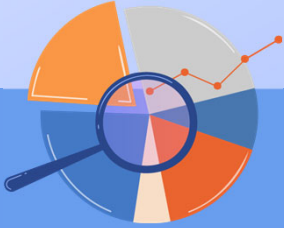



# Mastering the A-B-CSBGs

## Monitoring and Termination




Presenters:  
Allison Ma'luf + Veronica Zhang + Jon Cohen  
January 31, 2023



1

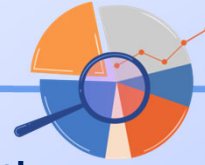
## Agenda



- **Monitoring**
  - Purpose
  - Standards and Process
- **Corrective Action, Funding Reduction and Termination**
  - Corrective Action Process
  - Funding Reduction/Termination Process
  - Complaint Process

2

## Laws and Guidance



- **Federal Community Services Block Grant (CSBG) Act**
  - Section 672, *et. seq.* (42 U.S.C. § 9901 *et. seq.*)
- **HHS Block Grant Regulations**
  - 45 C.F.R. Part 96
- **Information Memoranda (IMs) – non-binding guidance, but very informative**
- **State CSBG Laws**
  - Statutes, regulations, award terms and conditions, informal guidance

**KEY:** States primarily responsible for grant administration

3

3

## CSBG Review Process

Overview of State Responsibilities



1. Enter into CSBG subaward agreement with CAAs
2. Monitor and conduct follow-up as required
3. Inform of deficiency and require correction
4. Provide T/TA and/or QIP
5. Provide notice and hearing on record if deficiency not corrected
6. Determine if cause exists to reduce or terminate funding
7. Initiate reduction in or termination of funding if cause exists
8. Opportunity for federal review by HHS

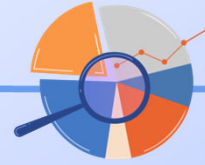
4

4

# Monitoring

## Purpose

- ~~GO TO A!!~~
- Provide CAA **feedback** on **effectiveness** of programs
- Assist leaders with making **changes**
  - Early warning system
  - Build upon strengths
- Provide State with data to **assess statewide network**
  - Note trends to provide more effective T/TA



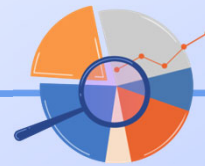
5

5

# Monitoring

## Standards and Process - General

- ~~Support~~
- ~~Secure~~
- ~~Collaboration~~
- **Mutual respect**
- **Open communication**
- **Joint problem solving**

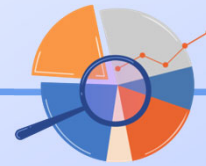


6

6

## Monitoring

Standards and Process – Federal CSBG Act Requirements



### A state CSBG office is to conduct the following reviews of a CAA:

- Full on-site review at least once **every 3 years**;
- On-site review of newly-designated entities after first year;
- Other reviews as appropriate; and/or
- A prompt follow-up review

*Sec. 678B(a)(1-4)*

7

7

## Monitoring

Standards and Process – Federal CSBG Act Requirements



- The federal CSBG Act **requires** states to monitor CAAs on:
  - Performance goals;
  - Administrative standards;
  - Financial management requirements; and
  - Other state requirements
- CSBG terms and conditions

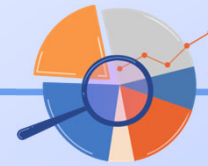
*Sec. 678B(a)*

8

8

## Monitoring

Standards and Process – Contract and Monitoring Tool



### CSBG Contract

- **First** point of reference
- CAAs monitored on compliance with contract terms

### Monitoring Tool

- No national uniform monitoring tool exists; **BUT**
  - CSBG Organizational Standards intended to provide a set of uniform standards for all CAAs

9

9

## Monitoring

Standards and Process – CSBG Organizational Standards



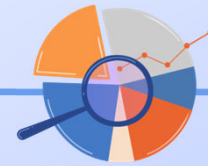
- Final version issued by federal Office of Community Services (OCS) in **IM# 138** in January 2015
- Purposes:
  - **Strengthen the organizational capacity** of local CAAs to serve low-income communities
  - **Increase accountability** of the CSBG network.
  - **58 standards** (nonprofit CAAs) / **50 standards** (public CAAs) developed by CSBG Organizational Standards Center of Excellence (COE)

10

10

## Monitoring

Standards and Process – CSBG Organizational Standards



- 2016 Appropriations Act required states to adopt CSBG Organizational Standards, or comparable performance management requirements
- State required to:
  - Describe assessment approach in state plan
  - Subject to OCS review

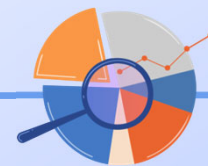
*P.L. 114-113, Div. H, Title II; OCS Information Memorandum (IM) 138*

