H.702 - An Act Relating to Legislative Operations & Gov't Accountability

April 30, 2024

OVERVIEW

1) Secretary of Administration – Administrative Guidance & Context

2) Specific Feedback on H.702
   a) Sec. 3 – Shifting of report deadline
   b) Sec. 6a – Working Group on State Grant Processes
   c) Sec. 6b – Report on Prompt Execution and Payment

3) Chief Performance Office – Context

4) Specific Feedback on H.702
   a) Sec. 2 - Joint Government Oversight and Accountability Committee
   b) Sec. 5 and 6 - Division of Performance Accountability and Position

TYPES OF GUIDANCE

1. Administrative Bulletins

2. Finance & Management Policies – including VISION procedures

3. Executive Branch Directive Memos

4. Human Resources Personnel Policies & Procedures

Administrative Bulletins

1. The Secretary of Administration is responsible for issuing, rescinding and maintaining Administrative Bulletins under the authority granted in 3 V.S.A § 2222a(2)

2. Multiple categories of bulletins

3. https://aoa.vermont.gov/bulletins

§ 2222. Powers and duties; budget and report

(a) In addition to the duties expressly set forth elsewhere by law, the Secretary shall:

(1) As principal administrative aide to the Governor, plan, organize, direct, control, integrate, coordinate, and supervise all functions and programs of the Agency and its departments and divisions.

(2) With the approval of the Governor, issue general policy statements and general rules and regulations applicable to the Executive Branch of the State government to implement executive orders or legislative mandate...
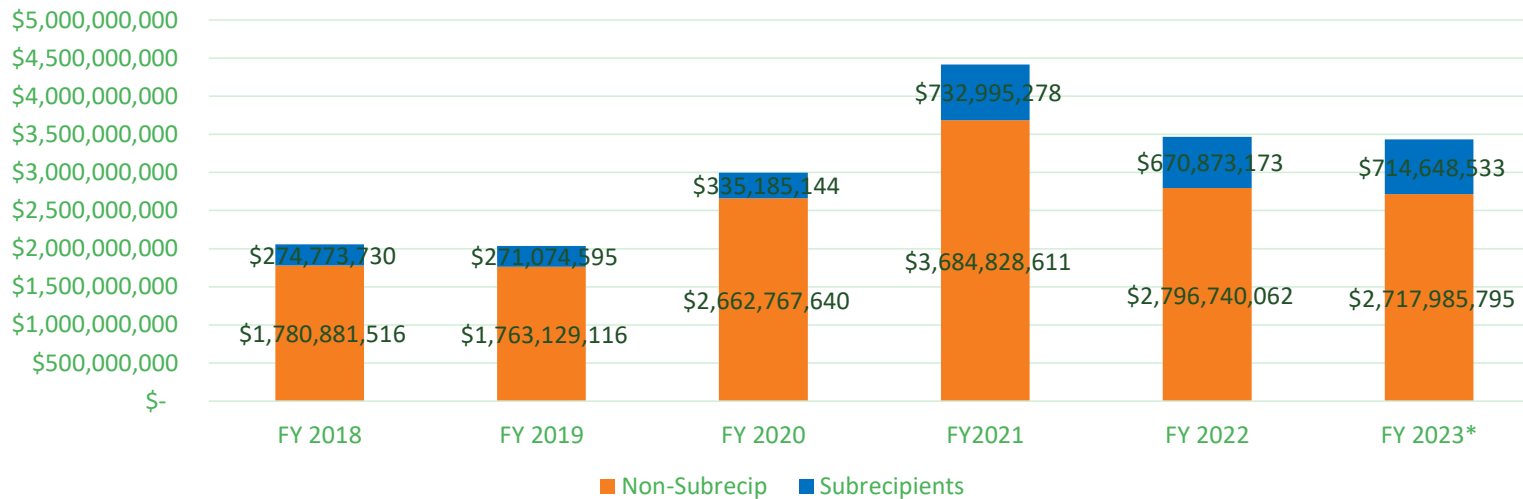
Bulletin 5 – Grant Issuance and Monitoring

1. Establishes general policy and standards for issuing and monitoring grant awards issued by the State of Vermont – both state and federally funded

2. **All grants must be issued, tracked and monitored by state agencies to ensure the proper use and protection of taxpayer resources in conformity with law, federal uniform guidance and in accordance with the terms of the grant**

3. Last issued in December 2014 with American Rescue Plan Act (ARPA) State Fiscal Recovery Fund (SFR) addendum added in October 2021

4. Related procedures accompany bulletin – templates, pre-award eligibility, single audit review, grant payments

5. Drafting update now to align with anticipated updated federal uniform guidance which will be finalized in October 2024

