DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

UPDATE
August 2018

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Region II – Albany Field Office

AGENDA

- Overview of the HHS OIG

- HHS OIG Work Plan

- Hot Topics at the OIG

  - Nursing Home Life Safety and Emergency Preparedness

  - Child Care and Development Fund Health and Safety Review

- Enterprise Risk Management
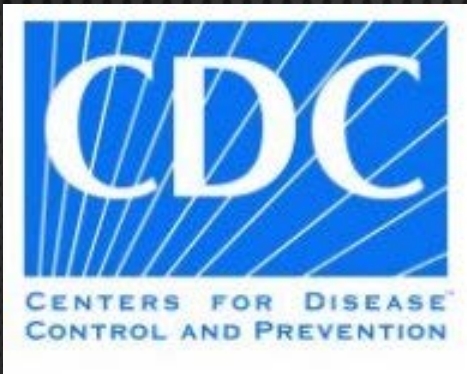
OFFICE OF INSPECTOR GENERAL

Mission - To protect the integrity of HHS programs as well as the health and welfare of program beneficiaries

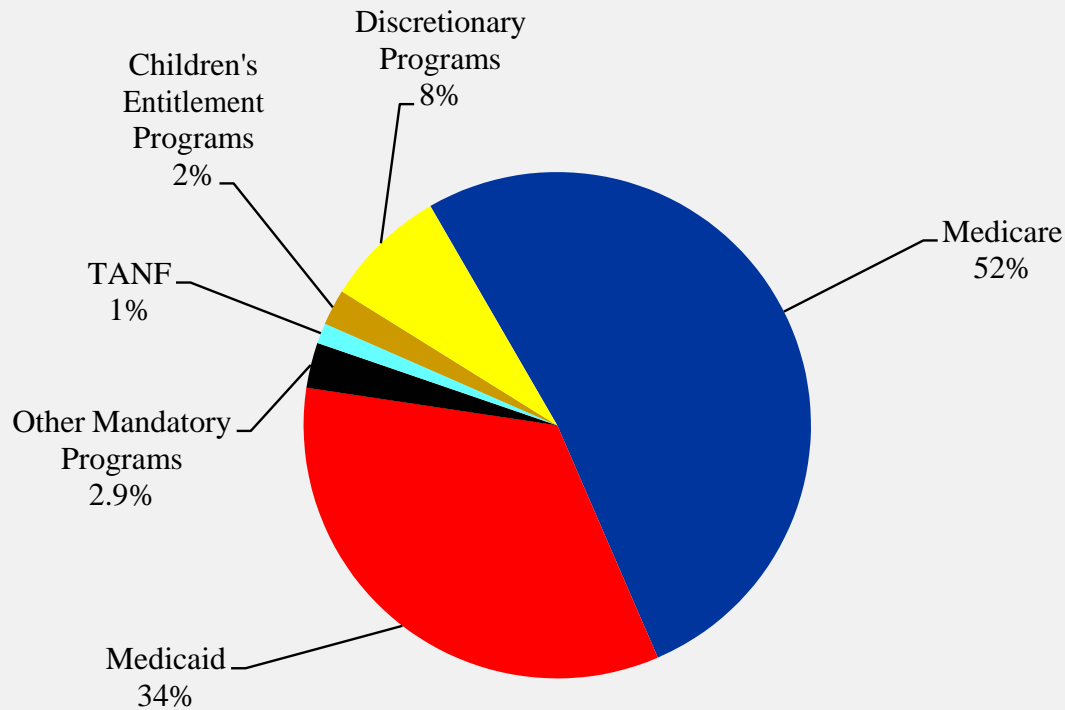Daniel R. Levinson, Inspector General

WHO WE ARE

- HHS OIG was established in 1976

- Largest OIG in the Federal government

  - Approximately 1600 employees

- HHS OIG oversees programs from 11 operating divisions

HHS BUDGET - FY 2019

$1,216 Billion in Outlays

Pie chart segments:
- Medicare 52%
- Medicaid 34%
- Discretionary Programs 8%
- Children's Entitlement Programs 2%
- Other Mandatory Programs 2.9%
- TANF 1%

