Appendix C

CSBG Monitoring Legal Framework

The federal Community Services Block Grant Act (CSBG) Act, 42 U.S.C. § 9914(a), sets forth the following four parameters within which a state CSBG office must monitor an eligible entity / community action agency (CAA):

1. Performance goals;
2. Administrative standards;
3. Financial management requirements; and
4. Other state requirements.

A variety of applicable laws and guidance, many of which are described or noted below, flesh out the four parameters. The list below is not all-inclusive, rather, it is intended to provide a deeper understanding of the legal framework CAAs and state CSBG offices typically navigate within the CSBG monitoring context:

1. **Performance Goals**: The following provisions of the CSBG Act establish the performance goals a CAA must meet and a state must assess when monitoring a CAA:
   - Purposes and Goals (42 U.S.C. § 9901(2))
     Describes the goals of the 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 promises a state is required to make in its state plan regarding the types of activities CSBG monies fund and the ways in which CAAs meet the needs of the community served.
   - Performance Measurement System (42 U.S.C. § 9908(b)(12))
     Requires states to participate in 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 states to implement drug testing of program participants and referral to rehabilitation services at the state's expense.
   - Performance Reporting Requirements (42 U.S.C. § 9917)
     Instructs states to compare actual and planed uses and report the number of low-income persons served.

2. **Administrative Standards**: The following provisions of the CSBG Act and federal Office of Community Services (OCS) guidance set forth many of the administrative requirements that govern a CAA and that a state reviews as part of the monitoring process:

- 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 CSBG funded activities.
- 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 an eligible entity may use CSBG funds, such as prohibiting use of CSBG funds to pay for political activities. Also incorporates by reference the application of federal nondiscrimination laws relating to race, color, national origin, sex, age, and disabilities.
- Limitations on Permanent Improvements to Property (OCS IM 60)
  Offers non-binding guidance about the prohibition against using CSBG funds for the purchase or improvement of real property and HHS's right to waive the prohibition.
- CSBG Terms and Conditions
  Incorporates by reference the application of federal laws which generally ensure that federally funded programs do not discriminate basis of age, disability, faith, race, and sex and certain cross-cutting federal grant laws, such as the debarment and suspension regulations and the Drug-Free Workplace Act. state CSBG office agrees to comply with the CSBG Terms and conditions when it accepts CSBG funding from OCS. Those terms and conditions are then incorporated into CSBG agreements between states and CAAs.

3. **Financial Management Requirements**: The following provisions of the CSBG Act and federal financial assistance rules, along with OCS guidance, set forth requirements a CAA must meet and a state must assess when monitoring a CAA:
   - Fiscal Controls and Audits (42 U.S.C. § 9916): Establishes that a state is required to ensure that a CAA complies with certain Subparts and provisions of the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 C.F.R. Part 200[1]. Those provisions include:
     - *Subpart E Cost Principles* which establish a baseline for when a CAA may use federal funds to pay for a cost and how a CAA recovers costs from its federal funding. The selected items of costs are not intended to be a comprehensive list of potential items of cost encountered under Federal awards. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable.
     - *Subpart F Audit Requirements* requires a recipient or subrecipient of federal funds to undergo a single audit as required by the Single Audit Act when the recipient or

[1] Section 200.10(e)(1)) establishes which provisions of the Uniform Guidance apply to entities that receive CSBG funding.

subrecipient expends a certain amount of federal funds in its fiscal year.

- *Section 200.203 Requirement to provide public notice of Federal financial assistance programs*, requires federal agencies to maintain an accurate list of Federal programs.
- *Section 200.216, Prohibition on certain telecommunications and video surveillance equipment or services*, prohibits recipients and subrecipients from obligating or expending federal funds to procure or obtain telecommunication equipment or services produced by certain Chinese companies.
- *Sections 200.331 through 200.333 Subrecipient Monitoring and Management*, mainly sets forth the factors to consider when making subrecipient and contractor determinations and outlines the requirements for pass-through entities.

▪ Direct and Administrative Costs (IM 37) Offers non-binding guidance on the overarching principles guiding the use of CSBG funds and addresses the allowability of "direct" and "administrative" costs.

▪ Corrective Action, Termination or Reduction of Funding Guidance (IM 116): 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.

4. **State Requirements**: A state is permitted to develop more detailed state requirements to implement the CSBG Act, as long as the state's requirements do not conflict with federal law and comply with the state laws for adopting legally binding requirements, namely the state's administrative procedures act.
   - HHS Block Grant regulations, (45 C.F.R. Part 96) as applicable to monitoring mainly establishes the standard of review OCS will engage in when determining if a state requirement conflicts with the federal CSBG Act, see § 96.50(e).
   - The 2016 Appropriations Act[2] required states to adopt performance standards issued by the U.S. Department of Health and Human Services (HHS) for organizations receiving CSBG funds. The HHS performance standards are the CSBG Organizational Standards as set forth in IM 138.
   - Additional state requirements, including the CSBG Organizational Standards, are reflected in one or more of the following forms:
     - State CSBG Act and regulations,
     - State policies and manuals,
     - State CSBG plan, and
     - State CSBG subgrant agreement with the CAA

[2] Public Law 114-113, Consolidated Appropriations Act, 2016.