# Mastering the A-B-CSBGs
## Uses of CSBG Funds

Presenters:
Veronica Zhang + Jonathan Cohen
January 17, 2023

CAPLAW

1

---

## Agenda



- **Laws and Guidance**

- **CSBG Cost Allowability Framework**

- **Questions about Specific Items of Cost**

2

2

# Laws and Guidance

- **Federal Community Services Block Grant (CSBG) Act**
  - Section 672, *et. seq.* (42 U.S.C. § 9901 *et. seq.)*
- **HHS Block Grant Regulations**
  - 45 C.F.R. Part 96
- **Uniform Administrative Requirements, Cost Principles, and Audit Requirements (Uniform Guidance)**
  - 45 C.F.R. Part 75
- **Information Memoranda (IMs) – non-binding guidance, but very informative**
  - IM #37: Definition and Allowability of Direct and Administrative Cost Block Appropriation and Allocations
- **State CSBG Laws**
  - Statutes, regulations, award terms and conditions, informal guidance

  **KEY:** States primarily responsible for grant administration
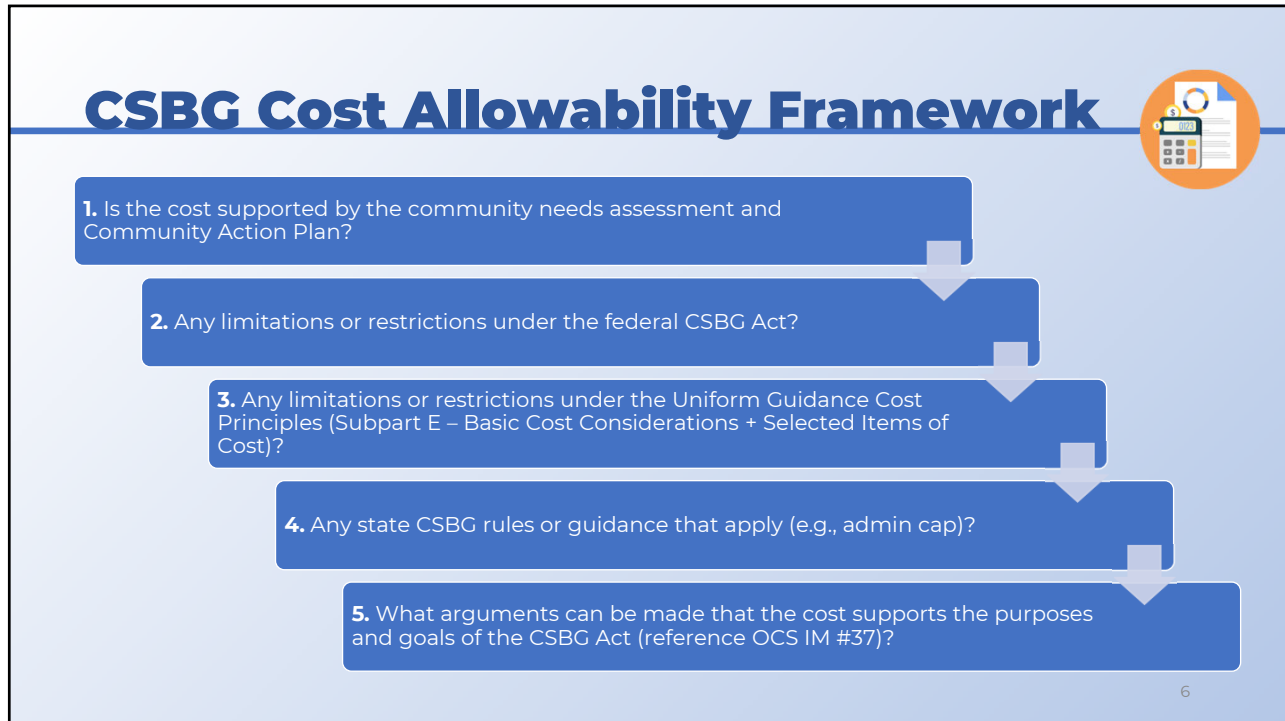
3

3

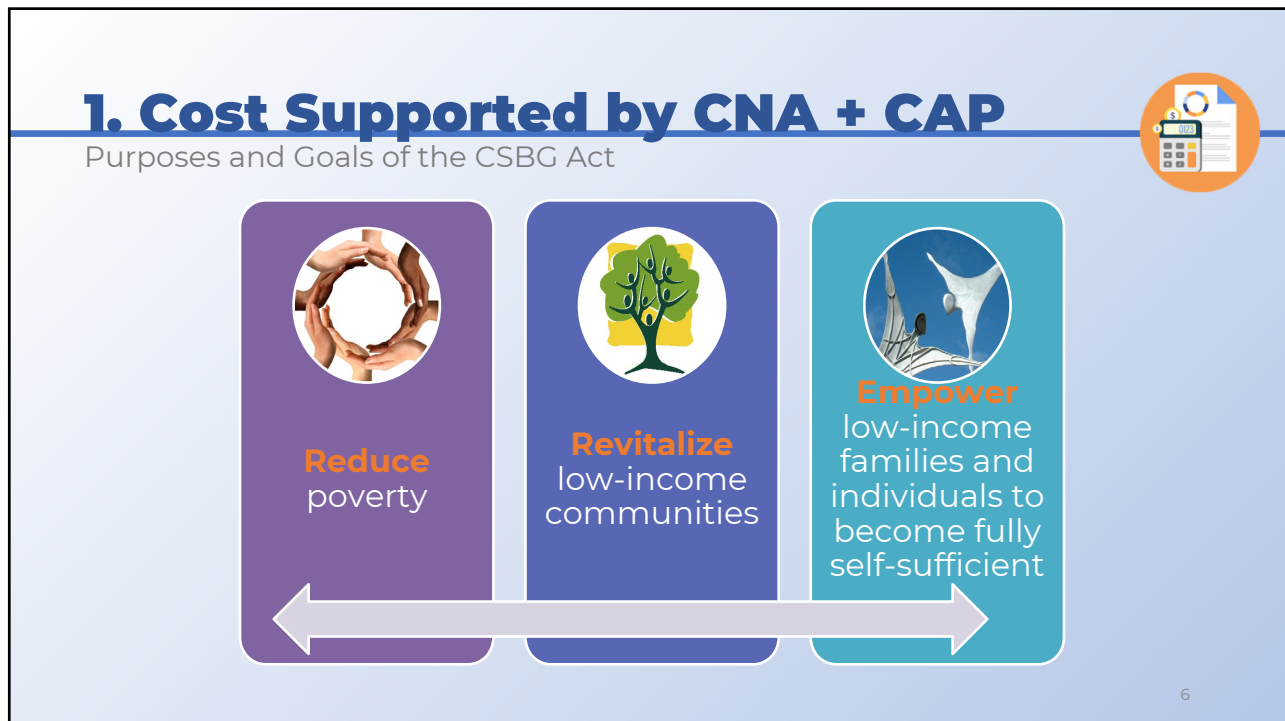# Laws and Guidance
CSBG Act – Sec. 675C. Uses of Funds

- **"90% funds"**
  - State **must** pass through 90% of CSBG funds to "eligible entities"
- **"10% funds"**
  - Up to 5% for state's own administrative costs
  - States limited in how they spend funds not passed to CAAs
  - Some allowable uses include:
    - Training and technical assistance
    - Coordinating state-operated programs and services
    - Supporting statewide coordination and communication among eligible entities
    - Supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization
    - **Supporting other activities consistent with the purposes of the CSBG Act**

4

4

## CSBG Cost Allowability Framework

**1.** Is the cost supported by the community needs assessment and Community Action Plan?

**2.** Any limitations or restrictions under the federal CSBG Act?

**3.** Any limitations or restrictions under the Uniform Guidance Cost Principles (Subpart E – Basic Cost Considerations + Selected Items of Cost)?

