



October 30, 2018

Guidance for Local Public Health Authorities on Monitoring of Subcontractors

Issue: Monitoring of Subcontractors when local public health authorities (LPHAs) sub-contract for public health services and activities.

Background:

The Oregon Health Authority (OHA) has a biennial Intergovernmental Agreement for Financing Public Health Services (Public Health IGA) with each of Oregon's LPHAs. The Public Health IGA includes Program Elements for each funding stream disbursed by OHA's Public Health Division (PHD).

ORS 431.413(3) states an LPHA may contract with a person to perform a public health service or activity, or to perform all public health services and activities, with the exception of any LPHA function, duty or power related to governance.

State and federal laws require OHA and its contractors to exercise good stewardship with public funds. Contractor monitoring is an essential component to meeting these standards. Inadequate contract monitoring puts OHA at risk for loss of federal and state funding if Federal Auditors and/or the Secretary of State find deficiencies in the management of state or federal funds. OHA is issuing this guidance to assist LPHAs in better understanding their obligations related to subcontractor monitoring.

For the purposes of this guidance, "subcontractor" refers to any person or entity with whom an LPHA enters into an agreement or contract to provide public health services funded by and described in the Public Health IGA program elements. This guidance does not apply to vendors from whom an LPHA may purchase specific goods or professional services. If the subcontractor is funded by a program for which the LPHA is considered a "subrecipient" by federal standards as indicated on the table of program elements in the Public Health IGA, the subcontractor is also considered to be a subrecipient and additional federal requirements apply to the LPHA for subrecipient monitoring.

Guidance:

When an LPHA or its governing body develops a contract with another entity to provide public health services for which OHA contracts with the LPHA to provide, the work performed under the subcontract must comply with all applicable federal or state statutes, rules, local ordinances and other funding requirements. OAR 333-014-0570(4) requires the contract between the LPHA and its subcontractor to state how the LPHA will monitor the contractor for compliance with all applicable laws and funding requirements. OHA expects LPHAs with subcontracts to adopt and use official¹ subcontractor monitoring policies and procedures to assess and correct any fiscal and/or programmatic deficiencies.

¹ Official means the policy and procedure is dated and signed by a LPHA official with signature authority.

Contracts between an LPHA and a contractor funded through Program Elements for which the LPHA is identified in Exhibit A of the Public Health IGA as a Subrecipient (see Program Element table) are subject to federal requirements for subrecipient monitoring (2 CFR 200.331) and require a subrecipient monitoring system, including a:

- ✓ Standardized subrecipient risk analysis;
- ✓ Subrecipient monitoring plan; and
- ✓ Official¹ policies and procedures for monitoring subrecipients.

This federal requirement does not apply to contracts for specific goods and professional services (e.g. legal services).

OHA assesses compliance with these state and federal requirements during the fiscal and administrative Triennial Reviews (TRs) and the WIC biennial review.

Requirements for Subrecipient Monitoring Plan:

As previously stated, when an LPHA contracts with another entity using funds for which federal subrecipient monitoring requirements apply, a subrecipient monitoring plan is required.

To comply, the LPHA must demonstrate implementation of its subrecipient monitoring plan, including completion of a risk analysis and application of its official¹ subrecipient monitoring policies and procedures. The methods and frequency of monitoring activities included in the plan should be determined through a standardized risk analysis completed internally or by the subrecipient. The monitoring plan should include strategies to mitigate potential risk of non-compliance.

A subrecipient monitoring plan must include the following components:

1. Programmatic review to ensure performance goals (scope of work or specific aims) are achieved.

Programmatic compliance can be achieved by:

- Programmatic reviews of each Subcontractor and the programs they have been contracted to provide. This may include reviews of benchmarks, goals and objectives, performance data, workplans and/or reports developed for OHA programs. The frequency of the reviews should be consistent with the risk identified in the risk analysis.
- For programs that have an on-site review with the subcontractor during the TR, LPHA should participate with OHA representatives in the TR process and monitor compliance with TR findings in addition to the LPHA's programmatic reviews.

Best practices include:

- LPHA participation with OHA program representatives in monitoring of workplans and budgets (e.g. progress reporting interviews between state and local program staff);
- LPHA use of TR program tools with the Subcontractor during the two years between each TR;
- Subcontractor development of improvement plan(s) based on issues discovered through the LPHA programmatic monitoring processes and TR to ensure achievement of the improvement plan(s).

2. Fiscal review to ensure effective stewardship of federal funds. This includes expenditure testing to assess the legitimacy of costs charged against the contract.

Fiscal compliance can be achieved by:

- Regular review of financial reports;
- On-site financial review of expenses submitted and payroll allocation by Program Element. This may be completed by using a standardized fiscal monitoring tool with the Subcontractor. The TR fiscal tool may be used by the LPHA, if desired. The frequency of the reviews should be consistent with the risk identified in the risk analysis.

Best practices include:

- Quarterly review of financial reports with general ledger detail.

A fiscal review is not an audit, which is an official inspection of an individual's or organization's accounts, typically by an independent body.

3. Regulatory monitoring system to ensure compliance with all federal laws, regulations, and executive orders applicable to the Public Health IGA or to the delivery of Program Element Services.

Regulatory compliance can be achieved by:

- Development and use of a template to track Subcontractor's compliance with all federal laws, regulations, and executive orders applicable to the Public Health IGA or to the delivery of Program Element Services. LPHA may use OHA triennial review tools, if desired.

Effective April 1, 2019, LPHAs must comply with the subcontractor and subrecipient monitoring requirements outlined in this guidance document. Triennial reviews conducted before April 2019 will identify when the LPHA does not meet the requirements. If areas identified as out of compliance are not resolved by March 31, 2019, they will become official compliance findings. If you have specific questions, please contact the Public Health Systems Consultant assigned to your LPHA, Andrew Epstein or Kimberly La Croix.