6. https://aoa.vermont.gov/sites/aoa/files/Bulletins/Bulletin_5_eff12-26-14.pdf

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Grants in Vermont

1. There are currently 12,877 active grants across state government
2. Federal funding has increased significantly since the pandemic and is not anticipated to tail off significantly until after FY 2027
3. Annual grant data is available on Spotlight – Vermont's transparency website

Schedule of Expenditures of Financial Awards – Federal Spending

FY	Non-Subrecip	Subrecipients
FY 2018	$1,780,881,516	$274,773,730
FY 2019	$1,763,129,116	$271,074,595
FY 2020	$2,662,767,640	$335,185,144
FY2021	$3,684,828,611	$732,995,278
FY 2022	$2,796,740,062	$670,873,173
FY 2023*	$2,717,985,795	$714,648,533

Legend: ■ Non-Subrecip ■ Subrecipients

*FY 2023 data are preliminary.

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Indirect Costs Rates in VT State Government

1. Vermont follows federal uniform guidance. As such, the State of Vermont is required to use one of the following methods for federal subawards (page 20 in Bulletin 5):

   a. Federally approved indirect cost rate or

   b. Federal de minimis rate (currently 10%) or

   c. Rate negotiated with the State pass-thru entity

2. The de minimis rate is a federal rate. There is no Vermont-specific de minimis rate. Bulletin 5 allows state fund grant recipients to draw indirects using one of the above indirect rate methodologies

3. U.S. OMB has proposed an update to the Federal Uniform Guidance (2 CFR 200) that raises the de minimis from 10% to 15%. Vermont will comply with this guidance once it is finalized for all state, federal, and hybrid funded awards. This will be final in October 2024.

4. OMB last updated Uniform Guidance in November 2020

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Prompt Payment & Payment Terms

Prompt Payment:

Prompt payment:
- The requirement for payment within 30 days already exists within Agency of Administration guidance
- Finance and Management Policy #5 – Payment Terms
- The current policy has been in place since June 2008 with an update in 2013

Payment Terms:
- Advanced payments are currently allowed per Bulletin 5 and federal uniform guidance but should be made in amounts that minimize time elapsing between the disbursement of funds and the functions provided by the grant
- Done in compliance with a risk assessment and must be tightly managed and monitored
- If can't meet terms, must be reimbursement based

Section 6a (b)– Working Group on State Processes

Committee Membership:

- **Sec. 6a (b) Committee membership:**
- The working group is made up of 14 total representatives.
- Only two of the members are from the executive branch but much of the work is focused on internal state processes that already exist.
- What is the appropriate size and membership of the group to be most affective?

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Section 6a (d)– Working Group on State Processes

Powers and duties – in general:

- **Sec. 6a (d) Powers and duties – general comments:**
- Is this for just grants or contracts? Big scope – also work happening in S.96
- In general, much of what is being evaluated by the working group exists within state government
- What will the goal be of the recommendations of the working group?
- There will potentially be a fiscal impact from the scope of the working group (cost of living increases, interest, indirect rates) – will need resources to address
- Processes and payment terms are outlined in Bulletin 5 and uniform guidance
- Alternatives to reimbursement exist and are provided in detail in Bulletin 5 as well as in uniform guidance for Federally funded awards
- There are no state indirect rates – the state must use federal rates, de minimis or a negotiated and approved rate
- The State of Vermont already uses federal indirect rates. We are legally required to do so for federal funds and the Negotiated Indirect Cost Rate Agreement (NICRA) has always been accepted for state-funded awards as have established Indirect Cost Rate that have been approved by state agencies.

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Section 6a (d) – Working Group on State Processes

Powers and duties – specific feedback:

- **Sec. 6a (d) Powers and duties:**
- (1) information on current grant and contracting funding levels is available on state website – Spotlight – Vermont's transparency web site
- (1) fiscal impact from COLA or inflationary adjustment
- (2)impact of bridge loans & lines of credit – fiscal impact
- (3)assess grant and contracting processes and identify uniform best practices – this already exists via Secretary of Administration's authority and existing bulletins, policies, etc
- (4) & (5)reimbursement practices and policies – Vermont must comply with federal uniform guidance and other state requirements
- (6)simplify grant application & reporting processes
- (7)indirect rates – already outlined in Bulletin 5, compliance with federal uniform guidance
- (8)grant execution more than 30 days after notice of award – more nuanced
- (9)timely payment – DFM policy #5 – already required

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Section 6b – Report on Prompt Execution & Payment

Sec. 6b: State-funded Grants; Report on Prompt Execution & Payment

- Data – no statewide grants management system – will need to manually gather information working the JFO
- Provisions should apply to all grants – not just state grants
- Already required