**4.** Any state CSBG rules or guidance that apply (e.g., admin cap)?

**5.** What arguments can be made that the cost supports the purposes and goals of the CSBG Act (reference OCS IM #37)?

6

5

## 1. Cost Supported by CNA + CAP
Purposes and Goals of the CSBG Act

**Reduce** poverty

**Revitalize** low-income communities

**Empower** low-income families and individuals to become fully self-sufficient

6

6

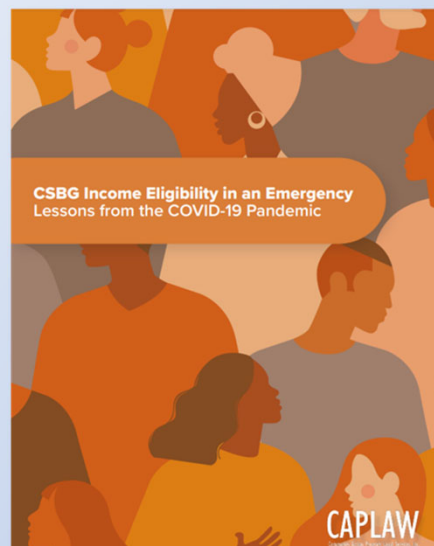## 1. Cost Supported by CNA + CAP
CNA + CAP + Eligibility

- Community "**needs**" focus of CSBG purposes and goals:
  - …so that this assistance can be used in a manner responsive to local **needs** and conditions…(Sec. 672(2)(A));
  - …organization of a range of services related to the **needs** of low-income families…(Sec. 672(2)(B));
  - …empower such residents and members to respond to the unique problems and **needs** within their communities… (Sec. 672(2)(D)
- Each CAA must develop a **Community Action Plan** that includes a **community needs assessment** (Sec. 676(b)(11))
  - Uses of CSBG based on community needs assessment
  - All CSBG costs **must** address identified needs
- Services provided to **income-eligible clients** (Sec. 673(2))

7

7

## 1. Cost Supported by CNA + CAP
CAPLAW Resources on Client Eligibility



**Community Services Block Grant
Guide to Client Eligibility**

CAPLAW

**CSBG Income Eligibility in an Emergency**
Lessons from the COVID-19 Pandemic

CAPLAW

8

8

## 2. CSBG Act Cost Limitations

CSBG Act – A block grant BUT with strings attached…

- Designation of subrecipients*
- Governance – tripartite board*
- **Funding allocations**
- **Client eligibility**
- **Carryover**
- Reduction and termination*
- **Use of funds**
  - **Buildings and facilities**
  - **Lobbying and political activity**
  - **Match**

**\*** Covered in other **Mastering your A-B-CSBGs** webinars!

9

9

## 2. CSBG Act Cost Limitations

Buildings and Facilities

- **Overview**
  - **CANNOT** use CSBG funds to:
    - Purchase or improve land or
    - Purchase, construct, or permanently improve a building or other facility
  - **Exception** for low-cost residential weatherization or other energy-related home repairs
  - Federal OCS waiver available, upon request, for "extraordinary circumstances"
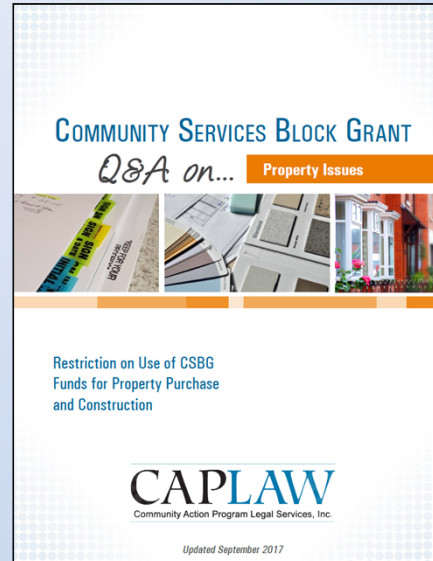
*Sec. 678F(a); IM #60*