CMS - $1.09 Trillion

ACF - $48.9 billion

NIH - $35.1 billion

HRSA - $10.6 billion

CDC – $7.5 billion

SAMHSA – $3.6 billion

FDA – $3.1 billion

OIG - $388 million

FIVE COMPONENTS OF OIG

Office of Inspector General

Office of Audit Services

Office of Evaluation and Inspections

Office of Investigations

Office of Council to the Inspector General

Office of Management and Policy

OIG WORK PLAN

- Web-Based
- Updated Monthly
- Contributing Factors:
  - Mandatory requirements for OIG reviews (statutes)
  - Requests made by Congress, HHS management or the Office of Management and Budget
  - Top management and performance challenges facing HHS
  - Potential for positive impact

oig.hhs.gov

https://oig.hhs.gov/reports-and-publications/workplan/index.asp

HOT TOPIC AREAS

- Opioid Epidemic

- Unaccompanied Alien Children

- Child Care Health and Safety

- Nursing Home Emergency Preparedness

- Medicaid Managed Care

- NIH Subrecipient Monitoring

RECENTLY ADDED WORK PLAN ITEMS

- SAMHSA

  - Prescription Opioid Drug Abuse and Misuse Prevention – Prescription Drug Monitoring Programs (OAS)

- ACF, CDC & HRSA

  - State and Territory Response and Recovery Activities for the 2017 Hurricanes (OAS)

- ACF

  - ORR and Grantee Facilities' Efforts to Ensure Health and Safety of Unaccompanied Children (OEI)

- CMS

  - CMS's Contingency Planning for Information Technology Systems (OAS)

- All OPDIVs

  - Identification of HHS Cybersecurity Vulnerabilities (OAS)

BACKGROUND

- In 2016, CMS updated its health care facilities' Life Safety and Emergency Preparedness regulations to improve protections for all Medicare and Medicaid beneficiaries, including those residing in long-term care (LTC) facilities

- The implementation date for the new regulations was November 15, 2017

KEY CHANGES

- expanded sprinkler systems and smoke detector coverage

- an emergency preparedness plan that is reviewed, trained on, tested, and updated annually

OBJECTIVE

- To determine if LTC facilities in New York State that received Medicare and/or Medicaid funds complied with Federal requirements for life safety and emergency preparedness

CRITERIA

- Life Safety
  - 42 CFR §483.90
  - Life Safety Code (NFPA 101, 2012 Edition)
  - Health Care Facilities Code (NFPA 99, 2012 Edition)
  - Form CMS-2786R (Fire Safety Survey Report)

- Emergency Preparedness
  - 42 CFR §483.73
  - NFPA 110 – Emergency Power (2010 Edition)
  - CMS Emergency Plan Survey Checklist

METHODOLOGY

- Worked with CMS and NYS DOH to understand the survey process for LTC facilities

- Judgmentally selected 20 of the 620 LTC facilities in NYS

- We conducted unannounced site visits at the 20 facilities from January 2018 to April 2018

- Utilized CMS' checklists to determine facility compliance

REPORTING

Expected Final Report: December 2018

A-02-17-01027

BACKGROUND

- CCDF assists low-income families to obtain childcare

- ACF provides grants for childcare services through CCDF

- CCDF program include preschool and afterschool care

- FY17 CCDF funding ~ $5.8 billion

NEW YORK STATE'S CCDF PROGRAM

- State agency – New York's Office of Children and Family Services oversees legally exempt afterschool programs

- NYC Department of Health and Mental Hygiene oversees legally exempt preschool programs
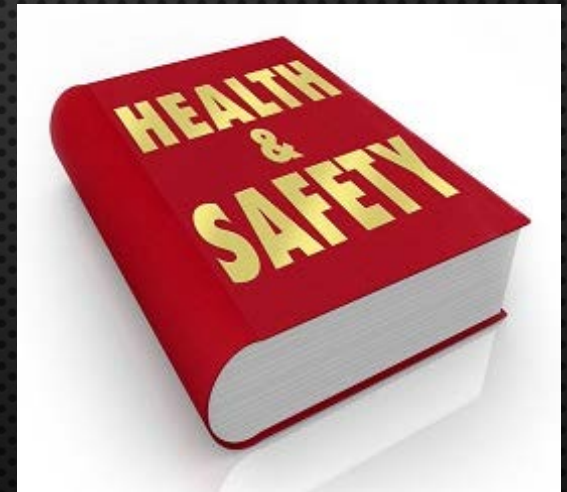
OBJECTIVE

To determine whether the State agency ensured that selected providers that received CCDF funds complied with applicable State and local requirements related to the health and safety of children.

