



The CHC Interim Disallowance Guide

Understanding and Implementing Risk-Based Disallowance for Social Innovation Fund Grantees



9/1/15

Joining Via Skype?

- Choose “Don’t Join Audio”
- Call: 1-888-769-9405
- Passcode: 6294523

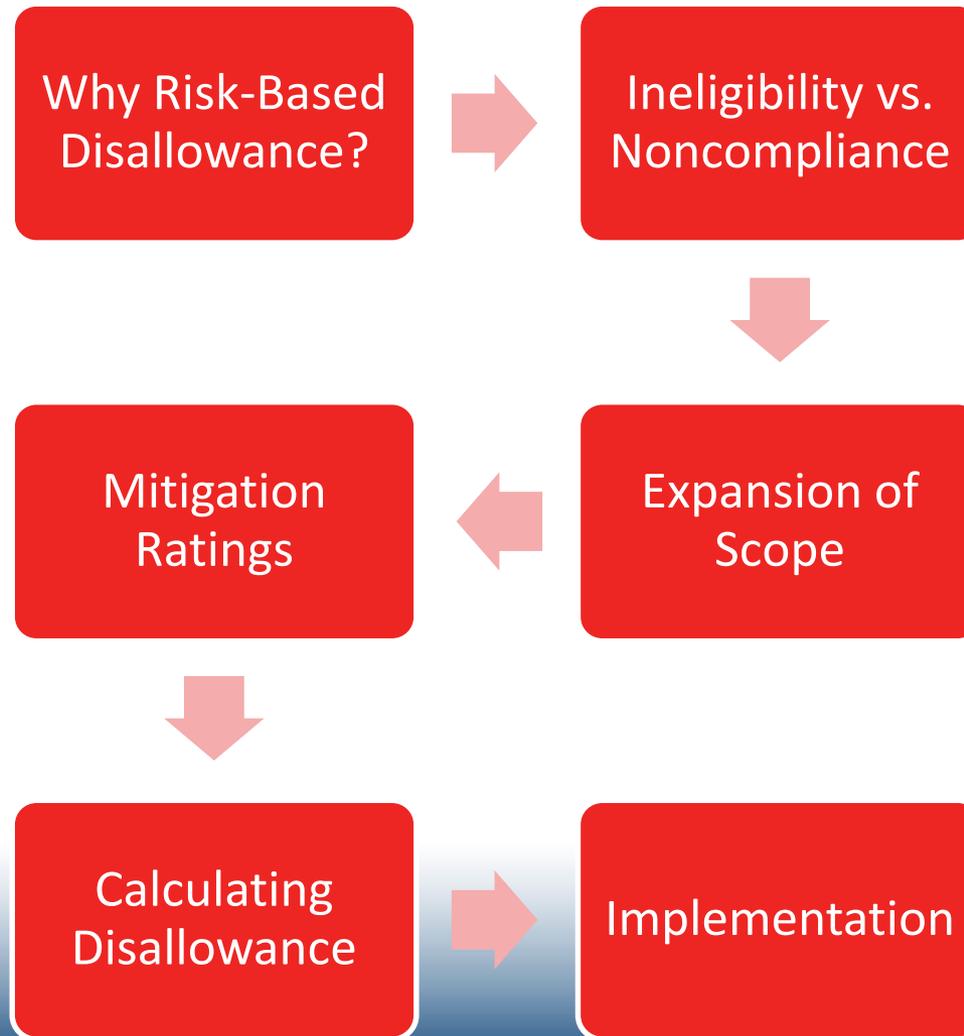
Objectives



By the end of this training, we should be able to:

- Understand CNCS' approach to **risk-based disallowance**.
- Take **all required steps** when encountering a case of noncompliance.
- **Calculate disallowance** using the CNCS Risk-Based Disallowance Matrix.
- Determine a final disallowance amount, taking into account the **disallowance cap**, **self-reporting** and the appropriate use of **professional judgement**.
- **Explain** CNCS' system to your subgrantees.

