

COMMUNITY SERVICES BLOCK GRANT



Trainning
ools
for
**PUBLIC CAA
BOARDS**

GOVERNANCE

**Tripartite Board Composition
and Selection**

CAPLAW
Community Action Program Legal Services, Inc.

Introduction

This self-training tool offers public Community Action Agency (CAA) boards a way to educate themselves on specific Community Service Block Grant (CSBG) governance requirements. Because of the differences between nonprofit CAAs and public CAAs, a separate tool is available for nonprofit CAA boards. The tool is focused on the CSBG requirements relating to tripartite board composition and selection and is divided into the following four parts:

1. General tripartite board composition and selection information
2. Public official sector
3. Low-income representative sector
4. Private sector

The board chair is encouraged to designate a board member to facilitate one of the four Parts as a training segment of a board meeting. Each Part has multiple sections and may be conducted by board members in approximately 20 minutes or less.

Each Part also offers specific directions for the facilitator regarding his or her role in guiding the full board through the different sections of the training tool. It is not necessary for the facilitator to possess specific knowledge about the Part he/she facilitates. Rather, the self-training tool is intended to educate the facilitator and other board members as they work through the different Parts of the tool together. Any preparation required of the board member facilitator is detailed in each Part.

A PowerPoint presentation, which mirrors this tool, has been created for each Part and may be used by the facilitator to help guide the discussions. We do **not** recommend distributing copies of the PowerPoint as they contain answers to the questions that the board will be asked to address throughout the training.

Materials needed for each Part are listed in the beginning of that Part. Some of the materials will be provided while others require the facilitator to work with board members to obtain.

As the board works through each Part, it should assign one board member to write down questions that it is unable to answer with the information provided in the training tool. The board should then follow up with the CAA's executive director or his or her designee if it needs assistance in answering these questions.

Throughout the tool are tips, notes, and examples which are designated by the graphics below. These tips, notes, and examples are intended to address potential questions and offer recommendations. They may be read by the facilitator to the full board at the facilitator's discretion.

TIP The tip text will be here

EXAMPLE

NOTE:

Part I. General Tripartite Board Composition and Selection Information

Learning Objectives for Part I

- 1.1 Know brief history of CAA tripartite boards
- 1.2 Recognize laws and guidance relating to tripartite board selection and composition
- 1.3 Understand general concepts relating to tripartite board selection and composition

All Materials Needed for Part I

Below is a list of all of the materials needed for the three learning objectives in this Part.

- Name that Individual Exercise**
- CSBG History Q&A**
- Understanding the Relationship of CSBG Laws and Guidance exercise**
- Federal CSBG Act section setting forth tripartite board composition and selection requirements, 42 U.S.C. § 9910*
- State CSBG statutes/regulations, if any exist
- General Tripartite Board Concepts Q&A**
- U.S. Department of Health and Human Services (HHS) Office of Community Services (OCS) Information Memorandum (IM) 82*
- CAPLAW Board Composition and Selection Matrix**
- Excerpt from the CSBG grant agreement with the state setting forth tripartite board composition and selection requirements, if applicable
- A local ordinance or other official act such as a delegation agreement establishing the relationship between the public CAA board and the governing local body, if any exist
- Full CAA bylaws with section(s) addressing board composition and selection highlighted for easy reference

NOTE: REG VS. STATUTE

A *statute* is a law passed by a legislative body, while a *regulation* is a legal requirement issued by an executive branch agency.

* Included in handouts. All other materials listed must be obtained by the board.

PowerPoint for Part I

The facilitator may choose to use the PowerPoint that accompanies this Part to help guide the discussion. The PowerPoint mostly mirrors the text in the tool and copies of it should **not** be distributed to the board as it contains answers to questions that the board will be addressing throughout the training.

Facilitator Task

As a pre-cursor to the training, consider assigning the following tasks to different board members:

- Locate applicable state CSBG statutes/regulations, if any exist
- Identify section of the CAA's grant agreement with the state addressing tripartite board composition and selection requirements, if applicable.
- Obtain the local ordinance or other official act such as a delegation agreement establishing the relationship between the public CAA board and the governing local body, if any exist.
- Obtain CAA's bylaws and highlight the section addressing tripartite board member composition and selection.

If necessary, direct the board member(s) to the following sources to help find information: CAA executive director, State CAA association or CAPLAW, www.caplaw.org. Once the handouts have been located, ask the CAA executive director or staff liaison to the board to make copies for each board member and encourage all board members to read the handouts and be prepared to discuss them prior to each training.

TIP Encourage board members to listen to chapters one through three in CAPLAW's *Introduction to CSBG* training module, <http://www.caplaw.org/resources/TrainingModuleDocuments/IntoToCsbg.html> and to CAPLAW's Purely for Public CAAs Training Module.

1.1 Know Brief History of CAA Tripartite Board

Facilitator Task

Pass around the **Name that Individual** exercise and ask the group if they can identify each of the individuals and discuss how they relate to community action.

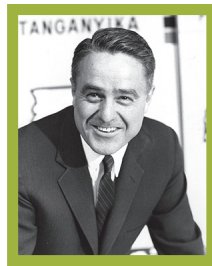
Answers to the Name that Individual Exercise

Below are the answers to the exercise. In addition to listing the name of the individual, the answer also includes a brief description of the person. More information is available about the individuals in the exercise following this one.



Lyndon B. Johnson

U.S. President who signed the Economic Opportunity Act in 1964, which established the War on Poverty



Sargent Shriver

First director of the federal Office of Economic Opportunity



Edith Green

Democrat from Oregon who was a member of the U.S. House of Representatives and instrumental in the creation of the tripartite board structure



Albert H. Quie

Republican from Minnesota who was a member of the U.S. House of Representatives and instrumental in the creation of the tripartite board structure

1.1 Know Brief History of CAA Tripartite Board

Facilitator Task

Ask the following questions from the **CSBG History Q&A** in the handouts to see if some board members may be able to educate others about the history behind the CAA tripartite board composition requirement. If no one is able to answer the questions, then read the answers and ask if anyone would like to comment or add to the answer.

Answers to the CSBG History Q&A

Who is often considered the architect of the Community Action movement?

Sargent Shriver. Shriver was enlisted by the U.S. president at the time, Lyndon B. Johnson, to map out an approach to the War on Poverty. Shriver put together the Shriver Task Force which focused on changing the structure and policies of a larger social service system through community organizing and aggressive advocacy. Shriver helped create the Office of Economic Opportunity (OEO) which was the federal agency responsible for administering most of the War on Poverty programs. Shriver served as the first director of the OEO.

What is the name of the initial piece of federal legislation that created the Community Action Program and authorized federal funding for the program?

The Economic Opportunity Act.

When was this legislation enacted?

August 20, 1964.

Can anyone tell us about the mandate in the Economic Opportunity Act that initiated the concept of tripartite board composition for CAAs? Hint: "maximum . . ."

Written into the Economic Opportunity Act was the mandate that Community Action Programs at the local level be developed, conducted and administered with the "**maximum feasible participation** of residents of the areas served and members of the groups served."

What were the two early amendments to the Economic Opportunity Act that addressed the composition of CAA boards?

The Quie Amendment and the Green Amendment

1.1 Know Brief History of CAA Tripartite Board

Can anyone tell us about the Quie Amendment? What did it establish? Who was Quie?

In 1966, Congress passed the Quie Amendment, which required at least **one-third of CAA board members be representatives of the poor.**

The amendment helped solidify the mandate in the Economic Opportunity Act to ensure the “**maximum feasible participation**” of the low-income individuals served in developing and facilitating Community Action Programs.

Albert H. Quie was a Republican from Minnesota who proposed what is now known as the Quie Amendment to the Economic Opportunity Act.

Can anyone tell us about the Green Amendment? What did it establish? Who was Green?