10

10

## 2. CSBG Act Cost Limitations

Buildings and Facilities

- **Not all building-related expenses are prohibited**
- Allowable costs:
  - Maintenance and repair (2 C.F.R. § 200.452)
  - Rearrangement and alteration (2 C.F.R. § 200.462)
  - Interest on mortgage or improvement (financing, not acquisition cost)
  - Depreciation (2 C.F.R. § 200.436)

COMMUNITY SERVICES BLOCK GRANT

*Q&A on...* **Property Issues**

Restriction on Use of CSBG Funds for Property Purchase and Construction

**CAPLAW**
Community Action Program Legal Services, Inc.

*Updated September 2017*

11

11

## 2. CSBG Act Cost Limitations

Match

- **Can we use CSBG funds as a match for other federal programs?**
  - Only for the following programs:
    - AmeriCorps (IM #139)
    - HUD McKinney-Vento (IM #135)
  - **Otherwise, no**
    - Federal funds may be used as match only if explicitly allowed by funding source statute (2 C.F.R. § 200.306)

12

12

# 2. CSBG Act Cost Limitations
Political Activity

- **Overview:** Cannot use CSBG funds in any way that *identifies* such use with:
    - Partisan and nonpartisan political activities
    - Voter registration
    - Transportation to the polls
- **Hatch Act**
    - Applies to certain CAA employees via federal CSBG Act
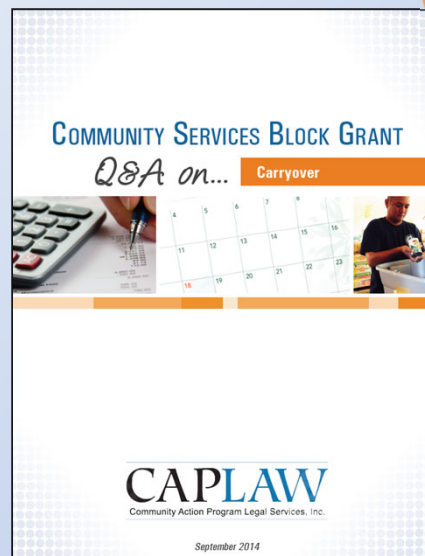    - Limits activities of **employees**, not the CAA

13

13

# 2. CSBG Act Cost Limitations
Carryover CSBG Funds

- **Regular Fiscal Year Appropriations Acts**
    - FY 22 Act permits a CAA to carry over **any** unused CSBG funding into the next fiscal year
    - Supersedes the federal CSBG Act, which only permits a CAA to carry over up to **20%** of unused CSBG funds from that fiscal year (Sec. 675C(a)(3)(A))

COMMUNITY SERVICES BLOCK GRANT
*Q&A on...* Carryover

CAPLAW
Community Action Program Legal Services, Inc.

*September 2014*

14

14

## 3. Uniform Guidance Cost Limitations

**Unless states require otherwise, only these provisions of Subparts C & D apply to CSBG:**

- **§ 75.202**: Public notice/CFDA
- **§ 75.351**: Subrecipient & contractor determinations
- **§ 75.352**: Pass-through entities
- **§ 75.353**: Fixed amount subawards

**45 C.F.R. Part 75 – HHS Codification of UG**

- **Subpart A:** Acronyms and Definitions
- **Subpart B:** General Provisions
- ~~**Subpart C:** Pre-Federal Award Requirements and Contents of Federal Awards~~
- ~~**Subpart D:** Post-Federal Award Requirements~~
- **Subpart E:** Cost Principles
- **Subpart F:** Audit Requirements
- **Appendices:** Required contract provisions, indirect costs etc.

