The Nuts and Bolts of the Federal CSBG Act

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History of the CSBG Act

Economic Opportunity Act of 1964

Community Services Block Grant Act (1981)
Laws and Guidance

Federal

Federal Community Services Block Grant (CSBG) Act
- States primarily responsible for grant administration

Federal Block Grant Regulations
- 42 C.F.R. Part 96

Information Memoranda (IMs)
- Non-binding guidance
- Example: Information Memorandum #82 (CSBG IM #82)

State

State CSBG Laws
- Legislation (or “statutes”)
- Regulations

Organizational Standards
- Developed by the CSBG Organizational Standards Center of Excellence (COE)
- Published in IM 138
- For FY2016, OCS has the authority to require states to adopt the standards (P.L. 114-113, Div. H, Title II)
Laws and Guidance
Uniform Guidance

Application to the CSBG Act

- “Cost and accounting standards” applied to CAAs
- OMB circulars NOW the Uniform Guidance (a.k.a. “Super Circular” or “Omni Circular”)

– 42 U.S.C. § 9916(a)(1)(B)

Uniform Guidance Contents:

- Administrative requirements
- Cost principles
- Single Audit Act requirements

Quiz #1: Applicable Rules

Which of the following is legally binding on a CAA? (Select all that apply)

a. The Economic Opportunity Act of 1964
b. The federal CSBG Act
c. HHS block grant regulations
d. Federal cost principles in the Uniform Guidance
e. CSBG contracts between the states and the CAAs
“90% Funds”
- State must pass through 90% of CSBG funds to “eligible entities”
- 42 U.S.C. § 9907(b)(1)

“10% Funds”
- 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
- 42 U.S.C. § 9907(b)(1)
Quiz #2: Allocation

The federal CSBG Act requires a state to award its discretionary CSBG funds to CAAs or CAA associations.

True or False?

Use of CSBG Funds
Purposes and Goals

- **Reduce** poverty
- **Revitalize** low-income communities
- **Empower** low-income families and individuals to become fully self-sufficient
Use of CSBG Funds
Purposes and Goals

Achieve CSBG Goals By

- Maximum participation of low-income communities
- Leveraging the resources of other anti-poverty programs
- Strengthening community capabilities for planning or coordinating resources responsive to local needs and conditions
- Using innovative approaches to attack causes and effects of poverty
- Organizing services to have a measurable impact on causes of poverty

- 42 U.S.C. § 9901

Client Eligibility

Federal CSBG Act

- Requires clients to be at or below 100% of FPL
- States may permit clients up to 125% of FPL

Procedures for Determining Eligibility

- If no process specified by state, CAAs may adopt their own

- 42 U.S.C. § 9902(2)
Quiz #3: Client Eligibility

A state may permit CAAs to serve clients up to 150% of the FPL if doing so meets CSBG program objectives.

True or False?
Role of Tripartite Board

FULLY ENGAGED IN:

- Development
- Planning
- Evaluation
- Implementation

- 42 U.S.C. § 9910(a)(1)

Tripartite Boards

Composition

- At least 1/3: Low-Income sector
- 1/3: Public Officials
- Remainder: Private Sector

- 42 U.S.C. § 9910
Tripartite Boards
Low-Income Sector for **Nonprofit CAAs**

- Must be **democratically selected** to assure representative of low-income people in service area
- If chosen to represent a particular neighborhood, must live there
- Don’t need to be low-income themselves

- 42 U.S.C. § 9910(a)(2)
Tripartite Boards
Low-Income Sector for Public CAAs

- Must be representative of low-income individuals and families in service area
- Must live in service area
- Must be able to participate actively in development, planning, implementation and evaluation of CSBG programs

- 42 U.S.C. § 9910(b)

Tripartite Boards
Democratic Selection Process

*Community health center board
*Tenants association
*Faith-based group
*Policy council

General election
Public forum
PTA

Democratic selection options:

Micro-democratic election procedure:
Group predominately made up of low-income individuals may elect someone from w/in the group to serve as the low-income rep.

— OCS IM 82
Tripartite Boards
Public Sector

• Elected public officials must be “holding office at time of selection”
  – Federal OCS IM 82 recommends that public officials serve only while they are in office

• If elected officials not available, may include appointed


Tripartite Boards
Private Sector

“...or other major groups and interests in community”

“Shall be officials or members of groups such as ...”