CRITERIA

- FEDERAL
  - 45 CFR § 98
- STATE
  - NY CCDF State Plan
  - 18 NYCRR § 415
- LOCAL
 - NYC Health Code Article 43

SCOPE AND METHODOLOGY

- 15,000 children enrolled at 150 legally exempt group providers in NYC

- Judgmentally selected 3 legally exempt group providers

  - Preschool and Afterschool programs

  - Served 4,000 children at 11 locations

- Unannounced site visits to review:

  - physical condition of the facilities

  - employee background checks

FINDINGS

- All 3 providers had instances of noncompliance in both afterschool and preschool programs

- For physical conditions, we found:

  - 57 instances of noncompliance with State requirements (afterschool)

  - 19 instances of noncompliance with NYC requirements (preschool)

- Background checks had not been completed as required

NEW YORK DID NOT ENSURE THAT PROVIDERS COMPLIED WITH PHYSICAL CONDITIONS REQUIREMENTS
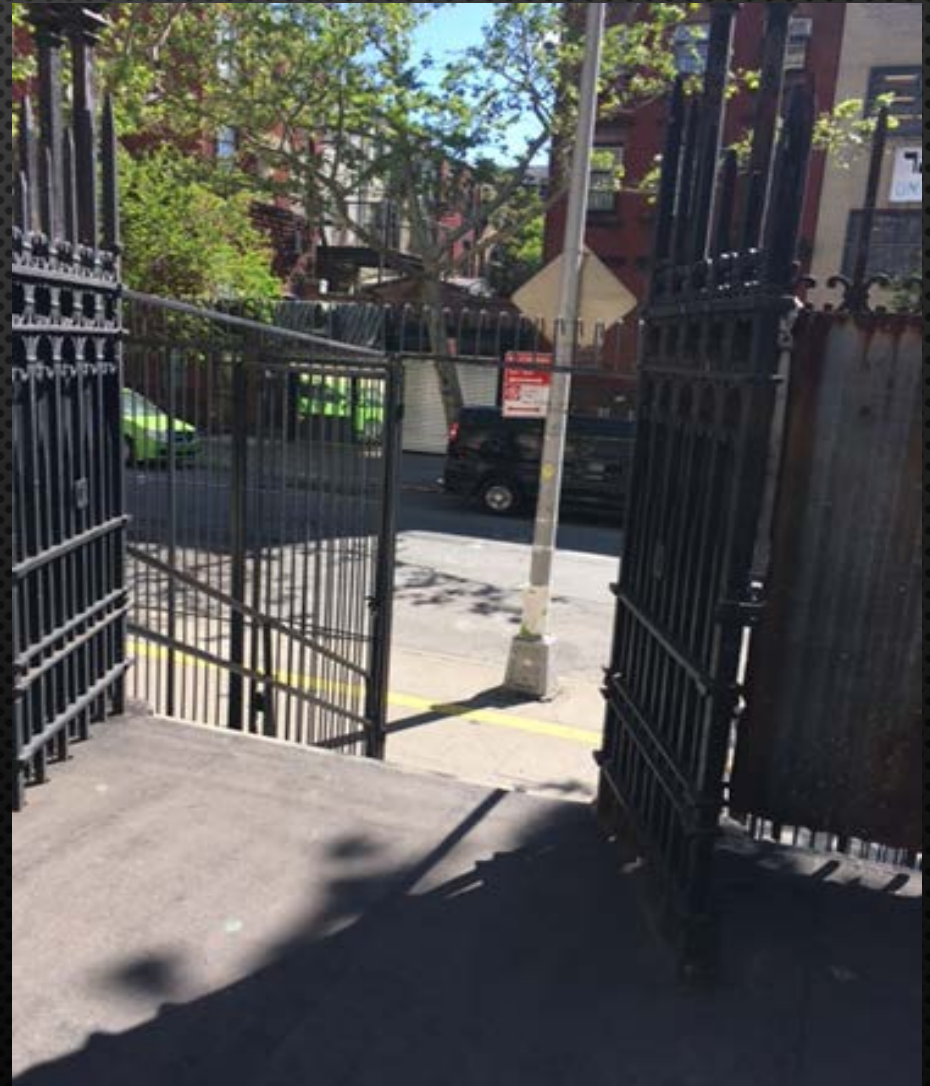
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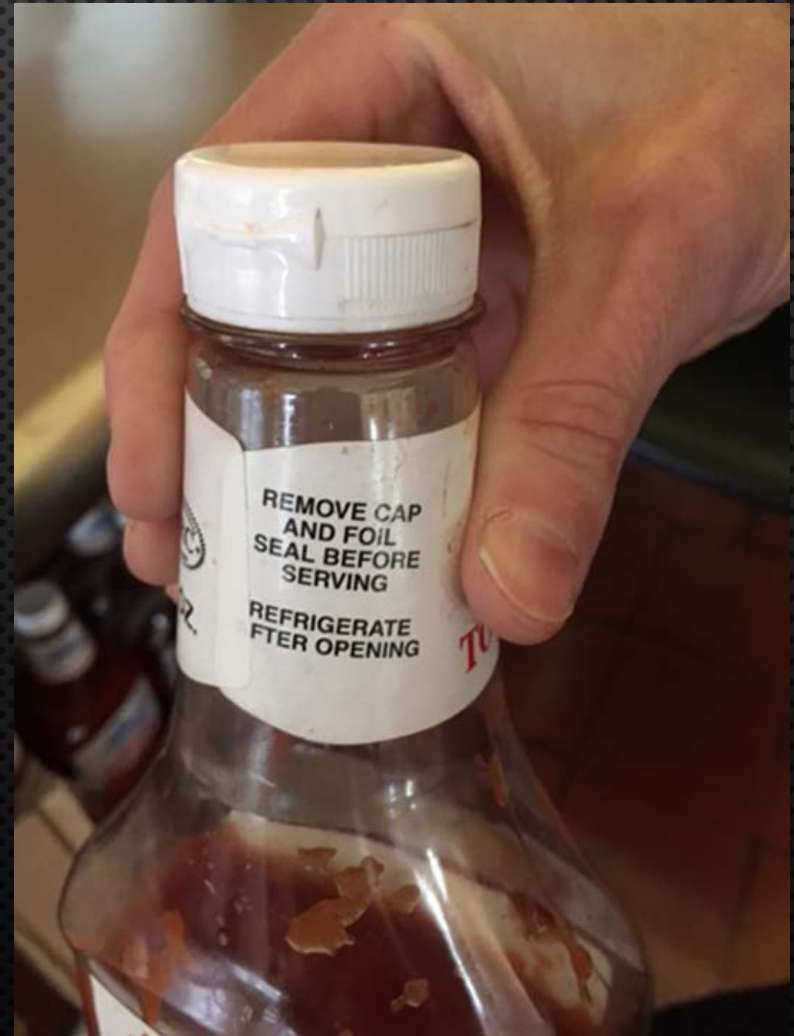
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Other examples included:

- Safety hazards in areas accessible to children

    - exposed radiators

    - broken windows

    - loose nails and sharp metal in children's play areas

    - loose wires in classrooms

- Emergency phone numbers not posted near telephones

- Children did not have two separate ways to escape an emergency

- No smoke detectors in some locations

- Some classrooms did not meet minimum staff-to-children ratios

NEW YORK DID NOT ENSURE THAT PRESCHOOL PROVIDERS COMPLIED WITH BACKGROUND CHECK REQUIREMENTS

Local Requirements

- For prospective employees, NYC preschool providers are required to:

    1. arrange for a criminal record check

    2. search the Statewide Central Register of Child Abuse and Maltreatment

NEW YORK DID NOT ENSURE THAT PRESCHOOL PROVIDERS COMPLIED WITH BACKGROUND CHECK REQUIREMENTS

- We found instances of noncompliance at all 3 providers

  - Criminal record checks not performed for 904 of the 1,108 preschool employees

  - The Statewide Central Register of Child Abuse and Maltreatment was not searched for any employees

CAUSES OF NONCOMPLIANCE WITH HEALTH AND SAFETY REQUIREMENTS

- The State agency had no written procedures for monitoring legally exempt providers to ensure:

    - Physical condition requirements were met.

