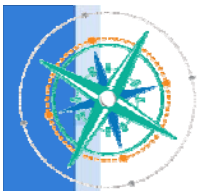
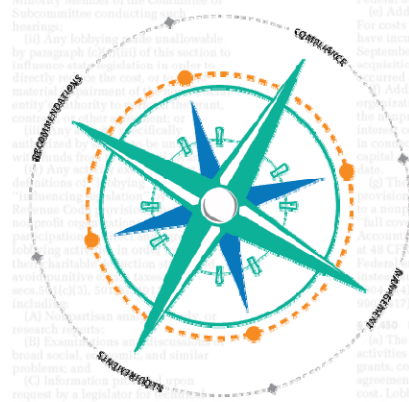


Public CAA Essentials



April 19, 2016
Allison Ma'luf, Esq., and Christopher Logue, Esq.

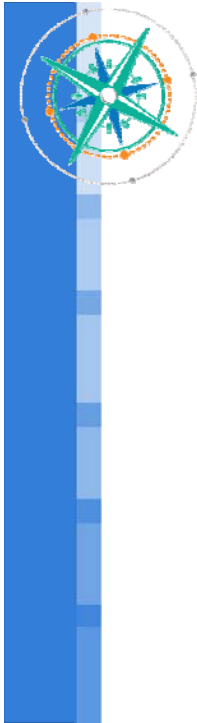
CAPLAW



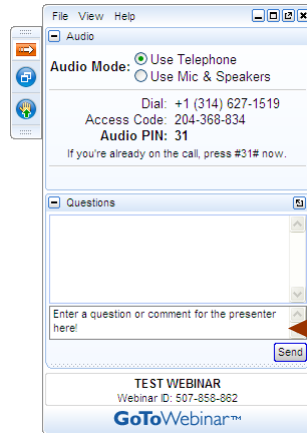
- APRIL 5, 2016** Uncle Sam's Money: Fundamentals of Federal Grant Law
- APRIL 7, 2016** The Nuts and Bolts of the Federal CSBG Act
- APRIL 12, 2016** Dollars & Sense: Federal Grant Financial Management Rules
- APRIL 14, 2016** In a Nutshell: Tax-Exempt Law for Nonprofit CAAs
- APRIL 19, 2016** Public CAA Essentials

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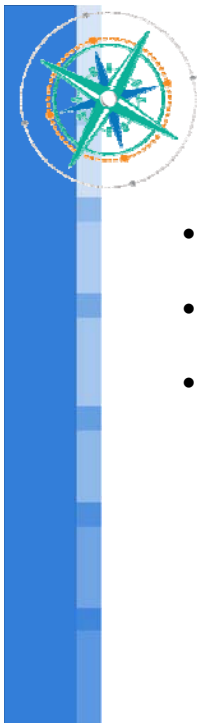
This Webinar Series is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (T/TA) Center. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0441-01. Any opinion, findings, 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.



Webinar Control Panel



Enter questions & comments here

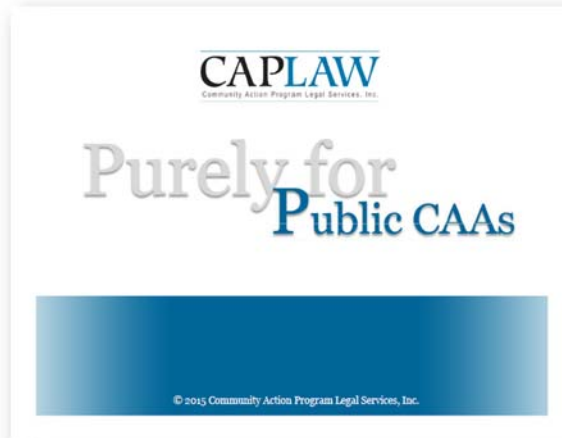


Agenda

- Governing law
- Tripartite board
- Role of public CAA in local government

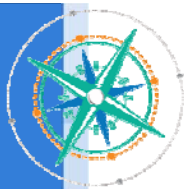


CAPLAW Training Module



<http://www.capl原因.org/resources/trainingmodules.html>

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Governing Law

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Laws and Guidance

Federal Community Services Block Grant (CSBG) Act

- 42 U.S.C. § 9901, et. seq.
- 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)

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Laws and Guidance

State CSBG Laws

- Legislation (or “statutes”)
- Regulations
- Policies issued by the state
- State’s interpretation of the Federal CSBG Act controls as long as it is not “clearly erroneous”

Local Government Laws

- Laws that specifically govern the way in which the local gov’t in which the Public CAA is housed (or associated with) functions

