



IN PARTNERSHIP WITH  
**CAPLAW**  
Community Action Program Legal Services, Inc.

# MONITORING MAP FOR CAAs



A GUIDE FOR  
NAVIGATING THE  
CSBG REVIEW PROCESS

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# MONITORING MAP FOR CAAs:

## A Guide For Navigating The CSBG Review Process



This toolkit represents a collaborative effort between the Community Action Partnership (Partnership) and Community Action Program Legal Services, Inc. (CAPLAW) to provide timely training and technical assistance (T/TA) material about the Community Services Block Grant (CSBG) monitoring process that will directly impact a CAA's ability to consistently provide vital services for the low-income community while maintaining a productive relationship with its state CSBG office.

The CSBG Act requires state CSBG offices to monitor nonprofit organizations and public agencies receiving CSBG funds to ensure that the goals of the CSBG program – reducing poverty and revitalizing communities by helping low-income individuals and families become self-sufficient – are being furthered by healthy, strong entities. Nonprofit organizations and public agencies designated to receive CSBG funds are referred to as either eligible entities or Community Action Agencies (CAAs).

The CSBG monitoring process should be a collaborative and productive experience geared towards helping CAAs strengthen their organizations, achieve their anti-poverty mission, and comply with applicable requirements. The Office of Community Services (OCS)<sup>1</sup> offers non-binding guidance to state CSBG offices and CAAs regarding the monitoring process in Information Memorandum (IM) 116 available in [Appendix A](#). A key element emphasized in IM 116 for ensuring that all parties benefit from the process is to increase understanding and transparency of the requirements to be met by recipients of CSBG funds as well as procedures to be followed in administering and monitoring the use of those funds. To this end, this toolkit not only addresses actions a CAA may take prior to entering into a CSBG contract with the state to ensure a smoother monitoring process, but also describes the monitoring process in the context of the

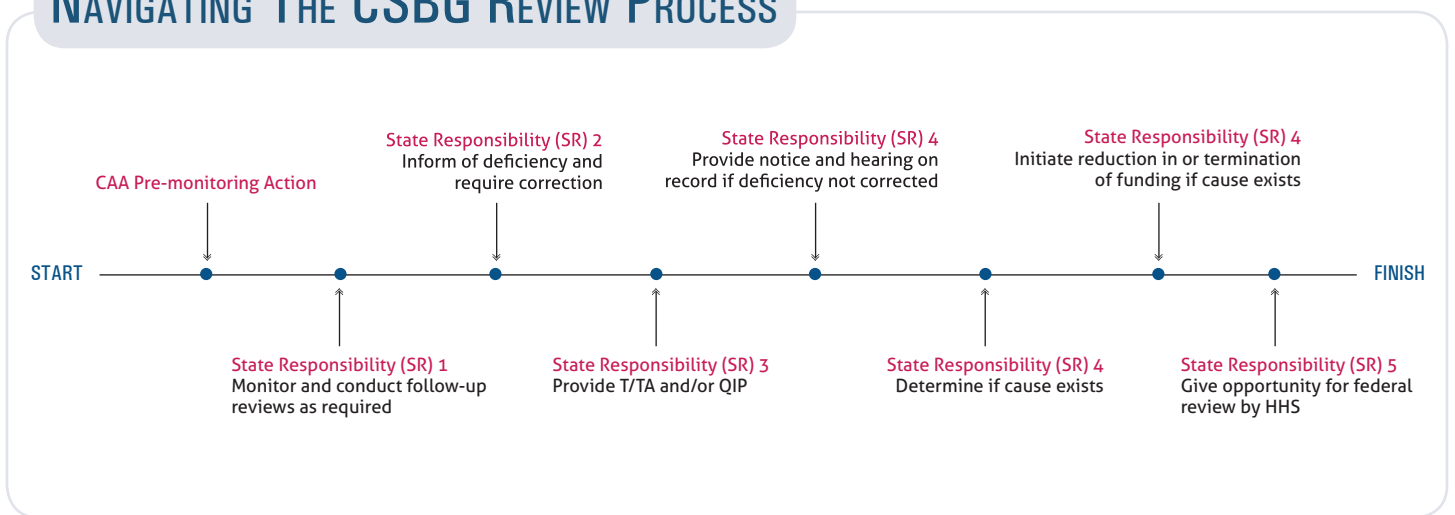
following five main requirements imposed on the states by the federal CSBG Act:

1. *A state shall monitor a CAA and conduct follow-up reviews as necessary;*
2. *A state shall inform a CAA of a deficiency and require the CAA to correct it;*
3. *A state generally shall provide training and technical assistance to the CAA and accept or reject quality improvement plans developed by the CAA;*
4. *If a deficiency is not corrected, a state shall:*
  - A. *Provide to a CAA notice of the uncorrected deficiency and an opportunity for a hearing to determine if “cause” exists to terminate or reduce CSBG funding;*
  - B. *Based on the hearing record, determine if “cause” exists for reduction in or termination of CSBG funding; and*
  - C. *If it determines that “cause” exists, initiate proceedings to terminate the CSBG designation or reduce the CSBG funding; and*
5. *After providing the CAA an opportunity to seek review by the U.S. Department of Health and Human Services (HHS) of the state’s final decision, a state shall reduce or terminate a CAA’s CSBG funding unless HHS overturns the decision.*

This toolkit explains how a CAA may respond to each of these requirements within the context of a CAA’s obligations and rights. **It is very important for CAAs to understand that a state CSBG office must meet all of these requirements, (i.e., it must meet the first requirement before proceeding to the second one) and that CSBG funding must continue until the state has complied with all of these responsibilities, unless the CAA voluntarily gives up its CAA designation or funding.** Lastly, throughout this toolkit are links to appendices that contain sample letters, agreements and templates a CAA may consider using as it navigates the monitoring process.

Both the Partnership and CAPLAW look forward to receiving feedback from CAAs regarding this toolkit to ensure that the needs of CAAs are continually met throughout the monitoring process.

## NAVIGATING THE CSBG REVIEW PROCESS





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If a deficiency is not corrected, a state shall:

- A. Provide to a CAA notice of the uncorrected deficiency and an opportunity for a hearing to determine if "cause" exists to terminate or reduce CSBG funding;
- B. Based on the hearing record, determine if "cause" exists for reduction or termination of CSBG funding; and
- C. If it determines that "cause" exists, initiate proceedings to terminate the CSBG designation or reduce the CSBG funding.<sup>5</sup>

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After providing the CAA an opportunity to seek review by the U.S. Department of Health and Human Services (HHS) of the state's final decision, a state shall reduce or terminate a CAA's CSBG funding unless HHS overturns the decision.<sup>6</sup>

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# PART I. PRE-MONITORING

A CAA can affect its success in the monitoring process even before it signs the CSBG contract with the state CSBG office. When the CAA receives the CSBG contract, it should ensure that it fully understands all of its responsibilities under the contract and all of the federal and state laws it must follow. A CAA should have some process in place for reviewing the CSBG contract. The board of directors' involvement in this process may range from authorizing the executive director to negotiate and sign the contract to reviewing the contract itself. Also, a state CSBG office may require a certain level of board involvement such as requiring the board chairperson to sign the contract.

As part of an internal review of the CSBG contract, the CAA should compare the contract it receives for each fiscal year to the contract from the prior year and determine what, if any, changes exist. The executive director may delegate this task to the CAA's CSBG Administrator. Even if the CAA believes or has been told that the CSBG contract is the same as contracts from prior years, it should still engage in the comparison process to ensure that it does not agree to a term or condition that may ultimately have an adverse effect on the CAA. If differences are found, they should be documented and discussed with the executive director. Also, the CSBG Administrator should thoroughly review all of the language in the contract, even the boilerplate language, i.e., template terms and conditions that the state may require all state agencies to attach to agreements of this nature. Language in a contract is often negotiable, and the boilerplate language, especially, may include terms and conditions that do not fit the CSBG program and should either not be included or should be revised to better reflect the program.

“Even if the CAA believes or has been told that the CSBG contract is the same as contracts from prior years, it should still engage in the comparison process to ensure that it does not agree to a term or condition that may ultimately have an adverse effect on the CAA.”

A CAA may also want to implement as part of the internal review process for the CSBG contract a review by managers within the CAA that have some involvement with the CSBG funding, i.e., by the fiscal officer, human resources director, etc.. The managers would make comments (if they have any) and acknowledge via a sign-off sheet that they have thoroughly examined the contract. A CAA may also consider working with an attorney when reviewing the contract to ensure that the CAA understands the implications of the state and federal requirements. An attorney could also advise the CAA of negotiation possibilities and help prepare for discussions with the state CSBG office.

The bottom line is that by engaging in a thorough review of the CSBG contract before signing it, the CAA will be less likely to agree to responsibilities not tied to a legal requirement and will also have a deeper understanding of the actions required to maintain compliance.

Lastly, a CAA's preparation for monitoring should be ongoing. Once the CAA has addressed any issues it may have with the monitoring tool ([see Section 3 in Part II](#)), it should use the tool to guide its development of internal procedures and processes.

## EXAMPLE

One way a CAA may prepare in advance for a monitoring of its procurement systems is to not only have the right documentation in place but also have procedures such as random checks to ensure that the procurement system is operating effectively and properly. This proactive approach will not only lead to greater legal compliance but will also contribute to a smooth and successful review.



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# PART II. STATE RESPONSIBILITY ONE

## MONITORING AND FOLLOW-UP REVIEWS

A state CSBG office conducts the following reviews of CAAs within its state:

- A full on-site review of each eligible entity at least once during each three-year period;
- An on-site review of each newly-designated eligible entity immediately after completion of the first year that the entity received CSBG funds;
- Other reviews as appropriate, including reviews of entities with programs that have had other federal, state or local grants terminated for cause; and/or
- A prompt follow-up review if a CAA fails to meet goals, standards and requirements established by the state.<sup>8</sup>

There is very little guidance in the federal CSBG Act as to the type of review to be conducted and the procedures to be used. The only language in the federal CSBG Act that directly addresses the type of monitoring a state is to conduct requires a state to “determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State.”<sup>9</sup> It is thus up to the states to determine the type of monitoring to conduct and the procedures to use within the parameters of the federal CSBG Act. Moreover, no national uniform monitoring tools and procedures currently exist. Monitoring procedures used by a state typically are established in a state’s CSBG regulations or laws, a state’s CSBG agreement with a CAA, and/or a separate policy or guidance issued by a state pursuant to state CSBG regulations or laws. Some examples of a few state monitoring tools are available in [Appendix B](#).

“Every question in a state’s monitoring tool that may result in a deficiency, i.e. a finding resulting in a reduction in or termination of funding by the state, should be tied to a legal requirement...”

Every question in a state’s monitoring tool that may result in a deficiency, i.e. a finding that could result in a reduction in or termination of funding by the state, should be tied to a legal requirement such as the federal CSBG Act; other applicable federal laws or regulations such as nondiscrimination laws and regulations; the Office of Management and Budget (OMB) circulars codified in the code of federal regulations (C.F.R.); a state’s CSBG act and/or regulations; and/or a CAA’s CSBG contract with the state. Legal requirements place an organization on notice of the standards by which it is required to operate.

## SECTION 1. A CAA SHOULD UNDERSTAND THE FEDERAL LEGAL MONITORING FRAMEWORK

The federal CSBG Act sets forth the following parameters within which a state CSBG office is required to monitor an eligible entity:

- Performance goals;
- Administrative standards;
- Financial management requirements; and
- Other state requirements.<sup>10</sup>

Many of the federal statutes and regulations that make up these parameters are in the [CSBG terms and conditions](#) that a state CSBG office agrees to comply with when it accepts CSBG funding from OCS. For additional information about the federal laws referenced in the terms and conditions and how these laws fit within the monitoring parameters set forth in the federal CSBG Act, see [Appendix C](#).



It is important for CAAs to understand the scope of the monitoring parameters set forth in the federal CSBG Act for several reasons. First, these are the parameters that a state must work within when developing its monitoring tool. Second, a CAA must comply with all applicable federal and state legal requirements that fall within these parameters.

Additionally, OCS issues guidance to CAAs in the form of information memorandum (IM). This guidance is non-binding and is intended to help CAAs and states better understand the federal laws and how to apply them. To see a list of IMs that are particularly useful for a CAA to review as it prepares for the monitoring process, see [Appendix C](#).

It is important also for CAAs to understand the process by which a state may apply other state and federal laws not listed in the CSBG terms and conditions. One way discussed in [Part I](#) is to incorporate additional state and federal laws by reference in the state's CSBG contract with a CAA. Another way is for the state agency authorized to facilitate the CSBG program to develop regulations governing the program. The Administrative Procedures Act (APA) in each state generally governs the issuance of regulations by a state agency and the judicial review of the state office's administrative actions. An APA typically requires a state agency to follow specific procedures to adopt regulations whenever a directive from a state agency is intended to have a legal effect. Moreover, a state agency's authority to issue regulations is usually established by state laws. APA procedures generally require the state to provide the public with a notice and comment period prior to enactment of the regulations so that those affected by the regulations will have an opportunity to voice their concern or support. If a CAA questions the state CSBG office's authority to issue a regulation or otherwise impose a requirement, the CAA should work with an attorney in its state familiar with state government laws to determine if the state CSBG office has overstepped its bounds. For information regarding the use of grant funds to pay for an attorney, see [Section 3 in Part II](#).

## SECTION 2. COMPLAINT PROCESS FOR A CAA CONTESTING A STATE'S IMPLEMENTATION OF THE CSBG PROGRAM

The federal block grant regulations governing the CSBG program allow recipients of CSBG funding to file a complaint alleging that the state has failed to follow the federal CSBG Act, including a failure to comply with the certification and assurances made by the state pursuant to the federal CSBG Act.<sup>11</sup>

For example, a complaint may be filed if a state CSBG office issues a regulation that contradicts the federal CSBG Act. Some state CSBG regulations are based on language from when the Economic Opportunity Act of 1964 (the current CSBG Act's predecessor) required public sector directors to be designated by the chief elected official(s) in the area served. However, the current federal CSBG Act no longer requires that; in fact, the CSBG Act specifies that the CAA is to select the board. Thus, state laws that still require selection by chief elected officials are inconsistent with the federal CSBG Act and a CAA may file a complaint with OCS to this effect.

Complaints must be submitted in writing to the Director of the Office of Community Services (OCS) and must:

- Identify the provision of the act, assurance or certification that was allegedly violated,
- Specify the basis for the violations charged, and
- Include all relevant information known to the person submitting the complaint.<sup>12</sup>

OCS is required to promptly provide a copy of any complaint to the state. The state has 60 days to respond to the complaint and may request additional time if necessary. OCS will conduct an investigation of the complaint where appropriate and provide a written response to the complaint within 180 days of receiving it. If a final resolution is not obtainable within the 180 days, OCS's response will set forth reasons why additional time is required to resolve the matter.<sup>13</sup>

HHS recognizes that under block grant programs like CSBG, states are primarily responsible for interpreting the governing statutory provisions, such as the CSBG Act. As a result, various states may reach different interpretations of the same statutory provisions and as long as the different interpretations are consistent with the intent of the CSBG Act, they will not be overturned. Thus, when resolving any issue raised by a complaint, OCS will defer to a state's interpretation of its assurances or of the CSBG Act unless the interpretation is clearly erroneous.<sup>14</sup>



Before filing a complaint with OCS regarding a state's actions, the CAA should use its best efforts to work with the state to resolve the matter. The CAA's attempts to work with the state should be documented and included as part of a complaint, if one is ultimately submitted.

## SECTION 3. HOW A CAA CAN EXPRESS CONCERNS ABOUT THE STATE'S MONITORING TOOL AND PROCEDURES

Some of the common reasons that CAAs express concern about a state's monitoring tool are because the tool:

- Asks questions that are not linked to legal requirements;
- Fails to clearly explain the legal effect that a CAA's answers to questions not linked to legal requirements will have on the CAA; and/or
- Enables the state to micromanage a CAA's operations by asking questions such as "how many fire drills does your CAA conduct?" or "does your CAA use exit interviews?"



A CAA should ensure that each standard by which the CAA is to be monitored is tied to a legal requirement such as the federal CSBG Act; OMB circulars (such as OMB A-122 (2 C.F.R. Part 230) or OMB A-133); state CSBG act and/or regulations; state CSBG plan; and/or state CSBG contract with a CAA.

A CAA has several options if it believes that a state’s monitoring tool is overreaching or not in compliance with the law. A CAA with questions about its state’s monitoring tool should consider taking the following actions:

1. Contact the state association or other CAAs in the state to explore if they share your concerns or have some of their own.
2. Either working individually or with other CAAs and/or the state CAA association, discuss your concerns with the state CSBG office. Follow up any discussion with the state with an email or letter recounting the conversation. If legal requirements are not clearly linked to questions being asked, point out this concern and ask the state CSBG office for these legal requirements.
3. If the state CSBG office is not receptive to your concerns, consider retaining an attorney in your state familiar with state government laws such as a state’s administrative procedures act (APA) to determine whether a state is circumventing the APA by implementing requirements that will have a legal effect without following the proper notice and hearing procedures required by your state’s APA. For information regarding using federal grant funds to pay for an attorney, see CAPLAW’s article, [Can Your Organization Use Federal Grant Funds to Pay Legal Fees?](#)

## SECTION 4. TIPS FOR A CAA PREPARING FOR MONITORING

As previously mentioned, a CAA’s preparation for any monitoring process should be ongoing. The following steps are intended to help a CAA not only maintain legal compliance but also to develop internal procedures and a proactive approach so that the monitoring process is a less stressful and more positive one.

1. Request a copy of the monitoring tool from the state CSBG office at the beginning of each new funding year. A CAA should review the state’s monitoring tool and ask the state if there is a process in place for the CAA to comment on the tool. Such a process is not required by the federal CSBG Act but many states allow CAAs to comment on the tool as a best practice. Some common topics that may be addressed in the monitoring tool include:
  - Monitoring process;
  - Deficiencies;
  - Corrective actions;
  - Time lines;
  - Training and technical assistance;
  - Quality improvement plans (or corrective action plans);
  - Reductions and terminations of funding; and
  - Notice and hearing procedures.
2. If the monitoring tool issued by the state is missing any of the items listed above, follow up with the state CSBG office regarding where the information may be found.



### TIP

Information about the state’s monitoring process and procedures may be located in a state law or regulation, the state’s CSBG contract with a CAA, or in a policy manual issued by the state.

3. When reviewing the monitoring tool, a CAA should ensure that it understands the implications of not meeting a legal requirement versus a best practice recommendation. A deficiency finding should be based on a CAA's failure to meet a legal requirement and not on its failure to implement a best practice recommendation. For further information regarding how a CAA may express concerns regarding a state's monitoring tool, see [Section 3 in Part II](#).
4. Once any concerns with a state's monitoring tool have been settled and before being notified of monitoring by the state CSBG office, a CAA should regularly use and refer to the tool as a guide in structuring and operating its CSBG program(s) or program(s) enhanced with CSBG funds. The CAA's executive director should review the tool with board members and other CAA management such as the chief financial officer and CSBG program director.
5. Before being notified of monitoring by the state CSBG office, a CAA should consider whether or not to participate in peer reviews, if available.

"A CAA should ensure that it understands the implications of not meeting a legal requirement versus a best practice recommendation."



See an example of a [peer review process](#) developed by the [Northeast Institute for Quality Community Action](#).

6. Once a CAA has been chosen for monitoring by a state, a CAA's executive director should work with other CAA management, including program directors, and board members or a board committee to prepare responses to questions in the monitoring tool and locate information that monitors may want to review.
7. A CAA should consider placing information that will be reviewed by the state CSBG office in binders so that it is easily accessible and well-organized.
8. The CAA executive director and board members should consider conducting mock interviews with each other to ensure that they are well-informed and are able to offer concise and direct answers to the state CSBG office's inquiries.
9. One way board members and the executive director may prepare for a monitoring on an ongoing basis is to ensure that the board is regularly receiving reports from the CAA's management such as the financial director and CSBG program administrator.

## SECTION 5. TIPS FOR A CAA PREPARING FOR A FOLLOW-UP REVIEW

If a state requests a follow-up review, a CAA should ask the state to clearly set forth in writing the purpose for the follow-up review and provide it with an agenda for a site visit so that it may properly prepare for it. Because follow-up review procedures are within a state's discretion, each state's response to a CAA's request for additional information may vary depending on the state's procedures. A CAA prepares for a follow-up review in the same way it prepares for an initial monitoring visit. See [Section 4 in Part II](#) for guidance on how to prepare for a follow-up monitoring review.



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## State Responsibility Two

A state shall inform a CAA of any deficiencies and require the CAA to correct them.<sup>15</sup>

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# PART III. STATE RESPONSIBILITY TWO

## STATE'S OBLIGATIONS WHEN IT FINDS A DEFICIENCY

The federal CSBG Act requires a state CSBG office to inform a CAA of a deficiency and give the CAA an opportunity to correct the deficiency.<sup>16</sup> [See Appendix D](#), Sample Letter from State CSBG Office Setting Forth Monitoring Findings.