    - Background checks were performed.

- These gaps in monitoring represent vulnerabilities that could potentially lead to harm for the children

RECOMMENDATIONS

- We recommended that the State agency:

  - ensure that the health and safety issues are corrected

  - develop interim written monitoring procedures to ensure compliance with physical conditions and background check requirements

  - consider making a regulatory change to allow private school providers to access the Statewide Central Register of Child Abuse and Maltreatment.

ENTERPRISE RISK MANAGEMENT
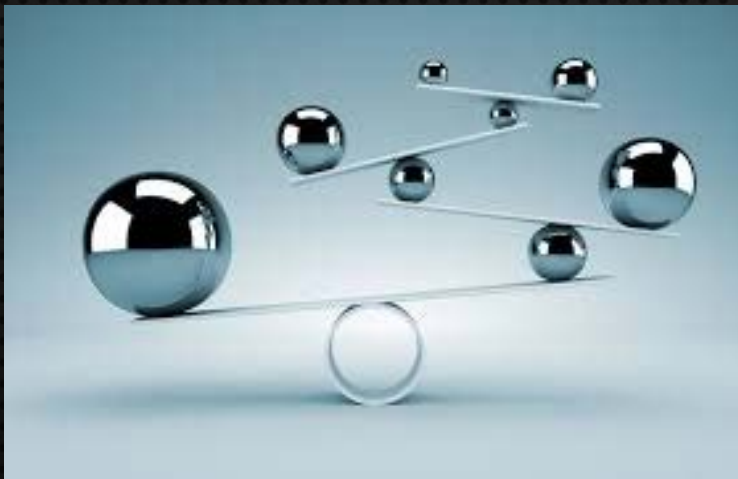
WHAT IS ENTERPRISE RISK MANAGEMENT?

- "a process, effected by an entity's board of directors, management and other personnel, applied in strategy-setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risk to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives."
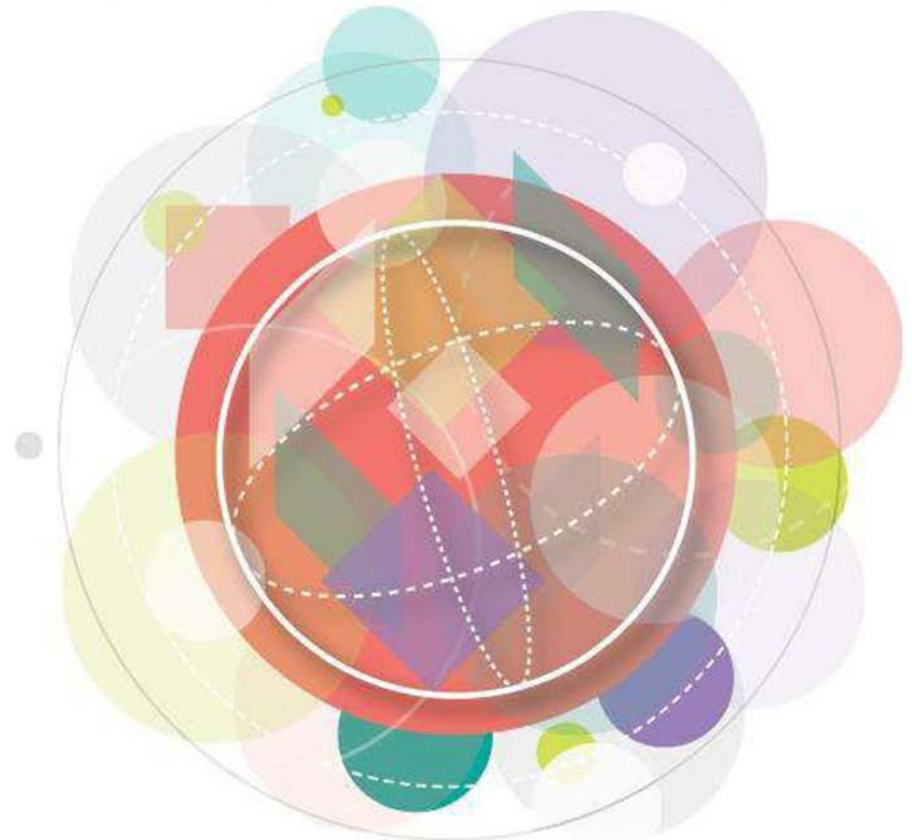
COMMITTEE OF SPONSORING ORGANIZATIONS