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Chief Performance Office (CPO) Overview
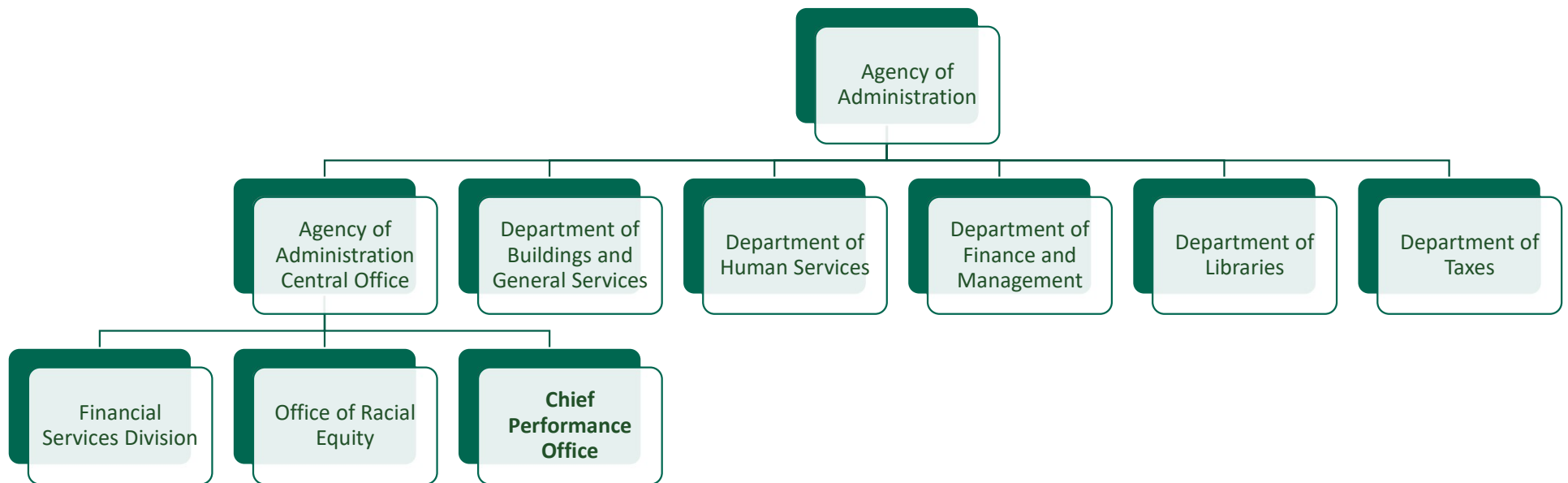
CPO Vision and Mission

Vision

A modern Vermont State Government that fully leverages its resources and workforce to meet the needs of all Vermonters.

Mission

We provide information, tools, expertise, and services that strengthen the State's ability to effectively solve problems, manage operations, and improve results.

CPO Core Work

State Outcomes and Programmatic Performance Reporting

Consultation
- Strategic Planning
- Performance Management
- Process Improvement and Problem Solving

Staff Development and Support

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State Outcomes and Programmatic Performance Reporting

OUTCOME 1

	Time Period	Current Actual Value	Current Trend
O Act186 **VERMONT HAS A PROSPEROUS ECONOMY**			
I VDOL % or rate per 1,000 jobs of non-public sector employment	2022	830	↗ 2
I VDOL Net change in nonpublic sector employment	2022	8,548	↘ 1
I VDOL Unemployment Rate (per 1000/labor force)	2022	26.4	↘ 2
I ACCD Median Household Income	2022	$73,991	↗ 5
I VDOL Net change in jobs (New Jobs)	2022	9,443	↗ 2
I VDOL Net change in business establishments	2022	2,060	↗ 4
I VAHS Act 186 % of population living at or below 185% of the Federal Poverty Level	2022	22%	↗ 1
I ACCD Gross State Product (GSP) per capita	2022	$64,439	↗ 4
I ACCD Genuine progress indicator (GPI) on a three-year basis	2015	20.000	↗ 1

OUTCOME 2

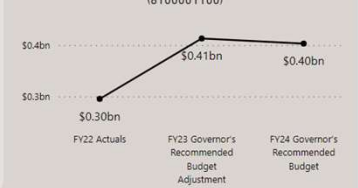|	Time Period	Current Actual Value	Current Trend
O Act186 **VERMONTERS ARE HEALTHY**			
I VDH Obesity % of adults age 20 and older who are obese	2021	30%	↗ 1
I VDH % of adults who smoke cigarettes	2021	16%	↗ 1
I VDH % of adults age 18-24 binge drinking in the last 30 days	2021	26%	↘ 2
I VAHS Act 186 Number of persons who are homeless (adults and children)	2023	3,295	↗ 4
I VDMH Rate of suicide deaths per 100,000 Vermonters	2020	17.6	↗ 1