OCS recommends that a state CSBG office document the basis for a performance deficiency or failure to comply with a state requirement and maintain records of correspondence or other communication relating to actions taken. OCS also recommends that a state CSBG office maintain records of correspondence or other communications related to an enforcement action against a CAA to establish compliance with the federal CSBG Act.<sup>17</sup>

### SECTION 1. A CAA SHOULD UNDERSTAND WHAT CONSTITUTES A "DEFICIENCY"

The federal CSBG Act does not define a "deficiency." Rather, it defines the "cause" that a state must determine exists to initiate a reduction in or termination of funding. [See Section 1 in Part V](#). The term "cause" in the CSBG Act includes a CAA's failure to comply with the terms of its CSBG agreement with the state, the state plan or a state requirement.<sup>18</sup> Thus, the state may, within the parameters of the federal CSBG Act, establish when a monitoring finding rises to the level of a deficiency. A CAA should make sure that it clearly understands from the state what actions may result in a deficiency finding.

### SECTION 2. HOW A CAA MAY CHALLENGE A STATE'S MONITORING FINDINGS

If a CAA wishes to challenge a monitoring finding, the CAA should:

1. Check the state's procedures to determine the process for responding to monitoring findings. These procedures should be specified in at least one of the following:
  - Letter from the state CSBG office informing the CAA of the finding;
  - Monitoring tool or instructions to the monitoring tool;
  - State CSBG laws and/or regulations; and/or
  - State CSBG contract with CAA.

If the CAA is unable to obtain or find the procedures, it should request them in writing from the state CSBG office.

2. Ensure that the state has linked its finding to a legal requirement. There should be a citation to a statute, regulation or contract provision (such as 42 U.S.C. § 9908(a) or 2 C.F.R. Part 230, Appendix A or CSBG Contract Section A.B2) as part of the finding.
3. If the state included a citation to a legal requirement, ask the state to either provide the legal requirement(s) or explain where it may be found.



## TIP

Often, a law or regulation may easily be found using an Internet search engine. The most reliable source for laws and regulations are state and federal government websites.

4. If the state did not link its finding to a legal requirement, request in writing the citation to the legal requirement on which the finding is based and a copy of the legal requirement.
5. If a CAA disagrees with the application of the legal requirement and has evidence to prove that it met the standard, it should provide the state CSBG office with copies of that evidence along with a letter explaining why the evidence should have been considered.



## TIP

Evidence of compliance with a legal standard may include additional financial records, policies, new processes etc.

6. If the CAA disagrees with the state's interpretation of the legal requirement or believes that the legal requirement does not apply to the CSBG program, it should work with an attorney in its state familiar with state government laws, federal grant laws and/or nonprofits or contact CAPLAW. For information on the allowability of attorney's fees see [Section 3 in Part II](#).
7. If a CAA believes the factual basis for the finding is inaccurate, it should compile evidence that supports its understanding of the facts on which the finding is based and provide copies of this evidence to the state CSBG office with an explanation of why the CAA's understanding is more accurate.
8. **Always** document in writing any conversation, request, response and corrective action taken. Also, **always** ask the state to follow up any oral responses with a written response.

For an example of a letter a CAA may send to a state CSBG office to express concerns regarding monitoring findings, see [Appendix D](#), CAA Response to Monitoring Letter With Corrective Action Plan.

## SECTION 3. COMMONLY FACED MONITORING FINDINGS AND POTENTIAL APPROACHES FOR ADDRESSING THEM

One way for a CAA to ensure a successful monitoring experience is to anticipate potential findings and address those findings before its state CSBG office does. Based on conversations with state CSBG offices and CAAs from around the country and our review of Office of Inspector General (OIG) monitoring reports of CAAs, we have compiled a list of areas where findings by state CSBG offices are common.

These different areas are presented below in the form of scenarios, some taken directly from the OIG reports available on the Department of Health and Human Service's (HHS's) website and others from a conglomeration of information obtained from speaking with state CSBG offices and CAAs and from reviewing state monitoring reports of CAAs. The

*"Always document in writing any conversation, request, response and corrective action taken. Also, always ask the state to follow up any oral responses with a written response."*



general approach we have taken when analyzing this information is to set forth the:

- Common finding and the context, if necessary, to better understand the finding;
- Legal requirement on which the monitoring finding is based; and
- Potential approach for addressing the finding including proactive steps a CAA may take to avoid receiving such a finding.

It is important to remember that any finding should be linked to a legal requirement. For more information about how to address findings that are not linked or tied to a legal requirement, see [Section 2 in Part III](#). Also, these are findings that are not being contested by the CAA. If you believe that a finding you have received is inaccurate or the application of the law to the finding is incorrect, see [Section 2 in Part III](#) and [Appendix D](#).

The potential approach to each common finding is presented as an action step to be taken by the CAA. The approaches do not always specifically discuss who should do what within a CAA. Generally, board members are charged with creating and revising policies governing the CAA and the executive director and staff are charged with implementing those policies.

**Lastly, the discussion relating to each of these findings does not constitute legal advice. We are only offering a few approaches for a CAA to consider when faced with a certain type of finding or deficiency. Other approaches may exist and all approaches that the CAA encounters should be fully considered.**

## A. ROMA COMPLIANCE AND REPORTING

### Common Finding:

CAA failed to maintain adequate documentation to support the data on its quarterly performance reports, and the reports were submitted after due dates. The state uses the Results Oriented Management and Accountability (ROMA) to measure performance.

### Legal requirement(s):

- 42 U.S.C. §§ 9908(b)(12), 9917(a)(1)(A): The federal CSBG Act requires states and CAAs to participate in a performance measurement system such as ROMA to measure the CAA's performance in promoting self-sufficiency, family stability, and community revitalization.
- State ROMA requirements set forth that a CAA shall maintain back-up documentation to support the total number of families and individuals reported and that such information should be reported on a quarterly basis.

### Potential Approach:

1. Understand the state's performance measures and reporting requirements. These requirements should be available either in the state CSBG laws and regulations or the state's CSBG contract with the CAA.
2. Develop policies that govern how your organization will meet the state's performance requirements.
3. Use a system that is capable of calculating data and generating reports such as an electronic client management system.
4. Establish a point person in your CAA in charge of tracking the implementation of the policies and the CAA's compliance with them. The person will be the one to ensure that the reporting required by the state is completed on a timely basis.
5. Train employees entering data or completing intake.

## B. BOARD VACANCIES AND COMPOSITION

### Common Finding One:

Two of the nonprofit CAA's 15 board seats have been vacant for over 100 days. One vacancy is in the public official sector and the other vacancy is in the private sector.

### Legal requirement(s):

- 42 U.S.C. § 9910(a)(2): Requires a nonprofit CAA's governing board to be selected by the CAA and the board to be composed to assure that – (A) 1/3 of the board are elected public officials, holding office on the date of selection, or their representatives, except that if elected officials are unavailable and/or unwilling to serve, CAAs may elect appointed public officials to meet the 1/3 requirement; (B) not fewer than 1/3 of the board are 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; and (C) the remainder of the board are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served. NOTE: Similar requirements exist for public CAAs and are set forth in Finding 3.
- CAA's bylaws: Requires any vacancy in any sector to be filled within 90 days.

### Potential Approach:

1. Fill vacant board seats as quickly as possible after receiving this finding.
2. Ensure board members understand the tripartite board composition requirement. Consider having new and veteran board members regularly participate in a training that includes CSBG board composition and selection requirements and guidance. Some CAPLAW training tools a board may use to help them better understand board composition and selection are as follows:
  - [Introduction to CSBG Training Module](#)
  - [Purely for Public CAAs Training Module](#)
  - [Online Governance Toolkit](#)
  - [Various governance webinar and audio conferences](#)
3. Ensure that the board reviews its bylaws on a regular basis and understands that it is required to follow them. If board members are having trouble meeting the requirements set forth in the CAA's bylaws, the board may vote to amend the bylaws. However, the board must ensure that any amendment to the bylaws is compliant with state and federal laws governing the CSBG program and also does not conflict with CAA's articles of incorporation. For more information regarding how to review your CAA's bylaws and articles of incorporation, consider purchasing [CAPLAW's Bylaws Toolkit](#).
4. Designate a committee of the board, such as a governance and board development committee, to be in charge of tracking board vacancies and developing recruitment strategies for all board sectors.
5. Consider using a board matrix like the one in [Appendix E](#) to help determine board composition.
6. Recruit board members on an ongoing basis. Consider having an advisory board that would not have the authority to deliberate or vote on board matters but whose members may be elected to a board seat in the event of a vacancy. Remember, any low-income member on the advisory board should be democratically elected if he/she is eventually to be seated on the board.

## Common Finding Two:

The public CAA failed to comply with the tripartite board requirement that 1/3 of the board be representative of the low-income area served. One of the six board member seats representing the low-income sector had been vacant for over 120 days.

### Legal requirement(s):

42 U.S.C. § 9910(b): A public CAA is required to either have (1) a tripartite board (1/3 public officials, not fewer than 1/3 low-income representatives and the remainder from the private sector) 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 CSBG programs.

### Potential Approach:

See Potential Approach to Common Finding One. Also, see the sample corrective action plan in [Appendix D](#) for one approach to ensuring that board members representing the low-income sector have been democratically selected.

## C. BOARD ABDICATION OF RESPONSIBILITIES

### Common Finding:

CAA board abdicated its responsibilities for governing the CAA by granting the executive director complete autonomy in operating the CAA. Additionally, board meeting minutes showed that the board did not fully participate in developing, planning, implementing and evaluating the CSBG program. In four separate instances, the board minutes showed that the board did not voice any comments or concerns regarding the CAA's CSBG quarterly report presented at the board meetings.

### Legal requirement(s):

- 42 U.S.C. § 9910(a)(1): Requires the tripartite board to fully participate in the development, planning, implementation, and evaluation of the program to serve low-income communities.

### Potential Approach:

1. Ensure board members and the executive director understand their respective roles and responsibilities and training and technical assistance (T/TA) should be provided to educate them on these. This training should include a discussion of the materials and information the board should be receiving from the CAA's executive management so that the board is able to effectively exercise its oversight role. The training should focus on the role of the executive director as the executor of the board's strategic plans and policies. Additionally, the board should be educated on the policies it should ensure the organization has in place and understand that the policies should address such matters as the development of internal controls that will protect the federal funds the organization receives. Some CAPLAW training tools a board and executive director may use to help them better understand and fulfill their roles and responsibilities are as follows:
  - [Introduction to CSBG Training Module](#)
  - [Purely for Public CAAs Training Module](#)
  - [Effective Management of Program Budgets Interactive Training Module](#)
  - [Tools for Top-Notch CAAs](#)
  - [Online Governance Toolkit](#)
  - Various [governance](#) and [financial compliance](#) webinars and audio conferences

2. Document board questions and involvement in the minutes. For information about conducting and maintaining minutes for board meetings see the section about board minutes in [CAPLAW's Tools for Top-Notch CAAs](#).
3. Perform a board self-assessment to identify more specifically the board's weaknesses and strengths and determine the best way to address the areas that need improvement. Some sample board self-assessment tools that a CAA may adapt to address their specific needs include:
  - [NH Center for Nonprofits Board-self Assessment](#).
  - Indiana Community Action Association Community Action Agency Board Self-Assessment. See [Appendix F](#)
4. Consider hiring a management consultant to assist in establishing the proper relationship between the board members and the executive director. The consultant should be an individual that is independent from both the board and the executive director and may offer fair and unbiased recommendations for improvement.
5. Consider whether new board members may be needed to develop a healthier relationship with the executive director and to ensure compliance.

## D. INCOME ELIGIBILITY

### Common Finding:

CAA is not always able to ensure that incomes of individuals receiving CSBG program benefits do not exceed 100% of the poverty line. Two of five cases reviewed did not contain sufficient income information to support eligibility for services offered by programs that are either fully or partially paid for with CSBG funds. The state has not chosen to increase the poverty line in the state to 125% .

### Legal requirement(s):

42 U.S.C. § 9902(2) explains that the poverty line is defined by OMB based on the most recent data available from the Bureau of the Census. The Secretary of the Department of Health and Human Services (HHS) shall revise annually (or at any shorter interval deemed feasible and desirable) the poverty line, which shall be used as a criterion of eligibility in the CSBG program. Whenever a state determines that it serves the objectives of the CSBG program, it may revise the poverty line to not exceed 125% of the official poverty line.

### Potential Approach:

1. Understand the state's requirements for establishing and documenting income eligibility, if any exist. These requirements are typically located in the state's CSBG laws and regulations and/or the state's CSBG contract with the CAA. If the CAA is unable to obtain any such requirements on its own, it should ask the state to provide them.
2. Review intake policies and process. Find out if the state has policies that a CAA is required to follow, If not, the CAA should create its own. The policies should include a list of income sources that that will be used to compute poverty status such as unemployment compensation, social security payments, educational assistance, etc. The policies should also explain how intake staff should calculate an applicant's income to determine income eligibility. Moreover, the forms to be completed by those seeking services should require intake staff to review information provided by the applicant to ensure income eligibility and to certify that such a review was completed by signing the form. The forms could include a place where intake staff lists the documentation that was provided to them by the applicant.

3. Train intake workers and managers so that they better understand the income eligibility process and requirements.
4. Consider implementing a system that requires a supervisor or employee not involved in the intake process to randomly review intake files on a regular basis to ensure that the proper information and documentation is obtained.

## E. SAFEGUARDING OF ASSETS

### Common Finding:

CAA was unable to produce inventory records because the employee who maintained the records was terminated and records were misplaced. Without annual inventories and current inventory records, this CAA was viewed at risk of inventory being lost or stolen.

### Legal requirement(s):

- State incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires pursuant to 2 C.F.R. § 215.34(f)(4) that a CAA have property management standards setting forth the CAA's obligation to maintain a control system ensuring adequate safeguards to prevent loss, damage, or theft of equipment.

### Potential Approach:

1. Review policies addressing inventory and the safeguarding of assets and add additional measures to ensure that the CAA's assets are accounted for and protected.
2. Implement measures to ensure coverage of tasks such as maintaining inventory records when key employees leave employment at the CAA.
3. Consider using an excel spreadsheet to track incoming and outgoing inventory over a certain amount, such as \$1,000. This amount may be dictated by your state's procurement rules or whatever procurement rules are incorporated by reference in your CSBG contract with the state. The spreadsheet would typically include information such as a description of the inventory, serial number, source, title, cost, acquisition date, percent of federal participation (if partially purchased with federal funds), location, use, condition, and ultimate disposition.
4. Ensure inventory policies segregate duties and require random checks. For example, the same employee should not be acquiring inventory and conducting checks of that inventory. These tasks should be performed by different employees.

## F. SAFEGUARDING OF FEDERAL FUNDS

### Common Finding:

CAA's CSBG account balances exceeded the FDIC insured limit (\$250,000 at a single bank). CAA failed to maintain advances of federal funds in interest bearing accounts and did not have procedures in place to ensure that this requirement would be met.

### Legal requirement(s):

- State incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires a CAA pursuant to 2 C.F.R. § 215.22(i)(2), (k) to deposit and maintain advances of federal funds in

- insured accounts whenever possible and to maintain advances of federal funds in interest bearing accounts.
- FDIC policy: deposits owned by a corporation are insured up to \$250,000 in a single bank.

### Potential Approach:

1. Review CAA's financial management policies to ensure they comply with legal requirements. The board and executive management should also incorporate spot checks as a procedure to help ensure that the policies are being followed.
2. Discuss options with the bank for how to ensure that the CAA's funds are fully FDIC insured, research having multiple accounts at different banks and determine if other options exist to address this issue. Consider researching companies like [CDARS® – the Certificate of Deposit Account Registry Service®](#) that make it possible for a nonprofit to work directly with just one financial institution but receive FDIC insurance coverage from many.

## G. SEGREGATION OF DUTIES

### Common Finding:

CAA did not adequately segregate duties for payroll. There was no secondary review of payroll by CAA officials. The finance department had two employees, each of whom independently prepared payroll for about 1/2 of the employees and each verified his/her own work. The two employees did not verify each other's work.

### Legal requirement(s):

- State incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires a CAA pursuant to 2 C.F.R. § 215.21(b)(3) to provide effective control over and accountability for all funds, property and other assets and to adequately safeguard all such assets and assure they are used solely for authorized purposes.
- 2 C.F.R. Part 230, App. A, Sec. A.2.g (OMB Circular A-122) requires that, for costs to be allowable, they must be adequately documented and determined in accordance with generally accepted accounting principles (GAAP).

### Potential Approach:

1. Revise the CAA's financial management policies to ensure that the two employees in the finance department are not reviewing their own work but rather they are reviewing each other's work. For example, the CAA may create checklists that the employees use to review each other's work and have the employees sign the checklists once the review has been completed to certify the accuracy of the information.
2. Ensure that the two employees understand how to review each other's work and provide them with training if necessary. The CAA could request such training from the state CSBG office as training and technical assistance (T/TA).
3. Perform spot reviews at least twice a year to ensure that the two employees are reviewing each other's work.

## H. POLICIES AND PROCEDURES FOR OUTSIDE SERVICES

### Common Finding:

CAA did not have written policies and procedures regarding use of consultants, specifically procedures for selecting the most qualified individual available, for determining the nature and extent of the services to be provided, and for ensuring reasonable fees.

## Legal requirement(s):

- State incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires a CAA pursuant to 2 C.F.R. § 215.44(a) to implement written procurement procedures for solicitation of goods and services and pursuant to 2 C.F.R. § 215.27 a CAA must apply the cost allowability principles set forth in OMB Circular A-122 (2 C.F.R. Part 230).
- 2 C.F.R. Part 230 App. B, Sec. 37 (OMB Circular A-122) requires certain factors to be considered when determining which costs associated with professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the nonprofit organization are reasonable in relation to the services rendered and are therefore allowable. The factors to be considered are: (1) the nature and scope of the service rendered in relation to the service required; (2) the necessity of contracting for the service; (3) the past pattern of such costs; (4) the impact of federal awards on the nonprofit organization's business (i.e., what new problems have arisen); (5) whether the proportion of federal work to the nonprofit organization's total business is such as to influence the nonprofit organization in favor of incurring the cost; (6) whether the service can be performed more economically by direct employment rather than contracting; (7) the qualifications of the individual rendering the service and the customary fees charged, especially on non-federal awards; and (8) the adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions). In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative.

## Potential Approach:

1. Create a policy regarding the use of consultants by the CAA. This policy should comply with the procurement rules in 2 C.F.R. Part 215 and the cost and accounting rules in 2 C.F.R. Part 230. The specific provisions of each regulation applicable to this situation are referenced above in the legal requirements supporting this finding.
2. Retain an attorney to review the policy for compliance with state and federal laws regarding consultants. CAA should ensure that the final policy is approved by the board.
3. Work with an attorney to prepare a template consultant agreement that may be adapted for different types of consulting arrangements.



### TIP

Another important issue to work with an attorney on is how to address criteria for determining whether a consultant should be treated as an independent contractor or as an employee.

## I. PROCUREMENT

### Common Finding:

CAA requires purchase requisitions to include a description for all purchases and, if the purchase is over \$2,000, three competitive bids must be obtained. CAA did not have adequate controls to ensure that it complied with procurement procedures for price competition. Four of the CAA's contracts exceeded the \$2,000 threshold without evidence of competitive bidding or a clear description of requirements or services to be procured.

### **Legal requirement(s):**

- State incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires that pursuant to 2 C.F.R. § 215.43 all procurement transactions be conducted to provide to the maximum extent practical, open and free competition.
- State incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires a CAA pursuant to 2 C.F.R. § 215.51(a) to manage and monitor each project and subaward.
- 2 C.F.R. Part 230, App. A, Part A, Sec. 2(g) (OMB Circular A-122) requires that costs must meet multiple criteria, one of which being that the cost is adequately documented, to be allowable.

### **Potential Approach:**

1. Consider revising policy to have a higher threshold for competitive bidding.
2. Ensure that CAA's procurement policy requires a checklist to be followed throughout the procurement process. The checklist should require that the employee facilitating the procurement process sign it to verify that all procedures were followed and that all documents were obtained.
3. Ensure procurement policy requires random spot checks of the CAA's procurement files by an employee not involved in facilitating the process at least 3 times per year to ensure that all required documentation has been obtained and all procedures have been followed.
4. Consider requesting that the state CSBG office provide training and technical assistance (T/TA) regarding internal controls to ensure that the proper procurement procedures are implemented and followed.

## **J. COMPENSATION**

### **Common Finding One:**

CAA paid 62 performance awards to its employees but had no records that documented the justification or approval of the awards paid. The board had approved a performance incentive plan but it was archived and not readily available. CAA produced an internal policy document granting CAA the right to reward employees at the executive director's discretion but the policy was neither dated nor signed.