- Originally formed in 1985, COSO is a joint initiative of five private sector organizations and is dedicated to providing thought leadership through the development of frameworks and guidance on enterprise risk management (ERM), internal control and fraud deterrence

- *Enterprise Risk Management Framework: Integrating with Strategy and Performance*

FIVE COMPONENTS OF ERM FRAMEWORK

Governance & Culture

1. Exercises Board Risk Oversight
2. Establishes Operating Structures
3. Defines Desired Culture
4. Demonstrates Commitment to Core Values
5. Attracts, Develops, and Retains Capable Individuals

Strategy & Objective-Setting

6. Analyzes Business Context
7. Defines Risk Appetite
8. Evaluates Alternative Strategies
9. Formulates Business Objectives

Performance

10. Identifies Risk
11. Assesses Severity of Risk
12. Prioritizes Risks
13. Implements Risk Responses
14. Develops Portfolio View

Review & Revision

15. Assesses Substantial Change
16. Reviews Risk and Performance
17. Pursues improvement in Enterprise Risk Management

Information, Communication, & Reporting

18. Leverages Information and Technology
19. Communicates Risk Information
20. Reports on Risk, Culture, and Performance

Builds Links to Internal Control

- Document does not replace the Internal Control – Integrated Framework

- The frameworks are distinct and complementary

- Both use a components-and-principles structure

- Aspects of internal control common to enterprise risk management are not repeated

- Some aspects of internal control are developed further in this framework

…BUT IT TAKES TIME TO MATURE

What is the level of maturity
of your organization's risk
management oversight?