Appropriation Info

Step 1 - Select a Governmental Unit

Agency of Natural Resources - Department of Forests, Parks and Recreation
Agency of Transportation
Auditor of Accounts
Cannabis Control Board
Center for Crime Victim Services
Criminal Justice Training Council
Debt Service
Department of Financial Regulation
Department of Labor
Department of Liquor and Lottery

Step 2 - Select an Appropriation

Transportation - Maintenance State System (8100002000)
Transportation - Municipal Mitigation Grant Program (8100005800)
Transportation - Policy and Planning (8100002200)
Transportation - Program Development (8100001100)
Transportation - Public Assistance Grant Program (8100005500)
Transportation - Public Transit (8100005700)
Transportation - Rail (8100002300)
Transportation - Rest Areas Construction (8100001700)
Transportation - Town Highway Aid Program (8100003000)
Transportation - Town Highway Bridges (8100002800)

Financial Info for Transportation - Program Development (8100001100)

$0.4bn — $0.41bn — $0.40bn
$0.3bn — $0.30bn

FY22 Actuals | FY23 Governor's Recommended Budget Adjustment | FY24 Governor's Recommended Budget

Program Info

When selecting a program below, please keep in mind that not all programs within an appropriation may be listed and as such a direct link between a program and the financial information above cannot always be made. Also, if the program list is empty after selecting a governmental unit and appropriation, then no programs were reported this cycle.

Step 3 - Select a Program

Program Development - Bike & Ped
Program Development - Interstate Bridge
Program Development - Park & Ride
Program Development - Paving
Program Development - State Highway Bridge
Program Development - Traffic & Safety

Program Purpose	Services Offered	**Performance Measures**				*Select a tab to view additional program info.*
Measure		2018	2019	2020	2021	2022
Percent of interstate bridges are in poor condition by count		0.97%	2.23%	1.59%	1.91%	1.91%
Percent of deck area of bridges in poor condition, managed to less than or equal to 6%		1.98%	4.67%	3.42%	4.07%	4.06%
Percent of interstate bridge projects delivered within 30 days of anticipated delivery date as established on January 1 of current year		67.00%	100.00%	60.00%	75.00%	75.00%

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Consultation

Strategic Planning

- Advising on collection of data and information for environmental scanning
- Assisting in the development of strategies, performance targets and actions
- Supporting development of systems and processes for strategy deployment
- Coaching managers and leaders in implementation of strategic plans

Performance Management

- Evaluating the effectiveness and efficiency of programs and services
- Providing recommendations for improving team operations, communication, collaboration, and employee engagement
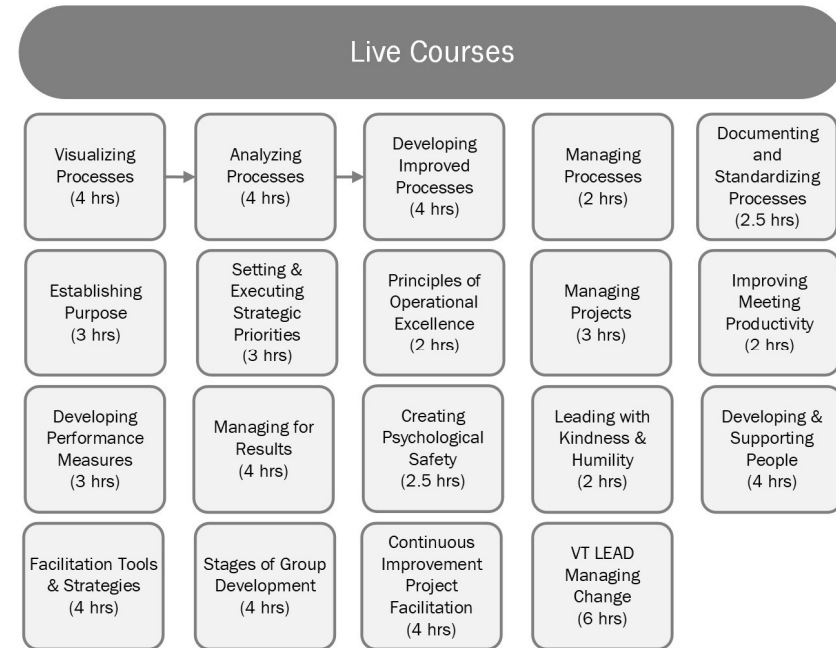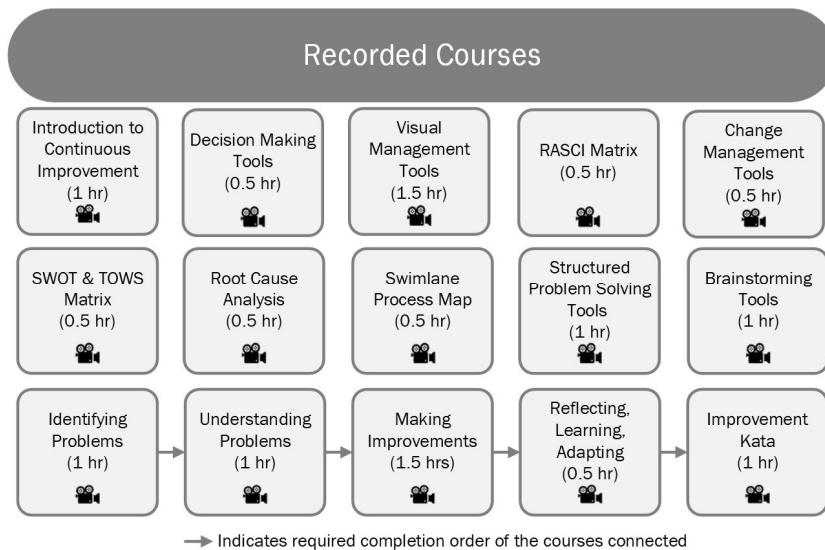- Coaching managers and leaders in improving team performance