### **Legal requirement(s):**

- 2 C.F.R. Part 230 App. B, Sec. 8(j) (OMB Circular A-122) explains that incentive compensation to employees based on cost reduction or efficient performance is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement in good faith between the organization and its employees before the services are rendered, or pursuant to an established plan followed by the organization that is so consistently applied as to imply, in effect, an agreement to make such payment.

### **Potential Finding:**

1. Review the board-approved performance incentive plan currently in place and work with an attorney to update it, if necessary, to comply with 2 C.F.R. Part 230 (OMB Circular A-122) or, it should work with an attorney to develop a new incentive plan that complies with 2 C.F.R. Part 230 (OMB Circular A-122).
2. Ensure board members approve the plan and note the date of such approval in the minutes.
3. Include a process in the plan that establishes clear criteria to be met and necessary documentation to be obtained before an incentive award may be granted. For example, a CAA may include as part of its process the requirement that the executive director certify that the employee who received a bonus met the established criteria. The certification would be maintained in the employee's personnel file.





## TIP

For additional information regarding the legal requirements a CAA must follow before giving incentive compensation to its employees, see [CAPLAW's Memorandum about IRS and OMB Rules on Employee Bonuses](#).

### Common Finding Two:

CAA failed to ensure that its payroll distribution process provided an after-the-fact certification of actual activity performed by employees; rather, the CAA allocated employee efforts based on a predetermined budget.

#### Legal requirement(s):

- 2 C.F.R. Part 230 App. B, Sec. 8(m) (OMB Circular A-122) requires that allocation among funding sources of salaries and wages charged in whole or in part as direct costs to the grant be supported by personnel activity reports and meet certain standards reflecting after-the-fact determination of each employee's actual activity. Budget estimates do not qualify as support for charges to awards. Charges to awards for salaries and wages, whether direct or indirect, must be based on documented payrolls.

#### Potential Approach:

1. Review the CAA's financial management policies and add procedures to ensure that the payroll allocation process reflects actual work performed by the staff on a monthly basis.
2. Request training and technical assistance (T/TA) from the state CSBG office in the form of a financial consultant familiar with federal grant requirements who can provide the CAA with options on how to best structure its payroll distribution procedures to meet the CAA's needs and maintain compliance with the federal grant laws.
3. Ask other CAAs in your state how they ensure that the payroll distribution process reflects actual work performed by the staff on a monthly basis.
4. Institute the use of personnel activity reports if the CAA does not already use them or, if it does, revise them as necessary and train staff on how to use them.



# PART IV Table of Contents

## State Responsibility Three

A state generally shall provide training and technical assistance to the CAA and accept or reject quality improvement plans developed by the CAA. <sup>19</sup>

### **Pg. 25.** Section 1.

Training and Technical Assistance (T/TA)

- Pg. 25** A. Situations where OCS Views T/TA as NOT Appropriate
- Pg. 25** B. How a CAA can Challenge a State's Decision NOT to Provide T/TA

### **Pg. 26.** Section 2.

Quality Improvement Plan (QIP)

- Pg. 26** A. Situations when a State is NOT Required to Grant the Opportunity to Submit a QIP
- Pg. 27** B. How a CAA can Challenge a State's Decision to NOT Give the Opportunity to Submit a QIP
- Pg. 27** C. Tips for a CAA for Working within the QIP Timeframe
- Pg. 28** D. Tips for a CAA Preparing a QIP
- Pg. 28** E. Options for a CAA if a State Does NOT Approve a QIP

# PART IV. STATE RESPONSIBILITY THREE

## STATE REQUIRED TO PROVIDE CAA ASSISTANCE WITH CORRECTING A DEFICIENCY

The federal CSBG Act requires that, in many or most instances, a state CSBG office take two steps to assist a CAA in correcting a deficiency: provide training and technical assistance (T/TA) and allow the CAA to submit a quality improvement plan (QIP) (many states refer to a QIP as a corrective action plan).

### SECTION 1. REQUIREMENT THAT STATE PROVIDE T/TA TO A CAA

The federal CSBG Act requires that a state CSBG office offer T/TA, if appropriate, help to correct a deficiency.<sup>20</sup> When a state CSBG office provides T/TA, it must prepare and submit a report to OCS describing the T/TA offered. A state CSBG office may offer T/TA concurrently with a deficiency notification. Additionally, the T/TA should focus on the CAA's specific deficiencies or the issues underlying them.<sup>21</sup>

If a state CSBG office decides not to offer T/TA, it must prepare and submit a report to OCS stating the reasons for its determination.

**“If a state CSBG office decides not to offer T&TA, it must prepare and submit a report to OCS stating the reasons for its determination.”**

#### A. SITUATIONS WHERE OCS VIEWS T/TA AS NOT APPROPRIATE

OCS gives the following examples of when T/TA may not be appropriate:<sup>22</sup>

- A deficiency for which the eligible entity has the expertise and skills available within the organization to make corrective actions without assistance;
- A deficiency for which the state has previously provided technical assistance and the eligible entity has failed to institute corrective actions;
- Multiple, widespread, and/or repeated deficiencies that cannot feasibly be addressed through technical assistance; or
- A deficiency that involves evidence of fraudulent reporting or use of funds, or other evidence of criminal wrongdoing.

Many state CSBG offices consistently offer T/TA and will often work with a state's CAA association in doing so. Additionally, state CSBG offices often offer T/TA on a regular basis pursuant to the current needs of all CAAs throughout the state in addition to offering T/TA geared toward a CAA's specific issues resulting from monitoring.

#### B. HOW A CAA CAN CHALLENGE A STATE'S DECISION NOT TO PROVIDE T/TA

Offering T/TA is not required if a state CSBG office believes it is not appropriate. However, if a CAA feels that it should receive T/TA from the state CSBG office, the CAA should obtain a copy of the report the state sent to OCS explaining why T/TA was not appropriate and then send a letter to the state CSBG office that clearly outlines why it is appropriate for the CAA to receive T/TA and the type of T/TA it seeks.



## TIP

If the state CSBG office refuses to provide a copy of the report it sent to OCS, several options exist for obtaining the report. One is to obtain the report from the state CSBG office pursuant to the state's open records act. All states have an open records act which is often very similar to the federal Freedom of Information Act (FOIA). Open records acts generally require state agencies to make available upon request records that are not subject to an exemption. If a state CSBG office claims that it is not required to release the report based on an exemption, a CAA may retain an attorney in its state familiar with state government laws to ensure that the state is applying the exemption correctly. See [Section 3 in Part II](#) regarding paying for legal services.

Another option is for the CAA to contact OCS directly to see if the state CSBG office has submitted its report as it is required to do (see [Section 1 Part IV](#)) and, if it has, if OCS would provide the CAA with a copy. If OCS is not responsive to the CAA's request, the CAA may also submit a federal FOIA request to obtain a copy of the report from OCS. For information regarding how to submit a FOIA request to HHS online, see [HHS's FOIA webpages](#). As with a state's open records act, OCS will be required to provide the report to the CAA unless the request falls within one of the following nine exemptions: (1) classified; (2) relates solely to internal personnel rules and practices; (3) specifically exempted by other statutes; (4) a trade secret or privileged or confidential commercial or financial information; (5) privileged intra-agency memorandum or letter; (6) a clearly unwarranted invasion of personal privacy if released; (7) compiled for law enforcement purposes; (8) confidential SEC financial documents; and (9) exempt information about gas or oil wells. Under the FOIA, a federal agency has up to 30 days to respond to a request; however, the nature of the request may affect the speed with which it is processed.

## SECTION 2. REQUIREMENT THAT A STATE GIVE A CAA THE OPPORTUNITY TO SUBMIT A QIP

It is within a state CSBG office's discretion whether to give a CAA the opportunity to develop and implement a quality improvement plan (QIP) to correct a deficiency.<sup>23</sup> However, the state's discretion to deny a CAA the opportunity to submit a QIP (also known as a corrective action plan) is generally limited to situations where the seriousness of the deficiency and the time required to correct it would make a QIP untenable. A CAA's QIP must be able to correct a deficiency within a reasonable time period as determined by the state CSBG office.

If a state CSBG office grants a CAA the opportunity to submit a QIP, it must give the CAA 60 days after it informs the CAA of the deficiency to develop and implement the QIP. The state CSBG office must notify a CAA of its decision to approve or not approve the QIP within 30 days of receiving it from the CAA. If a state CSBG office does not approve the QIP submitted by the CAA, the state CSBG office must also specify the reason(s) why when it notifies the CAA of its decision.

### A. SITUATIONS WHEN A STATE IS NOT REQUIRED TO GRANT THE OPPORTUNITY TO SUBMIT A QIP

Examples from OCS of when a state may consider denying a CAA the opportunity to prepare a QIP include:

- A deficiency for which a CAA has previously instituted a corrective action and has repeated findings and
- A deficiency that involves evidence of fraudulent reporting or use of funds or other evidence of criminal wrongdoing and therefore presents a risk requiring immediate action.

However, state CSBG offices typically grant CAAs the opportunity to submit some form of a QIP or corrective action plan and take a variety of approaches regarding how they may be structured. Some states give CAAs broad discretion to develop a QIP or corrective action plan that best addresses their situation (for example, see [Appendix D](#), Sample CAA Response to Monitoring Letter with Corrective Action Plan), and other state CSBG offices provide CAAs with a form (for example, see [Appendix G](#), Example of a State Template used for a QIP or Corrective Action Plan). The more common approach is to permit a CAA to develop the QIP or corrective action plan as it sees fit and for the state CSBG office to offer comments and suggestions on the plan.

## B. HOW A CAA CAN CHALLENGE A STATE'S DECISION TO NOT GIVE THE OPPORTUNITY TO SUBMIT A QIP

Granting the opportunity to prepare a QIP is within the state CSBG office's discretion; however, if a CAA feels that it should be granted the opportunity to submit a QIP, it should send a letter to the state CSBG office that clearly outlines the CAA's reasons. The CAA should argue in its letter, if possible, that the CAA's situation does not fall within the parameters of when a state may consider denying a CAA the opportunity to prepare a QIP as discussed above in [Section 2.A Part IV](#).

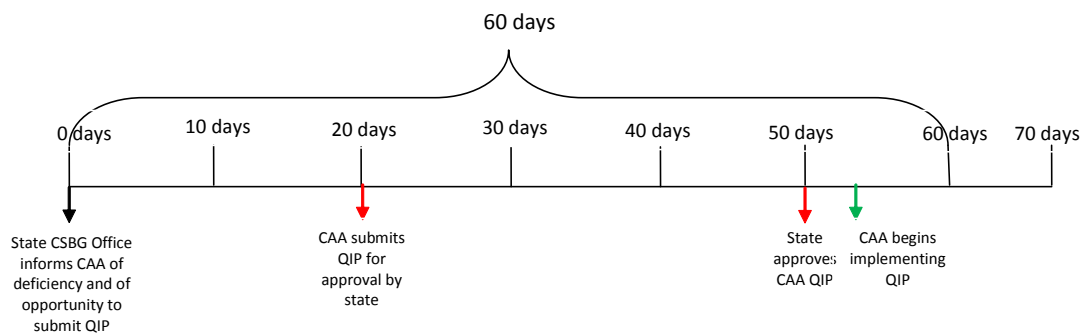
"If a CAA feels that it should be granted the opportunity to submit a QIP, it should send a letter to the state CSBG office that clearly outlines the CAA's reasons."

## C. TIPS FOR A CAA FOR WORKING WITHIN THE QIP TIMEFRAME

As previously mentioned, if a state CSBG office grants to a CAA the opportunity to submit a QIP, it must give the CAA 60 days after the CAA receives notice of the deficiency to develop and implement the QIP. The state CSBG office must notify a CAA of its decision to approve or not approve the QIP within 30 days of receiving it from the CAA.

Thus, if a CAA is granted the opportunity to submit a QIP, the CAA should make sure that it submits it for approval to the state CSBG office early enough in the 60-day timeframe so that the CAA will have a sufficient amount of time to begin implementing the QIP if the state CSBG office approves it.

The following QIP timeframe further illustrates the CAA's and state CSBG office's responsibilities. In this example, a CAA cuts it a little close but does give itself enough time to implement an approved QIP if the state uses the full 30 days to review the QIP before approving it.



As soon as a CAA submits a QIP to the state CSBG office it should assume that the QIP will be approved and begin preparing for implementation of the QIP. By doing so, if the QIP is approved, the CAA will ensure that it can begin implementing the QIP well within the required 60-day period.



## TIP

A CAA should continually keep the state CSBG office informed of its intention to submit a QIP. If the CAA is facing obstacles in preparing the QIP, it should document those obstacles and notify the state CSBG office of them. If the state CSBG office is well-informed, it may be able to act more quickly in making its decision regarding a CAA's QIP and thus enable a CAA that had been delayed in submitting a QIP for approval begin implementation within the 60-day time frame.

## D. TIPS FOR A CAA PREPARING A QIP

Most state CSBG offices will work with a CAA to help it develop a successful QIP or corrective action plan. Preparing a QIP or corrective action plan is how a CAA responds to a monitoring report when it acknowledges that one or more weaknesses that the state CSBG office identifies exists. The approaches for QIPs vary, of course, depending on the substance of the finding. These different variations may be seen in [Section 3 Part III](#) describing common findings and potential approaches for addressing them. However, there are some common actions a CAA may take to prepare a QIP which include:

1. Ensuring that you understand the factual and legal basis for the deficiency. You should follow-up with the state CSBG office if you have any questions regarding either.
2. Listing the actions you will take to correct the deficiency and outlining a timeframe for completing those actions. See [Section 3 Part III](#) setting forth common findings and potential approaches for addressing them to help you develop your approach. The actions should be well thought out and achievable within the state's timeframe.
3. If you need assistance from the state CSBG office, be specific regarding your request.
4. If you anticipate that the deficiency will take more than the allotted time to correct, communicate this in your plan and set forth a reasonable timeframe within which the deficiency will be corrected.

As you proceed with correcting a deficiency, be sure to document your process at each stage so that you may produce evidence of the actions you took and the correction that resulted from those actions.

## E. OPTIONS FOR A CAA IF STATE DOES NOT APPROVE A QIP

If a CAA feels that the state CSBG office should have approved its QIP, the CAA should request an explanation from the state as to why the QIP was not approved, if it has not already received one. As mentioned in [Section 2 Part IV](#), the state is required to specify reasons as to why it cannot approve a QIP within 30 days of receiving it. After receiving and reviewing the state's reasons, the CAA should send a letter to the state CSBG office outlining the reasons why the state CSBG office should have approved the CAA's QIP. Any documentation that the CAA has to support its argument for a QIP should be included with the letter.



# PART V Table of Contents

## State Responsibility Four

If a deficiency is not corrected, a state shall:

- a. Provide to a CAA notice of the uncorrected deficiency and an opportunity for a hearing to determine if "cause" exists to terminate or reduce CSBG funding;
- b. Based on the hearing record, determine if "cause" exists for reduction in or termination of CSBG funding; and
- c. If it determines that "cause" exists, initiate proceedings to terminate the CSBG designation or reduce the CSBG funding.

**Pg. 30. Section 1.**

Clarifying for CAAs the Definition of "Cause" to Reduce or Terminate Funding

**Pg. 31. Section 2.**

How a CAA may Challenge a State's Attempt to Avoid the Notice and Hearing Requirement

**Pg. 31. Section 3.**

How a CAA can Challenge a State's Notice and Hearing Procedures

**Pg. 32. Section 4.**

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How a CAA can Challenge a State's Attempt to Suspend Funding

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Clarifying for a CAA How a State May Reduce Funding

# PART V. STATE RESPONSIBILITY FOUR

## STATE'S RESPONSIBILITIES IF A DEFICIENCY IS NOT CORRECTED

A state CSBG office must initiate proceedings to terminate or reduce funding if a CAA fails to correct a deficiency. However, the state may do so only after it has met its responsibilities addressed in Parts II, III, and IV of this toolkit and provided the CAA:

- Adequate notice and
- An opportunity for a hearing on the record.<sup>25</sup>

It is within the state's discretion to determine the format of the notice and hearing it will provide a CAA. Any notice and hearing provided should be consistent with applicable state policies, rules or statutory requirements, including the state's administrative procedures act (APA). The notice and hearing procedures should also be made available to the CAA.

A state's notice and hearing procedures may be located in the state CSBG laws and/or regulations, state CSBG contract with a CAA or state monitoring instructions. If a CAA is not aware of a state CSBG office's notice and hearing procedures, it should request them from the state in writing.

After giving notice and conducting a hearing, if a state finds cause to reduce or terminate funding, the state must initiate proceedings to do so unless the CAA corrects the deficiency.<sup>26</sup>

## SECTION 1. CLARIFYING FOR CAAs THE DEFINITION OF "CAUSE" TO REDUCE OR TERMINATE FUNDING

After the hearing, the state determines if "cause" exists to reduce or terminate a CAA's CSBG funding.<sup>27</sup> The federal CSBG Act explains that "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.<sup>28</sup>*

If the state finds "cause" exists and the CAA disagrees with the state's finding, the CAA should request a review by HHS of the state's finding as described in [Part VI](#). 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:
  - o The results of the most recently available census or other appropriate date,
  - o The designation of a new CAA, or
  - o Severe economic dislocation.

"The state CSBG office gives an assurance required by the federal CSBG Act in its state CSBG plan that it will provide the CAA with a hearing on the record."



## SECTION 2. HOW A CAA MAY CHALLENGE A STATE'S ATTEMPT TO AVOID THE NOTICE AND HEARING REQUIREMENT

No federal or state authority exists for a state to waive or ignore a CAA's right to notice and an opportunity for a hearing.<sup>29</sup> If a state proceeds with reducing or terminating the CAA's funding without affording the CAA notice and an opportunity for hearing on the record, the CAA should seek funding directly from the Office of Community Services (OCS). See [Section 3 in Part VI](#) for information regarding how to request direct assistance from OCS and Section 3 below for information regarding how to challenge a state's notice and hearing procedures (including failure by the state to provide them).

## SECTION 3. HOW A CAA CAN CHALLENGE A STATE'S NOTICE AND HEARING PROCEDURES

Even though the federal CSBG Act requires states to provide adequate notice and a hearing before initiating proceedings to reduce or terminate funding, the Act is silent as to exactly what type of notice and hearing a state CSBG office is required to provide. The only requirements from the federal CSBG Act regarding the procedures are that they must be "adequate" and the hearing offered must be "on the record."<sup>30</sup> Additionally, OCS offers guidance regarding the notice and hearing procedures in IM 116 which explains that "[h]earing procedures should be consistent with any applicable State policies, rules or statutory requirements."

"An opportunity for a hearing should not be combined with a general public hearing on various other topics such as a hearing on the CSBG state plan."

Thus, it is up to the state CSBG office to determine the type of notice and hearing procedures it will use to comply with the federal CSBG Act. The procedures provided by the state CSBG office should be made available to the CAA either via the state CSBG laws and/or regulations or the state's CSBG contract with the CAA. Typically, the state CSBG office will follow the state's administrative procedures act (APA) for notice and a hearing.

Adequate notice given by a state should have the following characteristics:

- Citation to the finding(s) and legal requirement on which termination or a reduction in funding is based;
- Statement of the CAA's opportunity for a hearing on the record and the time and location of the hearing; and
- Information regarding additional appeal options, such as the option for federal review, if the state decides to terminate or reduce the CAA's funding.

The state CSBG office gives an assurance required by the federal CSBG Act in its state CSBG plan that it will provide the CAA with a hearing on the record.<sup>31</sup> The hearing should thus permit the CAA to submit its reasons on the record (i.e., recorded or documented through transcripts). CAAs benefit from a hearing on the record because the record becomes a part of the documentation sent to OCS by a state CSBG office if a CAA requests a federal review. OCS specifically recommends that when a CAA requests a federal review, the state should send in "all necessary documentation relating to the determination, including, for example, transcripts of the hearing and any documentation used in reaching the State's decision."<sup>32</sup> Thus, a hearing on the record offers OCS a more complete and well-rounded accounting of the state's final decision, including the CAA's perspective.

An opportunity for a hearing should not be combined with a general public hearing on various other topics such as a hearing on the CSBG state plan. Rather, a CAA should request that the hearing be an individualized determination where the CAA may present its reasons why its funding should not be reduced or terminated and submit additional documentation for the state CSBG to consider.

The CAA should also work with an attorney in its state familiar with state government hearings to ensure that it understands the procedures to be used for the hearing. The CAA and attorney may need to ask the state to provide them with details about the hearing process such as:

- Who will be conducting the hearing?
- Are witnesses permitted?
- How much time will be allotted for each party to present its case?
- Will cross-examinations of the parties be permitted?
- What type of exhibits will be permitted?

For an example of a letter challenging the state’s notice and hearing procedures, see [Appendix H](#).