In 1967, Congress passed the **Green Amendment**, which created a **three-part structure for CAA boards.** One-third of the board was to be composed of public officials or their representatives; at least one-third of the board was to be composed of democratically selected representatives of the poor in the area served; and the remainder was to be composed of officials of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

This amendment provided greater control of CAAs by local elected officials. It directly addressed the concern that maximum feasible participation of the poor undermined the integrity of local government. This amendment also appealed big city mayors who wanted local government involvement in CAA planning groups.

Edith Green was a Democrat from Oregon who was a member of the U.S. House of Representatives. She proposed what is now known as the Green Amendment.

Is the Economic Opportunity Act still in force? If not, what replaced it and how is it different?

No. In 1981, Congress repealed the Economic Opportunity Act and passed legislation championed by the Reagan administration that combined 57 formerly discretionary grants into 9 block grants and reduced funding for those programs. The idea behind changing these grants from discretionary grants to block grants was to reduce federal spending, limit the federal government’s role in social programs, and transfer responsibility and authority for those programs to state and local governments. The Community Action Program was one of the discretionary grant programs repealed in 1981 and replaced with a block grant program – the Community Services Block Grant (CSBG) program.

NOTE: BLOCK VS. DISCRETIONARY

Generally, a **discretionary grant** is awarded on the basis of a competitive process and permits the federal government, according to specific legislation, to exercise judgment (discretion) in selecting the project or proposal to be supported. Conversely, with **block grants**, the federal government gives states, localities, or regional entities a fixed amount of funds that they, in turn, distribute to other entities for the purposes of performing program services. Block grants therefore have relatively minimal federal oversight and are designed to offer grantees (the state, locality or regional entity) flexibility in designing programs and administrative mechanisms to provide services to meet specific needs.

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

Facilitator Task

Ensure that all board members have the **Understanding the Relationship of CSBG Laws and Guidance** Exercise. Give the board members about five minutes to complete the handout which asks them to rank the laws and guidance in order of which takes precedence.

After answering the questions, ask the group which one they ranked first, second and so forth. If someone did not mark one of the options correctly, explore why with that person and the group.

Consider asking for volunteers from the group to discuss what he or she thinks each law or guidance document says about tripartite boards. When discussing the laws or guidance, also consider reading from the text below which offers a brief explanation of the different laws and guidance presented in the exercise.

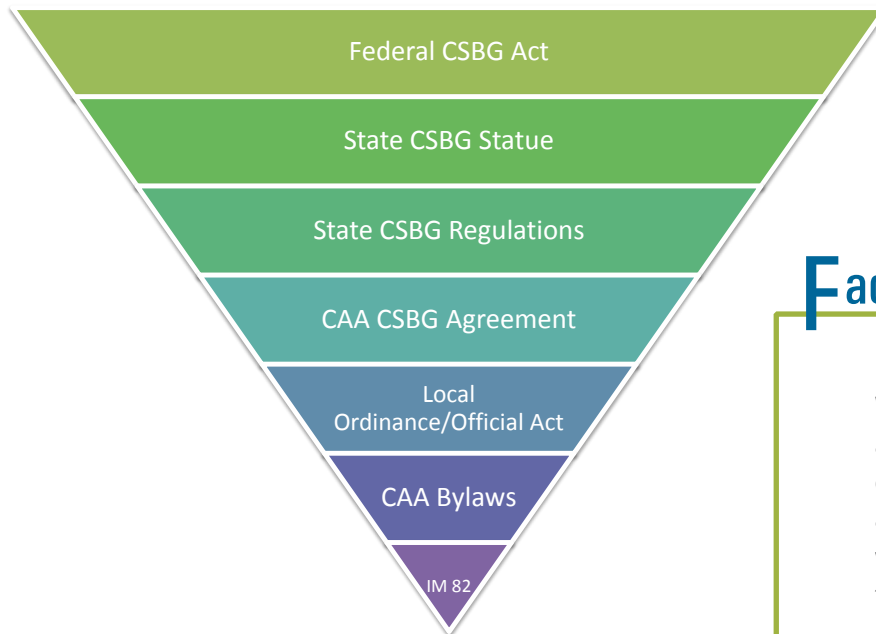
Alternatively, ask the board member(s) designated to help locate some of the different laws and guidance to speak about the ones found. Consider providing the designated board member(s) with the information from this section of the training materials that briefly discusses the laws and guidance in order of precedence.

Answers to the Understanding the Relationship of CSBG Laws and Guidance Exercise

- 7 Federal Office of Community Services Information Memorandum 82
- 2 State Community Service Block Grant (CSBG) statutes (if exist)
- 6 CAA bylaws
- 1 Federal CSBG Act
- 5 Local ordinance or other official act such as a delegation agreement
- 3 State CSBG regulations (if exist)
- 4 CAA CSBG grant agreement with state

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

Explanation of Above Laws and Guidance in Order of Precedence



Facilitator Task

When walking through an explanation of each of the following laws and guidance, ask what each says about tripartite boards.

1. Federal CSBG Act

The federal CSBG Act is the enabling legislation that authorizes the use of federal funds for CSBG programs. The Act (42 United States Code (U.S.C.) Section 9910 of the federal CSBG Act), which is one of your handouts, provides a limited exception to the tripartite board requirement for public CAAs. A state may specify that a public CAA is permitted to employ a mechanism other than the tripartite board structure, if it assures decision-making and participation by low-income individuals in the development, planning, implementation and evaluation of the CAA's CSBG programs. If such an alternative is not established by the state, then a public CAA is required to have a tripartite board made up of three sectors: at least 1/3 representatives of the low-income people being served, 1/3 public officials or their designees, and the remainder from other major groups and interests in the community.

What is the purpose of the tripartite requirement?

The purpose of this requirement is to obtain input from each of the sectors on community needs, resources and program effectiveness.

2. State CSBG Statutes and Regulations (if exist)

Because it is block grant funding, CSBG funds are awarded to a state with some guidelines and parameters set forth in the federal CSBG Act that the state is required to follow. A state may pass its own CSBG statutes and regulations to help administer the funding it receives. These state statutes and regulations must be consistent

NOTE: STATUE VS. REG.

State statutes will always trump state regulations. Typically, a state statute will authorize the state agency charged with enforcing the statute to develop regulations to help those responsible for administering the statute, as well as those required to comply with the statute, better understand the statute's requirements.

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

with the federal CSBG Act. It is important to note that the federal CSBG Act will prevail over state statutes and regulations if the federal and state laws conflict.

Whether additional requirements exist depends on the state. Various possibilities for state requirements include:

- no state CSBG statutes and regulations exist;
- state CSBG statutes and regulations exist but neither address tripartite board composition and selection;
- state CSBG statutes and regulations exist and they address tripartite board composition and selection in the same way as the federal CSBG Act or
- state CSBG statutes and regulations exist and they add additional requirements that are consistent with the federal CSBG Act tripartite board composition and selection requirements. Later, in this section is an exercise that asks board members to compare the state CSBG statutes and regulations (if any exist) to the federal CSBG Act.

3. CSBG Grant Agreement with State

The CSBG grant agreement that the CAA enters into with the state may also govern a CAA's tripartite board composition and selection procedures. The agreement will most likely include citations to the applicable federal and state laws and regulations. Once a CAA signs an agreement with the state, the agreement becomes an enforceable contract under that state's laws so a CAA should ensure prior to signing it that it is able to meet all of the requirements referenced and/or included in the agreement and that they are consistent with federal and/or state laws. The agreement is an external document that the CAA chooses to enter into and which binds the CAA regardless of the CAA's internal governing documents such as the bylaws.

TIP Before signing any agreement, the CAA should ensure that there is nothing in it that will lead to the CAA taking actions that are inconsistent with or in opposition to its internal governing documents.

4. Local Ordinance or Official Act

Generally, some type of official document sets forth the delegation of powers between the local governing body and the tripartite board. Sometimes this document will also set forth board selection and composition requirements. For some public CAAs, no such type of document or ordinance exists. CAPLAW recommends that public CAAs request some type of official recognition of the delegation of powers.