- Large Organizations
- Public Companies
- Financial Services
- Non-Profits

Robust 4%

Mature 19%

Evolving 35%

Developing 23%
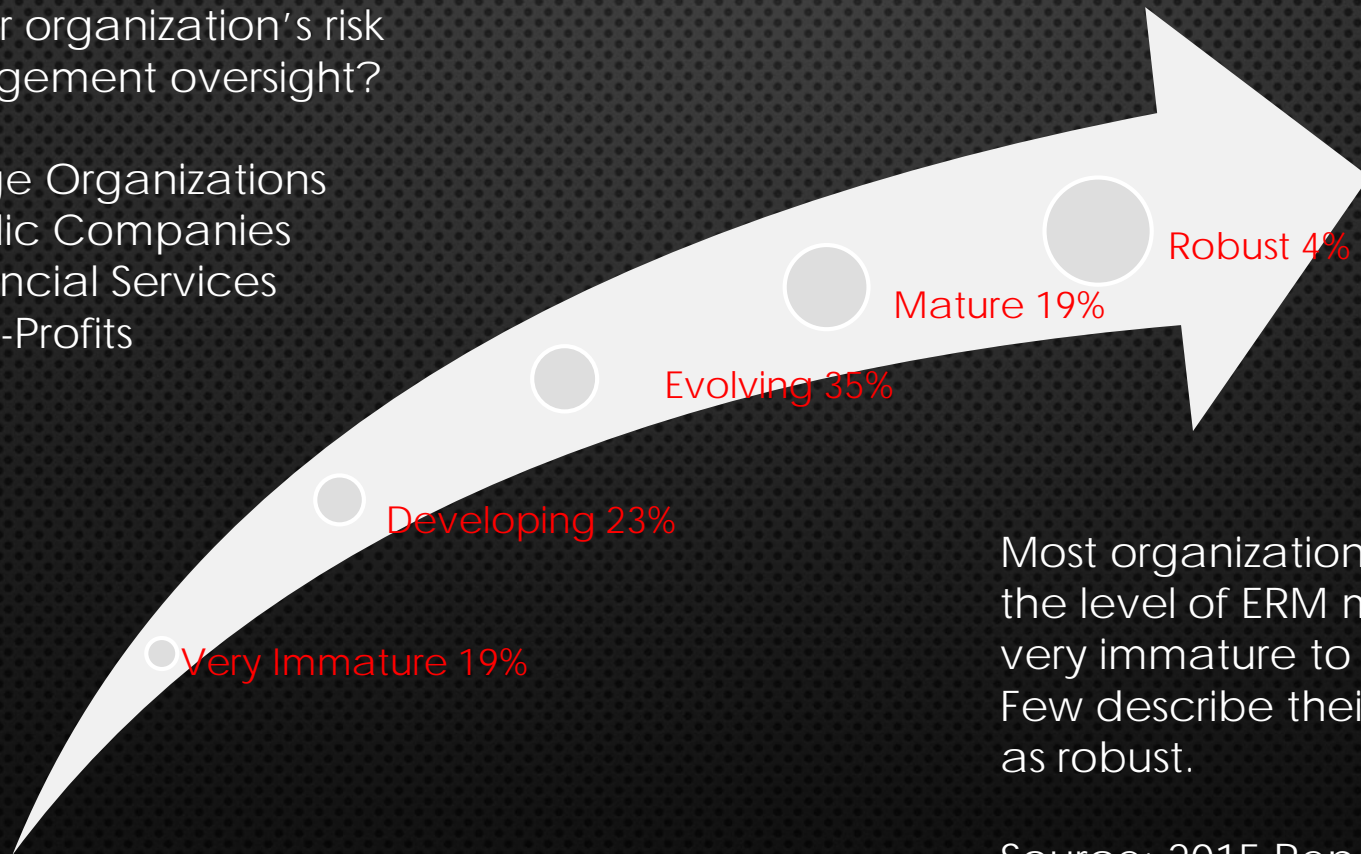
Very Immature 19%

Most organizations describe
the level of ERM maturity as
very immature to evolving.
Few describe their process
as robust.

Source: 2015 Report on the
Current State of
ERM/AICPA/North Carolina
State University

IMPLEMENTING ERM INTO THE FEDERAL GOVERNMENT

RISK PROFILE – GRANTS

Manage overall program risks AND grant recipient(s) performance risk

Acquisition

Emerging Risks & Trends

Budget & Policy Environment

Strategic Management

Enterprise Governance

Shared Services

Financial Management

Research

Grants Management

Reputation

Human Resources

Program Implementation

Operational Events

Information Technology

Information Security & Privacy

EXAMPLES

- Compliance with laws, regulations and terms of grants
- Conflict of interest
- Consolidation of grants management platforms
- Data quality and award counting
- Duplication of grant missions
- Eligibility
- Grant recipients' performance and accountability
- Management process (pre-award, award, post award and monitoring, closeout)
- Reporting processes
- Sub-recipients' performance and accountability