## SECTION 4. TIPS FOR A CAA PREPARING FOR A HEARING

To properly prepare for a hearing, a CAA should take the following steps:

1. Work with an attorney throughout your preparation for a hearing to ensure that your arguments are clearly stated and supported. An attorney will also help you formulate arguments and prepare your evidence supporting those arguments. See [Section 3 in Part II](#) for information about paying for attorney fees.
2. Ensure that you understand each deficiency on which the state CSBG office is basing its decision to initiate a reduction in or termination of funding. If the notice of deficiency does not include a citation to a specific legal authority, ask the state CSBG office for the requirement on which the deficiency is based. Furthermore, if the legal requirement is clear but the state’s reason for the deficiency is not, seek additional information from the state CSBG office regarding the rationale supporting its finding.
3. If you disagree with the deficiency finding, gather all of the information available to prove that your CAA is in compliance with the legal requirement on which the deficiency is based.

### EXAMPLE - Take One

If the deficiency is based on a client who is not income-eligible receiving services, the CAA should submit, as part of the record for the hearing, intake forms and information about the CAA’s intake process to show that the client was income-eligible, if they exist.

4. If your CAA believes that the actions it has taken successfully corrected the deficiency, the CAA should gather all of the information available to show the actions taken and how the actions corrected the deficiency.

## EXAMPLE - Take Two

If a deficiency is based on an individual who is not income-eligible receiving services, the CAA may show that it has revised its intake form, dismissed the intake worker responsible, and/or added additional steps to ensure a more accurate intake process. All such actions should be documented and this documentation should be provided as part of the hearing process.

5. If your CAA believes that the state CSBG office is incorrect in stating that a particular action is required to correct a deficiency, gather information showing why the actions taken have corrected the deficiency.

## SECTION 5. HOW A CAA CAN CHALLENGE A STATE'S ATTEMPT TO SUSPEND FUNDING

The State CSBG office is in violation of the federal CSBG Act if it suspends a CAA's funding and the suspension of funds results in an effective reduction in or termination of funds. The federal CSBG Act and regulations explain that a state CSBG office may discontinue present or future funding only when a state has met its responsibilities addressed in Parts II, III, and IV; notice and a hearing have occurred; and one of the following conditions is met:<sup>33</sup>

- The 30-day limit within which the CAA may request federal review has expired and no request for federal review was made; or
- The 90-day limit within which a requested federal review occurred has expired, regardless of whether OCS has responded; or
- OCS affirms the state's termination of or reduction in the CAA's funding prior to the expiration of the 90-days allotted for federal review.

Whether a suspension of funds is deemed an effective reduction in or termination of funding will depend on the facts of a given situation. The length of the suspension is one factor that may be revelant.

## EXAMPLE

The state has a practice of disbursing CSBG funds to CAAs on a reimbursement basis, rather than as advance payments. Despite the fact that the CAA has fully complied with the reimbursement procedure and the state has drawn down CSBG funds from HHS, the state has delayed paying the CAA's request for reimbursement for over two months based on the CAA having two vacancies on its board. The CAA may have a strong argument that the state CSBG office has effectively reduced or terminated the CAA's funding in violation of the CSBG Act which requires the state to provide the CAA notice, hearing and an opportunity for a federal appeal.

As discussed in [Section 3 in Part VI](#), a CAA may request funding directly from OCS when a state violates its assurance to provide notice and an opportunity for a hearing and to allow for federal review. If granted, the financial assistance from OCS will continue until the state’s violation is corrected.<sup>34</sup>

## SECTION 6. CLARIFYING FOR A CAA HOW A STATE MAY REDUCE FUNDING

The federal CSBG Act requires states to include in their state plans an assurance that they will not reduce a CAA’s funding “below the proportional share of funding the entity received in the previous fiscal year” before providing notice and an opportunity for a hearing on the record.<sup>35</sup> A CAA’s proportional share refers to the amount of non-discretionary CSBG funds awarded to it compared to the amount of non-discretionary funds awarded to all eligible entities in a state. If a state office attempts to reduce a CAA’s share by any amount, the state must provide that CAA with notice, an opportunity for a hearing and the option for a federal appeal.<sup>36</sup>

### EXAMPLE

A CAA received \$1 million in non-discretionary grant funds in the prior year and the total of all non-discretionary grant funds awarded to all eligible entities in the state in the prior year was \$10 million. The CAA’s proportional share is therefore 10%. If a state wishes to reduce the CAA’s proportional share below 10%, the state must first provide the CAA with notice and an opportunity for a hearing on the record followed by an opportunity for federal appeal.



# PART VI Table of Contents

## State Responsibility Five

After providing the CAA an opportunity to seek review by the U.S. Department of Health and Human Services (HHS) of the state's final decision, a state shall reduce or terminate a CAA's CSBG funding unless HHS overturns the decision.

**Pg. 36. Section 1.**

CAA Should Understand the Timeframe and Requirements for a Federal Appeal

**Pg. 36. Section 2.**

Tips for a CAA Preparing for a Federal Appeal

**Pg. 37. Section 3.**

How a CAA Can Request Funding Directly from the Office of Community Services (OCS)

# PART VI. STATE RESPONSIBILITY FIVE

## THE FEDERAL APPEAL OPTION

If, after the hearing, the state finds “cause” to terminate or reduce federal funding, the CAA may request federal review of the state’s decision to reduce or terminate funding.<sup>38</sup> OCS is required to complete the appeal submitted by a CAA no later than 90 days after it receives from the state all necessary documentation relating to the state’s determination.<sup>39</sup> If OCS does not overturn the state’s decision by the end of the 90 day period, the state’s decision to terminate or reduce funding is automatically affirmed.

### SECTION 1. CAA SHOULD UNDERSTAND THE TIMEFRAME AND REQUIREMENTS FOR A FEDERAL APPEAL

A request for a federal appeal must be in writing and submitted by the CAA within 30 days of being notified by the state CSBG office of its final decision to reduce or terminate funding.<sup>40</sup> Requests for review must be sent to the attention of the Division of State Assistance in the Office of Community Services at the following address:

U.S. Department of Health and Human Services  
Administration for Children and Families  
Office of Community Services  
Division of State Assistance  
Attention: Community Services Block Grant Program  
370 L’Enfant Promenade S.W., 5th Floor West  
Washington, D.C. 20447

“A request for federal appeal must be in writing and submitted by the CAA within 30 days of being notified by the state CSBG office of its final decision to reduce or terminate funding.”

Overnight mail submissions may be sent directly to the assigned Office of Community Services’ CSBG Program Services - Regional Contacts. This contact information is available on the [CSBG program website](#).<sup>41</sup>

### SECTION 2. TIPS FOR A CAA PREPARING FOR A FEDERAL APPEAL

Preparing for a federal appeal actually begins with the hearing that occurred prior to the state’s final decision to reduce or terminate funding. Once a CAA appeals the state’s final decision to OCS the state CSBG office is required to submit to OCS the record and evidence from the hearing.<sup>42</sup> Thus, it is crucial for CAAs to submit at the hearing clear and thorough documentation supporting their case as discussed in [Section 4 in Part V](#). The documentation the CAA used to establish its case at the hearing will be the basis for the case it will submit for federal appeal. Here are some tips for preparing a federal appeal request and supporting documents:

1. If at all possible, work with an attorney who has handled cases submitted against the federal government, preferably against HHS. His or her insights will be invaluable. An attorney will ensure that your request for federal appeal clearly states your arguments and is supported with evidence. See [Section 3 in Part II](#) for information about paying for attorney fees.
2. List all of the possible reasons why your funding should not be reduced or terminated. List your strongest reasons in the beginning and end and couch the weaker ones in the middle.

## INSIGHT

Reasons that a CAA is contesting a deficiency may include: the state incorrectly interpreted the legal basis for the deficiency; the state incorrectly applied the legal basis for the deficiency; the state overlooked key evidence proving that the deficiency does not exist; and/or the state overlooked the actions taken to correct the deficiency.

3. Do not discuss multiple deficiencies at once. Address each deficiency separately even if the support for each overlaps. Include a cover letter that lists the deficiencies as separate headings and underneath each heading list the reasons explaining your position regarding that deficiency.
4. Keep the supporting documentation and information as concise as possible.
5. Provide documentation that clearly establishes why you think your funding should not be reduced or terminated.
6. Be careful not to mix in emotions or suspicions in your arguments. This is not an opportunity to vent about your state CSBG office. The strongest argument you can make is a factual one with clearly linked evidence supporting it.
7. Ensure that your evidence and documents are well organized and easy to navigate.

OCS staff, like all of us, is very busy. They do not have time to sort through unorganized documents or make a case for you. Moreover, OCS is not required to respond to a request.<sup>43</sup> Thus, if after the 90 days discussed in [Part VI](#) have passed and you have not received a response from OCS, the state's decision to reduce or terminate your funding is considered affirmed.



### TIP

Even though no requirement exists for OCS to directly respond to a federal appeal, a CAA should not hesitate to ask for a response. Since OCS has 90 days from the time it receives the state's documentation to make its decision and a CAA may not be informed of when the 90-day review period will begin, a CAA should track when it submitted its appeal request to OCS and plan to follow-up directly with OCS 30 to 60 days after that date.

## SECTION 3. HOW A CAA CAN REQUEST FUNDING DIRECTLY FROM THE OFFICE OF COMMUNITY SERVICES (OCS)

OCS has the authority to provide funding directly to CAAs when a state violates the assurance it is required by the federal CSBG Act to make in the CSBG state plan to provide notice, an opportunity for a hearing and a federal review. If a state CSBG office withholds or reduces funding without following the required process as discussed in [Part V](#), a CAA can request direct funding from OCS. For an example of a letter requesting direct funding from OCS see [Appendix I](#).

If direct funding is granted, the financial assistance from OCS to the CAA will continue until the state's violation is corrected (i.e., by providing adequate notice and opportunity for a hearing or restoring funding).

# FOOTNOTES



# FOOTNOTES

1. OCS is an office of the Administration for Children and Families, which is a division of the U.S. Department of Health and Human Services. OCS oversees the CSBG program as well as other programs that provide a range of human and economic development services and activities to address the causes and characteristics of poverty and otherwise assist persons in need.
2. 42 U.S.C. §§ 9915, 9914.
3. 42 U.S.C. § 9914(a)(3).
4. 42 U.S.C. §§ 9914(a)(3), 9915(a)(3)(A), (B) and (a)(4)(A), (B); IM 116.
5. 42 U.S.C. §§ 9915(a)(5) &(b); 9908(b)(8); 45 C.F.R. § 96.92; IM 116.
6. 42 U.S.C. § 9915(a)(5) &(b); 45 C.F.R. § 96.92 IM 116.
7. 42 U.S.C. §§ 9915, 9914.
8. 42 U.S.C. § 9914(a).
9. 42 U.S.C. § 9914(a).
10. 42 U.S.C. § 9914(a).
11. 45 C.F.R. § 96.50(a).
12. 45 C.F.R. § 96.50(b).
13. 45 C.F.R. § 96.50(c), (d).
14. 45 C.F.R. § 96.50(e).
15. 42 U.S.C. §§ 9915, 9914.
16. 42 U.S.C. § 9915(a)(1),(2).
17. IM 116; IM 117; 42 U.S.C. § 9915.
18. 42 U.S.C. § 9908(b)(8),(c).
19. 42 U.S.C. §§ 9914(a)(3), 9915(a)(3)(A), (B) and (a)(4)(A), (B); IM 116.
20. 42 U.S.C. § 9915(a)(3)(A), (B); IM 116.
21. IM 116.
22. IM 116.
23. 42 U.S.C. § 9915(a)(4)(A), (B); IM 116.
24. 42 U.S.C. §§ 9915(a)(5) &(b); 9908(b)(8); 45 C.F.R. § 96.92; IM 116.
25. 42 U.S.C. §9908(b)(8), (c); IM 116.
26. 42 U.S.C. §9915(a)(5); IM 116.
27. 42 U.S.C. §9908(b)(8); IM 116.
28. See 42 U.S.C. § 9908(c).
29. 42 U.S.C. § 9915; 45 C.F.R. § 96.92. See also IM 116 which states that “[t]he CSBG Act does not include any State or Federal authority to waive the requirement of an opportunity for a hearing.”
30. See 42 U.S.C. §§ 9915(a)(5), 9908(b)(8).
31. See 42 U.S.C. § 9908(b)(8).
32. IM 116.
33. 42 U.S.C. § 9915(b); 45 C.F.R. § 96.92. 42 U.S.C. § 9915(c); 45 C.F.R. § 96.92.
34. 42 U.S.C. § 9915(c); 45 C.F.R. § 96.92.
35. See 42 U.S.C. § 9908(b)(8).
36. IM 116.
37. 42 U.S.C. § 9915(a)(5) &(b); 45 C.F.R. § 96.92 IM 116.
38. 42 U.S.C. § 9915(b); 45 C.F.R. § 96.92.
39. 42 U.S.C. § 9915(b); 45 C.F.R. § 96.92.
40. 45 C.F.R. § 96.92.
41. IM 116.
42. IM 116.
43. 42 U.S.C. § 9915(b).
44. 42 U.S.C. § 9915(b); 45 C.F.R. § 96.92.
45. 42 U.S.C. § 9915(c); IM 116.



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# APPENDIX A

## OCS Information Memorandum 116

U.S. Department of Health &amp; Human Services

## Administration for Children &amp; Families

OFFICE OF COMMUNITY SERVICES Increasing the Capacity of Individuals, Families and Communities

<b>COMMUNITY SERVICES BLOCK GRANT PROGRAM</b>  <b>Information Memorandum</b>	<b>U.S. Department of Health and Human Services</b> <b>Administration for Children and Families</b> <b>Office of Community Services</b> <b>Division of State Assistance</b> <b>370 L'Enfant Promenade, S.W.</b> <b>Washington, D.C. 20447</b>  <a href="http://www.acf.gov/programs/ocs/csbg/">http://www.acf.gov/programs/ocs/csbg/</a>
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Transmittal No. 116

Date: December 4, 2009

(Revised April 2, 2010)

<b>TO:</b>	State Community Services Block Grant Program (CSBG) Administrators, U.S. Territory CSBG Program Administrators, State CSBG Financial Officers
<b>SUBJECT:</b>	Guidance on Corrective Action, Termination or Reduction of Funding for CSBG Eligible Entities
<b>PURPOSE:</b>	To ensure a consistent understanding of legal requirements and procedures for termination or proportional reduction of funding to eligible entities receiving CSBG funds
<b>RELATED REFERENCES:</b>	Community Services Block Grant Act (Public Law 105-285, the Community Opportunities, Accountability, and Training and Educational Services Act of 1998); U.S. Code of Federal Regulations (45 CFR, Section 96.92).

**This Information Memorandum (IM) provides background on statutory and regulatory requirements for terminating organizational eligibility or otherwise reducing the share of funding allocated to any CSBG-eligible entity. A step-by-step description is provided outlining necessary actions and considerations for terminating or reducing funds to a CSBG-eligible entity for cause. A sample tool is provided for State documentation of State actions. Although described as a series of discrete steps, some activities described in this IM can be implemented concurrently. States are encouraged to review internal monitoring, corrective action, and hearing procedures to assure compliance with the CSBG Act and applicable regulations cited in this memorandum. In addition, States are strongly encouraged to develop tools and procedures for timely action in circumstances requiring corrective action, reduction, or termination of funding to assure accountability and prevent waste, fraud, or abuse of CSBG funds.**

Note: The IM is intended as a guidance tool to support State implementation of requirements of specific sections of the CSBG Act. Key sections of the CSBG Act are referenced throughout the IM. It is strongly recommended that the referenced sections of the CSBG Act be read along with this guidance in order to assure an understanding of the

specific language of the statute. The CSBG Act may be obtained online at the following web address: [http://www.acf.hhs.gov/programs/ocs/csbg/pdf/csbg\\_law\\_508.pdf](http://www.acf.hhs.gov/programs/ocs/csbg/pdf/csbg_law_508.pdf)

### **Background**

CSBG funds are awarded to States, U.S. Territories, and eligible Tribal governments and Tribal Organizations based on a statutorily defined formula outlined in the CSBG Act. States are required under the CSBG Act to distribute at least 90 percent of block grant funds to specific eligible entities within the State to support services focused on the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families in rural and urban areas to become fully self-sufficient.

States may retain up to ten percent of grant funds for administrative expenses (which may not exceed the greater of \$55,000 or five percent of the total State award) and other discretionary activities. For example, if a State receives a CSBG allocation of \$10 million, the State may retain up to \$1 million for discretionary activities, but may not use more than \$500,000 of these funds for administrative expenses.

Eligible entities are non-profit or public agencies that meet the requirements of Section 673 (1)(A) and Section 676B of the CSBG Act. Nonprofit eligible entities must administer the CSBG program through a tripartite board, one-third of whom must be elected public officials or their representatives, not-less than one-third of whom must be democratically-selected representatives of low-income families and individuals in the neighborhoods served, and the remainder of whom are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

Public eligible entities must also have a tripartite board, which must assure that not fewer than one-third of the members are democratically-selected representatives 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 programs funded through the CSBG grants. States may also specify an alternate mechanism to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of public entity programs funded under the CSBG grant.

The majority of eligible entities in the CSBG program are Community Action Agencies or public agencies with a longstanding involvement in the CSBG program. The list of eligible entities within a State is generally consistent from year-to-year. States may add or remove organizations from the list of eligible entities but must do so consistent with procedures outlined in the CSBG Act. States award funds to eligible entities based on State-defined formulas. However, any changes that adversely affect the proportional share of funding awarded to an eligible entity must be conducted in accordance with the CSBG Act.

### **Proportional Share Requirements for Eligible Entities**

The CSBG Act requires that as a part of the annual submission of an application and plan for CSBG funding, States must assure that any eligible entity in the State that received funding in the previous fiscal year through a Community Services Block Grant will not have its funding terminated, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction. The CSBG Act also specifies that a State's determination is subject to Federal review by the Department of Health and Human Services. The time lines and procedures for Federal review are discussed later in this IM.

An eligible entity's "proportional share" refers to the amount of non-discretionary grant funds awarded to that entity compared to the amount of non-discretionary grant funds awarded to all eligible entities in the State. For example, if an eligible entity received \$1 million in non-discretionary grant funds in the prior year and the total of all non-discretionary grant funds

awarded to all eligible entities in the State in the prior year was \$10 million, the eligible entity's proportional share would be ten percent.

### **Cause for Changes of Proportional Share to Eligible Entities**

Under Section 676(c) of the CSBG Act, there are two major causes for changing the proportional share of funding awarded to eligible entities.

*Statewide Redistribution of Funds* - The first, and most common, cause for changing the proportional share of funding to eligible entities is not related to performance deficiencies of a specific organization. Under Section 676(c)(1)(A) of the CSBG Act, States may implement a Statewide redistribution of funds to respond to the results of the most recently available census data or other appropriate data, the designation of a new eligible entity, or severe economic dislocation. Statewide changes to the distribution formulas require a public hearing. The CSBG Act requires at least one legislative hearing every three years in conjunction with the development of the State plan and States may utilize this legislative hearing to consider changes to distribution formulas. States may also conduct special administrative hearings in response to specific demographic or economic changes, or the designation of a new eligible entity to address an unserved area.

*Failure to Comply with State Plan, Standard or Requirement* - The second cause for reducing funding or terminating eligibility for CSBG funding is related to deficiencies in the activities of an individual eligible entity. Under Sections 676(c)(1)(B) and 676(c)(2) of the CSBG Act, States may reduce funding or terminate eligibility for CSBG funding based on an eligible entity's failure to comply with the terms of an agreement or a State plan, or to meet a State requirement, to provide services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives.

### **State Monitoring and Review**

Section 678B(a) of the CSBG Act requires that States conduct monitoring visits and a full on-site review of each eligible entity at least once during each three-year period. The CSBG Act also requires that States conduct an on-site review of each newly-designated entity immediately after the completion of the first year in which the entity receives CSBG funds.

States are required under the regular CSBG program to conduct follow-up reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State. The CSBG Act also requires that States conduct other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants other than assistance provided under CSBG terminated for cause.

It is an expectation of the Office of Community Services (OCS) that State CSBG Lead Agencies will conduct reviews when informed that an eligible entity has grant funds terminated for cause under a related program, such as Head Start, the Low Income Home Energy Assistance Program (LIHEAP), the Weatherization Assistance Program, or other Federal programs. State CSBG Lead Agencies should include questions in routine monitoring visits and contacts about whether an eligible entity has had grant funds terminated for cause in any Federal, State, or local programs other than CSBG. State CSBG Lead agencies are expected to review the cause of termination for other Federal programs to assure that comparable issues do not exist for CSBG funds.

It is also the expectation of OCS that State CSBG Lead Agencies will thoroughly investigate any instances of "whistleblower" complaints or allegations of fraud or abuse of CSBG funds or funds from closely-related programs. In any instances in which complaints or allegations of fraud are considered credible and raise significant "red flags," OCS should be informed of

findings and may assist with additional compliance review or referral to appropriate investigative authorities.

