying a risk determination. Monitoring and review frequency will vary based on the scope, complexity, and size of each project.

SECTION 3 REPORTING AND BUDGET ANALYSIS

3.1 Monitoring Process

Individual monitoring plans for each Subrecipient will be based on the risk rating assigned to each Subrecipient during the risk evaluation process described in Section 2.2. The State reserve the right to request documentation and site access throughout the life of the funding and reporting period.

3.2 Monitoring Objectives

The purpose of fiscal and administrative monitoring is to: Verify Grant Subaward funds are being spent to further the grant objectives; Verify the Subrecipient has internal controls in place to mitigate waste, fraud and abuse of Grant Subawards; and Verify that expenditures submitted for reimbursement are fully supported by appropriate source documentation and ensure that items charged to the grant are allowable, allocable to (or benefit) the grant, reasonable and necessary in accordance with the grant intent, and appropriately documented and charged to the correct cost category.

The primary compliance test to be performed on each program or project reviewed is whether the activities of the program are allowable under the ARPA funding agreement, grant regulations, and federal and state laws.

3.3 Project and Expenditure Review (Quarterly)

In order to maintain consistent information sharing for federal reporting purposes, the State will mandate quarterly status updates. Sessions can occur virtually or in person, at the State's discretion.

Quarterly review will occur between State ARPA leadership and recipient representatives. The meeting will enable the sharing of project status, transaction data and projections.

Well-structured expenditure reports that relate to the awarded project specifically, will include clear and concise expenditure tracking against budgets, and detailed notes explaining any discrepancies. To facilitate consistent and uniform reporting, the State will provide project and expenditure reporting templates. Subrecipient data will comprise the federally required State and Local Fiscal Recovery Funds Project and Expenditure Report State officials are mandated to file. Timely and accurate documentation and support is critical in this role. To this end, the quarterly program and financial review sessions will be held prior to the quarterly reporting deadline. A review session with Subrecipient will occur no later than 15 calendar days prior to the Project and Expenditure quarterly report deadline. Failure to attend quarterly review sessions will result in elevated risk determination, enhanced reporting frequency, and possible reverting of funds.

3.4 Milestone and Operational Review (Variable/Project Specific)

The State reserves the right to administer on demand milestone and operational reviews more comprehensive than quarterly reporting. Limited scope desk and field compliance reviews may occur throughout the life of the project as they allow the Subrecipients to make certain assertions regarding various aspects of their operations or provide monitors an opportunity to verify the allowability of expenditures utilizing grant funds. Subrecipients will receive 10-day advanced notice prior to review. This process will allow for notation of significant project milestones, reviewing pre-established milestone dates to assess compliance and documenting any deviations and justifications.

These reviews consist of, but are not limited to, the following:

- Targeted compliance reviews and follow-up corrective action, if required.
- Payment reviews of invoices and other supporting documentation.
- Limited field reviews to verify purchases and test management practices.
- Follow-up site visits to verify implementation of required corrective action.
- The scope of the review can be expanded if needed.

3.5 Technical Assistance Services

To ensure Subrecipients are educated regarding Grant requirements, high-risk problem areas are identified and tracked through the monitoring process and serve as the basis to plan and formulate technical assistance and training for Subrecipients. Monitors provide technical assistance through training (either group or one-on-one), web publications and resources, and through the provision of the Subrecipient self-assessment tools.

SECTION 4 COMPLIANCE MONITORING

4.1 Compliance Monitoring Plan (Annual Review)

The objective of a compliance review is to ensure the Subrecipient complies with the Code of Federal Regulations, applicable state laws, and other governing regulations, internal policies, and general good business practices. The State of Delaware reserves the right to enlist guidance, and audit services from a reputable and experienced outside audit firm. The compliance review process and components are outlined below.

4.2 Compliance Review Objectives

The monitors select samples for review from the Subrecipient grant activity report, using whatever criteria they, and/or the State, determine to be appropriate. All cost categories included in the expenditures and supporting documentation pertaining to the expenditures are reviewed, including but not limited to, a review of the organization's internal controls, procurement and contracting procedures

and practices, compliance with specific grant requirements and guidelines, current and past compliance reports, site visit reports conducted, and previous monitoring reports and other correspondence.