- 42 U.S.C. § 9910(a)(2)
Tripartite Boards
Board Size, Terms & Term Limits

Federal Law
• Does not address board size, terms & term limits
• Number of board members must be divisible by 3

State Law
• State CSBG laws and nonprofit corporation acts may address board size, terms & term limits

Quiz #4: Tripartite Board

Which of the following statements about tripartite board composition is **FALSE**?

a. Low-income sector must meet federal poverty guidelines
b. Public officials must be elected
c. Fed. CSBG Act requires orgs select private sector
Application and Plan

- States submit application and plan to HHS
- Can include one or two federal fiscal years
- Must be submitted no later than 30 days prior to beginning of fiscal year

Public Inspection and Hearings

- State must hold at least one public hearing, with sufficient time and statewide distribution of notice of such hearing, to give an opportunity for comment on the proposed use and distribution of funds. 42 U.S.C. § 9908(a)(2).

Revisions

- A state can revise the state plan so long as:
  - The revised plan is made available for public inspection, review, and comment
  - The revised plan is submitted to HHS for review and approval

- 42 U.S.C. § 9908(e)
Tripartite Boards
State Plans

Assurances

- State plan must assure that it will use CSBG funds to further the goals and purposes of the Act and make other assurances, including:
  - Obtaining from CAAs community action plans that include a community needs assessment
  - Ensuring participation by it and CAAs in the Results Oriented Management and Accountability (ROMA) system
  - Not terminating or reducing the CSBG funding of a CAA below the proportional share it received the previous year without following certain procedures

- 42 U.S.C. § 9908(b)

Quiz #5: State Plans

Which of the following statements about state plans are FALSE?

a. Plan describes how state will run the CSBG program
b. Legislative hearing occurs every 5 yrs when plan developed
c. State must hold a public hearing when it revises its plan
d. State is bound by assurances it makes in the plan
Buildings and Facilities

Overview

• Generally cannot use CSBG funds for either:
  – Purchase or improvement of land or
  – Purchase, construction, or permanent improvement of building or other facilities

• Exception for low-cost residential weatherization or other energy-related home repairs

• Federal OCS waiver available, upon request, for “extraordinary circumstances”
  - 42 U.S.C. § 9918(a)(1); OCS IM 60

Not all building-related expenses are prohibited

• Example, maintenance and repair costs, see Uniform Guidance, 2 C.F.R. § 200.452
Quiz #6: Buildings/Facilities

The federal CSBG Act generally **prohibits** the use of CSBG funds for: (Select all that apply)

- a. Purchase or improvement of land
- b. Maintenance of or repairs to a building or other facility
- c. Purchase of a building or other facility
- d. Construction or permanent improvement of building/facility

Political Activities

**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**
- Federal law that applies mainly to federal, state, or local employees
- Applied to certain CAA employees via Federal CSBG Act
- Hatch Act limits activities of *employees*, not the CAA
  - 42 U.S.C. § 9918(b)
Hatch Act – Nonprofit CAAs

**FIRST TYPE OF EMPLOYEE**

- If > ½ of work time employed by CAA/Head Start org. or > ½ salary paid by org.

- Works in connection with CSBG or Head Start activities

**HATCH ACT RESTRICTIONS**

- Can’t run as candidate for public office in partisan election

- Can’t use official authority to influence election results

- Can’t coerce Hatched employee to make political contributions

**SECOND TYPE OF EMPLOYEE**

- If 100% of salary paid out of CSBG and/or Head Start funds (directly or indirectly)

Hatch Act – Public CAAs

**FIRST TYPE OF EMPLOYEE**

- Works in connection with activities financed by ANY federal grants or loans

**HATCH ACT RESTRICTIONS**

- Can’t run as candidate for public office in partisan election

- Can’t use official authority to influence election results

- Can’t coerce Hatched employee to make political contributions

**SECOND TYPE OF EMPLOYEE**

- If 100% of salary paid out of ANY federal grants or loans
Quiz #7: Political Activity

Which of the following statements about political activities is **FALSE**?

a. CAA staff are prohibited from conducting voter registration

b. Hatch Act places limits on a CAA's political activities

Match

Overview

- Generally, CSBG funds may not be used as match for other federal programs
  - CSBG Act silent as to use of funds as a match
  - Federal funds may be used as match only if explicitly allowed by funding source statute, see Uniform Guidance, 2 C.F.R. § 200.306

CSBG Match Guidance

- AmeriCorps, OCS IM 139
- HUD McKinney-Vento, OCS IM 135
Federal CSBG Act requires all CAAs to:

- Inform custodial parents in single-parent families that participate in CSBG-funded programs, activities, or services about the availability of child support services; and
- Refer eligible parents to the child support offices of state and local governments

- 42 U.S.C. § 9919(b)
Carryover

2016 Federal Consolidated Appropriations Act

- Permits CAAs to carry over into the next fiscal year remaining CSBG funds distributed to it by a state for the current fiscal year
- Appropriations Act takes precedence over the federal CSBG Act which only permits a CAA to carry over up to 20% of CSBG funds distributed to it by the state for that fiscal year (42 U.S.C. § 9907(a)(3)(A))
Fiscal Controls

State Requirements

- Establish controls and procedures regarding disbursal of and accounting for CSBG funds
- Obtain an independent audit of CSBG funds at least annually

Applicability of the Uniform Guidance

- States must ensure that the “cost and accounting standards of the federal Office of Management and Budget” apply to recipients of CSBG funds

Monitoring

Federal CSBG Act requirements

- A state CSBG office is to conduct the following reviews of a CAA:
  - Full on-site review at least once every 3 years;
  - On-site review of newly-designated entities after first year;
  - Other reviews as appropriate; and/or
  - A prompt follow-up review

- 42 U.S.C. § 9916(a)
- 42 U.S.C. § 9916(a)(1)(A)
- 42 U.S.C. § 9914
Monitoring

Federal CSBG Act Requirements

• Only language in 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 State requirements

  - 42 U.S.C. § 9914

Organizational Standards

• OCS IM 138

• Intended to increase accountability and result in a more uniform monitoring across states
**Funding Reduction and Termination**

**Resulting from Monitoring**

- 42 U.S.C. § 9915

**TERMINATION/REDUCTION RESULTING FROM A MONITORING**

- **SR1:** Monitor and conduct follow-up reviews as required
- **SR2:** Inform of deficiency and require correction
- **SR3:** Provide TTA and/or QIP
- **SR4:** Determine if cause exists
- **SR5:** Give opportunity for federal review by HHS

- **START**
- **FINISH**

- If “cause” exists, state must provide notice, a hearing on the record and opportunity for federal review

- 42 U.S.C. § 9908(c); OCS IM 116

**Funding Reduction**

**Resulting from Statewide Redistribution of Funds**

- State must show that “cause” exists, i.e., responding to:
  - the results of the most recently available census or other appropriate data;
  - the designation of a new eligible entity; or
  - severe economic dislocation

- If “cause” exists, state must provide notice, a hearing on the record and opportunity for federal review

- 42 U.S.C. § 9908(c); OCS IM 116
Quiz #8: Funding Termination

A state can terminate a CAA’s CSBG funding by sending the CAA written notice of its intent to terminate the funding.

True or False?

Designation of New CAAs

Overview

• State may designate a new CAA if an area is not served, or ceases to be served

• No required designation process in Federal CSBG Act
  – State may solicit applications

• When designating new CAA, nonprofits get priority

- 42 U.S.C. § 9909, OCS IM 116
Choosing a New Public CAA

- Only if **NO** nonprofit org is identified or qualified may the state designate a political subdivision to serve as an eligible entity in the area

- 42 U.S.C. § 9909, OCS IM 116
Quiz #9: CAA Designation

In choosing a new eligible entity, a state must look first to which type of organizations? (Select correct answer)

a. Government entities
b. Private, nonprofit organizations
c. Faith-based organizations
d. Small, for-profit organizations

Complaint Process

Overview

• CAAs may file a complaint alleging that the state failed to follow the federal CSBG Act
  - Includes failure to follow certification and assurances made by state

• OCS will defer to state’s interpretation of the CSBG Act unless the interpretation is clearly erroneous
  - 45 C.F.R. § 96.50
Complaint Process

HHS block grant regulations

1. First, complaints must be in writing and sent to the director of HHS’s OCS.
2. Second, OCS must promptly furnish a copy of any complaint to the affected state.
3. Third, the state has an opportunity to respond to the complaint. The regulations specify that OCS will consider any comments received from the state within 60 days (or a longer period as agreed to by the state and OCS).
4. Fourth, OCS will conduct an investigation of complaints where appropriate.
5. Fifth, OCS will provide a written response to complaints within 180 days after receipt. If a final resolution cannot be provided at that time, the response will state the reasons why additional time is necessary.\(^\text{42}\)

- 45 C.F.R. § 96.50

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