Note: Allegations of fraud or abuse may also be referred directly to the HHS hotline maintained by the Office of the Inspector General using the following contact information: 1-800-HHS-TIPS (1-800-447-8477) <http://oig.hhs.gov/fraud/hotline/>

### **Determination of Performance Deficiencies or Failure to Comply with State Requirement**

Based on routine State monitoring, reviews, or investigations related to specific complaints or allegations, the State CSBG office may determine that an eligible entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. The State's determination may be based on the agency's failure to provide CSBG services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives. The State should document the basis for such determination and the specific deficiency or deficiencies that must be corrected.

### **Communication of Deficiencies and Corrective Action Requirements**

When a State CSBG Lead Agency has determined that an eligible entity has a specific deficiency, the State must communicate the deficiency to the eligible entity and require the eligible entity to correct the deficiency. To establish compliance with the requirements of the CSBG Act, records of correspondence or other communications related to an enforcement action against an eligible entity should be maintained.

### **Technical Assistance to Correct Deficiencies**

The State must offer training and technical assistance, if appropriate, to help an eligible entity correct identified deficiencies or failures to meet State requirements. Technical assistance may be offered concurrently with the notification of a deficiency or deficiencies and should focus on the specific issues of the eligible entity to the extent possible.

The CSBG Act requires that the State prepare and submit to the Secretary a report describing the training and technical assistance offered. Alternately, if the State determines that training and technical assistance are not appropriate, the State must prepare and submit a report to the Secretary stating the reasons that technical assistance is not appropriate.

Some examples of situations in which a State may determine that technical assistance is not appropriate may include, but are not limited, to the following:

- A deficiency for which the eligible entity has the expertise and skills available within the organization to make corrective actions without assistance;
- A deficiency for which the State has previously provided technical assistance and the eligible entity has failed to institute corrective actions;
- Multiple, widespread, and/or repeated deficiencies that cannot feasibly be addressed through technical assistance;
- A deficiency that involves evidence of fraudulent reporting or use of funds, or other evidence of criminal wrongdoing.

### **Quality Improvement Plan**

Section 678C(a)(4) of the CSBG Act allows for State discretion in the implementation of a quality improvement plan by an eligible entity to correct an identified deficiency or deficiencies. The Act specifies that States must consider the seriousness of the deficiency and the time reasonably required to correct the deficiency.

Examples of instances in which a State may exercise discretion on whether a quality improvement plan is appropriate or necessary may include, but are not limited to the following:

- A deficiency for which an eligible entity has previously instituted a corrective action plan and has repeated findings;
- A deficiency that involves evidence of fraudulent reporting or use of funds, or other evidence of criminal wrongdoing and therefore presents a risk requiring immediate action.

If a State determines that an eligible entity should be allowed to develop and implement a quality improvement plan, the CSBG Act requires the State to allow the eligible entity to develop and implement their plan within 60 days after being informed of a deficiency. States are encouraged to review quality improvement plans and issue decisions on whether the plans are approved as quickly as possible within the 30-day time frame. The quality improvement plan should identify actions that will be taken to correct the deficiency within a reasonable period of time as determined by the State. States may exercise discretion based on the specific circumstances.

If a quality improvement plan is allowed, the State must review and issue a decision on whether to approve the plan not later than 30 days after receiving the plan from an eligible entity. If the State does not accept the plan, the State must specify the reasons why the proposed plan cannot be approved.

### **Opportunity for a Hearing**

A key statutory requirement for funding termination or reductions, as outlined in Section 678C(a)(5) of the CSBG Act is that States must provide adequate notice and opportunity for a hearing prior to terminating organizational eligibility for CSBG funding or otherwise reducing the proportional share of funding to an entity for cause. The CSBG Act does not include any State or Federal authority to waive the requirement of an opportunity for a hearing. Hearing procedures should be consistent with any applicable State policies, rules or statutory requirements.

Pursuant to Section 678C(b) of the CSBG Act, OCS shall, upon request, review any final State determination to terminate or reduce funding of an eligible entity. In order to conduct such review, the requestor and State should submit to OCS all necessary documentation relating to the determination, including, for example, transcripts of the hearing and any documentation used in reaching the State's decision. For the purposes of any Federal review, it is suggested that States provide the following information to OCS:

- A copy of the notice provided in advance of the hearing that includes the date of the notice and the date of the hearing;
- The name of the presiding hearing official;
- The name(s) of official(s) or individual(s) responsible for determination of hearing findings or decisions (e.g. the CSBG State Official);
- The names of the individuals participating in the hearing; and
- Documentation of evidence presented at the hearing.

### **State Proceedings to Terminate or Reduce Funding**

After providing an opportunity for a hearing, if the State finds cause for termination or reduction in funding, the State may initiate proceedings to terminate the designation of or reduce the funding to an eligible entity unless the entity corrects the deficiency. If a State CSBG Lead Agency determines that funding will be reduced or that eligibility for CSBG funds will be terminated, the State must notify both the eligible entity and the OCS of the decision.

### **Opportunity for Federal Review**

A Federal review of the State decision to reduce or terminate funding may be initiated through a request from the affected organization. In accordance with 45 CFR §96.92, an eligible entity has 30 days following notification by the State of its final decision to request a review by the Secretary of the Department of Health and Human Services (HHS).



If a request for a review has been made, the State may not discontinue present or future funding until the Department responds to the request. Requests for Federal review must be received by OCS within 30 days of notification of a State decision. If no request for review is made within the 30-day limit, the State's decision will be effective at the expiration of the time.

Section 678C(b) of the CSBG Act specifies that a review by the Department of Health and Human Services shall be completed no later than 90 days after the Department receives from the State all necessary documentation relating to the determination to terminate the designation or reduce the funding. If the review is not completed within 90 days, the Act specifies that the determination of the State shall become final at the end of the 90th day.

#### **Expedited Federal Review and Technical Assistance**

While the CSBG Act specifies that a Federal review of State documentation for terminating the designation or reducing funding to an eligible entity must be completed within 90 days, an expedited Federal review may be possible in some instances. This is particularly true in circumstances in which the State has consulted closely with OCS before and during proceedings and has provided documentation at each step of the process as described above. In some instances, particularly those involving potential waste, fraud and abuse, an on-site Federal review may be arranged to expedite the review of documentation and assist with CSBG procedures and requirements. A documentation tool outlining information required for Federal review is included as an attachment to this guidance.

#### **Address to Request Federal Review**

Information on how to request a Federal review should be provided to all eligible entities that are subject to a termination or reduction of funding hearing and decision. To ensure that requests are received in time for Federal review, it is strongly recommended that requests be sent via overnight mail with a signed certification of receipt. Requests for review must be sent to the attention of the Division of State Assistance in the Office of Community Services at the following address:

U.S. Department of Health and Human Services  
Administration for Children and Families  
Office of Community Services  
Division of State Assistance  
Attention: Community Services Block Grant Program  
370 L'Enfant Promenade S.W., 5th Floor West  
Washington, D.C. 20447

Overnight mail submissions may be sent directly to the assigned Office of Community Services' CSBG Program Services - Regional Contacts to provide notification that a request has been submitted. This contact information is available on the CSBG program website at the following web link:

<http://www.acf.hhs.gov/programs/ocs/csbg/aboutus/staffassignments.html>.

#### **Potential for Direct Federal Assistance to an Eligible Entity**

Section 678C(c) of the CSBG Act specifies that whenever a State terminates or reduces the funding of an eligible entity prior to the completion of a required State hearing and other statutorily-required considerations and procedures as outlined in this document, the Department of Health and Human Services is authorized to provide financial assistance directly to the eligible entity until the State violation of the CSBG Act requirements is corrected. In such instances, the State's CSBG allocation under the block grant would be reduced by the amount provided to the eligible entity.

#### **State Award of Funds to a New Eligible Entity**

In the event that the State terminates the designation of an organization as an eligible entity,

or otherwise reduces funds, any resulting funding may be awarded only to an organization that is an eligible entity for CSBG funds. Section 676A of the CSBG Act outlines procedures for designation and re-designation of eligible entities in un-served areas. In accordance with the CSBG Act, a State may solicit applications and designate as an eligible entity either:

- A private nonprofit organization that is geographically located in the un-served area that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency and meets the requirements of the CSBG Act; or
- A private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the un-served area and is already providing related services in the un-served area.

States must grant the designation to an organization of demonstrated effectiveness in meeting the goals of the CSBG Act, and may give priority to an eligible entity in a contiguous area that is already providing related services in the un-served area. If no private, nonprofit organization is identified or determined to be qualified as an eligible entity to serve the area, the State may designate an appropriate political subdivision of the State to serve as an eligible entity for the area.

Any nonprofit or public agency receiving CSBG funds must meet the tripartite board requirements specified in Section 676B of the CSBG Act. The process of soliciting applications to select a new eligible entity may take place during the period in which the Department of Health and Human Services is reviewing a State decision to terminate an organization's eligibility for CSBG funds. However, the State may not award the funds to a new eligible entity until the Department confirms the State's finding for cause or the 90-day period for Federal review has passed.

#### **Additional Options to Protect Federal Funds**

Although the CSBG Act provides for a specific process for terminating an organization's status as an eligible entity or otherwise reducing an entity's proportional share of funding, States have considerable additional authority to assure appropriate expenditures of Federal funds.

Where State laws and procedures permit, States may consider use of cost-reimbursement funding approaches to assure a detailed review of actual expenditures and State approval prior to reimbursement. In some instances, particularly when substantial risks have been identified, States may consider cost reimbursement strategies for some or all funds during a period of corrective action or implementation of a Quality Improvement Plan. While cost reimbursement procedures may be used to assure appropriate expenditure of funds, payment to eligible entities must be made within a reasonable period of time after submission of the reimbursement request and necessary documentation. The Office of Community Services encourages consideration of all applicable State laws and procedures in circumstances in which credible allegations of waste, fraud, or abuse of funds are under formal investigation, but not yet conclusively documented. This may include circumstances in which the office has received whistle-blower complaints, referrals from a State or Federal investigative office, or evidence of misuse of funds in a related Federal or State program.

#### **Conclusion**

The appropriate use of CSBG funds is a shared responsibility between the Office of Community Services, State CSBG Lead Agencies, and eligible entities at the community level. The CSBG Act provides protections and responsibilities for organizations at each level. While the procedures for terminating eligibility or reducing funding for cause related to a deficiency are expected to apply to only a small percentage of eligible entities, all State and Federal officials involved with the CSBG program must be familiar with required procedures. It is strongly recommended that State CSBG Lead Agencies work closely with the Office of Community Services at each stage of the process to assure appropriate documentation of the process. The Office of Community Services will work closely with State CSBG Lead Agencies to assure due process for any affected organizations, to assure that procedures are executed efficiently and correctly in instances where warranted to prevent waste, fraud and abuse, and

to promote the appropriate and effective use of funds to alleviate the causes and conditions of poverty in communities nationwide.

In the supplemental appropriation for the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), States were instructed to award 99% of appropriated funds to eligible entities.

Procedures for designating a new eligible entity are outlined in Section 676A of the CSBG Act.

\_\_\_\_\_/s/\_\_\_\_\_

Yolanda J. Butler, Ph.D.  
Acting Director  
Office of Community Services

Attachment:

Sample Documentation Tool for Corrective Actions, Reductions, or Terminations of CSBG Funding For Cause

**ATTACHMENT Sample Documentation Tool  
for Corrective Actions, Reductions, or  
Terminations of CSBG Funding For Cause**

*The table provided below may be used by State CSBG Lead Agencies to assure appropriate documentation at each stage of the required process for corrective action, termination, or reduction of funding for organizational deficiencies. Some steps may be instituted concurrently and documentation (e.g. reports or correspondence) may include multiple steps. For example, a State may notify an eligible entity of deficiencies, offer appropriate technical assistance, and require a plan of correction within a single item of correspondence. The statutory requirements are described here as a series of discrete steps in order to assure that all key requirements are documented. Highlighted notes provided below are intended as a guidance regarding appropriate documentation and may be removed in an actual working document.*

<b>Community Services Block Grant (CSBG) Legislative Requirement – Section 678C</b>	<b>Activities Undertaken by the State with respect to the Eligible Entity in Compliance with Section 678C</b>	<b>Documentation in the Proceedings</b>
<p><b>Step 1:</b> State conducts review pursuant to section 678B.</p> <p>§678C(a), 42 U.S.C. §9915(a)</p>	<p><i>Describe the review dates, procedures, key participants.</i></p>	<p><i>Cite monitoring reports, working papers, or key correspondence.</i></p>
<p><b>Step 2:</b> State determines, on the basis of a final decision in a review</p>	<p><i>Describe the basis for State determination.</i></p>	<p><i>Cite monitoring reports, working papers, and key correspondence</i></p>

<p>pursuant to section 678B, that an eligible entity fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives).</p> <p>§678C(a), 42 U.S.C. §9915(a)</p>		<p><i>relevant to State determination.</i></p>
<p><b>Step 3:</b> State informs the entity of the deficiency to be corrected.</p> <p>§678C(a)(1), 42 U.S.C. §9915(a)(1)</p>	<p><i>Describe the dates and method of notification.</i></p>	<p><i>Cite relevant correspondence, meeting notes and other documentation of communication.</i></p>
<p><b>Step 4:</b> State requires the entity to correct the deficiency.</p> <p>§678C(a)(2), 42 U.S.C. §9915(a)(2)</p>	<p><i>Describe communication of State requirements, any associated deadlines or documentation requirements for eligible entities.</i></p>	<p><i>Cite relevant correspondence, meeting notes and other documentation of communication.</i></p>
<p><b>Step 5:</b> State determines whether training and technical assistance are appropriate.</p> <p>§678C(a)(3)(B), 42 U.S.C. §9915(a)(3)(B)</p>	<p><i>Describe the rationale for determining whether training and technical assistance are appropriate to correct the deficiency. If training and technical assistance are not appropriate describe the basis for this determination.</i></p>	<p><i>Cite meeting notes and other documentation of communication.</i></p>
<p><b>Step 6 (if appropriate):</b> State offers training and technical assistance, if appropriate, to help correct the deficiency.</p> <p>§678C(a)(3)(A), 42 U.S.C. §9915(a)(3)(A)</p>	<p><i>If applicable, describe the document the State's offer of training and technical assistance offered to correct the deficiency.</i></p>	<p><i>Cite relevant correspondence, meeting notes and other documentation of communication.</i></p>
<p><b>Step 7:</b> State either (A) prepares and submits to the Secretary a report describing the training</p>	<p><i>Provide a report documenting either:</i></p> <ul style="list-style-type: none"> <li>• <i>the specific training and technical assistance offered; or</i></li> </ul>	<p><i>Cite report submitted to HHS.</i></p>

<p>and technical assistance offered; or (B) if the State determines that such training and technical assistance are not appropriate, prepares and submits to the Secretary a report stating the reasons for the determination.</p> <p>§678C(a)(3), 42 U.S.C. §9915(a)(3)</p>	<ul style="list-style-type: none"> <li>• the State rationale for not providing technical assistance</li> </ul> <p>If training and technical assistance is offered, document whether the offer was accepted, when training and/or technical assistance was provided, and whether it was successful in addressing the deficiency.</p> <p>Note: In instances in which training and/or technical assistance are provided and the eligible entity successfully addresses the deficiency, the State should maintain documentation and may provide to the Office of Community Services for future reference.</p>	
<p><b>Step 8 (Discretionary):</b> At the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), the State allows the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State; and not later than 30 days after receiving from an eligible entity a proposed quality improvement plan, either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.</p> <p>§678C(a)(4), 42 U.S.C. §9915(a)(4)</p>	<p>Maintain documentation of any quality improvement plans, State deadlines to correct identified deficiencies, whether or not the State approves the quality improvement plan.</p> <p>Note: In instances in which a quality improvement plan is implemented and the deficiency is corrected, the State should maintain documentation and may provide to the Office of Community Services for future reference.</p>	<p>Cite Quality Improvement Plans – If Applicable</p>
<p><b>Step 9:</b> State provides adequate notice and an</p>	<p>Describe, communication to eligible entity regarding the opportunity for a hearing, date of communication, and any</p>	<p>Cite correspondence or public</p>

<p>opportunity for a hearing.</p> <p>§678C(a)(5), 42 U.S.C. §9915(a)(5)</p>	<p><i>applicable State policies, rules, or procedures.</i></p> <p><i>If applicable, describe conduct of hearing to present and consider evidence relevant to State determination consistent.</i></p> <p><i>If applicable, describe outcomes or findings of hearing.</i></p>	<p><i>communication regarding the date and procedures for hearing.</i></p> <p><i>If applicable, cite documentation of the hearing, including official minutes or record of the presiding hearing official, official(s) or individual(s) responsible for determination of hearing findings or decisions; a list of individuals participating in the hearing; evidence presented at the hearing; and any outcomes or findings.</i></p>
<p><b>Step 10:</b> State initiates proceedings to terminate the designation of or reduce the funding under this subtitle of the eligible entity unless the entity corrects the deficiency.</p> <p>§678C(a)(5), 42 U.S.C. §9915(a)(5)</p>	<p><i>Notification to eligible entity and HHS of State decision to terminate or reduce funding.</i></p> <p><i>Upon request, OCS review of State determination.</i></p> <p><i>Designation or redesignation of eligible entity to serve un-served areas in accordance with CSBG Act.</i></p>	<p><i>Cite official correspondence to eligible entity and HHS.</i></p> <p><i>If applicable, cite OCS approval or disapproval of State decision.</i></p>

1 In the supplemental appropriation for the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), States were instructed to award 99% of appropriated funds to eligible entities.

2 Procedures for designating a new eligible entity are outlined in Section 676A of the CSBG Act.

# APPENDIX B

## State Monitoring Tool Examples

## Appendix B:

### State Monitoring Tool Example One

*Please note that CAPLAW does not endorse this tool and we have not checked the law referenced in this tool. We provide this tool only as a sample of a state monitoring tool that clearly ties a compliance requirement to either a federal or state law.*

### CSBG Program FY2011 Monitoring Tool -DRAFT

Agency Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Monitor(s): \_\_\_\_\_

Date(s) of Monitoring: \_\_\_\_\_

Information Provided by: \_\_\_\_\_

Contact Information: \_\_\_\_\_

Monitoring Items	Service Activities			Documentation/Verification
	Yes	No	N/A	
1. Agency's Governing Board membership includes: (KRS273.437)				
<b>A.</b> 1/3 elected public officials or their representatives;				
<b>B.</b> At least 1/3 representative of the poor in the service area;				
<b>C.</b> Remaining % includes representatives of business, industry, labor, religious, welfare, education or other major groups; and,				
<b>D.</b> Total membership of the Board is not less than fifteen (15) and not more than fifty-one (51). <b>Number of Board Members</b> _____				
2. Board meetings are open to the public unless the requirement constitutes a breach of an individual's right to confidentiality. (922KAR6:010)				
3. The meetings of the governing board are recorded and a written record is made. Board Meeting Minutes are submitted to each Board Member and the CSBG Policy Analyst in the Department for Community Based Services prior to the next board meeting. (922 KAR6:010 and 2.03 8) <b>Date(s) of Minutes for SFY 2011 Meetings:</b> _____				
4. A written financial report is presented to the governing board at least quarterly. (922KAR6:010)				
5. Agency maintains written personnel rules and regulations that are available to staff. (922KAR6:010)				
6. The agency maintains a CSBG program (or operations) manual which includes but is not limited to: (922KAR6:010)				
<b>A.</b> Criteria for determining eligibility of an individual for CSBG programs;				
<b>B.</b> Intake process including information needed to approve an applicant;				
<b>C.</b> Procedures for accepting a referral from another agency;				



## Appendix B:

### State Monitoring Tool Example One

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### CSBG Program FY2011 Monitoring Tool -DRAFT

Agency Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_

<b>D.</b> Instructions for records to be kept on applicants and clients and statistical data on intake;				
<b>E.</b> Procedures for reports to be made to the Cabinet and frequency;				
<b>F.</b> Procedures to be followed when an applicant is found ineligible;				
<b>Monitoring Items</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Documentation/Verification</b>
<b>G.</b> Complaint procedures;				
<b>H.</b> A description of each program's organizational structure, lines of authority and areas of responsibility within the CSBG programs; and,				
<b>I.</b> Procedures for documenting the extent of participation of the poor in the CSBG programs.				
<b>7.</b> The agency has a written and signed agreement with the local Service Region Administrator with a copy submitted by September 30, 2010 to DCBS Division of Administration and Financial Management (DAFM) and the Division of Family Support for inclusion in the Vendor's Official Contract File, for DCBS review, and inclusion in the CSBG Plan and Budget Proposal 2011. (2.03 7)				
<b>8.</b> The agreement details the following: (2.03 7)				
<b>A.</b> Roles;				
<b>B.</b> Services to be provided;				
<b>C.</b> A joint referral mechanism; and				
<b>D.</b> Assurance that through cooperative efforts both parties are able to identify and address the vital service needs of the agency's geographic service area.				
<b>9.</b> There is an analysis of the agency's poverty needs and problems, the client groups at risk in its geographic area, and an analysis of the resources available to address those identified needs. (42 U.S. C9908 (b) (11)); CSBG State Plan; Contract Section 2.01.5)				
<b>10.</b> Agency provides a range of services to assist low income, elderly, migrant or seasonal farm workers, homeless individuals including families who are transitioning from the TANF Program. (1.00) (2.00 2 and 2.00 3)				
<b>11.</b> Services provided address the following areas: (1.00)				
<b>A.</b> Employment;				

**Appendix B:**

**State Monitoring Tool Example One**

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**CSBG Program  
FY2011 Monitoring Tool -DRAFT**

Agency Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_

B. Education;				
C. Better use of available income;				
D. Housing;				
E. Nutrition;				
F. Self-sufficiency;				
G. Emergency services; and				
H. Health.				