Process Improvement and Problem Solving

- Creating project plans and identifying relevant tools
- Facilitating use of continuous improvement tools
- Identifying and supporting development of no-code/low-code solutions
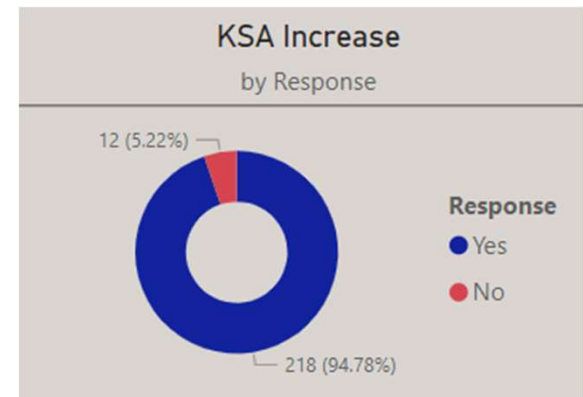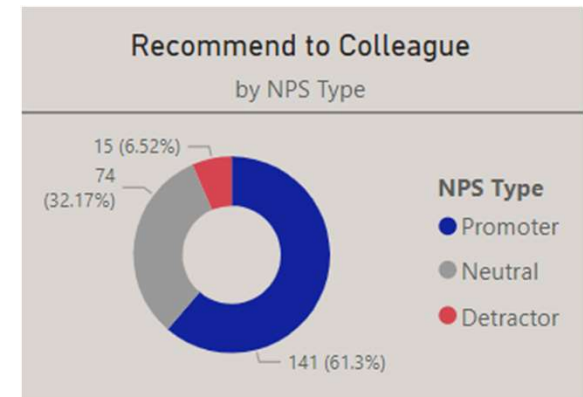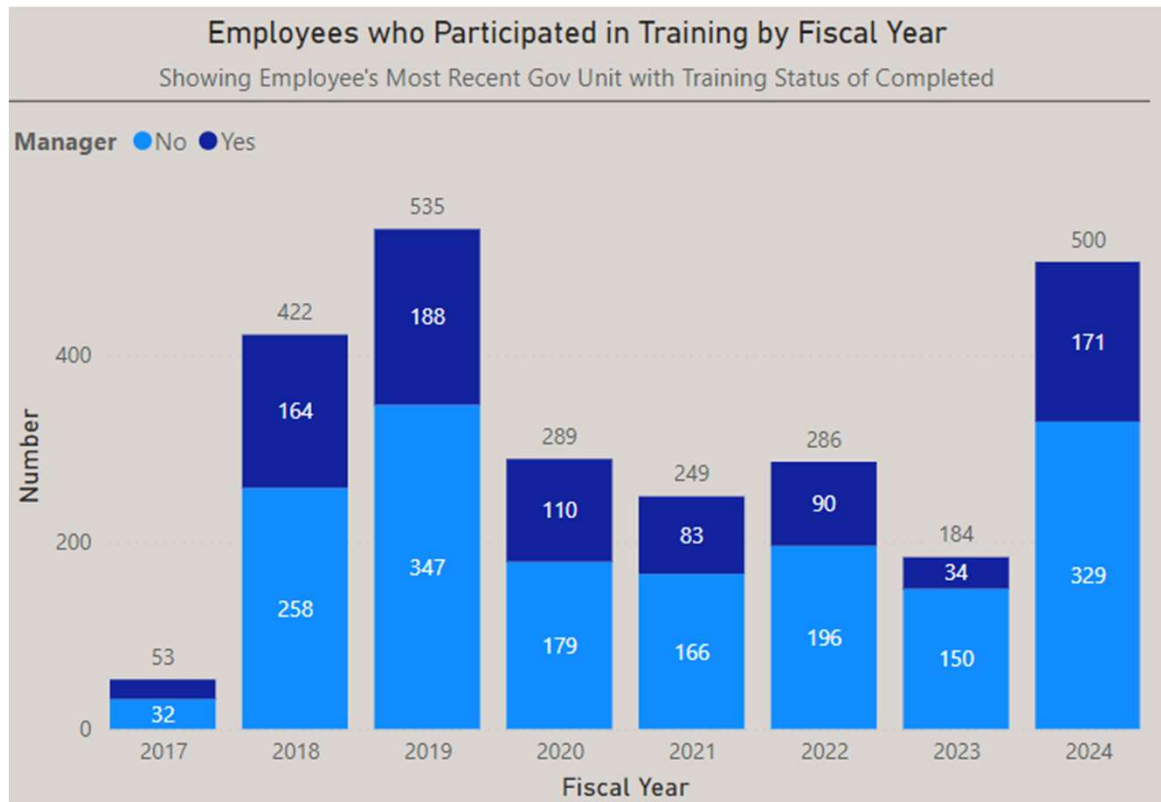- Coaching sponsors and champions through project implementation