6

15

## 3. Uniform Guidance Cost Limitations

Basic Cost Considerations (45 C.F.R. §§ 75.402-411)

- Must meet these parameters
- **Factors affecting allowability of costs:** (45 C.F.R. § 75.403)
  1. Be necessary and reasonable;
  2. Be allocable
  3. Conform to limitations in UG or the federal award
  4. Be consistent with org. policies that apply to federal + non-federal activities
  5. Be treated consistently as direct or indirect;
  6. Not included as a cost or match in any other federally funded program;
  7. Be adequately documented;
  8. Be incurred during the approved budget period;

6

16

1/17/2023

## 3. Uniform Guidance Cost Limitations

Selected Items of Cost (§§ 75.420 – 75.475)

**§ 75.420 Considerations for selected items of cost.**
- Cost principles apply to both direct and indirect costs;
- Failure to mention a particular cost does not imply allowable or unallowable.
  - Its treatment should be based on that of similar items;
- When there is a discrepancy between the principles in 45 CFR Part 75 and the provisions of a specific Federal award, the award governs.

17

17

## 3. Uniform Guidance Cost Limitations

Example #1: Incentive Pay

- **What is incentive pay?**
  - A temporary, discretionary increase in pay
  - 45 C.F.R. § 75.430(f)

- **Uniform Guidance:** "Incentive compensation to employees based on **cost reduction, or efficient performance, suggestion awards, safety awards, etc.**, is allowable" if:
  - Total compensation is reasonable
  - Paid pursuant to written agreement in place **before the services were rendered**

18

18

## 3. Uniform Guidance Cost Limitations
Example #1: Incentive Pay – Written Policy

- **Purpose**
  - Make a connection to Uniform Guidance purposes
- **Incentive criteria**
  - Objective, realistic, and linked to CAA's accomplishment of exempt purpose
- **Total compensation must be reasonable**
- **Safeguards**
  - Set a cap on total incentive compensation
- **Board discretion to cancel or reduce awards**

19

19

## 3. Uniform Guidance Cost Limitations
Example #2: Proposal Costs and Fundraising Costs

- **Proposal Costs** – 45 C.F.R. § 75.460
  - Costs of preparing bids, proposals, or applications on Federal and non-Federal awards
  - Treat as **indirect (F&A) costs**, allocate to all activities
- **Fundraising Costs** – 45 C.F.R. § 75.442
  - Costs including financial campaigns, endowment drives, and solicitation of gifts and bequests
  - Generally **unallowable**
  - If fundraising for purposes of meeting Federal program objectives, allowable **only** with prior written approval from awarding agency

20

20

# 4. State CSBG Rules and Guidance
Primary Administrators of CSBG Funding

- **States have discretion to interpret the federal CSBG Act and Uniform Guidance**
  - HHS recognizes that different states may reach different interpretations of the same statutory provision
  - HHS will defer to state's interpretation unless it is clearly erroneous – 45 C.F.R. § 96.50(e)

- **State CSBG statute + regulations + guidance**
  - E.g., state may set administrative cost limits for CSBG
- **Terms and conditions in grant agreement**
  - E.g., state can require compliance with <u>all</u> Uniform Guidance provisions