**Appendix B:  
State Monitoring Tool Example One**

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**CSBG Program  
FY2011 Monitoring Tool -DRAFT**

Agency Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Monitoring Items	Yes	No	N/A	Documentation/Verification
12. Agency coordinates and establishes linkages between governmental and other social service programs to assure the effective delivery of services and to prevent duplication of services. (2.00 4) (2.00 7)				
13. Agency informs individuals of available child support programs and refers individuals to the local child support offices. (2.00 9)				
14. The agency: (2.01 4)				
A. Provides local match in the form of cash certified expenditures or in-kind contributions at 20% of the total State Fiscal Year (SFY) 2010 CSBG allocation; and				
B. Certifies that in-kind contributions have been spent for services approved and incorporated within this contract.				
15. The agency requests in writing Cabinet approval for all out-of-state travel thirty (30) days in advance. (2.03 9)				
16. The travel request identifies: (2.03 9)				
A. The individual traveling;				
B. Justifications for the travel; and				
C. How the travel directly relates to the job duties of the attendee.				
17. Agency provides a report and copies of conference material to the DCBS; CSBG Policy Analyst within ten (10) working day of the conference. (2.03 9)				
18. Agency provides services to improve access to its services and activities for persons who, as a result of their national origin, are limited in their English proficiency (LEP). (4.50)				
19. LEP assistance services include: (4.50)				
A. A method of identifying LEP individuals including:				
1) Oral interpretations;				
2) Written translations;				
B. Training of staff;				
C. Providing notice to LEP person;				
D. Monitoring compliance; and				

**Appendix B:**

**State Monitoring Tool Example One**

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**CSBG Program  
FY2011 Monitoring Tool -DRAFT**

Agency Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_

E. Updating plan.				
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## Appendix B:

### State Monitoring Tool Example One

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### CSBG Program FY2011 Monitoring Tool -DRAFT

Agency Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Monitoring Items	Reporting Requirements			Documentation/Verification
	Yes	No	N/A	
20. The agency utilizes the CASTINET Reporting System for Federal and State reporting purposes to submit the following quarterly reports. (2.03 1)				
A. CSBG Activity Report; and				
B. CSBG ROMA Goals and Outcome Measure Report;				
21. The agency submits quarterly reports (both Activity Reports and the CSBG ROMA Goals and Outcome Measures) by the following dates. (2.03 2)				
A. October 11,2010;				
B. January 10, 2011;				
C. April 11, 2011; and				
D. July 11, 2011.				
22. The quarterly reports are submitted via the CASTINET Reporting System to Candace Matison, Community Action of Kentucky. [N/A for Community Action Council Lexington-Fayette, Bourbon, Harrison & Nicholas Counties.]				
23. If an agency needed additional time to submit a quarterly report, a written request for additional time is submitted to the DCBS Policy Analyst prior to the deadline. (2.03 3)				

Comments/Observations

## Appendix B:

### State Monitoring Tool Example Two

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## CSBG/CEAP MONITORING INSTRUMENT

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CSBG Attachment 6	Board Member Interview



**Appendix B:**

**State Monitoring Tool Example Two**

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Names on File			
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**FINANCIAL REVIEW (SECTION I.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP	
			Yes	No NA	Yes	No NA
OMB Cir. A-110, Subpart C_21 & OMB Cir. A-102 & A-87(if app), 1 TAC § 5.14	OMB Cir. A-110, Subpart C_21 & OMB Cir. A-102 & A-87(if app) CEAP Contract Sect 6, 1 TAC § 5.14	5. Are Monthly Expenditure Report (MER) financial figures reconciled from the general ledger or accounting work papers? <i>Methodology: Compare MER for two months provided by Subrecipient with copy of MER brought by Program Officer. Also, review General Ledger and working papers and/or reports used to compile figures for the MER in review.</i>		Months reviewed:		Months reviewed:

**FINANCIAL REVIEW (SECTION I.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP	
			Yes	No NA	Yes	No NA
Contract Sect. 5 A, 10 TAC§ 5.211	Contract Sect 16 A, 10 TAC § 5.406	6. Are Monthly Expenditure Reports submitted by the 15 <sup>th</sup> of the month for CSBG and CEAP? <i>Methodology: Review in-house documentation noting date received. Submission of reports past the due date will be a finding.</i>				
OMB Cir. A-110, Subpc_21 A-122 & Cir. A-102	OMB Cir. A-110, Subpc_21, A-122 & Cir. A-102,	7. Review at a minimum, two months of expenditures, cash disbursement journals and support documentation for the allowability and reasonableness of the costs.		Months reviewed:		Months reviewed:



**Appendix B:**

**State Monitoring Tool Example Two**

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or A-87 (if app), 1 TAC § 5.14.	ifappCEAP Contract Sect 1, 10 TAC § 5.1								
reference noted above	reference noted above	7. (a) Are the expenditures allowable? <i>Methodology: Review all expenditures for each of the months referenced in question #1 above. Include a copy of the General Ledger.</i>							
reference noted above	reference noted above	7. (b) Is the support documentation adequate? <i>Methodology: For the random sample of expenditures selected, review the support documentation such as actual vouchers, receipts, proper authorization, etc.</i>							
reference noted above	reference noted above	7. (c) _____% of expenditures vs. _____% of contract period expired. Is this an acceptable expenditure rate? <i>Methodology: Review in-house documentation.</i>							
NA	CEAP Contract Attachment A	7. (d) Are the subrecipient's expenditures below the maximum % in the current contract for the following: a) Administration b) Assurance 16 c) Direct Services		<b>X</b>					

**PROCUREMENT (SECTION II.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP	
			Yes	No NA	Yes	No NA
LIHEAP act of 1981 Sec 2605(b)(7) Contract Sect 13		32. Do the vendor agreements contain the required provisions? <i>Methodology: Review vendor agreements</i>		<b>X</b>		
OMB Cir. A-CEAP Contract		<b>Procurement Procedures Available:</b>				

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110 Subp C_44- -46 & A-102, 2(i), & A-87 (if applicabl) 10 TAC§ 5.10	Sec6, 10 TAC § 5.10	<p>a. Small purchase;</p> <p>b. Sealed bid;</p> <p>c. Competitive negotiations;</p> <p>d. Non-competitive negotiations;</p> <p>e. Alternative procedures</p> <p>33. Which method used for labor;; materials; vehicles; equipment; office supplies; other?</p> <p><i>Methodology: Review all procurement documentation for compliance</i></p>							
CSBG Contract Sect.12, 10 TAC § 5.12	10 TAC § 5.12	<p>34. Has subrecipient obtained advanced written approval from the Department for the purchase of any property with a unit acquisition cost of \$5,000 or more?</p> <p><i>Methodology: Review MER's for any cumulative expenditures under the Equipment line item. Also review a list provided by the Contractor of all equipment purchases greater than \$5,000. Review procurement process followed for items purchased with a unit cost of \$5,000 or greater.</i></p>							

**INVENTORY (SECTION III.)**

CSBG Reference		CEAP Reference	CSBG/CEAP Questions			CSBG		CEAP		
Reference	Reference		Yes	No	NA	CSBG Notes	Yes	No	NA	CEAP Notes
10 TAC § 5.8, CSBG Contract Sec.11C	10 TAC § 5.8, Contract Sec. 16 C									
NA	OMB A-110	56. Does the Subrecipient have an inventory control system that makes it			<b>X</b>					
		<i>Methodology: Review inventory forms.</i>								
		55. Has Subrecipient reported cumulative inventory for prior year funding? Have recent inventory purchases been verified on-site?								

**Appendix B:**

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	10TAC § 5.406	possible to track materials used on an individual home back to the point of purchase? <i>Methodology: Review inventory record and tracking system.</i>						
NA	OMB A-110 10TAC § 5.17	57. Does the Subrecipient maintain procedures which conform to the uniform administrative requirements? <i>Methodology: Review document for compliance with appropriate OMB circular.</i>		X				

**AUDIT (SECTION IV.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP		CEAP Notes
			Yes	No NA	Yes	No NA	
OMB A-133 & A-110 & 122, A, Sec. 4, Contract Sect. 21 10 TAC § 5.16	OMB A-133 & A-110, Sec. 26, Contract Sect. 23 10 TAC § 5.16	58. Have funds from this contract been allocated to pay for an audit? <i>Methodology: Review fiscal records.</i>					
Same reference as above	Same reference as above	59. Has this expense been charged to administration for CEAP and CSBG contractual? <i>Methodology: Review fiscal records.</i>					
Same reference as above	Same reference as above	60. Have the audit findings been discussed with the subrecipient staff? <i>Methodology: Discuss finding and note in monitoring report.</i>					

**Appendix B:**

**State Monitoring Tool Example Two**

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Same reference as above	Same reference as above	61. Has the audit certification letter, if required, been submitted to the Portfolio Mgmt. and Compliance Division? <i>Methodology: Check with PMC.</i>							
Same reference as above	Same reference as above	62. Has the Subrecipient submitted the most current audit report to the Department? <i>Methodology: If yes, review audit report for any unresolved/outstanding issues.</i>							
Same reference as above	Same reference as above	a. If no, when was the audit due? <i>Methodology: Contact the Department's Compliance Division.</i>							

**MONITORING (SECTION V.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CSBG Notes	CEAP		CEAP Notes
			Yes	No NA		Yes	No NA	
42U.S.C. §9901 et seq, Sect 678 B	NA	65. Has the Subrecipient received monitoring and/or performance reviews from their other Federal funding agencies? If yes, were there any outstanding issues? <i>Methodology: Discuss with ED and obtain a copy of the reports and their status.</i>			List other Federal Agencies and outstanding issues:			X
<i>Program Mgmt</i>	NA	66. Were there any concerns or issues relating to interviews with Subrecipient Staff, and/or Board members? <i>Methodology: See CSBG Attachments 4-6.</i>						X

**PERSONNEL POLICIES and PRACTICES (SECTION VI.)**

**Appendix B:  
State Monitoring Tool Example Two**

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CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP	
			Yes	No NA	Yes	No NA
Contract Sect. 15A-D	Contract Sect. 19	70. Is there a provision in the personnel policies to prohibit conflict of interest and nepotism? <i>Methodology: Obtain a copy of the personnel policies if revised. Review policies.</i>				
Contract Sect. 24	N/A	71. Do personnel policies correctly address sectarian activities? <i>Methodology: Obtain a copy of the personnel policies if revised. Review policies.</i>				<b>X</b>

**TIME SHEETS and TRAVEL/MILEAGE RECORDS (SECTION VII.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP	
			Yes	No NA	Yes	No NA
OMB Cir. A-122,Att B 8 m & Cir. A-102 &A-87(if app)	OMB Cir. A-122,Att B 8 m & Cir. A-102 &A-87(if app)	78. Are timesheets and/or activity reports signed by appropriate supervisor or designated authority? <i>Methodology: Review the previous ___months of time sheets for ___# of employees.</i>				
OMB Cir. A-122,Att B 50-51 & Cir. A-102 &A-87(if app)	NA	79. Does Subrecipient maintain documentation on CSBG and/or CEAP employee mileage reimbursement? Who signs off on travel? <i>Methodology: Review a random sample of ___ employees' reconciled travel vouchers.</i>				
Same reference as above	Same reference as above	80. Are travel reconciliations (including advances) submitted in a timely manner in accordance with Subrecipient policy?				

**Appendix B:**

**State Monitoring Tool Example Two**

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	<i>Methodology: Review Subrecipient's travel policies and a sample of __ travel reconciliations.</i>							
--	--	--	--	--	--	--	--	--

**ADMINISTRATIVE (SECTION VIII.)**

CSBG Reference	CEAP Reference	CSBG/CEAP Questions	CSBG		CEAP	
			Yes	No NA	Yes	No NA
10 TAC § 5.20(d)	10 TAC § 5.20(d)	<b>Administrative Practices</b> 87. Has the Subrecipient ensured the proper use of the Declaration of Income Statement (DIS) form? <i>Methodology: Verify with Program Coordinator and review a copy of the DIS policy and/or procedure.</i>				

**ADMINISTRATIVE CSBG only (SECTION VIII.)**

CSBG Reference	CSBG Questions	Yes No NA		CSBG Notes
		Yes	No NA	
10 TAC § 5.213	88. How many board members do Bylaws specify? <i>Methodology: Obtain a copy of Bylaws if revised. Review Bylaws to answer</i>			
10 TAC § 5.217	89. When are board meetings held? <i>Methodology: Obtain a copy of Bylaws if revised. Review Bylaws to answer.</i>			
10 TAC § 5.213	90. Do Bylaws specify a method for selection that is appropriate for each sector? <i>Methodology: Obtain a copy of Bylaws if revised. Review Bylaws and TAC rules to answer.</i>			
10 TAC § 5.215	91. Are the Subrecipient's Board members in compliance with their Bylaws in relation to Board service limitations, if any?			

**Appendix B:**

**State Monitoring Tool Example Two**

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	<i>Methodology: Obtain a copy of Bylaws if revised. Review Bylaws to answer.</i>				
10TAC§5.212	92. Do Bylaws state that decisions made in closed session must be finalized in a meeting open to the public? <i>Methodology: Obtain a copy of Bylaws if revised. Review Bylaws to answer.</i>				

**BOARD COMPOSITION CSBG only (SECTION IX.)**

CSBG Reference	CSBG Questions	Yes	No	NA	CSBG Note
42U.S.C. §9901 et seq. Section 676 B, and 10 TAC § 5.213	96. Is the board composed of one-third elected public officials, at least one-third representatives of the poor and the remainder representatives from the private sector? <i>Methodology: Review Board minutes from the previous 6 meetings, Board roster, and the Attendance Record, requested in the announcement letter.</i>				

**PERFORMANCE REVIEW CEAP only (SECTION XI.)**

CEAP Reference	CEAP Questions	Yes	No	NA	CEAP Note
Contract Sect.3	124. Have all represented racial and ethnic groups been equitably served? (If no, state reason(s) <i>Methodology: Review current census data with performance reports.</i>				

**CLIENT FILE REVIEW CSBG only (SECTION XII.)**

CSBG Reference    CSBG Questions

Yes No NA

CSBG Note

**Appendix B:**

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<p>10 TAC 5.19, and 10TAC§5.20</p>	<p>125. Did Subrecipient document income for clients 18 years and older that received direct TDHCA services? <i>Methodology: Review client files.</i></p>			
<p>OMB A-110, A-122, and Contract Sect. 10</p>	<p>126. Is documentation such as a bill and voucher or a copy of the check retained in the client file when direct TDHCA monetary assistance is provided? <i>Methodology: Review current year Budget for direct services line item within the "Other Category". If subrecipient sets aside monies for direct services, review a sample of ___ client files served with Direct funds. If no direct services, skip question.</i></p>			
<p>10 TAC § 5.211</p>	<p>127. Does Subrecipient take a new program application once every program year? <i>Methodology: Verify with program coordinator and check to insure that all files reviewed have a current year Intake form.</i></p>			
<p>10 TAC § 5.211</p>	<p>128. Are persons first time served being counted correctly? <i>Methodology: Refer to the Client Service Record and the Programmatic portion of the MER.</i></p>			



# APPENDIX C

## CSBG Monitoring Legal Framework

# APPENDIX C: CSBG MONITORING LEGAL FRAMEWORK

As discussed in Section 1 in Part II of this toolkit, many of the federal statutes and regulations that make up the monitoring parameters are in the [CSBG terms and conditions](#) that a state CSBG office agrees to comply with when it accepts CSBG funding. Some of the federal law from the terms and conditions are listed below:

## FEDERAL CSBG ACT AND REGULATIONS

- [Act, 42 U.S.C. § 9901 et seq.](#)
- [Block Grant regulations, 45 C.F.R. Part 96](#)
- [Charitable Choice regulations, 45 C.F.R. Part 1050](#)

## FEDERAL GRANT LAWS AND REGULATIONS ADDRESSING NON-DISCRIMINATION

- [Nondiscrimination under federal programs regulations, 45 C.F.R. Part 80;](#)
- [Nondiscrimination on the basis of age in Health and Human Services \(HHS\) programs, 45 C.F.R. Part 91;](#)
- [Nondiscrimination on the basis of handicap in federal programs regulations, 45 C.F.R. Part 84;](#)
- [Equal Treatment for Faith-Based Organizations, 45 C.F.R. Part 87;](#)
- [Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance, 45 C.F.R. Part 86](#)

## FEDERAL EMPLOYMENT LAWS AND REGULATIONS

- [Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.](#)
- [Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq.;](#)
- [Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;](#)
- [Americans with Disability Act of 1990, as amended, 42 U.S.C. § 12131 et seq.](#)

## MISCELLANEOUS FEDERAL GRANT LAWS AND REGULATIONS

- [Restriction on use of federal grant funds to influence the awarding of federal grants, etc., 45 C.F.R. Part 93](#)
- [Debarment and suspension regulations, 45 C.F.R. § 92.35;](#)

## FEDERAL COST PRINCIPLES AND AUDIT REQUIREMENT

- [Cost Principles, OMB Circular A-122 codified at 2 C.F.R. Part 230](#) (for nonprofit CAAs);
- [Cost Principles OMB Circular A-87 codified at 2 C.F.R. Part 225](#) (for government CAAs);
- [Audits of States, Local Governments and Non-Profit Organizations, OMB Circular A-133](#); and

As discussed in [Section 1 in Part II](#) of this toolkit, OCS also issues guidance to CAAs in the form of information memorandum (IM). This guidance is non-binding and is intended to help CAAs and states better understand the federal laws and how to apply them. The following IMs are ones that are particularly useful for a CAA to review as it prepares for the monitoring process and all IMs issued by OCS, including the ones below, are available on the [OCS website](#):

- OCS IM 82, tripartite boards;
- OCS IM 116, corrective actions, termination or reduction of funding;
- OCS IM 2, duties and Interests with respect to property purchased, constructed, or improved by CSBG funds;
- OCS IM 20, a discussion of indirect cost rate principles;
- OCS IM 27, definition and allowability of direct and administrative costs;
- OCS IM 50, policy guidance on serving persons with limited English proficiency;
- OCS IM 60, prohibitions against the use of CSBG funds related to the purchase or improvement of real property and HHS's right to waive the prohibition;
- OCS IM 81, guidance on voter registration activities; and
- OCS IM 97, guidance on the CSBG requirement to monitor eligible entities.

Below are the four parameters set forth in the CSBG Act and under each parameter is a reference to some of the federal laws, regulations and guidance that flesh out the standards by which a state may monitor a CAA. ***Please note that his list of laws is not all-inclusive but, rather, is intended to give CAA's a deeper understanding of many of the laws that the state is working with throughout the monitoring process.*** If a state CSBG office applies a law during a monitoring that a CAA is not aware of and/or is not included in this list, the CAA should ask the state CSBG office for additional information about the law and its authority to apply it to the CSBG program, as discussed in [Section 3 in Part II](#); [Section 2 in Part III](#) and [Appendix D](#):

## PERFORMANCE GOALS

The following provisions of the federal CSBG Act and federal grant regulations set forth the performance goals a CAA is required to meet and a state is required to assess when monitoring a CAA:

- **Purposes and Goals** ([42 U.S.C. § 9901\(2\)](#)): Describes the goals of the federal CSBG Act to provide assistance to states and local communities by working through a network of CAAs and other neighborhood-based organizations to reduce poverty, revitalize low-income communities, and empower low-income families and individuals in rural and urban areas to become fully self-sufficient.

**State Assurances** ([42 U.S.C. § 9908\(b\)](#)): Sets forth the assurances a state is required to make in its state plan regarding the types of programs and activities CSBG monies fund and the ways in which CAAs meet the needs of the community served. See also [OCS's listing](#) of the state assurances from the federal CSBG Act.

- **Performance Measurement System** ([42 U.S.C. § 9908\(b\)\(12\)](#)): Requires states to participate in some type of a performance measurement system, such as the Results Oriented Management and Accountability System (ROMA).
- **Drug and Child Support Services and Referrals** ([42 U.S.C. § 9919](#)): Requires CAAs to either inform custodial parents from single-parent families who are clients about the availability of child support services or refer the parents to state and local government child support offices. Also allows state to implement drug testing of program participants and referral to rehabilitation services at a state's expense.
- **Performance Reporting Requirements for Subgrantees** ([45 C.F.R. § 92.40\(b\)\(4\)](#)): Instructs states to compare actual accomplishments with goals and objectives established for the period. States must be prepared to explain why established goals were not met and to address other information, when appropriate, such as an explanation of cost overruns or high unit costs.