Agenda



1. Why Risk-Based Disallowance?

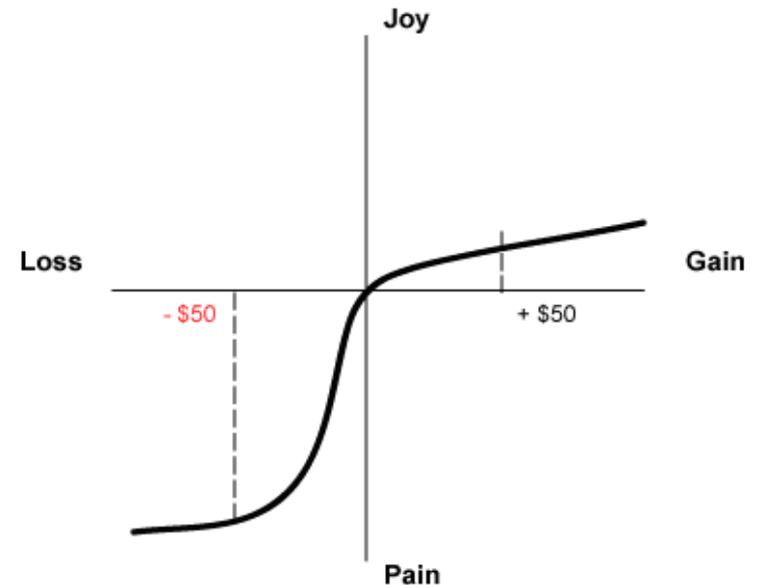
The Context:

- **Assessment** in Oct.-Dec. 2014
- **Enforcement Policy** cleared April 2015
- Stipulates disallowance as **standard penalty** for CHC noncompliance
- Interim Disallowance Guide → Disallowance a function of **compensation and time**
- Led to **burdensome** calculations, **large amounts**, not commensurate with **actual risk**

1. Why Risk-Based Disallowance?

- Cost-based \neq Risk-Based
- Not all noncompliance is the same
- Burdensome calculation process
- Overly punitive disallowances undermine goals of compliance and CNCS Mission

Prospect Theory



1. Why Risk-Based Disallowance?

NSCHC Risk-Based Disallowance Matrix

Overall % of noncompliant individuals:		≤ 50%	> 50%
Disallowance for each individual with:		↓	↓
	Substantial Mitigation	\$250	\$500
	Moderate Mitigation	\$500	\$1000
	Low Mitigation	\$750	\$1500

1. Why Risk-Based Disallowance

Our Example: “Innovation Nation”

- Five individuals in covered positions, all staff.
- First file reviewed on a site visit is Program Director, charging \$50,000 to the grant.
- Start date 9/1/2013.
- No access, NSOPW on-time, noncompliant vendor check.
- Upon further review, all files have same issue.

	Old System	New System
Step 1	Identify start and end dates (9/1/2013-9/1/2015)	Identify mitigation rating (Moderate)
Step 2	Calculate costs associated with individual during that time. ($\$50,000 * 2 = \$100,000$)	Review portfolio, determine extent of noncompliance (100%)
Step 3	Review additional files (Up to \$500,000)	Identify per-file disallowance and calculate total disallowance ($\$1000 * 5 = \$5,000$)

2. Ineligibility and Noncompliance

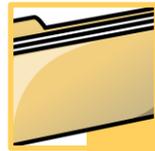


Ineligibility

- Registered or required to be registered as sex offender
- Convicted of murder
- Refuses to consent to checks
- Provides a false statement in connection with checks



Full Disallowance of Associated Costs



Noncompliance

- Failure to conduct required checks
- Failure to conduct checks in a timely manner
- Failure to perform accompaniment when required
- Failure to document
- Other provisions of 45 CFR 2540.200-207



Corrective Action and Risk-Based Disallowance



Poor Practice

- Poor policies and procedures
- Inconsistent practice
- Poor document storage
- Consent/awareness of contingency not documented (but checks performed)



Corrective Action Only

2. Ineligibility and Noncompliance

Exercises

1. An organization conducted no part of the CHC process on an individual. After initiating the required checks, it is discovered that one individual in a covered position had been convicted of murder many years ago. Is this **ineligibility, noncompliance, or poor practice?**
2. A search of the NSOPW was completed prior to the start of an individual's work or service. However, a registry was not reporting at that time, and the grantee did not fill the gap by re-running the search or going to the state registry. After instituting corrective action, it is confirmed that the individual is not registered as a sex offender. Is this **ineligibility, noncompliance, or poor practice?**

2. Ineligibility and Noncompliance

Exercises

1. An organization conducted no part of the CHC process on an individual. After initiating the required checks, it is discovered that one individual in a covered position had been convicted of murder many years ago. Is this **ineligibility, noncompliance, or poor practice?** **Ineligibility and Noncompliance**
2. A search of the NSOPW was completed prior to the start of an individual's work or service. However, a registry was not reporting at that time, and the grantee did not fill the gap by re-running the search or going to the state registry. After instituting corrective action, it is confirmed that the individual is not registered as a sex offender. Is this **ineligibility, noncompliance, or poor practice?** **Noncompliance**

2. Ineligibility and Noncompliance: The Assessment

Determining Noncompliance after the Assessment Period requires answering *one* question:

- Did the organization correct all missing or incomplete checks?