21

21

# 5. Using CSBG Funds Properly
Unique Nature of CSBG

- **Purpose of CSBG award** differs from most other grants because it does not:
  - Focus on funding a particular service
  - Function solely as a "stand alone" program
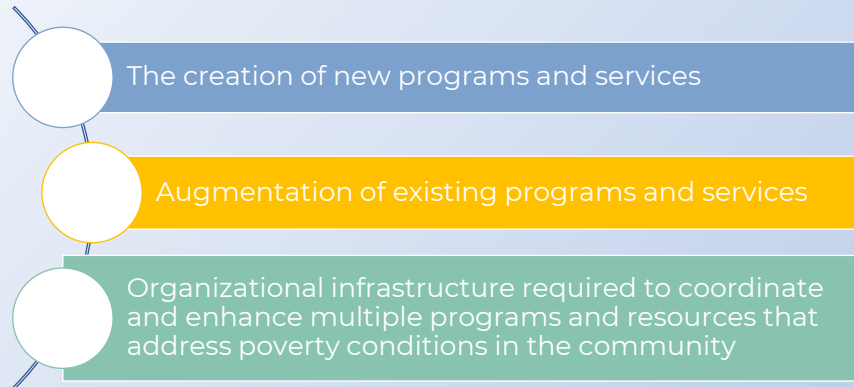  - See *OCS IM #37*

22

22

## 5. Using CSBG Funds Properly
Unique Nature of CSBG – Cost Allocation

- **IM #37** – CSBG funding can support:

  - The creation of new programs and services
  - Augmentation of existing programs and services
  - Organizational infrastructure required to coordinate and enhance multiple programs and resources that address poverty conditions in the community

23

23

## 5. Using CSBG Funds Properly
Unique Nature of CSBG – Cost Allocation

- **Linking and coordinating**:
  - Make more effective use of, and to coordinate with, other anti-poverty programs;
  - Support and coordinate a service delivery system serving low-income people;
  - Coordinate and establish linkages between governmental and other programs;
  - Coordinate programs and form partnerships with other community organizations.

24

24

# 5. Using CSBG Funds Properly
Direct vs. Administrative Costs

- **Federal CSBG Act** requires reporting "**direct**" and "**administrative**" expenditures
  - No federal cap on administrative expenses

25

25

# 5. Using CSBG Funds Properly
Direct vs. Administrative Costs

- **Direct program costs**
  - Can be identified with delivery of a particular activity intended to achieve an objective of the CSBG grant.
- **Administrative costs**
  - Not readily assignable to a particular program funding stream
  - Relate to the general management of the grantee, such as strategic direction, board development, ED functions, accounting, budgeting, personnel, procurement, legal

*IM #37*

26

26

## 5. Using CSBG Funds Properly
Examples of CSBG Direct Costs

- "**Coordinating and strengthening**" activities:
  - Coordinate and expand local anti-poverty services;
  - Planning and management functions that facilitate shared resources and integrated approaches among programs;
  - Leverage, enhance, and supplement other programs;
  - Pay for costs of other program activities above and beyond the levels financed by another federal, state, or local award.

*IM #37*

27

27

## 5. Using CSBG Funds Properly
Examples of CSBG Direct Costs

- CSBG "program" costs that "**coordinate and strengthen**":
  - Multi-agency strategic planning;
  - Community-wide needs assessments;
  - Co-location of complementary services;
  - Computerization of common intake and referral systems;
  - Formalized networking to share resources and facilities;
  - Organization of cross-sector coalitions to address specific community concerns;
  - Compilation, publication, and distribution of information

*IM #37*

28

28

# 5. Using CSBG Funds Properly
Examples of CSBG Direct Costs

- **Can have administrative qualities**
  - Salaries and benefits of program staff and managers
  - Equipment
  - Training
  - Conferences
  - Travel
  - Contracts

Must relate specifically to a particular program or activity, **_not_** to the general administration of the CAA

*IM #37*

29

29

# 5. Using CSBG Funds Properly
Different from Uniform Guidance

**Indirect (facilities & administrative (F&A) Costs**

means costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

*45 CFR § 75.2*

30

30

## 5. Using CSBG Funds Properly
Different from Uniform Guidance

- **Some costs that are "indirect" under the Uniform Guidance are actually "direct" for CSBG**
  - If the cost can be identified with delivery of a particular activity to achieve a CSBG purpose, it should be reported a "direct" CSBG cost