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

EXAMPLE

Ways in which the delegation of powers has been established for various public CAAs includes:

- A county or city ordinance
- A county resolution and bylaws approved by the county commissioners
- A community participation plan describing the board's roles and responsibilities
- A delegation powers of agreement approved by the county council

5. Bylaws

The bylaws specify the rules and procedures by which the board of directors will be governed. Often, the state's CSBG statutes, regulations and/or CSBG agreement with the CAA will require information about tripartite board composition and selection to be included in the bylaws. The local governing body overseeing a public CAA should provide the CAA with guidance regarding provisions to be included in the bylaws that are not addressed by the state CSBG laws and regulations. Such provisions may be included in a local ordinance or other official act. Bylaws typically cover issues such as: board size, composition and selection; board members' terms; board meeting procedures; officers; and committees.

NOTE: OCS

OCS is the office within the U.S. Department of Health and Human Services (HHS) that administers the CSBG program.

6. Information Memorandum 82

The only guidance from the federal government available to a CAA regarding how to comply with the tripartite board composition and selection requirements in the federal CSBG Act is the federal Office of Community Services' (OCS) Information Memorandum (IM) 82. This guidance is non-binding.

TIP Read IM 82 as it provides insight as to how OCS views tripartite board composition and selection as well as the board's role in overseeing the CSBG program.

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

Facilitator Task

If state CSBG statutes and regulations exist, ask board members either individually or in groups to conduct a side-by-side comparison of the federal CSBG Act tripartite board section (Title 42 of the United States Code, Section 9910) with the state CSBG statutes and regulations regarding tripartite board composition and selection.

The board members should then discuss whether or not the state and federal requirements seem consistent. If the board members are separated into groups for this exercise, the facilitator should consider assigning each group sections of the federal act to analyze in relation to the state CSBG statute and regulations.

1.3 Understand General Concepts Relating to Tripartite Board Composition and Selection

Facilitator Task

Ask yourself and the board members the questions listed below and also in the **General Tripartite Board Concepts Q&A** to stimulate a discussion about general concepts relating to tripartite board selection and composition. Before asking the questions, briefly restate for the board the following:

We will be answering general questions regarding tripartite board composition and selection. Before doing so, I would like to remind everyone that the tripartite board requirement is from the federal Community Service Block Grant (CSBG) Act, specifically Section 9910, and is one of your handouts. This section of the Act requires each Public CAA to either (1) follow an alternative mechanism established by the state to assure decision-making and participation by low-income individuals or (2) have a tripartite board made up of three sectors: no fewer than 1/3 must be representatives of the low-income people being served, 1/3 must be public officials or their designees, and the remainder must be from other major groups and interests in the community.

With each question, after you discuss the group's answers, read and discuss the answer supplied by CAPLAW.

Answers to the General Tripartite Board Concepts Q&A

Does a public CAA have to use the tripartite structure?

The federal CSBG Act provides a limited exception to the tripartite board requirement for public CAAs. A state may specify that a public CAA may employ a mechanism other than the tripartite board structure if it assures decision-making and participation by low-income individuals in the development, planning, implementation and evaluation of the CAA's CSBG programs. However, most public CAAs have tripartite boards and if no alternative mechanism is established by the state then the federal CSBG Act requires a public CAA to use the tripartite structure.

NOTE: ENTITY

The terms "organization" and "entity" are used interchangeably in the federal CSBG Act and refer to the public CAA. The decision-making body for either the organization or the entity is the local governing body, i.e., city council, board of county commissioners, etc.

1.3 Understand General Concepts Relating to Tripartite Board Composition and Selection

Who selects the board members for the tripartite board?

The federal CSBG Act requires that the tripartite board must be selected by the “organization.” For a public CAA employing a tripartite board structure, the decision-making body of the organization is the local governing body (for example, the city council or board of county commissioners), unless that body has delegated the responsibility of selecting board members to the tripartite board itself. If the governing body retains the authority to choose the board, then the tripartite board can make recommendations to the governing officials. Additionally, public CAAs with a tripartite board must use a democratic selection process to select low-income sector board members.

Should a public CAA refer to its board as “advisory” or “administering”?

No federal CSBG requirement exists which requires a public CAA board to be referred to as either “advisory” or “administering.” The term “administering” is found in Section 9910(b) of the federal CSBG Act which states that a public CAA “administers” the CSBG program through a tripartite board and that the low-income representatives on the board must actively participate in the development, planning, implementation and evaluation of the CSBG program. The federal Office of Community Services (OCS) references the above language from the federal CSBG Act in its non-binding guidance on tripartite boards, Information Memorandum (IM) 82, and also refers to a public CAA board as “advisory.” Some state CSBG laws and/or local ordinances specify how public CAA boards will be referenced.

CAPLAW generally refers to a public CAA board as an administering one because doing so reflects the language in the federal CSBG Act and also emphasizes the active role that a public CAA board, and in particular the low-income representatives on the board, should play in overseeing the CSBG program. Some public CAAs will refer to their boards as “advisory” because that is how their local government refers to all boards that work closely with the county/city departments/divisions or because IM 82 uses that term. Regardless of the way the public CAA board is referenced, it is clear that the board, and in particular the low-income representatives, must actively participate in the development, planning, implementation and evaluation of the CSBG program.

May a CAA have a tripartite board that is not divided into equal parts, i.e., into thirds?

The federal CSBG Act does not require that each of the three parts of the tripartite board be equal to 1/3 of the total. Rather, section 9910 of the federal CSBG Act requires that a CAA’s tripartite board be composed of 1/3 elected public officials (or appointed, if no elected one is available or willing to serve); no fewer than 1/3 democratically elected representatives of the low-income individuals and families from the community served; and the remainder from major groups and interests in the community served. Thus, the Act allows for more than 1/3 of the board to be comprised of low-income representatives as long as 1/3 are elected public officials (or appointed, if necessary). However, it is important to note that some states may require in their CSBG laws and/or policies that each sector of the board be exactly 1/3 of the total rather than adopt the federal CSBG Act language.

EXAMPLE

A 12 member board must have 4 members that are elected public officials but could have 5 members that are low-income representatives and 3 members from major groups and interests.

1.3 Understand General Concepts Relating to Tripartite Board Composition and Selection

If the local governing body retains the authority to select the board members, in what ways is a public CAA board involved in the composition and selection of the board?

CAPLAW recommends that a public CAA's tripartite board be actively involved in the process of identifying, recommending and/or selecting tripartite board members, even if the local governing body ultimately has the final say on the selection of tripartite board members. One way for a public CAA board to be involved in the composition and selection of board members is to establish a board committee charged with overseeing these tasks. This committee is often referred to as the board governance committee and may perform several tasks including maintaining a list of potential board members that it reviews and updates regularly.

Do we have language in our bylaws establishing a board governance committee?

It is important to define the role of the governance committee so that the committee and full board will understand the scope of the committee's authority and the committee members will understand what is expected of them. Here is some sample bylaws language describing a governance committee:

Governance Committee. The governance committee shall be composed of [specify number and composition of governance committee members]. The governance committee shall: (1) oversee board member recruitment (including administering the Low-Income Sector board member democratic selection process, recommending candidates for Public Official and Private Sector board seats, and ensuring that the board fills vacancies promptly), orientation, and training; (2) coordinate the board's periodic evaluation process of itself and the CAA's governance structure, policies and procedures; (3) coordinate periodic review of the CAA's articles of incorporation and bylaws; and (4) have such other powers and perform such other duties as the board may specify from time to time.

How does the board generally ensure that it is recommending and/or recruiting individuals to serve on the board who meet the needs of the CAA?

One way for a board to ensure that it is recruiting or recommending to the local governing body the right types of individuals for the board has already been discussed – use a governance committee to oversee the process. A helpful tool for the governance committee and/or full board is a **board matrix** available in the handouts. A board matrix is a useful way to visualize what types of individuals will fit the needs of your CAA. It is important when using tools, such as a board matrix, that the board not overly focus on “who people are” and lose sight of what the CAA needs board members to do.

TIP When using a board matrix the board should ask itself questions like: (1) what are the three most important things for our board to accomplish this year? and (2) do we have the right people on the board to make that happen?

