

3701-12-19 **Monitoring of activities determined to not be reviewable activities.**

- (A) The director shall monitor the implementation of an activity which the director has determined to not be a reviewable activity under rule 3701-12-04 of the Administrative Code, if the director determines that the activity requires monitoring under paragraph (B) of this rule. The director shall monitor the activity to determine whether it is implemented in the manner described in the request for the ruling and whether it still is not a reviewable activity.
- (B) The director may determine that an activity requires monitoring under this rule at the time that the activity is determined to not be a reviewable activity or at any subsequent time. The director shall commence monitoring when the director determines that one or more of the factors specified in this paragraph are applicable. The director may consider the following factors in determining which activities require monitoring under this rule:
- (1) Whether the determination that the activity was not a reviewable activity was based upon representations that certain services would or would not be provided as a result of the activity;
 - (2) Whether the determination that the activity was not a reviewable activity was based upon representations that the activity would be conducted through a particular organizational structure or by a certain type of facility such as a county home;
 - (3) Whether the determination that the activity was not a reviewable activity was based upon certain configurations, types, or uses of physical space or the request lacked specificity concerning the configuration, type, or use of physical space;
 - (4) Whether the activity involved exclusion of items listed in division (B) of section ~~3702.51~~3702.511 of the Revised Code from a construction or renovation project that otherwise would have been reviewable;
 - (5) The director has reason to believe that the activity is being implemented differently from the representations made in the request for the reviewability ruling or in a manner that may make the activity a reviewable activity;
 - (6) Whether the activity is a reviewable activity if any of the conditions specified under division (B) of section 3702.511 of the Revised Code were not been met.

- (C) Upon determining that an activity requires monitoring under this rule, the director shall provide written notice of that determination to the person who filed the request for reviewability determination. The notice shall specify the provisions of paragraph (B) of this rule that form the basis for the determination that monitoring is required. In the case of monitoring on the basis of paragraph (B)(5) of this rule, the notice shall specify the reason why the director believes that paragraph applies.
- (D) For purposes of conducting monitoring under this rule, the director may request compliance with the provisions of this paragraph that are relevant to the basis for monitoring a particular activity, as specified in the notice provided under paragraph (C) of this rule. Upon request by the director, a person who filed the request for reviewability determination for an activity that the director determines requires monitoring under this rule shall do all of the following, as applicable, beginning no later than forty-five days after the director's request:
- (1) Provide progress reports on the implementation of the activity, at the times and containing the information requested by the director;
 - (2) In the case of an activity monitored under paragraph (B)(4) of this rule, provide accurate statements of costs involved in implementation or operation of the activity and supporting documentation;
 - (3) In the case of an activity monitored under paragraph (B)(3) (B)(4), or (B)(5) of this rule, provide contracts, drawings, descriptions, or other information relating to construction or renovation work associated with the activity;
 - (4) In the case of an activity monitored under paragraph (B)(1) or (B)(2) of this rule, provide information about the services to be furnished as a result of the activity, including the identity and type of the providers of the services and data on the utilization of the services;
 - (5) In the case of an activity monitored under paragraph (B)(2) of this rule, provide information about the organizational relationships of persons involved in implementing and operating the activity;
 - (6) Allow the director to have access to the site or sites at which the activity is implemented or operated and to examine records pertinent to implementation or operation of the activity, subject to applicable confidentiality laws. The director shall examine only those portions of the site or those records that are relevant to the basis for the determination that monitoring is required, as specified in the notice provided under paragraph (C) of this rule;

- (7) Provide any other information that is relevant to monitoring whether the activity is being conducted in a manner consistent with the representations in the request for the ruling and that does not render it reviewable; and
- (8) Provide documentation to verify compliance with the conditions specified under division (B) of section 3702.511 of the Revised Code, if the activity is monitored under paragraph (B)~~(7)~~(6) of this rule.
- (E) The director shall monitor an activity under this rule only for the period of time necessary to determine that the activity has been implemented in accordance with the request for the reviewability ruling and in a manner that does not make it a reviewable activity. For other activities, such as activities monitored under paragraph (B)(1) of this rule, monitoring may be continuing.
- (F) Upon request by the director, the person to who filed the request for reviewability determination shall provide affidavits from appropriate individuals attesting to the accuracy of any information provided under this rule.

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Certification

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Date

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