4.3 Notification Letter

The compliance review begins with the issuance of a notification letter. The purpose of this letter is to notify the head of the Subrecipient organization in writing that a compliance review will be conducted. The letter identifies the date of fieldwork, grant project selected for review, and scope of the review.

4.4 Request for Documentation

A request for documentation is included with the notification letter. The purpose of the request for documentation is to request the Subrecipient's project related financial statements and specific documents that should be made available for review prior to the start of fieldwork. The monitors review the project support and identify specific records the Subrecipient should have available at the start of the review. These records might include, but are not limited to, contracts, invoices, procurement records, indirect costs methodology, property ledger, and personnel ledger, including timesheets and supporting documentation.

4.5 Internal Controls Questionnaire

An internal controls questionnaire is included with the notification letter. The questionnaire asks specific questions regarding internal controls, procurement process, personnel, and project status.

4.6 Entrance Conference (Meeting)

An entrance conference is scheduled with the Subrecipient's executive management and key personnel to discuss the purpose, objectives, and scope of the compliance review, as well as expected start and completion dates of the fieldwork. The monitor will explain the compliance review process, inquire if there are any specific areas where the Subrecipient would like focused technical assistance, and identify the best time to meet with key staff to minimize interruption.

4.7 Fieldwork

During the fieldwork, monitors are present at the Subrecipient's physical location gathering, analyzing, and evaluating evidence to assess and verify they are complying with federal and state regulations. The monitoring team may be comprised of a lead monitor and monitoring staff. During the fieldwork, the monitors can provide technical assistance, if needed, while addressing areas of non-compliance.

4.8 Exit Conference

An exit conference is held on the last day of the fieldwork to discuss the results of the compliance review and any concerns that may have arisen. The exit conference is conducted by the monitor. The State ARPA oversight staff will attend the exit conference. The Executive Director, Chief Financial Officer, Grant Manager, and other key staff are encouraged to participate in the exit conference on behalf of the Subrecipient. The exit conference provides an opportunity to resolve any questions the Subrecipient may have about the concerns raised and address any other issues before the compliance report is finalized. Should the findings change during the quality review, the Subrecipient will be contacted for a final exit conference.

4.9 Working Papers

Monitors should prepare and organize their working papers in a manner that helps the reviewer carry out an appropriate quality review. The monitors should avoid preparing or accumulating unnecessary working papers or making extensive copies of the Subrecipient records. It is neither necessary nor practical for the monitors to document every matter considered during the review. Documentation supporting all findings must be retained in the working file.

Based on the discussion above, good working papers should meet the monitoring requirements by displaying the following characteristics:

- State the year/period end date so that the working paper is not confused with documentation belonging to a different year/period.
- State the full extent of the test (i.e. how many items were tested and how this number was determined). This will enable the monitor, and any subsequent reviewers, to determine the sufficiency of the review evidence provided by the working paper.
- Working papers should clearly and objectively state the results of the test based on the facts documented.
- Conclusions should be consistent with the results of the test and should be able to withstand independent scrutiny.
- Working papers should be clearly referenced in order to be filed appropriately and found easily when required at a later date.
- Working papers should be signed by the person who prepares them
- Working papers should be signed and dated by any person who reviews them.
- Working papers provide evidence that an effective, efficient, and accurate review has been carried out. They should be completed in a manner so that a monitor with no previous experience of the review can understand the work completed and how the conclusion was reached.

SECTION 5 POST MONITORING

5.1 Quality Review

Thirty days from the last day of the Subrecipient's monitoring visit, the monitors are required to submit the completed working papers for quality review. The Grants Monitoring Supervisor will review the working papers to ensure that they are

complete and the conclusions reached are consistent with the results of the tests. Any deviation from this standard will result in a coaching note. Once the coaching notes have been addressed, the monitor will prepare the compliance review report for review.

5.2 Report Timeliness

It is the procedure of State ARPA oversight staff to issue all compliance review reports within 60 days of the last day of fieldwork. The monitors are responsible for completing the preliminary draft report and submitting it to the Grants Monitoring Supervisor for review along with the working papers. The reports are reviewed to ensure all findings are substantiated with the appropriate supporting documentation and criteria. Additional coaching notes are written when the compliance report needs revision or corrections. Once the coaching notes have been addressed, the report is prepared for the final review and signature. Once approved by the authorized official, the report is released to the Subrecipient. The compliance review report remains open until the Subrecipient submits their Corrective Action Plan (CAP) if applicable.