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Staff Development and Support

15 recorded courses

Recorded Courses

Introduction to Continuous Improvement (1 hr)	Decision Making Tools (0.5 hr)	Visual Management Tools (1.5 hr)	RASCI Matrix (0.5 hr)	Change Management Tools (0.5 hr)
SWOT & TOWS Matrix (0.5 hr)	Root Cause Analysis (0.5 hr)	Swimlane Process Map (0.5 hr)	Structured Problem Solving Tools (1 hr)	Brainstorming Tools (1 hr)
Identifying Problems (1 hr)	Understanding Problems (1 hr)	Making Improvements (1.5 hrs)	Reflecting, Learning, Adapting (0.5 hr)	Improvement Kata (1 hr)

→ Indicates required completion order of the courses connected

19 live courses

Live Courses

Visualizing Processes (4 hrs)	Analyzing Processes (4 hrs)	Developing Improved Processes (4 hrs)	Managing Processes (2 hrs)	Documenting and Standardizing Processes (2.5 hrs)
Establishing Purpose (3 hrs)	Setting & Executing Strategic Priorities (3 hrs)	Principles of Operational Excellence (2 hrs)	Managing Projects (3 hrs)	Improving Meeting Productivity (2 hrs)
Developing Performance Measures (3 hrs)	Managing for Results (4 hrs)	Creating Psychological Safety (2.5 hrs)	Leading with Kindness & Humility (2 hrs)	Developing & Supporting People (4 hrs)
Facilitation Tools & Strategies (4 hrs)	Stages of Group Development (4 hrs)	Continuous Improvement Project Facilitation (4 hrs)	VT LEAD Managing Change (6 hrs)	

→ Indicates required completion order of the courses connected

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Staff Development and Support

Staff Development and Support

Continuous Improvement (CI) Community of Practice

Public team where employees, managers, and leaders can engage in CI outside of formal training

Recurring development opportunities

- CI Speaker Series (monthly)
- CI Workshops (bi-monthly)
- Government Communities of Practice (monthly)
- Advanced practitioner meetings (bi-monthly)
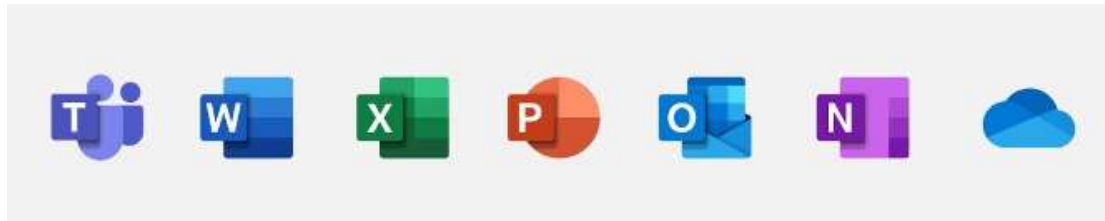- Quarterly topic series (monthly)

1,024 members

12% SOV workforce

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Staff Development and Support

Microsoft Communities of Practice

Office 365

Power Platform

Power BI
Business analytics

Power Apps
App development

Power Automate
Process automation

1,200 members

15% of workforce

Sec. 2 - Joint Government Oversight and Accountability Committee Feedback

- Concerned that the current version of the bill does not charge the Committee with performing the pre-existing functions of the former Government Accountability Committee, specifically relating to population-level outcomes and indicators.

- Wondering how the Committee will operationalize "issues of significant public concern."