1.3 Understand General Concepts Relating to Tripartite Board Composition and Selection

Facilitator Task

After finishing Part I, consider asking the group to complete the following tasks to gauge what and how much information was learned:

- **List three pieces of information that you learned after completing Part I of this training**
- **List what, if any, changes you would recommend in how the board functions**

After the board members have completed these tasks, ask them to share and discuss their responses with the full board. The board should consider whether it would like to move forward with any changes proposed to improve board operations and consider authorizing the governance committee to research the proposed changes further, if necessary.

Part II. Public Official Sector

Learning Objectives for Part II

- 2.1 Know public official composition requirements
- 2.2 Improve public official selection
- 2.3 Understand public official bylaws provision

All Materials Needed for Part II

Below is a list of all of the materials needed for the three learning objectives covered in this Part.

- Federal CSBG Act section setting forth tripartite board composition and selection requirements, 42 U.S.C. § 9910*
- State CSBG statutes/regulations, if any exist
- Public Official Key Components Questionnaire**
- U.S. Department of Health and Human Services (HHS) Federal Office of Community Services (OCS) Information Memorandum (IM) 82*
- Public Official Common Questions Questionnaire**
- CAPLAW Board Composition and Selection Matrix**
- List of CAA's current programs
- Current CAA's community needs assessment
- Current CAA's strategic plan
- Public Official Bylaws Provisions Questionnaire**
- Sample Public Official Bylaws Language*
- A local ordinance or other official act such as a delegation agreement establishing the relationship between the public CAA board and the governing local body, if any exist.
- Full CAA bylaws with section(s) addressing board composition and selection highlighted for easy reference

NOTE: REG VS. STATUTE

A *statute* is a law passed by a legislative body, while a *regulation* is a legal requirement issued by an executive branch agency.

* Included in handouts. All other materials listed must be obtained by the board.

PowerPoint for Part II

The facilitator may choose to use the PowerPoint that accompanies this Part to help guide the discussion. The PowerPoint mostly mirrors the text in the tool and copies of it should **not** be distributed to the board as it contains answers to questions that the board will be addressing throughout the training.

Facilitator Task

Direct the full board to review the handouts prior to the training. Consider assigning each of the handouts to one or more individual board member(s) to read in depth so that they are prepared to help lead discussions on those handouts.

Also, if this part is conducted prior to Part I, see Part I for ways to involve the board members in gathering the materials needed for this part.

2.1 Know Public Official Composition Requirements

Facilitator Task

Ask one board member to read to the board from the handout setting forth the federal CSBG Act public official requirement for public CAAs with a tripartite board structure. The requirement is also listed below along with the requirement directing public CAAs to use the tripartite structure if another structure is not established by the state.

Sections 9910(b)(1) and (2) sets forth the requirement that a public CAA maintain a tripartite board unless the state establishes another mechanism:

(b) Public organizations. In order for a public organization to be considered to be an eligible entity for purposes of section 9902(1) of this title, the entity shall administer the community services block grant program through –

(1) a tripartite board... or

(2) another mechanism specified by the State to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this chapter.

Section 9910(a)(2)(A) sets forth the public official sector composition requirement which is as follows:

(2)(A) 1/3 of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than 1/3 of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such 1/3 requirement.

2.1 Know Public Official Composition Requirements

Facilitator Task

Ask board members, either individually or in groups, to break down into segments the language in the federal CSBG Act setting forth the public official sector requirement. The board members may do so by creating a brief bulleted list of the key components of the requirement.

A tool to help board members identify the key components of the public official sector requirement is the **Public Official Key Components Questionnaire** included as one of the handouts. The facilitator should either ask the board the questions in the questionnaire, distribute copies of the questionnaire and/or refer to the PowerPoint.

If either a whiteboard or easel with a large note pad is available, designate a board member to write down the key components as they are identified by the board members.

Answers to the Public Official Key Components Questionnaire

What portion of the board is comprised of public official board members?

1/3 of the members of the board.

What type of public official should the board first try to identify as a potential board member?

One that is elected to a public office.

When must the public official be in the office to which she or he is elected to be in compliance with the public official requirement?

Must be holding public office on the date of selection to the tripartite board.

What if an elected public official is unable to attend board meetings?

The elected public official may select a representative to serve in his or her place as a member of the tripartite board.

What if there are not enough elected public officials reasonably available to serve?

The CAA may ask an appointed official to serve.

What if an appointed official is unable to attend board meetings?

The appointed official may select a representative to serve in his or her place as a member of the tripartite board.

2.1 Know Public Official Composition Requirements

Facilitator Task

Ask board members either individually or in groups to compare the federal CSBG Act public official sector requirement with any public official sector requirement in the state CSBG statutes or regulations, if they exist. Have the board members identify and discuss the differences between the federal and state requirements, if any exist.

Ask the board members to read and highlight the sections of IM 82 discussing public official sector board composition and selection requirements.

Once the comparisons are complete, ask yourself and the board members the questions below, distribute copies of the **Public Official Common Questions Questionnaire**, and/or refer to the PowerPoint to ensure everyone understands how to best comply with the requirements. Encourage board members to discuss their answers to the questions and, if the answers differ from the ones written below, read the answers below and discuss them.

Answers to the Public Official Common Questions Questionnaire

Why does the CSBG Act require public officials to serve on the board?

The overarching purposes for having public officials serve on tripartite boards are to facilitate awareness of and action on issues facing low-income people in the community by local and state governments, and to foster close coordination and partnership between local and state governments and CAAs in addressing those issues.

Who selects the public official board members, the board or the local governing body?

As discussed in Part I, for a public CAA employing a tripartite board structure, the decision-making body of the organization is the local governing body (for example, the city council or board of county commissioners), unless that body has delegated the responsibility of selecting board members to the tripartite board itself. If the governing body retains the authority to choose the board, then the tripartite board can make recommendations to the governing officials.

Is the CAA required to select local county commissioners/supervisors or city councilors as public official board members?

The federal CSBG Act does not identify which public officials ought to serve on the tripartite board. For public CAAs, the local governing body usually has significant input or final say on many of the decisions affecting the CAA. Therefore, it may be redundant to include them on the tripartite board. Instead, a public CAA may want to consider including other public officials on the tripartite board.

2.1 Know Public Official Composition Requirements

Is an elected public official required to be in office to continue serving on the board? In other words, if, while the elected public official is serving on the board, his or her term in public office ends and he/she is not reelected or chooses not to run for public office again, must the public official step down from the tripartite board?

The federal CSBG Act only requires that a public official be holding office on the date of selection to the tripartite board. There is no prohibition in the federal CSBG Act preventing a public official from continuing to serve the remainder of his or her term as a director even if it extends past his or her term of public office. However, the federal Office of Community Services (OCS) recommends in non-binding guidance issued in IM 82 that elected officials serve on boards only while they are in office. Moreover, state CSBG laws/regulations may require that public officials be “currently holding office.” If your state requires that public official directors be currently holding public office while serving on the CAA board, this requirement should be specified in the CAA bylaws.

May a representative appointed by a public official continue to serve on the board even if the public official who designated him or her is no longer holding office?

Again, the federal CSBG Act does not directly answer this question. However, OCS IM 82 interprets the CSBG Act language regarding public officials holding office on the date of selection as requiring individuals designated by elected or appointed officials to serve only while their principals are in office or be re-designated by a public official still in office.

When a public official designates a representative to serve in his/her place, who is seated on the board and who votes?

The individual who the representative has chosen, not the public official, serves as the board member and votes at the board meetings.

Do any requirements exist regarding the type of representative a public official may appoint to serve in his or her place?

No. It is within the public official’s discretion to choose the representative who will serve in his or her place.

TIP CAPLAW recommends that either the local governing body and/or the tripartite board develop a process for the public official to follow when designating a representative which may include the local governing body and/or board providing the public official with recommendations of possible representatives the public official may consider designating to serve in his/her place.

