



Tools to Facilitate Contract Monitoring

**NYSICA
April 23, 2010**



Agenda

- **Monitoring Discussion**
- **Six Step Monitoring Process**
- **Case Study**

Why Monitoring is Necessary

- Agency missions
- Millions in State spending
- Risks
 - Health & safety
 - Goal achievement
 - Dollars
 - Reputation
- Fraud
- Errors

Monitoring

- Ongoing activities, special evaluations or a combination of both used to ensure that controls are operating as intended.

Monitoring



Monitoring Applied to the Internal Control Process



Benefits of Monitoring

- **Reduces risk of fraud, waste & abuse**
 - Increases employees' knowledge
 - Sets payee's expectations
- **Get what was intended**
- **Provides basis for payment**

Who Should Monitor?

- Program staff
- Fiscal staff
(procurement, payment, etc.)
- Independent monitors/consultants
- Internal auditors
- OSC/Control agency auditors

When to Monitor

- Timing
 - Beginning?
 - End?
 - During?
- Extent
 - How much monitoring should you do?



Things that Help or Hinder

- **Management support**
- **Knowledge about contract**
- **How we deal with conflict**
- **Vendor relationships**
- **Competing interests**
 - Vendor, program and audit

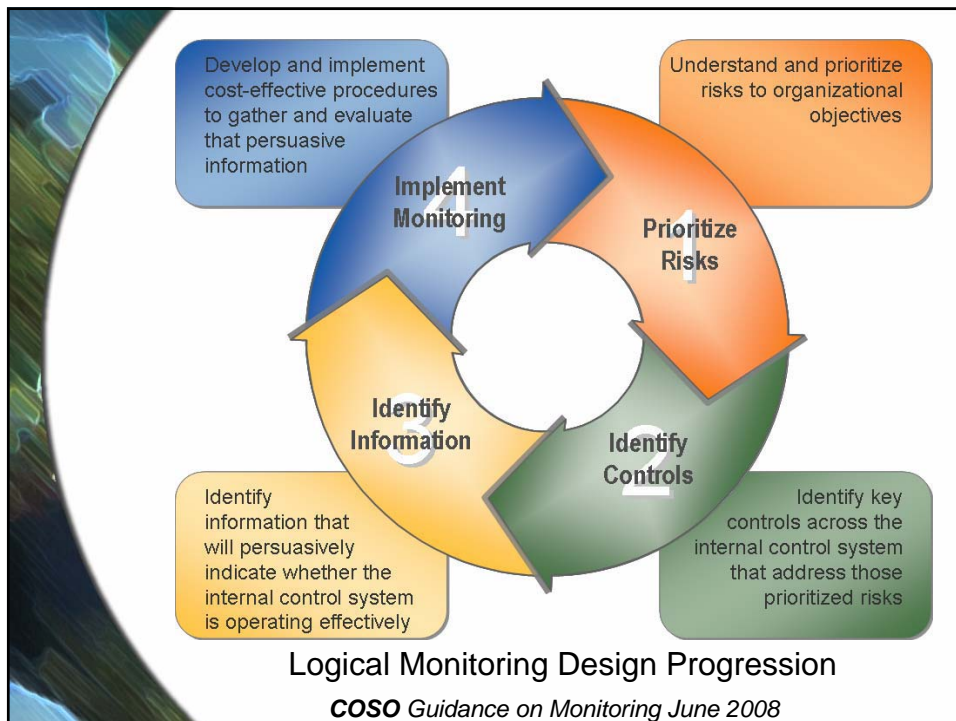


Things that Help or Hinder

- **Knowledge/ability to monitor**
- **Roles & responsibilities communicated / understood**
- **Have tools and data**
- **Staffing**

How do you monitor?

- Participant discussion



Monitoring Process

- **Six Step Process:**
 1. Identify risky contracts.
 2. Understand requirements.
 3. What can go wrong?
 4. What's the big deal?
 5. What can I do about it?
 6. Follow up on problems.

Step 1.

Identify Risky Contracts

- What data do you have available?
- How can it help you identify risky contracts?



Risks

- Health & Safety
- Goal Achievement
- Dollars
- Reputation

Risks – Data Analysis

- # Contracts with same Payee
- \$ Contracts with same Payee
- % Expended compared to % Time
- Start date (old)
- Start date (new)
- High \$ Contract
- Low \$ Contract
- Location
- Contract Description
- Contract Category Code

Recap – Monitoring

- Ongoing activities, special evaluations or a combination of both used to ensure that controls are operating as intended.

Recap – Monitoring

- Ongoing activities, special evaluations or a combination of both used to ensure that vendors/payees are operating as intended.