ERM PLAYBOOK 2016
(U.S. CHIEF FINANCIAL OFFICERS COUNCIL)
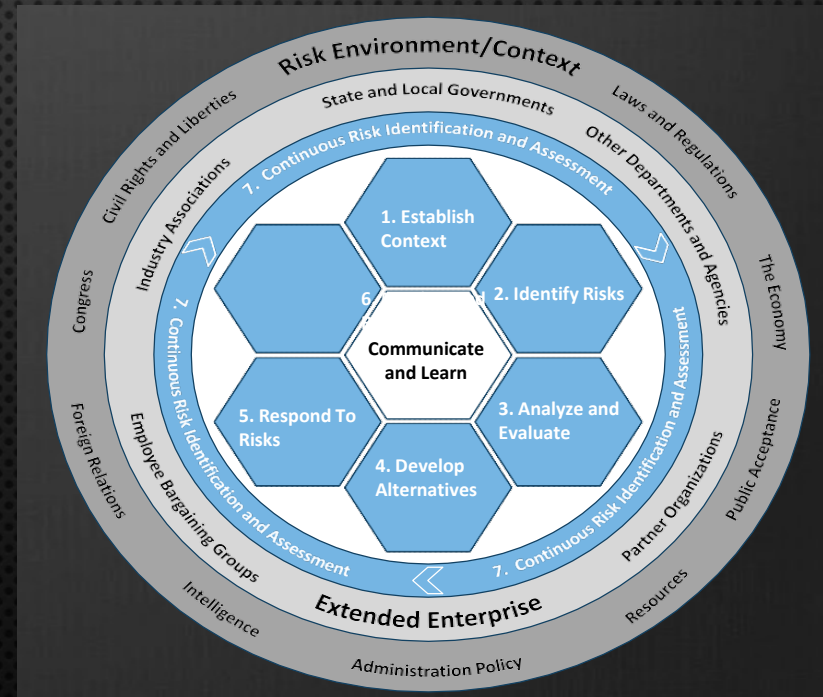
OMB CIRCULAR A-11
(PERFORMANCE, STRATEGY, BUDGET)

- PERFORMANCE MANAGEMENT
    - Sets out strategic planning and performance management policy
    - Requires agencies to conduct an annual "strategic review" that includes a discussion of risks to mission objectives

- ENTERPRISE RISK MANAGEMENT (ERM)
    - Provides an overview of ERM
    - Describes how ERM informs Strategic Reviews
    - Describes key components of ERM framework
    - Identifies key roles of risk managers at an agency
    - Describes interrelationships with other OMB guidance
    - Describes difference between internal control and risk

OMB A-123 (JULY 2016)

- Management is responsible for Enterprise Risk Management systems

- Federal managers must use GAO's Green Book in designing, implementing, and operating an effective system on internal control

- Management's responsibility is to develop and maintain effective internal control that is consistent with its established risk appetite and risk tolerance levels

OMB A-123 (JULY 2016)

- Internal or external auditors conduct independent and objective audits, evaluations, and investigations of an Agency's programs and operations, which includes aspects of the internal control and risk management systems

- Auditors are also responsible for keeping management informed about risks that it detects, including fraud risks, and thereby provides information to management for the use in the identification and assessment of risks

- Internal control is an integral part of the entire cycle of strategic planning, goal and objective setting, budgeting, program management, accounting, and auditing

GAO YELLOW BOOK

- Internal Control (6.16): Auditors should obtain an understanding of internal control that is significant with the context of the audit objectives. (See A.03 and A.04)

- A.03: Internal Control—Integrated Framework (COSO)
    - Control Environment
    - Risk Assessment
    - Control Activities
    - Information and communication
    - Monitoring

- A.04: Standards for Internal Control in the Federal Government (GAO Green Book)

OMB CIRCULAR A-50: AUDIT FOLLOW-UP

- Inspectors General are responsible for reviewing responses to audit reports

- Resolution of audit recommendations must be made within six months after issuance of a final report.

- Systems for corrective action must assure that resolution actions are consistent with law, regulation, and administrative policy.

EXAMPLES OF RECOMMENDATIONS

- **The Administration for Children and Families Did Not Always Resolve Audit Recommendations in Accordance With Federal Requirements**

  - **Recommendation:** ACF follow its policies and procedures to ensure that management decisions are issued within the required 6-month resolution period

- **BCFS Health and Human Services Did Not Always Comply With Federal Requirements Related to Less-Than-Arm's-Length Leases**

  - **Recommendation:** That BCFS HHS refund $658,248 to ORR for unallowable rental costs incurred under the less-than-arm's-length lease agreements and limit future rental costs to the amount that would be allowed under 45 CFR part 75.465(c).

IMPLEMENTING ERM INTO OIG AUDITS

- Better assess internal controls of each auditee
- Identify specific areas of weakness in internal controls
- Better identify root cause of audit findings
- Provide more direct recommendations

QUESTIONS?