2.2 Improve Public Official Selection

Selecting a board member is no easy task. With each sector of the board, the needs of the organization along with the passion, experience and skills of a potential board member must be weighed. The following exercise is intended to educate all board members one way to approach either selecting public officials or identifying public officials to recommend to the local governing body when filling current or potential vacancies. A similar exercise is available for each sector of the board in each Part. The board may conduct all three exercises separately or at the same time.

Facilitator Task

Ask board members either individually or in groups to identify the current public official board members and the office that they are either elected or appointed to fill. If the public official has designated a representative to serve in his or her place, list the representative and the public official designator. Also, ask the board members to briefly review the current community needs assessment, strategic plan and list of CAA programs. The board should then discuss the current and future needs of the CAA and make a list of the attributes they are looking for in prospective public official board members. Consider using a board matrix to help track the attributes important to the board.

Ask board members to then make a list of elected and appointed public officials in your service area. This list may include judges, law enforcement professionals, superintendent of schools, school committee members, etc. The board should determine if the attributes identified match up with characteristics of potential public official sector board members. Making this assessment may require assigning board members to research and/or meet with those public officials identified and report back to the board. Once prospective public official board members are determined to be a good fit, make a list which may be used to fill future vacancies on the board. Also, consider inviting these prospective board members to board meetings.

2.3 Understand Public Official Bylaws Provision

Facilitator Task

Ask yourself and the board members the following questions, distribute copies of the **Public Official Bylaws Provision Questionnaire**, and/or refer to the PowerPoint to determine if your current bylaws provision(s) may need to be revised.

Ask board members either individually or in groups to compare the language in the **Sample Public Board Members Bylaws Language** handout (and also pasted below) to the CAA's current bylaws language. Board members should note the differences and discuss them. Board members should discuss why the language may differ and, whether it would be beneficial to revise the existing bylaws language.

Sample Bylaws Provisions

Sample bylaws public official board member composition language:

One-third of the directors shall be elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than one-third of the membership of the board, appointive public officials or their representatives may be counted in meeting such one-third requirement (Public Official Board Member).

Sample bylaws public official board members selection language if the local governing body has delegated its authority to select the public official board members to the board:

Public Official Board Member. The board of directors shall select elected public officials to serve as Public Official Board Members. If the number of elected officials reasonably available and willing to serve on the board is less than one-third of the board, the board may select appointed public officials to serve. If either an elected or appointed public official selected by the board of directors cannot serve him- or herself, s/he may designate a representative, subject to approval of the board of directors, to serve as a Public Official Board Member; the representative may, but need not be, a public official.

2.3 Understand Public Official Bylaws Provision

Sample bylaws public official board members selection language if the local governing body has not delegated its authority to select the public official board members to the board:

Public Official Board Member. The board of directors shall recommend to the local governing body elected public officials to serve as Public Official Board Members. If the number of elected officials reasonably available and willing to serve on the board is less than one-third of the board, the board may also recommend appointed public officials to serve. If either the elected or appointed public official recommended by the board of directors cannot serve him- or herself, s/he may designate a representative. The board of directors may recommend representatives to serve as a Public Official Board Member; the representative may, but need not be, a public official.

Answers to the Public Official Bylaws Provision Questionnaire

Do the bylaws establish a procedure for the board to either select or recommend public official board members?

- If yes, what is the procedure? How was it developed? Does it comply with the requirements for public official board members set forth in the federal CSBG Act and/or state CSBG statutes and regulations (if any exist)?
- If no, how has the board been involved in the selection of public official board members? Is the procedure used compliant with the requirements for public official board members set forth in the federal CSBG Act and/or state CSBG statutes and regulations (if any exist)?

Do the bylaws establish terms for public official board members?

The federal CSBG Act does not include requirements addressing tripartite board terms. Because public official board members must be holding office on the date of selection, establishing the terms that public official board members are to serve helps to ensure that public official board members are in office for most of the time they are serving on the board. In some cases, public official board members will have shorter terms than board members from the other sectors of the board to correspond with their terms in public office. If a local ordinance or other official act (such as a delegation of authority agreement) does not address terms for public official board members, CAPLAW recommends addressing terms for them and all board members in a separate section of the bylaws and, if desired by the local governing body and/or board, term limits. For sample term and term limits language see CAPLAW's Bylaws Toolkit available for purchase on CAPLAW's website, www.capl原因.org.

Do the bylaws specify the public official who must be selected (i.e, they state that the current county commissioners/supervisors or city councilors representing a particular service area will always be selected to fill the public official board member seat, etc.)?

CAPLAW recommends not designating specific public officials in the bylaws. By not specifying public officials, the board will have more flexibility throughout the selection process and will not run the risk of having to seat an individual on its board who may neither meet the needs of the CAA nor further the CAA's best interest.

NOTE: STATE CSBG LAWS

Some state CSBG laws include specific information that CAAs must include in their bylaws. If a CAPLAW recommendation differs from the state requirement, the CAA should either comply with the requirement or contact CAPLAW.

2.3 Understand Public Official Bylaws Provision

Facilitator Task

After finishing Part II, consider asking the group to complete the following tasks to gauge what and how much information was learned:

- **List three pieces of information that you learned after completing Part II of this training**
- **List what, if any, changes you would recommend in how the board functions**

After the board members have completed these tasks, ask them to share and discuss their responses with the full board. The board should consider whether it would like to move forward with any changes proposed to improve board operations and consider authorizing the governance committee to research the proposed changes further, if necessary.

Part III. Low-Income Representative Sector

Learning Objectives for Part III

- 3.1 Know low-income representative composition requirements
- 3.2 Improve low-income representative selection
- 3.3 Understand low-income representative bylaws provision

All Materials Needed for Part III

Below is a list of all of the materials needed for the three learning objectives in this Part.

- Federal CSBG Act section setting forth tripartite board composition and selection requirements, 42 U.S.C. § 9910*
- State CSBG statutes/regulations, if any exist
- Low-income Representative True & False Quiz**
- U.S. Department of Health and Human Services (HHS) Federal Office of Community Services (OCS) Information Memorandum (IM) 82*
- CAA's current democratic selection process which, may be included in the excerpt from the CAA bylaws addressing board composition and selection or which may be contained in a separate written document approved by the board
- Sample Low-Income Representative Bylaws Language*
- Low-income Representative Bylaws Questionnaire**
- Excerpt from the CSBG grant agreement with the state setting forth tripartite board composition and selection requirements, if applicable
- A local ordinance or other official act such as a delegation agreement establishing the relationship between the public CAA board and the governing local body, if any exist.
- Full CAA bylaws with section(s) addressing board composition and selection highlighted for easy reference

NOTE: REG VS. STATUTE

A *statute* is a law passed by a legislative body, while a *regulation* is a legal requirement issued by an executive branch agency.

* Included in handouts. All other materials listed must be obtained by the board.

PowerPoint for Part III

The facilitator may choose to use the PowerPoint that accompanies this Part to help guide the discussion. The PowerPoint mostly mirrors the text in the tool and copies of it should **not** be distributed to the board as it contains answers to questions that the board will be addressing throughout the training.

Facilitator Task

Direct the full board to review the handouts prior to the training. Consider assigning one of the handouts to one or more board members to read in depth so that he or she is prepared to help lead discussions regarding that handout.

Also, if this part is conducted prior to Part I, see Part I for ways to involve the board members in gathering the materials needed for this part.

3.1 Know Low-Income Representative Composition Requirements

Facilitator Task

Ask one board member to read to the board from the handout setting forth the federal CSBG Act low-income representative requirement for public CAAs with a tripartite board structure. The requirement is also listed below along with the requirement directing public CAAs to use the tripartite structure if another structure is not established by the state.

Sections 9910(b)(1) and (2) set forth the requirement that a public CAA maintain a tripartite board unless another structure is established by the state and also establishes the low-income sector requirement for the tripartite structure:

(b) Public organizations. In order for a public organization to be considered to be an eligible entity for purposes of section 9902(1) of this title, the entity shall administer the community services block grant program through –

(1) a tripartite board... or

(2) another mechanism specified by the State to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this chapter.