## ADMINISTRATIVE STANDARDS

The following provisions of the federal CSBG Act and guidance from the Office of Community Services (OCS) set forth many of the administrative requirements that govern a CAA and the standards by which a state monitors a CAA:

- **Board Composition** ([42 U.S.C. § 9910](#)): Establishes the tripartite structure of the governing board and the responsibility of board members to fully participate in the development, planning, implementation, and evaluation of the program to serve low-income communities.
- **Board Composition and Governance Guidance** ([IM 82](#)): Offers non-binding guidance on board composition and the role and responsibilities of board members.
- **Limitations on Use of CSBG Funds** ([42 U.S.C. § 9918](#)): Lists restrictions on how CSBG funds may be used such as, prohibiting use of CSBG funds to pay for political activities. Also incorporates by reference the application of the federal nondiscrimination laws relating to race, sex, age, disabilities, etc.
- **2012 CSBG Terms and Conditions**: Incorporates by reference the application of federal laws and regulations noted in the list above which generally ensure that federally funded programs do not discriminate basis of age, handicap, faith, and sex and that certain federal grant laws are followed.

## FINANCIAL MANAGEMENT REQUIREMENTS

The following provisions of the federal CSBG Act and federal grant regulations set forth many of the financial management requirements a CAA is required to meet and a state is required to assess when monitoring a CAA.

- **Fiscal Controls and Audits** ([42 U.S.C. § 9916](#)): Sets forth the fiscal controls, procedures, audits, and inspections that a state is required to ensure CAAs follow.
- **Corrective Action, Termination or Reduction of Funding Guidance**: Offers non-binding guidance that state CSBG offices are expected to fully investigate any instances of whistleblower complaints or allegations of fraud or abuse of CSBG funds or funds from closely-related programs.

- **Cost Principles** [OMB Circular A-122, 2 C.F.R. Part 230](#) (for nonprofit CAAs), [OMB Circular A-87, 2 C.F.R. Part 225](#) (for government CAAs): Describes cost principles that are used to determine which costs may be paid with federal funds and discusses cost allocation.
- **Single Audit** (45 C.F.R. § 96.31; OMB A-133): Requires recipients of CSBG funds to undergo an external audit.<sup>1</sup>

## STATE REQUIREMENTS

The following is a list of where a state’s monitoring requirements may be found. A state is permitted to develop more detailed state requirements to implement the federal CSBG Act as long as the state’s requirements do not conflict with federal or state law and comply with the state laws for adopting legally-binding requirements.

- State CSBG Act and regulations;
- State CSBG plan State; and
- State CSBG contract with CAA (including any other state or federal laws and regulations incorporated by reference in the state contract; for example Uniform Administrative Requirements for Grants with Non-Profit Organizations, [OMB Circular A-110, 2 C.F.R. Part 215](#) is one of the federal laws that is often incorporated by reference in state CSBG contracts with CAAs.<sup>2</sup>

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## FOOT NOTES

1. A state CSBG office may review a CAA’s audit as part of the monitoring process. Thus, it is very important for a CAA to pursue and document any disagreement it has with audit findings.
2. The application of OMB Circular A-110, 2 C.F.R. Part 215, to entities receiving CSBG funds is unclear. The federal CSBG Act requires states to “ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of [CSBG] funds” but does not explicitly state which OMB circulars will apply. OMB Circular A-110 does not fit within the description of the type of OMB circulars described in the CSBG Act since OMB Circular A-110 sets forth administrative requirements and not cost and accounting standards. Moreover, the 2012 OCS CSBG terms and conditions incorporate by reference the application of OMB Circular A-122 (2 C.F.R. Part 230) and OMB Circular A-133 but make no mention of OMB Circular A-110. However, because many states incorporate OMB Circular A-110 by reference in their CSBG contracts with CAAs, we include the circular as one of the legal requirements that a state may apply to CAAs as part of the monitoring process.

# APPENDIX D

Sample Letter from State CSBG Office Setting Forth  
Monitoring Findings

Sample CAA Response to a State's Monitoring Letter  
With Corrective Action Plan

## APPENDIX D:

### Sample Letter from a State CSBG Office Setting Forth Monitoring Findings

*This letter is based on a sample letter we received from a state CSBG office. We are not representing this letter as a model for how a state CSBG office should set forth its monitoring findings. Rather, with this letter and the comments, we are trying to provide CAAs with ways to think about and approach monitoring findings received from their state CSBG offices.*

[STATE CSBG OFFICE LETTERHEAD]

May 28, 2012

Ms. Executive Director  
Community Active Agency, Inc.  
23 West Wilcox Street  
Helpful City, Imagination 09645

Dear Ms. Executive Director:

A sincere thanks to you and your staff for accommodating the Community Active Agency, Inc. (CAA) on-site review process. I know it took time out of everyone's schedule to meet with me. I also appreciate everyone's honesty and openness about CAA and its programs.

#### Strengths: \*

Strengths I observed while reviewing the agency were:

- The job training program exceeded its goal of helping five program participants find jobs after completing six months in the program. Seven participants were gainfully employed after completing six months of training in the program.
- CAA's collaboration with Free Food Pantry, Inc. enabled CAA to expand its reach in the four counties it serves and resulted in low-income individuals and families in rural areas that were previously not being reached by CAA's services to receive much needed assistance.

#### Compliance Issue(s): \*

1. Tripartite Board
  - o CAA is not in compliance with the tripartite board structure required by the federal CSBG Act, 42 U.S.C. § 9910, because the CAA has a twelve member board with two vacant board seats. The seats have been vacant for over three months and CAA's bylaws requires the board of directors to fill a vacancy within 60 days.
2. Safeguarding of Assets
  - o CAA failed to maintain complete equipment inventory records and had not taken a physical inventory in three years. CAA's receiving procedures did not ensure that the procurement officer received detailed property record information such as serial numbers for all technology equipment. The



#### INSIGHT Strengths

Make sure this section accurately reflects all of your CAA's strengths. If something is missing, don't hesitate to let the state CSBG office know. Also, if it is not a practice of your state CSBG office to recognize CAAs' strengths, encourage them to do so. Including this information will give a more balanced picture of your organization as a whole.



#### INSIGHT Compliance Issues

With all of these compliance issues, ensure that the state CSBG office has accurately portrayed the facts.

It is important for a CAA to understand what it means to have a compliance issue versus a deficiency. This state appears to have degrees of findings. The CAA should request that the state clearly explain what actions may turn a compliance issue into a deficiency and what are the legal implications of each.

state CSBG office incorporates 2 C.F.R. Part 215 (OMB Circular A-110) by reference in its CSBG contracts with CAAs and requires pursuant to 2 CFR 215.34(f)(1), (2) that CAAs maintain an accurate property management system to account for equipment acquired with federal funds and that is federally owned by keeping accurate records that include a description of the equipment, serial numbers, model numbers, source, vesting of title, acquisition date and cost, HHS's share of the equipment, location and condition, and ultimate disposition. Additionally, the CAA is required to take physical inventory of equipment and reconcile the results with equipment records at least once every 2 years.

3. **Computer Security** \*

- o CAA does not have the following: (1) adequate computer security procedures; (2) a formal computer access policy; (3) password protected employee computers and (4) adequate procedures for data removal from computers. The National Institute of Standards and Technology Special Publication 800-53, Rev. 3 requires an organization to develop and disseminate a formal, documented access control policy for computer access and requires information systems to uniquely identify and authenticate users.

4. **Personnel Management** \*

- o CAA is experiencing more employee turnover than other agencies in the state. We believe one reason for this high rate of turnover is the failure of CAA to conduct exit interviews.

**Deficiency(s):**

1. **Limitations on Use of CSBG funds** \*

- o For a second time in three years, CAA has used CSBG funds to help pay for permanent improvements to its CSBG administrative office building. CAA used the funds to partially pay for the replacement of the building's roof. The federal CSBG Act at 42 U.S.C. § 9918(a) clearly states that unless HHS provides a waiver, CSBG funds may not be used for the permanent improvement of any building.

**Best Practice Recommendations:** \*

The following are not deficiencies but are best practice recommendations

1. The CAA should add term limits for its board of directors to its bylaws.
2. The CAA should work with its board of directors to develop a succession plan.

The CAA has sixty (60) days from receipt of this letter to develop a Quality Improvement Plan (QIP) and submit it to the state CSBG office. The QIP should address how the CAA intends to correct the compliance issues and deficiencies addressed in this letter. It should also specify a proposed timeline of when these actions will be completed. If CAA needs training and technical assistance (T/TA) as part of its QIP, please include that in the plan and the state CSBG office will assist the agency with those needs. \*

The state CSBG office will review the QIP and will either approve it or ask for additional clarification at that time within thirty (30) days of receiving it. If T/TA is needed, the state CSBG office will work with the Executive Director and the Board of Directors to



**INSIGHT**  
**Computer Security**

Computer security is important but red flags should start waving when you read the legal basis for this finding. If this federal guidance is not incorporated by reference in your CSBG contract with the state or in any state CSBG laws or regulations, the state CSBG office may be incorrect in applying it as the basis for a finding. Moreover, a review of this federal guidance reveals that it applies only to the federal government. At most, this law may support a best practices recommendation. You should consider working with an attorney when there are findings such as this one where the legal basis is unfamiliar to you.



**INSIGHT**  
**Personnel Management**

Again, red flags should be waving with this finding. Although exit interviews may be a good idea and your organization may consider implementing the practice, there is no legal requirement here! Also, this finding seems to be an attempt by the state CSBG office to micromanage your CAA. Be sure to request the legal basis from the state CSBG office for this finding.



address those needs. If the state CSBG office cannot provide the T/TA it will recruit outside assistance as needed.

Thank you again for the assistance and cooperation provided during the review process. I look forward to working with CAA to continue its improvement. Please contact me if you have any questions or concerns.

Sincerely,

CSBG Program Specialist

cc Board Chair/President of CAA board of directors



**INSIGHT**  
**Limitations on Use of CSBG funds**

This deficiency looks straightforward upon a first read but it is important for CAAs to understand that what is considered a “permanent improvement” under the federal CSBG Act is not entirely clear. This CAA may have a legitimate argument that the work done was not a permanent improvement depending on additional facts. A CAA should always make sure that a state CSBG office’s application of a law is accurate.



**INSIGHT**  
**Best Practice Recommendations**

Best practices are great but a CAA should always demand that the state CSBG office clearly explain the effect of choosing not to follow a best practice recommendation will have on future reviews of the CAA by the state CSBG office. Best practice recommendations should be just that, recommendations. Unless these recommendations have been codified in some state or federal law or are included as part of the state’s CSBG contract with the CAA they will not be legally enforceable.



**INSIGHT**  
**Quality Improvement Plan**

Note that the state CSBG office is actually providing the CAA more time than it is required to provide under the federal CSBG Act. See Section 2C in Part IV.

**APPENDIX D:**  
**Sample CAA Response to Monitoring Letter  
with Corrective Action Plan**

*This letter and corrective action plan represent one approach to addressing the state's monitoring finding letter. Other approaches exist and all approaches should be considered to ensure that your CAA uses an approach that best fits the CAA's needs and interests.*

[COMMUNITY ACTIVE AGENCY, INC. LETTERHEAD]

June 6, 2012

Ms. CSBG Program Specialist  
State of Imagination CSBG Office  
203 14th Street  
Chief City, Imagination 04576

Dear Ms. CSBG Program Specialist:

This letter represents Community Active Agency, Inc.'s (CAA) response to the letter from you dated May 28, 2012 regarding the CSBG monitoring conducted by the State of Imagination CSBG office (State CSBG Office). We greatly appreciate the thorough review conducted by your office. However, we have some questions regarding some of the findings. This letter sets forth our questions. Additionally, please find attached a corrective action plan addressing those findings for which we do not have questions.

We are quite proud of the strengths that you recognized in your letter. We also would like to add that we exceeded our goal to help low-income youth between the ages of 10 and 13 stay in school by implementing for the first time in January 2011, an after-school tutoring program for low-income students. CSBG funds have been instrumental in making this program a success. Forty-five students participated in the program and 80% of these children not only stayed in school but advanced to the next grade. This success reduces by 60% the drop-out rate for low-income youth that was reflected in our 2010 needs assessment.\*

As to the compliance issues and deficiency that you listed in your letter, we have questions regarding the following:

**Compliance Issue #3: Computer Security** \*

Even though we take computer security seriously and are currently in the process of reviewing and updating our computer security policy, we believe that this compliance issue is tied to a legal standard that we are not required to follow. This is the first time that we have been made aware of the application of the National Institute of Standards and Technology Special Publication 800-53, Rev. 3 (Special Publication) to the CSBG program. From our research, we have learned that this Special Publication specifically

 **INSIGHT  
Highlight  
Strengths**

Note how the CAA includes an additional strength that it felt was overlooked and important to mention.

 **INSIGHT  
Computer Security**

Note how the CAA is contesting this finding by arguing that the law is not applicable to it.

states that “[t]he guidelines in this special publication are applicable to all federal information systems . . . State, local, and tribal governments, as well as private sector organizations are encouraged to consider using these guidelines, as appropriate.” Moreover, we are unable to locate a state CSBG law or regulation that applies this Special Publication to the CSBG program and our state CSBG contract makes no mention of it.

**Compliance Issue #4: Personnel Management \***

Even though we are willing to weigh the pros and cons of implementing exit interviews, this finding is not linked to a legal requirement. Please provide us with the legal requirement that serves as the basis for this finding.

**Deficiency #1: Limitations on Use of CSBG funds \***

The work we completed on our CSBG administrative offices was not a permanent improvement, rather we repaired sections of the roof that had deteriorated because of age and were leaking during heavy rainstorms. We made these repairs using the same type of materials that were used to replace the roof fifteen years ago. The partial use of CSBG funds for these repairs is thus an allowable cost.

It is our understanding that work performed on a building that is considered a permanent improvement materially increases the permanent value of the property; appreciably prolongs the life of the property; and puts the property in efficient operating condition rather than merely keeping the property in such condition. Work that falls into one or more of the above categories may not be paid for with CSBG funds without a waiver from HHS. See 2 C.F.R. Part 230, Appendix B, ¶ 15.

The work we performed on our building qualifies as maintenance and repair. It is our understanding that work that qualifies as maintenance and repair, and not capital expenditures, under 2 C.F.R. Part 230, is not considered a permanent improvement and, therefore, is neither prohibited by the CSBG Act nor requires a waiver from HHS to be an allowable CSBG cost. Part 230 provides that:

*Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment (including federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of buildings and equipment or appreciably prolong their intended life shall be treated as capital expenditures.*

2 C.F.R. Part 230, Appendix B, ¶ 27.

**Best Practice Recommendations 1 and 2 \***

We are working on developing a succession plan but our board has determined that term limits are not in the board of directors’ best interest. We serve rural counties and find it very difficult to keep members on the board. Our board of directors generally turns over every 3 to 5 years so we do not see the need to add term limits to our bylaws especially when retention of board members has always been a problem for our organization. Please provide us with an explanation in writing as to the purpose and effect of best



**INSIGHT  
Personnel  
Management**

Note how the CAA is contesting this finding by arguing it is not a legal requirement.



**INSIGHT  
Limitations on Use  
of CSBG funds**

Note how the CAA is contesting this finding by arguing that the law is open to interpretation.



**INSIGHT  
Best Practice  
Recommendations**

Note how the CAA explains how it agrees with one best practice recommendation but not both of them. The CAA also inquires further about the effect of its decision to not follow a best practice recommendation.

practice recommendations on our CAA when we choose not to follow them.

We look forward to hearing from you regarding the concerns we set forth in this letter and regarding our attached corrective action plan.

Sincerely,  
Executive Director

cc Board Chair/President of CAA board of directors  
Enclosures

## ATTACHMENT

### Community Active Agency, Inc. Corrective Action Plan

June 6, 2012

This corrective action plan is submitted in response to the monitoring letter dated May 28, 2012 that we received from the state CSBG office. We propose taking the following actions to correct the findings with which we do not take issue: \*

#### **Compliance Issue #1: Tripartite Board**

1. We have filled one of the two vacant seats which was in the private representative sector of the board and are in the process of filling the other vacant seat which is in the low-income representative sector of the board.
2. We are currently taking the following measures to fill the low-income representative sector seat:
  - Pursuant to our democratic selection process policy approved by the board of directors, we have posted public announcements throughout the low-income community asking low-income individuals and families to contact our executive offices by June 12, 2012 with names of individuals who are interested in seeking this board seat.
  - Next, we will contact all of the individuals who have been nominated to ensure that each one is truly interested in being included on the ballot and that, if they are chosen to represent a particular neighborhood, they live in that neighborhood.
  - We will then place all of the individuals who meet the above requirements on a ballot that will be available at our CAA's administrative office and all of our satellite sites as well as at the next public school committee meeting which is very well attended by the low-income community.
  - We will close voting for the seat by June 30, 2012.
3. We expect to have the second vacant seat filled no later than July 10, 2012.
4. We have also established a board committee referred to as the governance and board development committee, charged with tracking board vacancies and developing recruitment strategies for all board sectors.
5. We will make board recruitment an ongoing board task. To this end, we are in the process of developing an advisory board that would not have the authority to deliberate or vote but would be available to be elected to a board seat pursuant to a vacancy. We will also ensure that any low-income representative on the advisory board has been democratically elected by low-income individuals in the service area before he/she is seated on the board of directors.

#### **Compliance Issue # 2: Safeguarding of Assets**

1. The CAA has added to the job description of the Chief Financial Officer (CFO) of the CAA, the responsibility to execute two random spot checks of the CAA's inventory records throughout the year to ensure that the records accurately reflect the physical inventory.
2. The CAA will include in its procurement procedures the requirement that the procurement manager conduct a physical inventory every two years. The CFO will be charged with ensuring that this inventory is completed and with enlisting



#### **INSIGHT**

Both of the responses to each of the compliance issue are ways in which this particular CAA is choosing to address the issues. Your CAA may take other actions if it received findings similar to these.

additional staff to assist with the inventory as needed.

3. The CAA is in the process of developing a form and checklist of all of the property record information that must be obtained to ensure legal compliance. This form and checklist will be developed using a computer program that will be password-protected and will permit one of the procurement manager's staff to input the property records information directly into the computer.
4. The procurement manager will be responsible for executing four random spot checks of the property record information inputted to ensure that it is accurate.
5. The procurement manager will produce a report of the property record information for the CFO to present to the board of directors at least twice a year.
6. We expect to have all of the changes regarding this compliance issue implemented by August 31, 2012.

# APPENDIX E

## Board Composition Matrix

Appendix E: Sample Board Composition Matrix

## Board Composition Matrix

Board Members	Sector	Diversity	Skill/Experience/Expertise	Access/Connections	Years on Board	Term Exp.	Committee	Office
1. Jane Doe	Public	Examples: Racial, Ethnic, Disability, Age, etc.	P.R. Communications	Foundations	1	9/1/13	Personnel	Secretary
2.	Private		Financial Planning/Management	Wealthy Individuals				
3.	X		Organizational Management	Business/Corporations				
4.			X	Politics/Government				
5.				Religious Community				
6.				Grassroots Constitutents				
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
15.								
16.								
17.								
18.								
19.								
20.								
21.								



# APPENDIX F

## INCAP Board Assessment Tool

## COMMUNITY ACTION AGENCY BOARD SELF-ASSESSMENT

This publication was created by the Indiana Community Action Association in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Grant Number 90EQ229. Any opinion, findings, and conclusions, or recommendations expressed in this material 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.

### INTRODUCTION

Volunteer board members desire to have engaging and rewarding volunteer experiences. Non-profits seek leadership and support of a board that brings their very best to every meeting and to the organization. The board self-assessment process is a way to see whether the board and organization are meeting these mutual goals.

The self-study process will provide a framework that assesses board member's perceptions of current governance practice and stimulates conversation of how to strengthen the board's performance. This board self-assessment is a measurement tool that facilitates a greater understanding of how the board thinks it is doing at a particular point and time and to identify priorities for enhancing governance and organizational effectiveness.

Remember, that this is just the starting point, and that this journey should proceed to a steady pace with every step leading to a stronger board and organization.

### INSTRUCTIONS

**Assessment is one of the most powerful interventions available for turning a good board into a great board.** This self-study is comprised of 11 sections. Sections 1-9 address **your perception of the board's performance**. Section 10 addresses **your perception of your PERSONAL performance on the board**. Section 11 of the self-study requires demographic information that is important for board recruitment and evaluation.

Each of these sections consists of statements that you will rate using a numerical rating of agreement or disagreement. In addition, each section includes open-ended questions that require your comments. It is important that you take the time to rate each statement honestly based on your personal knowledge and experience.

