



CSBG Q&A

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The following questions and answers reflect several issues concerning the federal Community Services Block Grant Act (CSBG) that CAPLAW has addressed:

Is the chief elected local official or his or her representative(s) a required member of the Community Action Agency (CAA) tripartite board?

No, the CSBG Act requires that one third of the board of a private nonprofit CAA be composed of elected public officials or their representatives, unless not enough such officials are willing or able to serve, in which case appointed public officials or their representatives may be counted.¹ However, it is up to the CAA to determine which officials serve on the board. In some cases, the CAA's bylaws state which officials will serve; in others a nominating committee or similar procedure is used to determine on a periodic basis which officials will be asked to serve.

Can the state cut off CSBG funding to a CAA for alleged program deficiencies?

Maybe, but only after appropriate procedures required by the CSBG Act are followed, including review by the U.S. Department of Health and Human Services (HHS). The Act requires that before a state cuts off CSBG funding, all of the following must occur:

1. State conducts an onsite review of the CAA;
2. State determines, based on such a review, that the CAA fails to comply with the terms of an agreement, or the state plan, to provide CSBG services or to meet appropriate standards, goals, and other requirements established by the state;
3. State informs the CAA of the deficiency to be corrected;
4. State requires the CAA to correct the deficiency;
5. State offers training and technical assistance, if appropriate, to help correct the deficiency and submits to the HHS Secretary a report describing the training and assistance offered;
6. If the state determines that such assistance is not appropriate, it submits a report to the HHS Secretary stating the reason for such determination;
7. At its discretion (taking into account the seriousness of the deficiency and the time reasonably required to correct it), the state allows the CAA to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan (QIP) to correct the deficiency within a reasonable period of time;

8. Not later than 30 days after receiving from a CAA a proposed QIP, the state either approves it or specifies the reasons why it cannot be approved;
9. If the CAA does not correct the deficiency; the state provides notice and an adequate opportunity for a hearing on the record to determine if there is cause, as defined by the CSBG Act, to terminate funding. "Cause" for termination is defined as the failure of a CAA to comply with the terms of an agreement or a state plan, or to meet appropriate standards, goals, and other requirements established by the state (including performance objectives);
10. Based on the hearing, the state determines that cause for termination exists;
11. State notifies the CAA that, upon request, the HHS Secretary will review the state's determination;
12. If the CAA has requested review, the HHS Secretary has reviewed the state's determination and concurred.²

Can the state decrease from one year to the next the percentage of total state CSBG funds my CAA receives?

Again, maybe, but only after procedures required by the CSBG Act have been followed, including a determination that there is "cause" for such a reduction in funding. "Cause" includes the same deficiencies as that justifying termination, namely: failure of a CAA to comply with the terms of an agreement or a State plan, or to meet appropriate standards, goals, and other requirements established by the state. If that is the basis for the reduction in funding, then the procedures outlined in the answer to the preceding question must be followed before any reduction takes place.

"Cause" for a funding reduction also includes a statewide redistribution of funds provided through CSBG to respond to: the results of the most recent census or other appropriate data; the designation of a new eligible entity; or severe economic dislocation. For funding reductions on these grounds, the state must also provide due process prior to cutting the funds or reducing the proportionate share of total state CSBG funds received by the CAA, although steps one through eight described above would not apply. The state must still, however, provide the CAA notice and an opportunity for a hearing on the record and review by HHS.³

If the state does not follow these procedures, what can a CAA do?

If a state terminates or reduces funding to a CAA prior to completing a hearing on the record, finding cause, and/or review by the HHS secretary, HHS has the authority to provide direct funding to the CAA. The CAA may make a request to HHS to do so. The CAA should discuss this and other potential courses of action with its attorney.

Can a CAA use CSBG funds to purchase or construct a building for its offices?

Sometimes. The CSBG Act generally prohibits the use of CSBG funds to purchase or construct a building, but the Act also permits HHS to waive that prohibition if the state has requested a waiver and the HHS Secretary determines that extraordinary circumstances justify it.⁴ HHS has granted such waivers in the past; a lease/purchase cost comparison and other information would be required.

Can CSBG funds be used to fulfill a match requirement of another federal program?

No. Both OMB Circular A-122⁵ and the HHS regulations⁶ prohibit this.

¹ 42 U.S.C. § 9910(a)(s)(A).

² 42 U.S.C. §§ 9908(b)(8), 9908(c), 9914, and 9915.

³ *Id.*

⁴ 42 U.S.C. § 9918(a).

⁵ Att. A, paragraph A.2(e).

⁶ 45 C.F.R. 7423(a)(2) and (5)