11

11

## Corrective Action

Overall Process



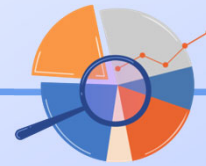
- a. If state determines deficiency exists as a result of monitoring it shall:**
  - 1) Inform the CAA of deficiency to be corrected
  - 2) Require CAA to correct deficiency
  - 3) Offer T/TA or state reasons for not doing so
  - 4) Allow, at its discretion, an opportunity for the CAA to submit a quality improvement plan (QIP)
  - 5) Initiate proceeding to reduce/terminate funding unless the CAA corrects the deficiency
- b. OCS Direct Assistance**

12

12

## Corrective Action

Deficiency



- **Deficiency** not specifically defined by federal CSBG Act
  - Federal CSBG Act only refers to the “**cause**” a state must determine exists to initiate a reduction in or termination of funding

13

13

## Funding Reduction/Termination

Cause



- Under the federal CSBG Act, “**cause**” for which a state CSBG office may initiate a reduction in or termination of a CAA’s funding includes:
  - The failure of a CAA to comply with the terms of its CSBG agreement with the state, the state plan, or to meet a state requirement as described by the Act’s corrective action, termination and reduction of funding provisions.

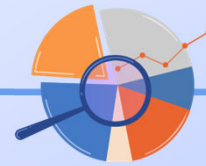
*Sec. 676(c)(1)(B), (2)*

14

14

## Corrective Action

State's Obligation to Inform CAA



- Must **inform of deficiency** and give **opportunity to correct**
- OCS recommends that state CSBG office:
  - Document basis for a performance deficiency or failure to comply with a state requirement
  - Maintain records of correspondence or other communications relating to actions taken, including enforcement action

*Sec. 678C(a)(1), (2); OCS Information Memorandum (IM) 116*

15

15

## Corrective Action

T/TA Required



- State CSBG office is required to offer T/TA, if appropriate, to help correct a deficiency
  - If state provided T/TA, **must** prepare and submit a report to OCS describing T/TA offered
  - If state didn't provide T/TA, **must** prepare and submit a report stating reasons it didn't do so

*Sec. 678C(a)(3)(A), (B)*

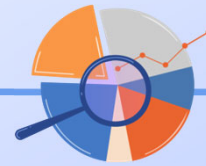
16

16



## Corrective Action

T/TA “not appropriate”



- T/TA **may not** be appropriate when:
  - CAA has internal expertise and skills
  - State already provided T/TA and CAA failed to implement corrective actions
  - Multiple, widespread and/or repeated deficiencies
  - Fraud or criminal wrongdoing involved

OCS IM 116

17

17

## Corrective Action

Opportunity to Submit a QIP



- Within state’s discretion to give CAA opportunity to develop and implement a **QIP** to correct a deficiency
  - State may take into account the seriousness of a deficiency and the time required to correct it

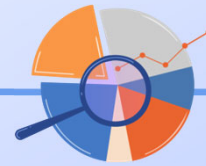
Sec. 678C(a)(4)

18

18

## Corrective Action

Opportunity to Submit a QIP



- Examples of when a state CSBG office may deny a CAA the opportunity to submit a **QIP include**:
  - A QIP has already been instituted and a CAA has repeated findings
  - Evidence of fraud or criminal wrongdoing requiring immediate action

*OCS IM 116*

19

19

## Corrective Action

Opportunity to Submit a QIP



- If State grants CAA opportunity to submit a **QIP**, state must:
  - Give CAA 60 days after being informed of the deficiency to develop and implement QIP
  - Approve/not approve within 30 days of receiving QIP from CAA
  - If state does not approve a QIP, must specify reasons why proposed plan cannot be approved

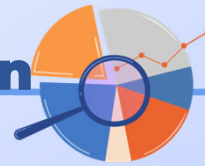
*Sec. 678C(a)(4)*

20

20

## Funding Reduction/Termination

Causes for Funding Reduction/Termination



The federal CSBG Act sets forth only **two causes** for which a state CSBG office may initiate a reduction in or termination of CSBG funding:

1. As part of a monitoring process
2. Statewide redistribution of CSBG funds

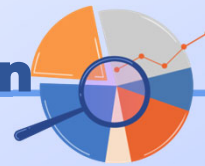
*Sec. 676(b)(8), (c)*

21

21

## Funding Reduction/Termination

Deficiency Not Corrected



### State's Obligation When Deficiency **NOT** Corrected

- Provide CAA notice and an opportunity for a hearing;
- Based on hearing record, determine if "cause" exists;
- If "cause" exists, initiate proceedings to terminate CSBG designation or reduce CSBG funding and
- Prior to reducing or terminating funding, permit CAA to seek federal review of state's determination

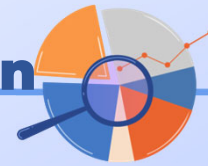
*Sec. 678C(a)(5)&(b); 676(b)(8)*

22

22

## Funding Reduction/Termination

### Statewide Redistribution of Funds



- A state CSBG office may also initiate a reduction in funding for “cause” if:
  - A statewide redistribution of CSBG funds is needed to respond to one of the following:
    - The results of the most recently available census or other appropriate data;
    - The designation of a new CAA; or
    - Severe economic dislocation
- If “cause” exists, state must provide **notice**, a **hearing** on the record and opportunity for **federal review**