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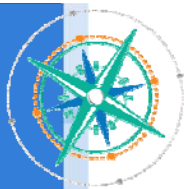


Laws and Guidance

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)

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Laws and Guidance

Uniform Guidance

Application to the CSBG Act

- “Cost and accounting standards” applied to CAAs
- OMB circulars NOW the Uniform Guidance (aka, “Super Circular” or “Omni Circular”)
– 42 U.S.C. § 9916(a)(1)(B)

Uniform Guidance Contents:

- Administrative requirements
- Cost principles
- Single Audit Act requirements

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Laws and Guidance

Grant agreements and contracts between state and public CAA may address:

- Amount of funds awarded
- Scope of work
- Performance goals
- Monitoring and reporting
- Payment methods
- Access to records
- Enforcement actions

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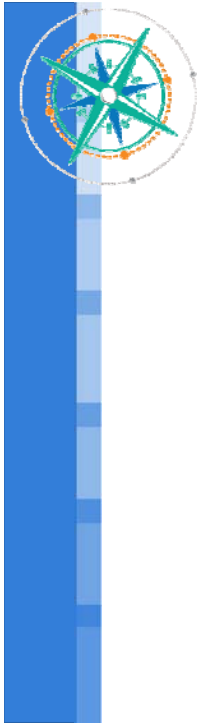


Quiz # 1: Governing Laws

Which of the following federal law(s) and regulation(s) govern public CAAs? (Select all that apply)

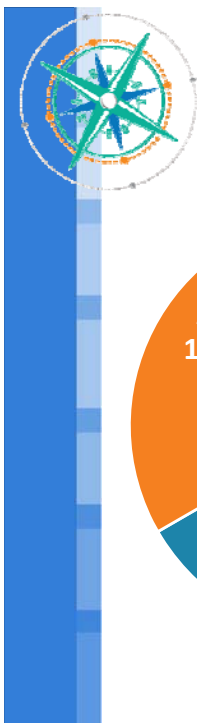
- a) IM138, CSBG Organizational Standards
- b) HHS block grant regulations
- c) Federal cost principles in the Uniform Guidance

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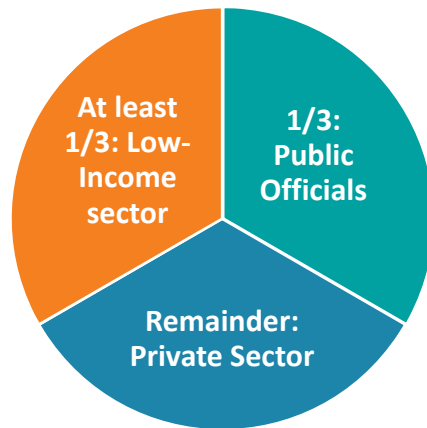
Tripartite Boards

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Tripartite Boards

Composition



Another mechanism:

- Specified by the state
- Assures decision making and participation by low-income individuals in the CSBG programs

- 42 U.S.C. § 9910

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Tripartite Boards

CSBG Organizational Standards

Standard 5.1: Public

- The department's tripartite board/advisory body is structured in compliance with the federal CSBG Act



Board Self-Training Tool



<http://caplaw.org/resources/PublicationDocuments/CSBGTrainingToolsforPublicCAABoards.html>

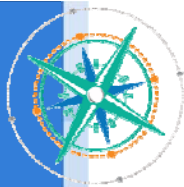


Selection of Tripartite Board

Tripartite board to be selected by “eligible entity”

- Eligible entity is the local governing body unless the body delegates its responsibility to the tripartite board
- If local governing body retains authority to select board, the tripartite board can make recommendations to governing officials

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Public Sector

Type of public official

- Federal CSBG Act not address type of public official or his/her representative that a CAA must select to serve on its board

Recommendation:

- Since governing officials of city/county often already have input (and in many cases, final say) on decisions affecting CAA, consider including other public officials on tripartite board

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Public Sector

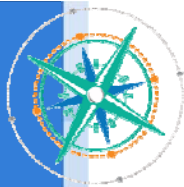
CSBG Act says “holding office at time of selection”

- OCS IM 82 recommends that public officials serve only while they are in office

Recommendation

- Have specific terms rather than permitting public officials to stay on the board as long as they are in public office

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Low-income Sector

- 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

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Low-Income Sector

CSBG Organizational Standards

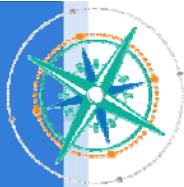
Standard 5.2 Public

- The department's tripartite board/advisory body has **written procedures that document a democratic selection process** for low-income board members adequate to assure that they are representative of the low-income community or another state-specified mechanism

Recommendation

- Unless required by state CSBG laws to do so, don't put written procedures for democratic selection process in bylaws. Create a **separate document**, referred to in the bylaws and approved by board.