Operating as Intended

- **How do agency employees and payees know what's intended?**

Step 2. **Understand Requirements**

- **Laws, rules & regulations**
- **Guidelines**
- **Contract specifications**
- **Purchase order details**
- **Conversation**
- **Intuition**

Understand Requirements

- **Ask this:**
 - **Would I know how to verify whether something has occurred based on how the contract specification is written?**

Specifications

- **Clear, Detailed, Easily understood**
- **Deliverables**
 - **Description**
 - **Benchmarks**
- **Location**

Specifications

- **Performance measures**
 - Quantities
 - Timing
 - Expertise
 - Licenses
 - Degrees
 - Test results

Specifications

- **Payment provisions**
 - Payment triggers
 - Invoice formats
 - Description of deliverable
 - Services
 - Time and attendance records
 - Installation dates

Specifications

- **Reporting**
 - **Requirements**
 - **What**
 - Electronic/paper
 - **When**
 - **Records retention**

Specifications

- **Right to audit**
 - **Specific monitoring in contract language**
- **Penalties for non-compliance**

Specification Example

The vendor shall submit a properly executed application for payment, together with appropriate backup supporting the amount billed.

Specification Example

The vendor shall submit a properly executed application for payment, together with appropriate backup supporting the amount billed.

Step 3. What can go wrong?

- **Programmatic**
 - What can prevent goal accomplishment?
- **Fiscal**
 - How can the payee get money they didn't earn?

Step 3. What can go wrong?



Google Alerts (BETA)

Welcome to Google Alerts

Google Alerts are email updates of the latest relevant Google results (web, news, etc.) based on your choice of query or topic.

Some handy uses of Google Alerts include:

- monitoring a developing news story
- keeping current on a competitor or industry
- getting the latest on a celebrity or event
- keeping tabs on your favorite sports teams

Create an alert with the form on the right.

You can also [sign in to manage your alerts](#)

Create a Google Alert

Enter the topic you wish to monitor.

Search terms:

Type:

How often:

Your email:

Create Alert

Google will not sell or share your email address.

Google Alerts [terms of use](#) and [privacy policy](#).

© 2006 Google

Some Key Words

- Bribe
- Conspiracy to defraud
- Fraud
- Fraudulent
- Embezzle
- False instrument
- Kickback

What Can Go Wrong with Price

Specification

1. "For every test, at least 2 service technicians will test all fire alarm control panels and peripheral devices according to NFPA 72. Vendor shall complete and submit all documentation and records.
2. "During the contract term, if similar parts are sold by the Contractor outside of this contract at a lower price to a federal, state, or local governmental entity, the price under this contract shall be immediately reduced to the lower price."

What can go wrong?

1. Vendor may not use at least 2 service technicians per test, but could charge for 2 or more.
2. Contractor sells similar parts to a federal, state, or local governmental entity at a lower price than extended on this contract. Contractor continues to bill agency at higher price.

How Agency Can Monitor Quantity

Specification

1. Contractor shall provide 58.7 full-time equivalent (FTE) nursing and administrative staff necessary for the operation of The Medical Unit. The 58.7 FTE's shall provide 122,096 actual hours of service to The Medical Unit each year.

What can go wrong?

1. Contractor provides less than 58.7 FTE's and therefore does not deliver 122,096 actual hours of service each year.

How Agency Can Monitor Delivery

Specification

1. "Contractor must clean and remove all soot and debris from chimney flue and base."

What can go wrong?

1. Contractor cleans base, but not flue.
2. Contractor cleans flue but not base.
3. Contractor cleans neither flue nor base.