- Wondering how the Committee will support data-driven decision making and accountability throughout the legislative process.

- Curious what mechanisms and tools the Committee will use to review performance notes and monitor performance measures.

- Wondering how the work of the Committee will create tangible results.

- Eager to know how the work of the Committee will specifically intersect with the Auditor's Office and Chief Performance Office.

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Sec. 5 and 6 - Division of Performance Accountability and Position Feedback

- Concerned that one person will not be enough given the scope of work.

- Don't see a structured process that this Division would use to actually improve performance.

- Wondering if there is a role this Division would play in reviewing performance measures associated with the budget.

- Curious what mechanisms and tools the Division will use to create performance notes and monitor performance measures.

- Eager to know how the work of the Division will specifically intersect with the Auditor's Office and Chief Performance Office.

- Wondering how the work of the Division will create tangible results.

Additional Context Slides

Example of applying indirect cost rates

- Indirect cost rates are applied to the **expenditures** of an award, not the value of the award, and make up a budget line of that award in the same way that contracts, wages, equipment, and other expenses on the award would
  - o Indirect cost rates are <u>not</u> applied to the awarded amount
  - o Indirect cost rates also cannot be applied to certain "unallowable" expenditures such as: capital expenditures, tuition remission, scholarships & fellowships and "other distorting" items. This can further reduce allowable indirect drawn on awards, as often this decreases the direct expenditures which can be drawn on

- For example, Non-profit "A" receives a federal subrecipient award for $3M, has $100K of excluded costs and uses the de minimis rate. Indirects are **not** in addition to the award. The breakdown between direct and indirect is detailed below. The formula for direct costs = ((grant award – excluded direct costs)/(1 + indirect cost rate)):

Total Grant Award	$	3,000,000
Indirect Cost Rate		10%
Direct Costs	$	2,636,364
Excluded Costs	$	100,000
Maximum Indirect	$	263,636
	$	3,000,000

Direct costs = (($3M-$100K)/(1+10%)) = $2,636,364

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INDIRECT COST RATE PURPOSE

- The de minimis rate was designed to limit all applicable entities (not just not-for-profit) from drawing indirect expenditures at a level which would limit, impede, or inhibit a federally funded program from carrying out the intended purpose of those funds. While still providing overhead expenditure coverage for some of the cost not directly attributable to any individual program.

- The calculated indirect rate specifically takes into consideration an entities total indirect expenditures and total direct expenditures less unallowable expenditures to prevent entities from drawing an inequal share of their total indirect expenditures on any single award.

- What this means:

  The rate is meant to cover some, but not all, indirect cost attributed to an entities overhead expenditures. The de minimis provides an entity with a base rate they can apply without doing additional work. However, the calculated rate more accurately reflects the relationship between multiple programs and a single programs relationship with regards to their overhead expenditures.

  In short, the rate tells the federal agency, pass-through entity, or state how much overhead expenditures are attributable to an award of a specific monetary value.

https://www.fema.gov/node/what-de-minimis-rate#:~:text=The%20de%20minimis%20rateis%20the,de%20minimis%20rate%20is%2010%25.

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GRANT APPLICATIONS & AGREEMENTS

(a) Forms (Standard Agreements):

- The State of Vermont has had a standardized Grant Agreement form since the original publication of 2 CFR 200 in 2014.
- This form is used for all state, federal and hybrid funded awards and was last updated on January 8th, 2024.
- The form has been posted and publicly available since 2014 on the Finance and Management website along with the Grant Agreement part 2 which makes up the next 2 pages of every grant agreement.

https://finance.vermont.gov/policies-and-procedures/grant-guidelines-and-procedures

Grant Applications & Agreements CONTINUED

(a) Standard Applications:

- The requirements from grant to grant set by both the federal agencies and by the state legislature vary drastically and create challenges with standardizing information beyond requesting a grantee or subrecipients: entity name, address, point of contact name, email address, and phone number
- Requiring a form without the proper tools to make it useable will not have the desired effect as each "application" is going require grant specific application attachments