Section 9910(b)(1) sets forth the low-income representative composition requirement which is as follows:

(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members - (A) are representative of low-income individuals and families in the neighborhood served; (B) reside in the neighborhood served; and (C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this chapter...

3.1 Know Low-Income Representative Composition Requirements

Facilitator Task

You and the board members should either individually or in groups take the **Low-Income Representative True and False Quiz**. After taking the Quiz but before discussing the answers, ask the board members to read and highlight the sections of Information Memorandum (IM) 82 that specifically pertain to low-income representative composition and selection.

After these actions are completed, the full board should discuss each question – including why each answer is right and if some board members mark the wrong answer, why they chose that answer. Consider using the PowerPoint, referring to the highlighted sections of IM 82, and reading the annotated answers to the questions listed below.

Answers to the Low-Income Representative True & False Quiz

1. **Low-income individuals and families in the community or area served by the Public CAA must be represented on the board via democratic selection procedures.**

True or **False**

The federal CSBG Act permits a state to specify another mechanism, other than democratic selection procedures, to assure decision-making and participation by low-income individuals served by a public CAA. However, if another mechanism is not established, the federal CSBG Act requires at least one-third of the tripartite board members of a public CAA be selected in accordance with a democratic procedure. These democratic procedures must be adequate to ensure that the individuals chosen are representative of low-income individuals and families in the community or area served by the public CAA.

2. **To meet the democratic selection requirement the CAA may have another board or council made-up predominately of low-income individuals select an elected officer on that board or council to serve as a low-income representative.**

True or False

OCS advises CAAs in IM 82 that every effort should be made to ensure that board members representing low-income individuals and families are selected on the basis of some form of democratic procedure either directly through election, public forum, or, if not possible, through a similar democratic process such as election to a position of responsibility in another significant service or community group predominately made-up of low-income individuals such as a school PTA, a faith-

3.1 Know Low-Income Representative Composition Requirements

based leadership group; or an advisory board/governing council to another low-income service provider.

3. If a CAA is facing difficulty filling the low-income representative sector, it may elect to the board individuals who provide services or support to low-income residents.

True or False

Low-income people in the community served by the CAA must have input at some point in the selection process. For this reason, low-income sector board members should not simply be chosen by the CAA's executive director, local governing body or tripartite board, nor should they be staff of another low-income service provider chosen by the executive director or board of that other organization (unless low-income people make up a majority of that board and that board selects the CAA board member).

4. By serving on a CAA board, low-income representatives provide those currently living in the service area with a strong voice in the CAA's governance and direction.

True or False

IM 82 explains that the implicit intent of low-income representative requirement is to ensure that those who currently live in areas served by the CAA are represented so that they have a strong voice in the governance and direction of the CAA and are able to convey to those they represent the presence and significance of community action in their lives.

5. Low-income representatives must be low-income themselves.

True or False

No requirement exists that low-income representatives be low-income themselves. However, as noted by the prior question, the intent of the low-income representative requirement is to represent the voice of the low-income people served because they will most likely know best what their needs are. Thus, it is important for CAAs to have as many low-income individuals as possible serve as low-income representative board members.

6. Low-income representatives of a public CAA must reside in the specific neighborhood they are representing.

True or False

For public CAAs (unlike for nonprofit CAAs), there is a general residency requirement for low-income representatives. The federal CSBG Act requires low-income representatives to reside in the neighborhood served.

7. For public CAAs, the federal CSBG Act specifically requires low-income representatives to participate actively in the development, planning, implementation, and evaluation of CSBG-funded programs.

True or False

The federal CSBG Act specifically requires that not fewer than 1/3 of the board members be chosen in accordance with democratic selection procedures adequate to assure that those members are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this chapter. It is important to note that IM 82 sets forth an expectation that all board members

3.1 Know Low-Income Representative Composition Requirements

of a public CAA, not just low-income representatives, will fully participate in the development, planning, implementation and evaluation of the CSBG program.

Facilitator Task

Ask board members either individually or in groups, to compare the federal CSBG Act low-income representative requirement with any low-income representative requirement in the state CSBG statutes or regulations, if any exist. Have the board members identify and discuss the differences between the federal and state requirements, if any such differences exist.

3.2 Improve Low-Income Representative Selection

If the state does not establish another mechanism for ensuring decision-making and participation by low-income individuals, one of the trickiest aspects of the low-income representative selection requirements is establishing a democratic selection process that the low-income community willingly participates in and that results in an accurate representation of the community served. The following exercise is intended to help all board members think creatively about the democratic selection process when filling current or potential board vacancies. A similar exercise is available for each sector of the board in each Part. The board may conduct all three exercises separately or at the same time.

Facilitator Task

Designate one board member to locate and read to all board members the CAA's current democratic selection process. Designate another board member to read aloud the section in IM 82 referring to the democratic selection process that the board highlighted for learning objective one of this part. Then, ask each board member to write down at least one alternative way to conduct the democratic selection process that differs from the CAA's current process. The differences could be variations of the current process and do not necessarily need to be a whole new process.

Have each board member read his/her response and note the response on a whiteboard, easel with a notepad or a piece of paper. As each response is read, categorize similar responses together. Once the responses have been gathered and similar ones placed together, read the responses again and poll the board members on their top two or three choices. After the top two to three choices are determined, assess the pros and cons of each choice either as a full board or in groups. If this process is conducted in groups, be sure to reconvene the full board to discuss the individual group results. Rank the choices and consider recommending to the local governing body that the current procedures be revised or updated.

TIP If few or no board members are able to think of different ways to conduct the democratic selection process, consider assigning board members the task of researching how other CAAs in your state conduct the process. Also, consider asking the state association to maintain an ongoing list of options for conducting the democratic selection process that all CAA boards can contribute to on a regular basis, such as annually or biannually.

Here are a few examples of democratic selection procedures for obtaining low-income representatives:

- Ask CAA staff to assist with finding potential low-income representatives by identifying clients who have shown leadership potential while participating in CAA programs or who have performed well in the CAA programs. Staff could inform the client of the opportunity to participate on the CAA board and direct the client to the executive director for more information about this opportunity. The

3.2 Improve Low-Income Representative Selection

executive director could explain the democratic selection process to the client and consider inviting the client to a board meeting. The board governance committee and/or executive director could also meet individually with the client to describe the responsibilities of CAA board members. If the client is interested in serving on the board, he/she could request to be added as a candidate in the next democratic selection process;

- Conduct an election where ballots are cast by CAA clients and/or by other low-income people in the CAA's service area (ballots may be cast, for example, at designated polling place(s) in the service area, at the CAA's offices, at the offices of other organizations providing services to low-income people or via the Internet);
- Take a vote at a community meeting of low-income people (attendance may be improved if the meeting serves to not only select low-income representatives but also to address a topic of interest to low-income people in the community);
- Designate community groups composed predominantly of and representing low-income people in the service area (for example, a Head Start policy council, low-income housing tenant association, or the board of a federally-qualified community health center) to elect members from within their group to the CAA's board or whose boards will choose someone from among their elected officers/board members to serve on the CAA's board.

3.3 Understand Low-Income Representative Bylaws Provision

Facilitator Task

Provide board members with the **Sample Low-Income Representative Bylaws Language** handout and ask them either individually or in groups to compare it to CAA's current bylaws.

Ask yourself and the board members to distribute copies of the **Low-Income Representative Bylaws Questionnaire** and/or refer to the PowerPoint. These questions may be used to determine if the CAA's current bylaws provision(s) need to be revised.

Sample Bylaws Language

Sample low-income representative composition language:

At least one-third of the tripartite board members shall be persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; reside in the neighborhood served; and are able to participate actively in the development, planning, implementation, and evaluation of the corporation's programs (Low-Income Representative Board Members)

Sample low-income representative selection language for boards where the local governing body has delegated its authority to establish the democratic selection procedure to the board:

Low-Income Representative Board Member. The board shall adopt and implement written democratic selection procedures for Low-Income Representative Board Members, which it may revise from time to time. Such procedures may include, either alone or in combination: (1) election by ballots cast by the CAA's clients and/or by other low-income people in the CAA's service area; (2) selection at a community meeting in a low-income neighborhood in the CAA's service area and/or on a topic of interest to low-income people and publicized to low-income people in the CAA's service area; and/or (3) designation by organizations in the CAA's service area composed of a majority of low-income people (Low-Income Organizations).