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

Please complete the self-study in its entirety. **Remember individual responses of the self-study are anonymous.** No board member's name will be identified with specific responses. All responses will be tabulated to obtain the percentage of members that gave an item a particular rating and an average rating for each statement will be calculated. All responses to open-ended questions will be recorded as written and included in the report, but not identified with any individual. **Thank you in advance for your willingness to participate in this self-study it is greatly appreciated!**

## SECTION 1: VISION AND MISSION

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
1. The organization has clearly stated vision and mission statements.	
2. The organization's vision and mission have specific goals.	
3. The organization's mission is clearly understood and accepted by the board.	
4. The board considers how all programs, activities, and policy decisions fit with the organization's mission.	
5. There is consensus among the board that the vision and mission accurately reflect where the organization is headed in the next two to three years.	

6. What are your suggestions for how the board can do a better job in this area?

7. What resources and/or organizations does the board obtain information from when working on issues in this area?

8. What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 2: STRATEGIC PLANNING AND POLICY DECISIONS

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>9.</b> The board engages in a strategic planning process that lays out the organization's goals over the next two to three years.	
<b>10.</b> The board demonstrates a strong ability to promote improvement and manage change in the organization.	
<b>11.</b> The board takes primary responsibility for establishing and regularly reviewing the organization's policies and procedures.	
<b>12.</b> The board operates using clearly written policies and by-laws that enhance the governing body.	
<b>13.</b> The board has and follows the conflict of interest policy when making official program and policy decisions for the organization.	

**14.** What are your suggestions for how the board can do a better job in this area?

**15.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**16.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 3: EXECUTIVE LEADERSHIP

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>17.</b> The executive director demonstrates the ability to maintain a positive, constructive relationship with the board that maximizes organizational performance.	
<b>18.</b> The executive director ensures the board has access to relevant information and data to facilitate informed decision-making regarding the organization and its programs, activities, and services.	
<b>19.</b> The executive director and board chair are viewed as working cooperatively as a team.	
<b>20.</b> The executive director ensures that the organization has clearly defined and implemented board approved policies and procedures that are used for oversight of operations.	
<b>21.</b> The executive director's performance and compensation is formally assessed annually based on objectives established by the board at the beginning of the organization's fiscal year.	

**22.** What are your suggestions for how the board can do a better job in this area?

**23.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**24.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 4: ENSURING ADEQUATE FINANCIAL RESOURCES

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>25.</b> Board members are clear about expectations for their personal fundraising responsibility (i.e., individual giving, volunteering at fundraising events).	
<b>26.</b> The board works to diversify and maximize sustainable revenue sources beyond CSBG funding to ensure the health of the organization.	
<b>27.</b> The board supports efforts to seek public and private funding to implement new programs and services to address the identified needs of the community.	
<b>28.</b> A clearly written fund development plan is in place with specific implementation strategies and goals.	

**29.** What are your suggestions for how the board can do a better job in this area?

**30.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**31.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 5: EXTERNAL RELATIONS AND COMMUNITY INVOLVEMENT

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>32.</b> The organization collaborates with other agencies and groups that provide assistance to low-income families in the community.	
<b>33.</b> The board and staff engage community members to strengthen the organization's advocacy efforts.	
<b>34.</b> The organization can readily mobilize a network of community allies and advocates who can be influential at neighborhood, city, town, and state levels.	
<b>35.</b> The board actively promotes the organization and its activities to enhance its reputation in the community.	
<b>36.</b> The board and organization invite policymakers and elected officials to agency events, such as the annual meeting.	
<b>37.</b> The organization has an effective public relations and communication plan in place, keeping the community informed about the organization's activities and accomplishments.	
<b>38.</b> Community members and other partners that are not on the board have opportunities to serve on board committees.	

**39.** What are your suggestions for how the board can do a better job in this area?

**40.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**41.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 6: PROVIDING EFFECTIVE FISCAL OVERSIGHT AND MANAGEMENT

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>42.</b> The organization's annual budget is fully discussed and understood by board members prior to its approval.	
<b>43.</b> The fiscal status of the organization is regularly reviewed and necessary board action is taken in a timely manner.	
<b>44.</b> Organizational funding needs are reviewed annually and priorities are established.	
<b>45.</b> The Chief Financial Officer provides relevant financial statements and documents to the board at least one week before every board meeting for review by board members.	
<b>46.</b> The organization's audit report is reviewed by the full board and necessary actions are taken in a timely manner.	

**47.** What are your suggestions for how the board can do a better job in this area?

**48.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**49.** What resources or training would be helpful to your board and help them improve their performance in this area?



## SECTION 7: ASSESSING PROGRAM PERFORMANCE

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>50.</b> Data is used to inform decisions regarding implementation of programs and services targeted to reduce inequality in outcomes for low-income children and families.	
<b>51.</b> The organization staff demonstrates the ability to work effectively with diverse populations.	
<b>52.</b> The board uses the results of activity performance reviews to update the strategic plan.	
<b>53.</b> The board annually engages in a thorough review of performance of the organization's programs and services.	
<b>54.</b> The board uses evaluation and activity performance review information to guide decisions about program modification and/or new programs.	
<b>55.</b> The board evaluates program performance against the organization's mission on a regular basis.	
<b>56.</b> Written organizational procedures are in place to ensure equitable access to program services and facilities.	

**57.** What are your suggestions for how the board can do a better job in this area?

**58.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**59.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 8: BOARD AND ORGANIZATIONAL STAFF ROLES

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>60.</b> Line of responsibility for board and organizational staff are clearly defined and differentiated.	
<b>61.</b> The board delegates to the executive director sufficient authority to lead the staff and carry out the organization's mission.	
<b>62.</b> Board and staff have a shared understanding of the organization's strategic goals and work cooperatively to achieve those goals.	

**63.** What are your suggestions for how the board can do a better job in this area?

**64.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**65.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 9: BOARD STRUCTURE AND OPERATIONS

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR PRECEPTION OF BOARD'S PERFORMANCE

	RATING
<b>66.</b> The roles, responsibilities, and expectation of board members are clearly understood.	
<b>67.</b> The board size is adequate.	
<b>68.</b> The areas of expertise, skills, and other factors needed to be an effective board for the organization are adequately represented among current board members.	
<b>69.</b> Board members are actively recruited based on the organization's needs.	
<b>70.</b> Board members are provided a comprehensive orientation that includes the history of community action, community action promise and code of ethics, and the organization's mission, vision, by-laws, policies, programs, and roles and responsibilities as board members.	
<b>71.</b> The board has a written succession plan in place for board leadership to provide guidance when there is an anticipated or unanticipated change.	
<b>72.</b> The board thoroughly examines the pros and cons of all major issues before decisions are finalized.	
<b>73.</b> The board's committee structure is effective, the number of committees is appropriate, and their objectives are well-defined.	
<b>74.</b> Each board member serves on at least one board committee.	
<b>75.</b> The organization's conflict of interest policy is clear and all board members adhere to it.	
<b>76.</b> The format of the board meetings is the right balance of information sharing and strategic thinking about major issues and concerns.	
<b>77.</b> The board's meeting schedule has the right number and length of meetings.	
<b>78.</b> Board meeting are generally well-run and make good use of members' time.	

**79.** What are your suggestions for how the board can do a better job in this area?

**80.** What resources and/or organizations does the board obtain information from when working on issues in this area?

**81.** What resources or training would be helpful to your board and help them improve their performance in this area?

## SECTION 10: INDIVIDUAL BOARD MEMBER SELF-REFLECTION

RESPONSE RATING				
1	2	3	4	DK
<b>Strongly Agree with Statement</b>	<b>Agree with Statement</b>	<b>Disagree with Statement</b>	<b>Strongly Disagree with Statement</b>	<b>Don't Know</b>

### ANSWER THESE QUESTIONS BASED ON YOUR **PERSONAL** PERFORMANCE ON THE BOARD

	RATING
<b>82.</b> I get excited about the mission of the organization and support where we are headed in two to three years.	
<b>83.</b> I look for news and trends that impact our organization.	
<b>84.</b> I am knowledgeable about and can describe the organization's program and services.	
<b>85.</b> I have a clear understanding of my role and responsibilities as a Community Action board member.	
<b>86.</b> I thoughtfully prepare for board and committee meetings.	
<b>87.</b> I actively participate in board meetings and feel very engaged in the governing process.	
<b>88.</b> I actively participate on at least one board committee.	
<b>89.</b> I actively participate in board and committee work.	
<b>90.</b> I recommend people for the board and board committees.	
<b>91.</b> I respect the other members of the board and have a strong working relationship with them.	
<b>92.</b> I actively participate in the development of the organization's strategic plan.	
<b>93.</b> I actively participate in the annual review of the organization's executive director.	
<b>94.</b> I am knowledgeable enough about the organization's budget to make informed funding decisions about the organization and the programs and services it offers.	
<b>95.</b> I make an annual financial gift to the organization.	
<b>96.</b> I share information about the mission and programs of the organization with people in the community.	
<b>97.</b> I actively participate in at least one organization activity or event a year.	
<b>98.</b> I am an advocate for Community Action in my community.	
<b>99.</b> I believe that being a member of this board is meaningful and a productive commitment of my time.	

**100.** What resources or training would be helpful to you as a board member and that you feel would help you improve your performance as a board member?

## SECTION 11: DEMOGRAPHIC INFORMATION

This demographic information that is important for board recruitment and evaluation.  
Please select the answer that applies to each question.

### How long have you served on the board?

- 1 year or less
- 1-3 years
- 4-6 years
- 7-9 years
- More than 10 years

### Gender

- Male
- Female

### Ethnicity

- African American
- American Indian/Alaska Native
- Asian/Pacific Islander
- Caucasian/White (non-Hispanic)
- Hispanic/Latino
- Multi-Ethnicity

### Age

- 18-21
- 22-30
- 31-40
- 41-50
- 51-60
- Over 60

### Are you a board officer?

- Yes
- No

### What board position do you occupy?

- Public (elected official, policymaker, council person)
- Private (lawyer, CPA, business)
- Low-Income (low-income person or representative from the community)

# APPENDIX G

Example of a State Template used for a Quality Improvement Plan  
or Corrective Action Plan

## Appendix G:

Example of a State Template used for a Quality Improvement Plan or Corrective Action Plan

*Please note that CAPLAW does not endorse this template. We provide this template only as an example of another format a state may use for a Quality Improvement Plan or Corrective Action Plan.*

**Corrective Action Plan:**

**Agency Name:** \_\_\_\_\_

**Date of Status Report:** \_\_\_\_\_

Provide an explanation of your agency's corrective action plan for each finding listed, estimated timeframe, and the person(s) responsible. Email the completed status update to your Field Representative at [email address]. [Name of Field Representative] can be reached at [phone number] if you have questions.

<b>Finding No.</b>	<b>Finding/deficiency</b>	<b>Brief explanation of action to be taken to correct the deficiency</b>	<b>Estimated timeframe</b>	<b>Person Responsible</b>
1				



Evidence that will tell us the change has been achieved

<b>Finding No.</b>	<b>Evidence of Change</b>	<b>Verified by</b>	<b>Date</b>	<b>Progress/Status</b>	<b>Accepted by OEO</b>

Activities that will take place to achieve this outcome

<b>Finding No.</b>	<b>Action step</b>	<b>Completion date</b>	<b>Person Responsible</b>	<b>Attachments/Comments</b>

Approved by the Board of Directors: \_\_\_\_\_ (date)

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

# APPENDIX H

## Sample Letter Challenging a State's Notice and Hearing Procedures

**APPENDIX H:**  
**Sample Letter Challenging a State’s Notice and Hearing Procedures**

*Via E-mail and Certified Mail, Return Receipt Requested*

[COMMUNITY ACTION AGENCY LETTERHEAD]

[DATE]

[NAME OF STATE CSBG DIRECTOR]

[TITLE OF STATE CSBG DIRECTOR]

[NAME OF STATE CSBG OFFICE]

[ADDRESS]

Dear Mr./Ms. [LAST NAME OF STATE CSBG DIRECTOR]:

We are writing on behalf of [NAME OF COMMUNITY ACTION AGENCY] (CAA), an eligible entity located in [CITY, STATE], to request that the [NAME OF STATE CSBG OFFICE] provide CAA with adequate notice and a hearing on the record as is required by the federal Community Services Block Grant (CSBG). See 42 U.S.C. §§ 9915(a)(5), 9908(b)(8).

The federal CSBG Act specifies that a state must first provide a CAA with adequate notice and an opportunity for a hearing on the record before terminating or reducing funding or initiating proceedings to terminate or reduce the CSBG funding. See 42 U.S.C. §§ 9908(b)(8) and 9915(b). Additionally, the Office of Community Services (OCS) explains in Information Memorandum (IM) 116 that “[h]earing procedures should be consistent with any applicable State policies, rules or statutory requirements.”

[INCLUDE A PARAGRAPH ABOUT THE STATE CSBG LAWS AND REGULATIONS GOVERNING THE NOTICE AND HEARING REQUIREMENT IF ANY EXIST. NOTICE AND HEARING REQUIREMENTS MAY ALSO BE IN THE STATE CSBG CONTRACT WITH THE CAA.]

[IF APPLICABLE, DESCRIBE HOW THE NOTICE AND HEARING WERE INADEQUATE AND THE DAMAGE CAUSED. SOME EXAMPLES INCLUDE: (1) FUNDING WAS STOPPED OR SUSPENDED WITHOUT NOTICE AND/OR A HEARING AND, AS A RESULT, YOUR CAA HAS BEEN STRUGGLING TO SUSTAIN ITS PROGRAMS; (2) NOTICE WAS GIVEN TWO DAYS PRIOR TO THE HEARING AND THIS LACK OF ADVANCE NOTICE MADE IT IMPOSSIBLE FOR THE CAA TO PROPERLY PREPARE ITS CASE; (3) THE HEARING WAS NOT ON THE RECORD AND IT CONSISTED OF THE STATE CSBG OFFICE REITERATING ITS POSITION AND PROVIDING THE CAA WITH NO MORE THAN TWO MINUTES TO RESPOND; AND/OR (4) THE HEARING WAS TACKED ON TO ANOTHER HEARING ON A COMPLETELY DIFFERENT TOPIC.]

Therefore, CAA requests that the [STATE CSBG OFFICE] provide it with another opportunity for a hearing and adequate notice for that hearing. [INCLUDE DETAILS ON WHAT TYPE OF NOTICE AND HEARING YOU THINK THE STATE CSBG OFFICE SHOULD PROVIDE YOU.]

Thank you for your assistance in this matter.

Sincerely,

[NAME]  
Board Chair

[NAME]  
Executive Director

cc: [CAA'S ATTORNEY]  
[OFFICE OF COMMUNITY SERVICES (OCS)]

Enclosures

# APPENDIX I

## Sample Letter Requesting Direct Funding from OCS

## APPENDIX I: Sample Letter Requesting Federal Funding

*[NOTE: This sample letter addresses multiple issues with a state's reduction or termination of funding. In the situation addressed by this letter, the state CSBG office has suspended the CAA's funding which can be an effective reduction in or termination of funding. However, references to a "suspension of funding" may be easily replaced with a "reduction in funding" or a "termination of funding" if your state describes such actions in this way. Moreover, in this situation, the state relied on state laws and regulations to support the suspension of funding and this letter explains that such laws are contradictory to the federal CSBG Act and would therefore be preempted by the federal law. If no such regulations and laws exist in your state, then you should remove this discussion from the letter. Lastly, a hearing was provided after the suspension of funds. However, we recommended sending a letter requesting direct funding from Office of Community Services [OCS] as soon as you receive a letter suspending, reducing or terminating your OCS funding if this was done prior to your receiving notice, hearing on the record and an opportunity for federal review by OCS.]*

Via E-mail and Certified Mail, Return Receipt Requested

[NAME OF CURRENT OCS DIRECTOR]

Director  
Office of Community Services  
Administration for Children and Families  
U.S. Department of Health and Human Services  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

Dear [OCS DIRECTOR]:

We are writing on behalf of [NAME OF COMMUNITY ACTION AGENCY](CAA), an eligible entity located in [CITY, STATE], to request that the Secretary of Health and Human Services (HHS) provide direct Community Services Block Grant (CSBG) funding to CAA, as authorized by section 42 U.S.C. § 9915(c) of the CSBG Act.

The CSBG Act specifies that any eligible entity that received CSBG funding in the previous fiscal year may not have its funding terminated or reduced unless, after providing notice and an opportunity for a hearing on the record, the state determines that cause exists for the termination or reduction. 42 U.S.C. §§ 9908(b)(8), 9915(a); Office of Community Services (OCS) Information Memorandum (IM) 116. The state's decision is subject to review by the Secretary of HHS. 42 U.S.C. §§ 9908(b)(8), 9915(b); OCS IM 116. If an eligible entity requests that the Secretary of HHS review the state's decision, the state may not discontinue present or future funding to the eligible entity until the Secretary confirms the state's finding of cause. 42 U.S.C. §§ 9908(b)(8), 9915(b); 45 C.F.R. § 96.92; OCS IM 116. Whenever a state terminates or reduces an eligible entity's funding prior to completion of the state hearing and the Secretary's review described above, the Secretary is authorized to provide financial assistance to the eligible entity affected. 42 U.S.C. § 9915(c); OCS IM 116.

CAA has received CSBG funding from the State of [DOLLAR AMOUNT OF FUNDING] since [YEAR]. In Fiscal Year [YEAR], CAA received [DOLLAR AMOUNT OF FUNDING] in CSBG funding. CAA's current Fiscal Year [YEAR] CSBG contract with the [STATE CSBG AGENCY] (copy enclosed as Exhibit A) provides that CAA is to receive [DOLLAR AMOUNT OF FUNDING] in CSBG funds per month for a total of [DOLLAR AMOUNT OF FUNDING] for the period [DATE] to [DATE]. However, CAA has not received any CSBG funds from [STATE CSBG OFFICE] since [DATE]. The CSBG funds CAA received in [MONTH/YEAR] were for its [PRIOR MONTH'S] CSBG funding allotment; therefore, CAA has not received any CSBG funds for [DATE] through the present.

On [DATE], after having placed CAA on high risk status and cost reimbursement basis, [STATE CSBG OFFICE] notified CAA that it was suspending all of CAA's contracts with [STATE CSBG OFFICE] immediately, including CAA's CSBG contract (see suspension letter enclosed as Exhibit B). The suspension letter specified that unless the suspension was rescinded or CAA voluntarily agreed to extend the suspension beyond 30 days, [STATE CSBG OFFICE] would begin proceedings to terminate [STATE CSBG OFFICE'S] contracts on [DATE].

CAA was not given notice of a hearing or provided a hearing prior to the suspension. On [DATE], nearly [AMOUNT OF TIME, E.G., THREE WEEKS, ONE MONTH, ETC.] after the suspension, [STATE CSBG OFFICE] held an informal hearing at which CAA representatives contested the suspension. At the conclusion of that hearing, [NAME AND TITLE] of [STATE CSBG OFFICE] notified the CAA representatives present that the suspension would remain in effect and that [STATE CSBG OFFICE] planned to begin CSBG termination proceedings as described in the [DATE AND BRIEF DESCRIPTION OF LETTER, E.G., JUNE 16, 2010 LETTER FROM THE DIRECTOR OF THE STATE CSBG OFFICE REGARDING THE TERMINATION OF CAA'S FUNDING] letter.

[STATE'S] regulations on suspension of CSBG funding (copy enclosed as Exhibit C) specify that [INSERT BRIEF SUMMARY OF STATE'S REGULATION]. These state regulations and [STATE CSBG OFFICE'S] withholding of CAA's CSBG funding described herein are inconsistent with the federal CSBG Act and regulations, which prohibit states from reducing or terminating an eligible entity's CSBG funding until the state has determined, after providing the eligible entity with notice and an opportunity for a hearing on the record, that cause exists for the termination or reduction and the Secretary of HHS has reviewed that determination and affirmed it. See 42 U.S.C. §§ 9908(b)(8), 9915(a)-(b); 45 C.F.R. § 96.92; OCS IM 116. By failing to provide CAA any CSBG funds for [DATE] through the present without following the procedures required by the federal CSBG Act and regulations, the State of [NAME OF STATE] has violated the assurances contained in the CSBG Act (see 42 U.S.C. § 9908(b)(8)); thus, the Secretary of HHS is authorized to provide direct funding to CAA.

Permitting states to summarily withhold or suspend CSBG funding enables them to circumvent the intent of the CSBG Act that an eligible entity's CSBG funding continue until after the entity has had an opportunity for a hearing on the record and until the Secretary of HHS has reviewed the state's decision to reduce or terminate funding.

Therefore, CAA requests that the Secretary of HHS provide it with CSBG funding directly in the following amounts: [DOLLAR AMOUNT OF FUNDING] to cover CSBG funds CAA is owed from [DATE] to the present, plus [DOLLAR AMOUNT OF FUNDING] per month until either (1) [STATE CSBG OFFICE] resumes providing CSBG funding to CAA or (2) [STATE CSBG OFFICE] initiates termination procedures and determines, after providing CAA with notice and an opportunity for a hearing on the record, that cause exists for the termination and the Secretary of HHS reviews and confirms that determination.

Thank you for your assistance in this matter.

Sincerely,

[NAME]  
Board Chair

[NAME]  
Executive Director

cc: [CAA'S ATTORNEY]

Enclosures