Future goal – statewide grants management system

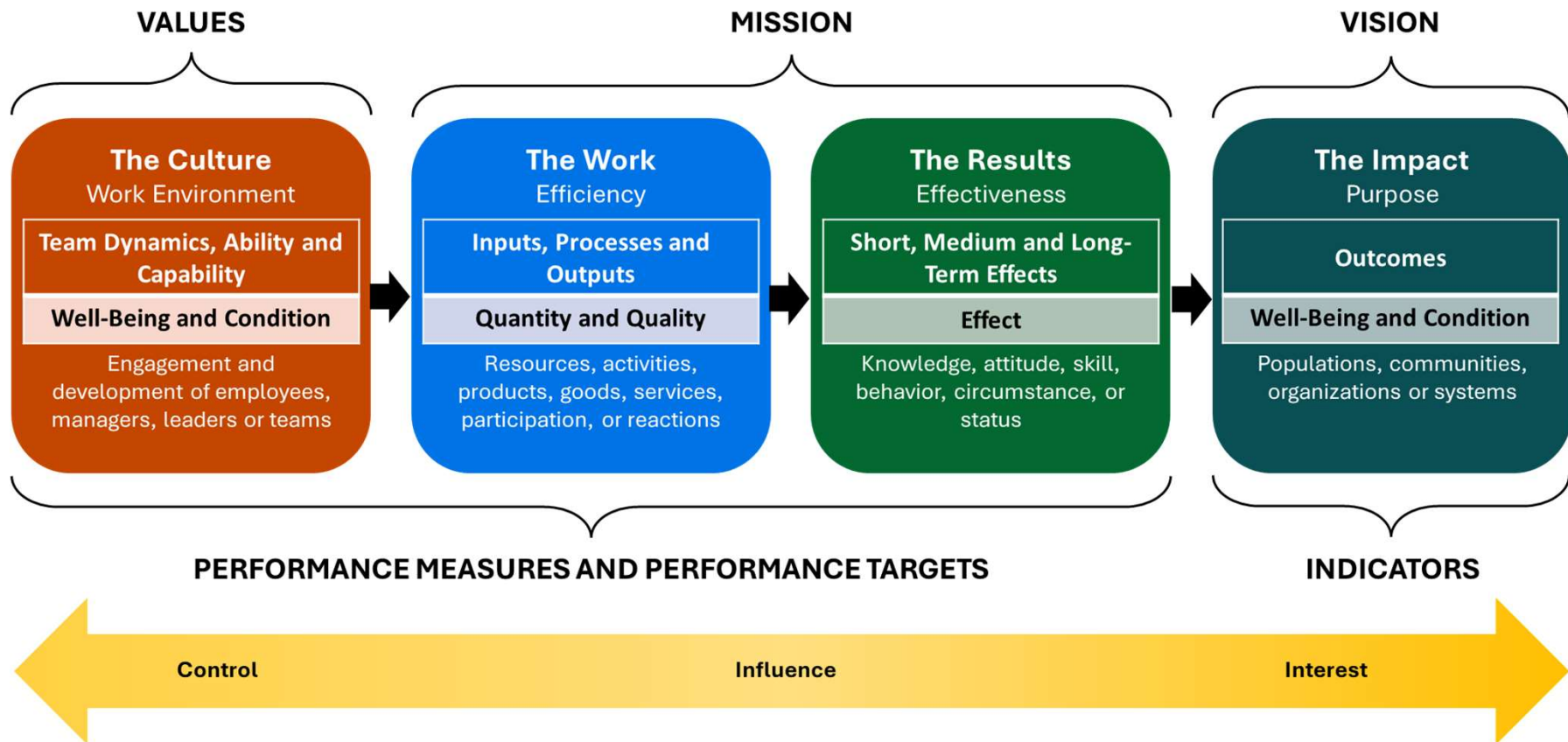- A system with an external portal where grantee & subrecipient could login to their own view, pursue funding opportunities, apply for funding, receive documentation such as grant agreements, request reimbursement, provide reports, and upload documentation through would drastically improve the granting experience for grantee/subrecipient as well as the understaffed granting agency/departments at the state.

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Grant Applications & Agreements CONTINUED

(a) Standard Reporting Forms:

- Different funding types require completely different metrics and performance measures usually dictated by our federal partners or language included by the state legislature
- Many programs also contain both state and federal funding on the same grant agreement meaning that federal grant requirements apply. Separating out state and federal grant funds is complex and challenging
- Compliance measures are individually spelled out for each program for this reason which is why the metrics and performance measures are not included in the standardized grant agreement but are in an attachment and reporting forms are not standardized

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Core Performance Management Logic Model

VALUES   **MISSION**   **VISION**

The Culture
Work Environment

Team Dynamics, Ability and Capability

Well-Being and Condition

Engagement and development of employees, managers, leaders or teams

The Work
Efficiency

Inputs, Processes and Outputs

Quantity and Quality

Resources, activities, products, goods, services, participation, or reactions

The Results
Effectiveness

Short, Medium and Long-Term Effects

Effect

Knowledge, attitude, skill, behavior, circumstance, or status

The Impact
Purpose

Outcomes

Well-Being and Condition

Populations, communities, organizations or systems

PERFORMANCE MEASURES AND PERFORMANCE TARGETS   **INDICATORS**

Control   Influence   Interest

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Strategic Planning Process

1. Vision, Mission, and Values — Establishing purpose
2. Environmental Scan
3. Strategy Development — Setting strategy
4. Strategy Deployment — Executing strategy

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