Sample low-income representative selection language for boards where the local governing body has not delegated its authority to establish the democratic selection procedure to the board:

Low-Income Representative Board Member. The board shall recommend to the local governing body written democratic selection procedures for Low-Income Representative Board Members, which it may revise from time to time. Such procedures may include, either alone or in combination: (1) election by ballots cast by the CAA's clients and/or by other low-income people in the CAA's service area; (2) selection at a community meeting in a low-income neighborhood in the CAA's service area and/or on a topic of interest to low-income people and publicized to low-income people in the CAA's service area; and/or (3) designation by organizations in the CAA's service area composed of a majority of low-income people (Low-Income Organizations).

3.3 Understand Low-Income Representative Bylaws Provision

Answers to the Low-Income Representative Bylaws Questionnaire

Do the bylaws reflect that the CAA will use a democratic selection procedure for selecting low-income representative board members?

The bylaws should reflect that the CAA will use a democratic selection procedure for selecting low-income representative board members. However, in general, the bylaws may, but do not need to, describe the procedure used; instead this procedure may be described in a separate document approved by the local governing body or by the board, if authority to do so was delegated to it. It is important to note that some states' CSBG laws, regulations or other guidance require CAA bylaws to include the details of the democratic selection procedure in the bylaws. Additionally, a local ordinance or other official act may establish democratic selection procedures to be used for selecting low-income representative board members and require such to be included in the bylaws.

TIP Check your state CSBG statutes, regulations, policies and local ordinances, if any exist, to determine if the CAA is required to detail in the bylaws its democratic selection procedure.

Do the bylaws set terms for low-income representative board members?

The federal CSBG Act does not include requirements addressing tripartite board terms and term lengths. According to IM 82 the implicit intent of the federal CSBG Act democratic selection procedure is to assure that those who currently live in areas served by the CAA are represented. Implementing terms helps to assure that those low-income representatives serving on the board accurately reflect the needs of the current community served by the CAA. The state CSBG laws and/or a local ordinance or other official act may establish terms for public CAA board members. If so, these terms would typically be reflected in the bylaws.

NOTE: TERM VS. TERM LIMIT

A board **term** is the length of time a board member serves on a board and a **term limit** establishes the number of times that a board member can serve on the board. For example, the board's bylaws may state that board members serve 3 year terms and may serve no more than two consecutive 3 year terms. Capping the number of terms a board member serves is a term limit. Some board's enable board members to serve after term limits have been met as long as the board member remains off the board for a certain period of time, e.g., for at least a one-year absence.

3.3 Understand Low-Income Representative Bylaws Provision

Facilitator Task

After finishing Part III, consider asking the group to complete the following tasks to gauge what and how much information was learned:

- **List three pieces of information that you learned after completing Part III of this training**
- **List what, if any, changes you would recommend in how the board functions**

After the board members have completed these tasks, ask them to share and discuss their responses with the full board. The board should consider whether it would like to move forward with any changes proposed to improve board operations and consider authorizing the governance committee to research the proposed changes further, if necessary.

Part IV. Private Sector

Learning Objectives for Part IV

- 4.1 Know private sector composition requirements
- 4.2 Improve private sector selection
- 4.3 Understand private sector bylaws provision

All Materials Needed for Part IV

Below is a list of all the materials needed for the three learning objectives in this Part.

- Federal CSBG Act section setting forth tripartite board composition and selection requirements, 42 U.S.C. § 9910*
- State CSBG statutes/regulations, if any exist
- Private Sector Composition Multiple Choice**
- U.S. Department of Health and Human Services (HHS) Federal Office of Community Services (OCS) Information Memorandum (IM) 82*
- Board Composition and Selection Matrix**
- List of CAA's current programs
- CAA's current community needs assessment
- Current CAA strategic plan
- Sample Private Sector Bylaws Language*
- Private Sector Bylaws Questionnaire**
- Excerpt from the CSBG grant agreement with the state setting forth tripartite board composition and selection requirements, if applicable.
- A local ordinance or other official act such as a delegation agreement establishing the relationship between the public CAA board and the governing local body, if any exist.
- Full CAA bylaws with section(s) addressing board composition and selection highlighted for easy reference

NOTE: REG VS. STATUTE

A *statute* is a law passed by a legislative body, while a *regulation* is a legal requirement issued by an executive branch agency.

* Included in handouts. All other materials listed must be obtained by the board.

PowerPoint for Part IV

The facilitator may choose to use the PowerPoint that accompanies this Part to help guide the discussion. The PowerPoint mostly mirrors the text in the tool and copies of it should **not** be distributed to the board as it contains answers to questions that the board will be addressing throughout the training.

Facilitator Task

Direct the full board to review the materials prior to the training. Consider assigning one of the handouts to one or more board members to read in depth so that he or she is prepared to help lead discussions regarding that handout.

Also, if this part is conducted prior to Part I, see Part I for ways to involve the board members in gathering the materials needed for this part.

4.1 Know Private Sector Composition Requirements

Facilitator Task

Ask one board member to read to the board from the handout setting forth the federal CSBG Act private sector requirement for public CAAs with a tripartite board structure. The requirement is also listed below along with the requirement directing public CAAs to use the tripartite structure if another structure is not established by the state.

Sections 9910(b)(1) and (2) sets forth the requirement that a public CAA maintain a tripartite board unless another structure is established by the state and also establishes the low-income sector requirement for the tripartite structure:

(b) Public organizations. In order for a public organization to be considered to be an eligible entity for purposes of section 9902(1) of this title, the entity shall administer the community services block grant program through –

(1) a tripartite board... or

(2) another mechanism specified by the State to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this chapter.

Section 9910(a)(2)(C) sets forth the public official sector composition requirement which is as follows:

(2) Selection and composition of board. The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that –

...

(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

4.1 Know Private Sector Composition Requirements

Facilitator Task

You and the board members should either individually or in groups answer the **Private Sector Composition Multiple Choice**. After completing the questionnaire and before discussing the answers, ask the board members to read and highlight the sections of **Information Memorandum (IM) 82** that specifically pertain to private sector composition and selection.

After these actions are completed, the full board should discuss each question – including why each answer is right and if some board members mark the wrong answer, explore with that board member why he or she chose that answer. Consider using the PowerPoint and referring to the highlighted sections of IM 82, and reading the annotated answers to the questions listed below.

Answers to the Private Sector Composition Multiple Choice

1. Under the federal CSBG Act, which of the following may be considered as a potential private sector board member:

- A. Accountant who works for an internet company
- B. President of the local teachers union who is appointed by the union
- C. Pastor of a small, local Baptist church who is appointed by the congregation
- D. B and C
- E. All of the above

The answer is E. Unless state CSBG laws or a local ordinance or other official act require otherwise, the grantee may fill private sector seats with either individuals or organizations that are asked to designate a representative. Even though this sector is often referred to as the “private sector,” it may include both public and private sector groups and interests.

4.1 Know Private Sector Composition Requirements

2. When either selecting or recommending a private sector board member, the board should focus on those who:

- A. Are involved with community groups and interests that would be good partners
- B. Possess the skills, experience and resources the CAA needs
- C. Are well-known in the community and would bring positive attention to the CAA even though they are unable to attend at least half of the scheduled board meetings
- D. A and B
- E. All of the above

The answer is D. In selecting private sector board members, it is important to not only choose people who are involved with community groups and interests that would be good partners for the CAA and its programs, but to also choose people who have the skills, experience and resources that the CAA needs. Even though bringing positive attention to a CAA is an important task, a CAA must not do so at the expense of a well-run organization. Ensuring that a CAA is operating effectively and is using public funds properly is a great responsibility for each board member. Thus, it is important that board members be able and prepared to attend as many board meetings as possible. Offering a well-respected community figure a seat on the board of directors knowing that the individual is unable to commit the time needed to fulfill his/her board responsibilities is not sound governance.