3. Expansion of Scope



- Expansion is required after **2** noncompliant files.
- Standard expansion = all currently serving covered positions
- Monitoring Officials **may**:
 - Expand
 - Limit
 - Direct the subgrantee to conduct, and verify.

3. Expansion of Scope

Exercises

1. You are on a monitoring visit to a program with seven individuals in covered positions. The first two files you review are both noncompliant. **What do you do next?**
2. You are on a monitoring visit to a program with 100 individuals in covered positions, serving in groups of 20 at five different sites. You pull a sample of files from each site and review them site-by-site. You find that the first two files you review in Site 1 are out of compliance. **What do you do next?**

3. Expansion of Scope



Exercises

1. You are on a monitoring visit to a program with 100 individuals in covered positions, serving in groups of 20 at five different sites. You pull a sample of files from each site and review them site-by-site. You find that the first two files you review in Site 1 are out of compliance. **What do you do next?**

First, inform the grantee and have them implement corrective action to get into compliance. You must also expand the scope. You may either do the review yourself or direct the grantee to conduct the review. In this case, due to the small number of files, you would likely want to do the review yourself. The burden of work would not be significantly different than having the grantee do it, considering you would have to verify their compliance after the fact anyway, and your confidence in the results would be much higher. Finally, proceed to use the disallowance matrix.

3. Expansion of Scope



Exercises

2. You are on a monitoring visit to a program with 100 individuals in covered positions, serving in groups of 20 at five different sites. You pull a sample of files from each site and review them site-by-site. You find that the first two files you review in Site 1 are out of compliance. **What do you do next?**

First, inform the grantee and have them implement corrective action to get into compliance. You already have enough information to initiate an expansion of scope covering all files from Site 1. Continue your review for Site 2. If you find more than two noncompliant files, again, you would initiate the expansion of scope in that site. Continue to Site 3, proceeding the same way. After determining what you think the appropriate expansion of scope is, determine whether you or the grantee will conduct the remaining reviews, using the criteria discussed earlier.

4. Mitigation Ratings



See pg. 4 of the Disallowance Guide.

4. Mitigation Ratings



Exercises

1. This file contains a completed, cleared FBI fingerprint-based check, which was completed prior to the start of work on the grant. However, it contains nothing else. This individual has recurring access to vulnerable populations. As the check was completed before the individual began work, however, he or she did not actually encounter any vulnerable populations until after the FBI check had cleared. **What is the mitigation rating?**
2. This file contains a vendor check. At first, it is not clear what the vendor check consists of. However, the grantee researches this question with the vendor and reports it contains both a search of nationwide criminal history information and a national sex offender registry check. It did not include checks of any designated state repositories. It was complete before the start of work. The file also contains a completed search of the NSOPW, completed on-time. This file contains nothing else. This individual has recurring access to vulnerable populations. **What is the mitigation rating?**

4. Mitigation Ratings



Exercises

1. This file contains a completed, cleared FBI fingerprint-based check, which was completed prior to the start of work on the grant. However, it contains nothing else. This individual has recurring access to vulnerable populations. As the check was completed before the individual began work, however, he or she did not actually encounter any vulnerable populations until after the FBI check had cleared. **What is the mitigation rating? Substantial (Accompaniment not required for criterion 1, FBI check satisfies criteria 2 & 3.)**
2. This file contains a vendor check. At first, it is not clear what the vendor check consists of. However, the grantee researches this question with the vendor and reports it contains both a search of nationwide criminal history information and a national sex offender registry check. It did not include checks of any designated state repositories. It was complete before the start of work. The file also contains a completed search of the NSOPW, completed on-time. This file contains nothing else. This individual has recurring access to vulnerable populations. **What is the mitigation rating? Moderate (Either NSOPW or Vendor Check are sex offender checks. Nationwide search of criminal history information provides more mitigation. No accompaniment.)**

5. Calculating Disallowance

1. Calculate percentage of noncompliance within scope of review.
2. Determine the appropriate per-individual disallowance for each category of mitigation.
3. Calculate the total amount of disallowance for each mitigation category and add them for a “raw disallowance.”
4. Assess if the case was self-reported.
5. Compare to disallowance cap.

