



COMMONLY FACED CSBG MONITORING FINDINGS AND POTENTIAL APPROACHES FOR ADDRESSING THEM

An Excerpt from the CAPLAW and Community Action Partnership publication, “Monitoring Map for CAAs: A Guide for Navigating the CSBG Review Process.”

“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.”

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 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.

"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."

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.

“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.”

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% .

“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.”

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.



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.



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.

This publication was created by the National Association of Community Action Agencies – Community Action Partnership, in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Grant Number 90ET0428. 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.

This Toolkit has been prepared for general information purposes only. The information in this Toolkit is not legal advice nor should it be relied on as such. Legal advice is dependent upon the specific circumstances of each situation.

© 2012 Community Action Program Legal Services, Inc (CAPLAW)

This resource is an excerpt from the CAPLAW and Community Action Partnership publication, "Monitoring Map for CAAs: A Guide for Navigating the CSBG Review Process."

The complete guide can be found at:
www.managingmymoney.com/toolkits/CSBG_Monitoring_Toolkit-Final.pdf