3. A CAA should be aware that a state's CSBG statute and/or regulations, if any exist, may require:

- A. Specific organizations be represented as private sector board members
- B. The local governing body or board, if authority is delegated to it, seat a representative appointed by an organization without first approving the representative via a vote
- C. CAAs select organizations that designate a representative to serve on the board subject to local governing body or board approval
- D. A and C
- E. All of the above

The answer is C. Because the CSBG Act is a block grant, the state may administer the CSBG program pursuant to its own statutes and regulations as long as these laws are consistent with the federal law. Thus, state CSBG laws or regulations may require that a grantee select organizations that will select in turn a representative to serve on the board subject to the board's approval. Both of the requirements listed above in choices A and B seem overreaching and most likely inconsistent with the federal CSBG Act. The federal CSBG Act specifically states that all board members "shall be selected by the organization." As discussed in Part I, the local governing body is the decision-making body for the entity and a state law that prohibits that body from either selecting or delegating the authority to the board to select or seat the private sector board members would appear to directly conflict with the federal CSBG Act.

4.1 Know Private Sector Composition Requirements

4. Enabling the board to either recommend or vote to seat a private sector board member appointed by an outside organization permits the board to:

- A. Exercise greater control over the board composition
- B. Maintain a more flexible selection process
- C. Better fulfill its obligation to fully participate in the development, planning, implementation and evaluation of the CSBG program
- D. A and C
- E. All of the above

The answer is E. Giving the tripartite board the ability to recommend or vote to seat private sector board members that another organization may appoint, enables the board to play a more active role in determining who the private sector board members will be. Doing so also enables the board to secure members who will assist the full board in fulfilling its obligation to fully and actively participate in the development, planning, implementation and evaluation of the CSBG program.

5. Private sector board members serve an important role on the tripartite board because they enable the board to:

- A. Attract board members with various types of expertise
- B. Comply with governance requirements associated with other types of funding received
- C. Develop goodwill in the community across a variety of groups
- D. A and B
- E. All of the above

The answer is E. The private sector plays an important role in board governance because the sector enables the local governing body or the board, if the authority is delegate to it, to choose people who possess the skills, experience and resources that the CAA needs – for example, people with financial expertise, individuals able to generate goodwill in the community on behalf of the public CAA or those with the various forms of expertise needed to fulfill composition requirements of other public or private funding received such as Housing and Urban Development (HUD) composition requirements.

Facilitator Task

Ask board members either individually or in groups to compare the federal CSBG Act private sector requirements with any private sector requirements in the state CSBG statues or regulations, if any exist. Have the board members identify and discuss the differences between the federal and state requirements, if any such differences exist.

4.2 Improve Private Sector Selection

Identifying a board member is no easy task. With each sector of the board, the needs of the organization along with the passion, experience and skills of a potential board member must be weighed. The following exercise is intended to educate all board members on one way to approach either selecting private sector board members or identifying private sector board members to recommend to the local governing body when filling current or potential vacancies. A similar exercise is available for each sector of the board in each Part. The board may conduct all three exercises separately or at the same time.

Facilitator Task

Ask board members either individually or in groups to identify the current private sector board members. Then ask the board members to briefly review the current community needs assessment, strategic plan and list of CAA programs. The board should discuss the current and future needs of the CAA and make a list of the attributes they are looking for in prospective private sector board members. Consider using a **board matrix**, available in the handouts, to help track the attributes that are important to the board.

Ask board members to then make a list of individuals and organizations in your CAA's CSBG service area. The board should determine if the characteristics of potential private sector board members identified match up with the identified short- and long-term needs of the CAA. Making this assessment may require assigning board members to research and/or meet with potential private sector individuals and/or organizations and to report back to the board. Once prospective private sector board members have been identified, create a list of that may be used to fill future vacancies on the board. Also, consider inviting them to board meetings or creating an advisory board that does not make decisions or vote.

4.3 Understand Private Sector Bylaws Provision

Facilitator Task

Provide board members with **Sample Private Sector Bylaws Language** handout (and also copied below) and ask them to compare it to the language in the CAA's current bylaws. Board members should note the differences between the two and discuss them. Board members should determine why the language may differ and if the bylaws may need to be revised.

Also, ask yourself and the board members the following questions, distribute copies of the **Private Sector Bylaws Questionnaire**, and/or refer to the PowerPoint to determine if it would be beneficial to revise the existing bylaws language.

Sample Bylaws Provisions

Private sector composition language:

The remainder of the board members shall be officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served (Private Sector Board Members).

Private sector selection language where the board itself selects board members:

Private Sector Board Members. The board shall select individuals who are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served to serve as Private Sector Board Members.

Private sector selection language where the board recommends board members to the local governing body:

Private Sector Board Members. The board shall recommend to the local governing body individuals who are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served to serve as Private Sector Board Members.

Private sector selection language where the board chooses board members through community organizations:

Private Sector Board Members. To fill Private Sector Board Members seats, the board of directors shall select organizations representing business, industry, labor, religious, law enforcement, education, or other major groups and interests in the CAA's service area (Private Sector Organizations) to designate, from among their officials or members, individuals to serve on the CAA's board of directors. Each such organization shall be entitled to designate one individual, subject to approval of the board, to serve as a Private Sector Board Member. Should such an organization fail, within the period specified by the board, to designate an

4.3 Understand Private Sector Bylaws Provision

individual to serve as a Private Sector Board Member, the board shall select another organization to designate such an individual.

Private sector selection language where the board recommends board members identified through community organizations to the local governing body:

Private Sector Board Members. To fill Private Sector Board Members seats, the board of directors shall recommend to the local governing body organizations representing business, industry, labor, religious, law enforcement, education, or other major groups and interests in the CAA's service area (Private Sector Organizations) to designate, from among their officials or members, individuals to serve on the CAA's board of directors. Each such organization shall be entitled to designate one individual, subject to the recommendation of the board and approval by the local governing body, to serve as a Private Sector Board Member. Should such an organization fail, within the period specified by the local governing body, to designate an individual to serve as a Private Sector Board Member, the board shall recommend to the local governing body another organization to designate such an individual.

Answers to the Private Sector Bylaws Questionnaire

Do the bylaws give the authority to a third party (e.g., private or public organization) to choose the private sector board member to sit on the board?

CAPLAW recommends not giving authority to a third party to choose private sector board members. After following the appropriate selection process for, it is a good idea for either the board to recommend the 3rd party appointee to the local governing body or, if given the authority to do so by the local governing body, vote seat the appointee.

Do the bylaws specify organizations that will appoint private sector board members?

CAPLAW recommends not specifying in the bylaws which organizations may appoint a representative to serve as a private sector member, but rather maintaining flexibility so that the board may either recommend or choose, (if the local governing body has delegated to the board the authority to do so), the individual or organizations that best meets the CAA 's current needs.

If the bylaws specify which organizations will have the authority to appoint private sector board members, are these organizations reviewed on a periodic basis to ensure that their presence on the board is fulfilling or meeting a current need?

IM 82 explains that the role of the private sector board member is to reflect and involve key interests and resources within the community to guide a CAA's actions and outcomes. CAAs should therefore strive to assure that the groups and interests with current influence or resources deemed critical to the success of the organization are represented. One simple action a CAA may take to ensure that the organizations selected by the CAA to appoint private sector board members meet current needs is to assign the board governance committee the task of reviewing the organizations on an annual or bi-annual basis.

4.3 Understand Private Sector Bylaws Provision

Facilitator Task

After finishing Part IV, consider asking the group to complete the following tasks to gauge what and how much information was learned:

- **List three pieces of information that you learned after completing Part IV of this training**
- **List what, if any, changes you would recommend in how the board functions**

After the board members have completed these tasks, ask them to share and discuss their responses with the full board. The board should consider whether it would like to move forward with any changes proposed to improve board operations and consider authorizing the governance committee to research the proposed changes further, if necessary.

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