*IM #37*

31

31

## Allocating Costs to CSBG
Classifying Costs, 45 C.F.R. § 75.412

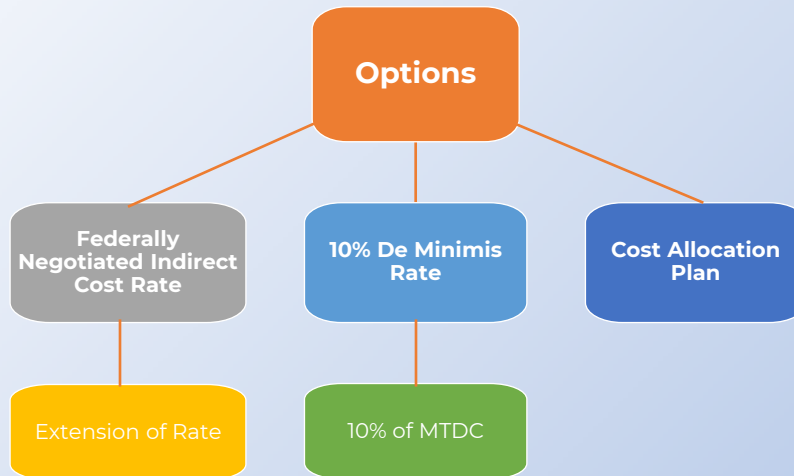| **Direct** | **Indirect** |
|---|---|
| Readily identifiable | Incurred for common or joint purpose |
| Can be easily and accurately assigned to a specific award w/ high degree of accuracy | Benefits more than one cost objective |
| | Not readily assignable to cost objective specifically benefitted, without effort disproportionate to results achieved |

- **No universal rule** for classifying certain costs as either direct or indirect

- **Key point**: Treat each item of cost incurred for the same purpose, in like circumstances, **consistently** (as direct or indirect)

32

32

## Allocating Costs to CSBG
Options for Recovering Indirect Costs

```
                    ┌──────────────┐
                    │   Options    │
                    └──────────────┘
          ┌──────────────┼──────────────┐
  ┌───────────────┐ ┌──────────────┐ ┌──────────────┐
  │  Federally    │ │ 10% De Minimis│ │Cost Allocation│
  │  Negotiated   │ │     Rate     │ │    Plan      │
  │Indirect Cost  │ │              │ │              │
  │     Rate      │ │              │ │              │
  └───────────────┘ └──────────────┘ └──────────────┘
          │                │
  ┌───────────────┐ ┌──────────────┐
  │ Extension of  │ │  10% of MTDC │
  │     Rate      │ │              │
  └───────────────┘ └──────────────┘
```

33

33

## Tips for Advocating for Cost Allowability

1. **Show why the cost is not prohibited (or why a restriction is not applicable) under the applicable legal requirements**
   a. Federal CSBG Act, the Uniform Guidance, state CSBG requirements, any other state or federal law

2. **Draw parallels between the cost in question and other costs that are explicitly permitted under the applicable legal requirements**

3. **Show how the cost is allocable to CSBG**
   a. Purposes and uses of CSBG funding in the CSBG Act and IM 37

34

34

## Specific Items of Cost
Can we charge these costs to CSBG?

- Gift cards?

- Cash assistance?

- Rental assistance?

- Mortgage assistance?

35

35

---

**239 Resources
60 Topics
20 Types**

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

Visit CAPLAW's
**Resource Library!**

**FAQ**

**Community Economic Development for CAAs**

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

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

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

**NEWS**

**Election Year Refreshers for Nonprofit and Public CAAs**

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

**www.caplaw.org**

36

**Submit your questions now for our upcoming A-B-CSBGs sessions!**

https://www.getfeedback.com/r/JDjq6xdp

**January 24** – Mechanics of CSBG
**January 31** – Monitoring and Termination

37

37

# CAPLAW

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

CAPLAW | **www.caplaw.org** | (617) 357-6915

38