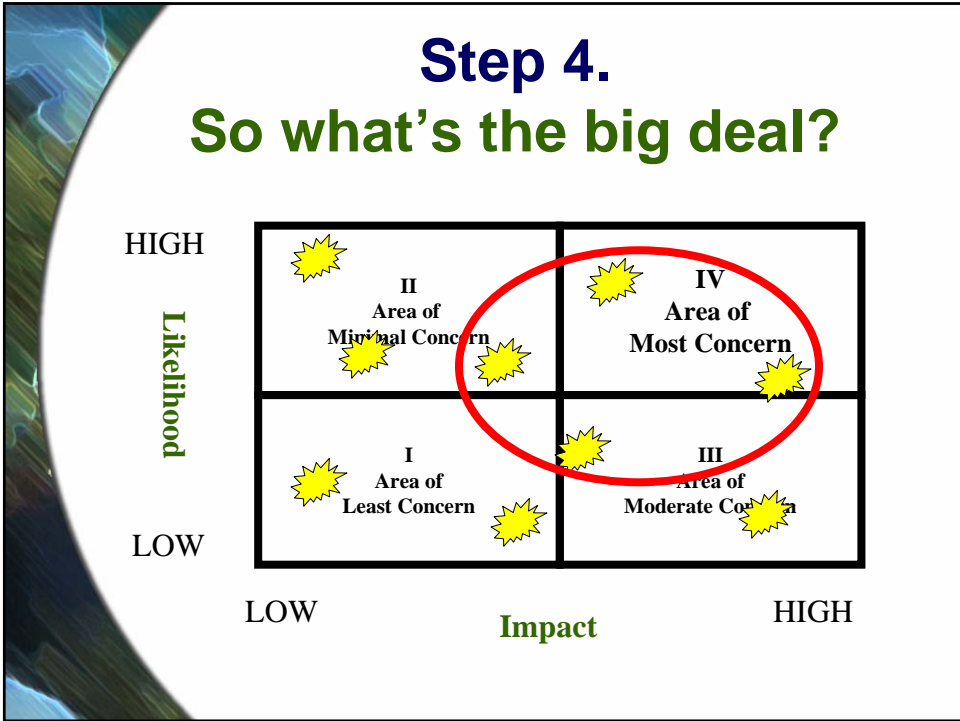
How Agency Can Monitor Quality

Specification

1. "Only a person licensed or otherwise authorized under this article shall practice nursing and only a person licensed under section sixty-nine hundred four shall use the title "Registered Professional Nurse" (RN) and only a person licensed under section sixty-nine hundred five of this article shall use the title "Licensed Practical Nurse" (LPN)."

What can go wrong?

1. Contractor bills for RN's that are not licensed in accordance with section sixty-nine hundred four.
2. Contractor bills for LPN's that are not licensed in accordance with section sixty-nine hundred five.



- ### Step 5. What can I do about it?
- Design monitoring steps
 - Who's going to do it?
 - How are they going to document it?
 - Who are they going to give the documentation to?

Design Monitoring Steps

- Observation
- Analysis
- Independent / outside oversight
- Surprise visit
- Audit of vendor records
- Comparison to industry standards

How Agency Can Monitor Price

Specification

1. "For every test, at least 2 service technicians will test all fire alarm control panels and peripheral devices according to NFPA 72. Vendor shall complete and submit all documentation and records.
2. "During the contract term, if similar parts are sold by the Contractor outside of this contract at a lower price to a federal, state, or local governmental entity, the price under this contract shall be immediately reduced to the lower price."

What can go wrong?

1. Vendor may not use at least 2 service technicians per test, but could charge for 2 or more.
2. Contractor sells similar parts to a federal, state, or local governmental entity at a lower price than extended on this contract. Contractor continues to bill agency at higher price.

How agency can monitor

1. Review back up documentation to see what work was performed. Review time sheets to see how many staff worked on that test.
2. Search OGS website on Contractor's name. Compare prices extended on similar parts.

How Agency Can Monitor Quantity

Specification

1. Contractor shall provide 58.7 full-time equivalent (FTE) nursing and administrative staff necessary for the operation of The Medical Unit. The 58.7 FTE's shall provide 122,096 actual hours of service to The Medical Unit each year.

What can go wrong?

1. Contractor provides less than 58.7 FTE's and therefore does not deliver 122,096 actual hours of service each year.

How agency can monitor

1. Obtain contractor certified payroll records, timecards and monthly staffing reports.

How Agency Can Monitor Delivery

Specification

1. "Contractor must clean and remove all soot and debris from chimney flue and base."

What can go wrong?

1. Contractor cleans base, but not flue.
2. Contractor cleans flue but not base.
3. Contractor cleans neither flue nor base.

How agency can monitor

1. Designate agency monitor and observe work performed.
2. Hire specialized independent third party contractor to verify work was performed in accordance with contract specifications.
3. Obtain contractor payroll and performance reports.

How Agency Can Monitor Quality

Specification

1. "Only a person licensed or otherwise authorized under this article shall practice nursing and only a person licensed under section sixty-nine hundred four shall use the title "Registered Professional Nurse" (RN) and only a person licensed under section sixty-nine hundred five of this article shall use the title "Licensed Practical Nurse" (LPN)."

What can go wrong?

1. Contractor bills for RN's that are not licensed in accordance with section sixty-nine hundred four.
2. Contractor bills for LPN's that are not licensed in accordance with section sixty-nine hundred five.

How agency can monitor

1. Check the State Education Department's Office of the Professions' online verification website at <http://www.op.nysed.gov/opsearches.htm>
2. Check the State Education Department's Office of the Professions' online verification website at <http://www.op.nysed.gov/opsearches.htm>

Step 6. Follow Up on Problems

- **Corrective action**
- **Withhold payment**
- **Terminate contract**
- **Other?**

Case Study

- Weatherization Assistance Program

Joe Morrissey, CGAP
jjmorrissey@osc.state.ny.us
518-474-6025

~

Holly Reilly, CPA, CIA
hreilly@osc.state.ny.us
518-402-4175

Contact Information