*Sec. 676(c)(1)(A); OCS IM 116*

23

23

## Funding Reduction/Termination

### Notice Required



- **State determines** types of notice and hearing procedures it will use to comply with federal CSBG Act
- Characteristics of **adequate notice**:
  - Given within reasonable timeframe
  - Includes reason for hearing
  - Establishes location and time of hearing
  - Provides information regarding additional appeal options

24

24

# Funding Reduction/Termination

Hearing for Statewide Distribution Formula Changes



## Statewide changes to the distribution formulas require a public hearing

- May use legislative hearing
  - Required once every three years
- May conduct special administrative hearing

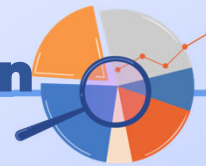
*OCS IM 116*

25

25

# Funding Reduction/Termination

OCS Review Process



- **A request** for federal review must be:
  - In writing
  - Submitted by CAA within 30 days of notice of state's final decision
  - Sent to attention of the Division of State Assistance in OCS
- State **may not discontinue** present or future funding until OCS confirms state's finding of cause
- OCS must complete appeal no later than 90 days after it receives from state all necessary documentation relating to state's determination
  - If OCS does not respond, state determination final after 90 days

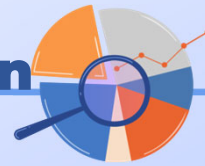
*Sec. 678C(b); 45 C.F.R. § 96.92; OCS IM 116*

26

26

## Funding Reduction/Termination

OCS Direct Assistance



- OCS has authority to **provide funding directly to CAAs** when state violates assurance in state plan to provide notice, an opportunity for a hearing, and a federal review
  - CAAs may request direct funding from OCS in writing, describing how state has violated the due process requirements
- If direct funding granted, financial assistance from OCS to CAA will **continue until the state's violation corrected**

Sec. 678C(c)

27

27

## Complaint Process

Alleging State Failed to Follow CSBG Act



- Federal CSBG block grant regulation allows grant recipients to file a complaint alleging that the state failed to follow the federal CSBG Act
- Includes failure to follow certification and assurances made by state
- OCS will defer to state's interpretation of the CSBG Act unless the interpretation is clearly erroneous

45 C.F.R. § 96.50

28

28

## Complaint Process

Alleging State Failed to Follow CSBG Act



### Complaint must:

- Be submitted in writing to Director of OCS
- Identify the provision, act, assurance or certification allegedly violated
- Specify the basis for the violations charged
- Include all relevant information know to the person submitting the complaint

*45 C.F.R. § 96.50*

29

29

## Complaint Process

Alleging State Failed to Follow CSBG Act



### OCS's responsibilities include:

- Providing a copy of the complaint to the state
- Conducting an investigation where appropriate
- Responding to the CAA within **180 days** of receiving the complaint
- If OCS cannot reach a final resolution within 180 days, setting forth reasons why additional time is needed
- Upon receiving the complaint from OCS, **state has 60 days** to respond and may request additional time

*45 C.F.R. § 96.50*

30

30

239 Resources  
60 Topics  
20 Types

Including:  
Articles  
Legal Updates  
Sample Policies  
Webinars  
Videos  
Training Modules  
Interactive e-guides  
Case Studies  
Podcast (new !)

## Visit CAPLAW 's Resource Library!

FAQ

Community Economic Development for CAAs

As part of their mission to lift people with low incomes from poverty to self-sufficiency, Community Action Agencies (CAAs) often seek to spur growth and build wealth in their communities through job creation and business development. These efforts can generally be referred to as "community..."

Mastering the A-B-CSBGs: Tripartite Board Selection and Composition

Maintaining a tripartite board is challenging enough without questions about who can serve and how to elect them. In this session, we reviewed the rules and guidance applicable to the public, private, and consumer sectors. This session is part of CAPLAW's Mastering the A-B-CSBGs series, which...

NEWS

Election Year Refreshers for Nonprofit and Public CAAs

Keeping track of the rules relating to election and campaign activity for both nonprofit and public Community Action Agencies (CAAs) is never easy! As the election season enters its final stretch, read CAPLAW's updated Election Year Refreshers for a quick review of some of the most...


www.caplaw.org

31

## You can always review or re-master your A-B-CSBGs at:

<https://caplaw.org/resource-library>

Tripartite boards



Uses of CSBG Funds

Mechanics

Monitoring

Termination

32

32





*This training was developed with the National Association of Community Action Agencies – Community Action Partnership, in the performance of an award from the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Grant Number COE90ET0469-03. Any opinion, findings, and conclusions, or recommendations expressed in these materials are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.*

*The contents of this training are intended to convey general information only and do not constitute legal advice. Any communication through this training or through CAPLAW's website does not constitute or create an attorney-client relationship. If you need legal advice, please contact CAPLAW or another attorney directly.*

CAPLAW | [www.capl原因.org](http://www.capl原因.org) | (617) 357-6915