5. Calculating Disallowance

Exercises

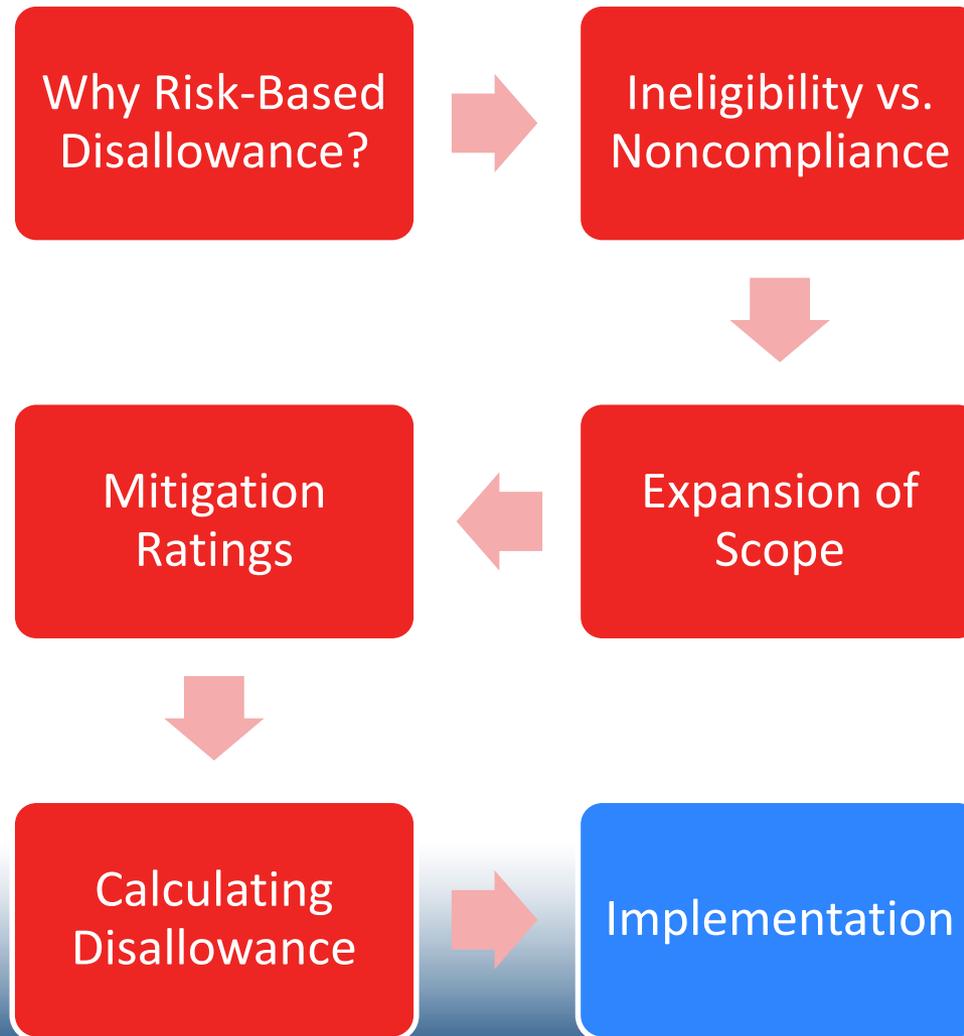
1. Innovation for the People

The scope of review included 50 files. All 50 of them were noncompliant, with 23 having low mitigation and 27 having moderate mitigation. The federal share was \$700,000. This was not self-reported. **Calculate the disallowance. \$61,500**

2. Improving Our Community

The scope of review included five files. Three were noncompliant, with moderate mitigation. The federal share was \$100,000. This *was* self-reported. **Calculate the disallowance. \$1,500 (Note self-reporting)**

Agenda



Implementation



- CNCS is implementing this approach immediately.
- Our expectation is that all prime grantees, including SIF intermediaries, will implement it as well.
- Certain areas will rely on your own internal policies and procedures (i.e., Monitoring Feedback and Payment Request letters).
- This is still an “Interim” document. Feedback, questions and use are crucial for continued improvement.



What

Where

When

Why