5.3 Compliance Review Report

The next step is to issue the compliance review report to the Subrecipient including senior management and key administrative staff. The report outlines all non-compliance issues and findings, provides recommendations for improvement and may request the Subrecipient generate a CAP.

5.4 Findings

A finding is an operational deficiency in internal controls, noncompliance with provisions of laws, regulations, contracts, Grant Subawards, or fraud, waste, and abuse. Findings shall identify any significant deficiencies, material weaknesses, and instances of noncompliance related to the financial statements.

- Assign each finding a reference number. Each finding in the schedule of findings and questioned costs must include a reference number to allow for easy referencing of the findings during follow-up. If there are no findings, state that no matters were reported.
- Findings will be presented in sufficient detail and clarity for the Subrecipient to prepare a corrective action plan and to take corrective action.

5.5 Recommendations

A recommendation must provide a course of action that will correct a finding or issue that has been identified and provide improvements. Recommendations should be action-oriented, convincing, well-supported, and effective.

5.6 Questioned Costs

A questioned cost can result from a violation, or possible violation, of a statute, regulation, or the terms and conditions of a federal Grant Subaward. In addition, it could be a cost not supported by adequate documents, or appears unreasonable and does not reflect the actions a prudent Subrecipient would take in the circumstances.

5.7 Disallowed Costs

A disallowed cost is a charge that the pass-through entity determines to be unallowable according to the Code of Federal Regulations and the State Administrative Manual. Some examples of disallowed costs can be the purchase of alcohol, lobbying, or costs pertaining to waste, fraud, and abuse.

5.8 Delivery of Corrective Action Plan

Once the Subrecipient receives the compliance review report, they will have 30 days to either dispute the findings or provide a CAP to correct and address any finding(s), or send payment of a disallowed cost. After a CAP is received, the Subrecipient has six months from the date of the report to

implement the CAP. If necessary, follow-up reviews will be conducted by the State ARPA oversight staff to ensure that corrective actions are implemented timely. If a Subrecipient fails to comply with the required necessary corrections identified, funding may be suspended until corrections are completed. Failure to comply with grant requirements may subject the Subrecipient to pay back a reimbursement to the State. All compliance reviews received are tracked and reviewed within 30 days of receipt, and if required, follow-up is initiated to ensure corrective action is implemented on all findings. Reviews with findings are issued a Management Decision Letter upon resolution of the finding.

SECTION 6 COMPLIANCE METRICS

6.1 Evaluation

American Rescue Plan Act funding will be evaluated by specific and measurable data points and preestablished objectives. The following will be used as reference guidelines for satisfying compliance requirements and reporting requests.

6.2 Metrics

- Activities are consistent with the program objectives, current grant guidelines and are allowable.
- Expenditures are adequately documented, reasonable, and necessary
- Expenditures conform to any limitations or exclusions set forth in the Grant agreement
- Expenditures are adequately documented and occurred during the "Performance Period"
- General ledger detail matches total reported on submitted quarterly expenditure reports
- Chart of accounts separately identifies Grant projects and expenditures.

- Proof of payment can be documented on a sampling of transactions comprising the expenditure under review; and Expenditure tracking requests are submitted timely.
- Equipment/Assets were procured properly; are used solely for authorized purposes. Subrecipient's policies and procedures for equipment and asset management are adequate and consistent with state and/or federal requirements. Equipment/assets acquired will include a determination it was consistent with what was approved/planned. Equipment/asset records contain all required elements; and selected equipment items were physically inspected.
- Procurement policies and determination that they are at least as stringent as the federal regulations. Procurement transactions to determine compliance with applicable policies. Procurements were made through full and open competition. Cost or price analysis has been conducted. Procurement and contracting policies of the Subrecipient have been followed. Costs of contractors are reasonable and are for eligible activities. Contract monitoring system is in place to validate work performed. Work performed is within the scope of the program/project. Billed amounts are verified to ensure they are as stipulated in the contract and were incurred within the performance period of the contract. Testing of contracts to ensure they contain all the required provisions. Contracts are prepared and signed; and contain all the required provisions; Type of contract is appropriate, and all required language is contained in the contract.