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Low-Income Sector

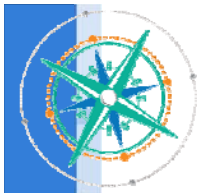
Type of Low-Income Sector Member

- Should represent current low-income residents, but don't need to be low-income themselves

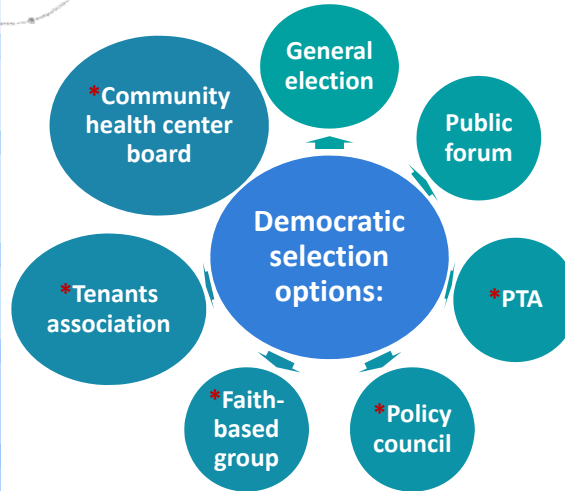
Recommendation

- Have at least some, if not all, low-income board members who are low-income themselves

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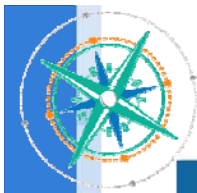


Low-Income Sector



***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



Low-Income Sector

Raising the Low-Income Voice
 Case Studies in Democratic Selection Procedures

INTRODUCTION

Since the inception of the Economic Opportunity Act, a fundamental goal of Community Action has been to provide low income individuals with a voice in the administration of its poverty alleviating programs. With the Community Service Block Grant (CSBG) call to achieve "maximum participation" of the low income community in the development, planning, implementation, and evaluation of CSBG funded programs, a critical venue for the low income community's participation is through their representation on the organics board.

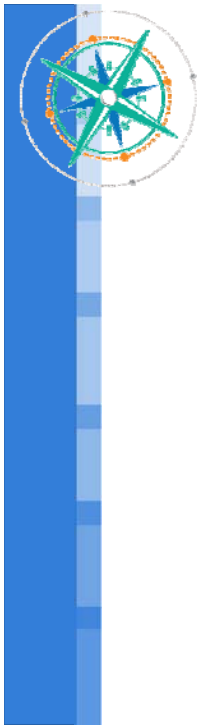
Despite the importance placed on maximum participation of the low income community, there is relatively little federal law that explains what this means in the context of democratic selection procedures. The federal CSBG Act requires that "1) not fewer than 1/3 of the members [of the board] are persons 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 2) each representative of low-income individuals and families selected to represent a specific neighborhood within a community ... resides in the neighborhood represented by the member."

The only further federal guidance comes in the Information Memorandum (IM 82) from the Office of Community Services (OCS). This memorandum advises Community Action Agencies (CAAs) to "ensure that board members representing low-income individuals and families... have been selected on the basis of some form of democratic process either directly through election, public forum, or, if not possible, through a similar democratic process such as election to a position of responsibility in another significant service or community organization such as a school PTA, a faith-based organization leadership group, or an advisory board governing council in another low-income service provider." IM 82 advises CAAs to ensure democratic selection procedures "identify through election [or] public forum," but if that is not possible, it lists a number of alternatives. These case studies are focused on the "direct" democratic procedures. If a CAA determines that direct democratic procedures are not possible, it will likely be able to comply with the law by creating what may be called "indirect" democratic selection procedures, whereby the CAA asks another entity comprised primarily of individuals elected from the low-income community (e.g., a tenants association from a local low-income housing development) to select someone from their organization to sit on the CAA board.

While it is clear that CAAs must establish some kind of democratic selection procedure, it is not clear from the federal law what these procedures should, or may, look like. Given this, it may come as no surprise that one of the more common questions asked of CAPLAW is, "how do we conduct a democratic selection process?" Therefore, we have created these case studies to help the Community Action network answer this question by learning from their peers.

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CAPLAW Democratic Selection Procedures Case Studies, <http://caplaw.org/resources/PublicationDocuments/raisingthelowincomevoice.html>



Private Sector

Individuals or Groups



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Quiz #2: Tripartite Board

The local governing body selects tripartite board members unless it has delegated this responsibility to the board.

True or False?

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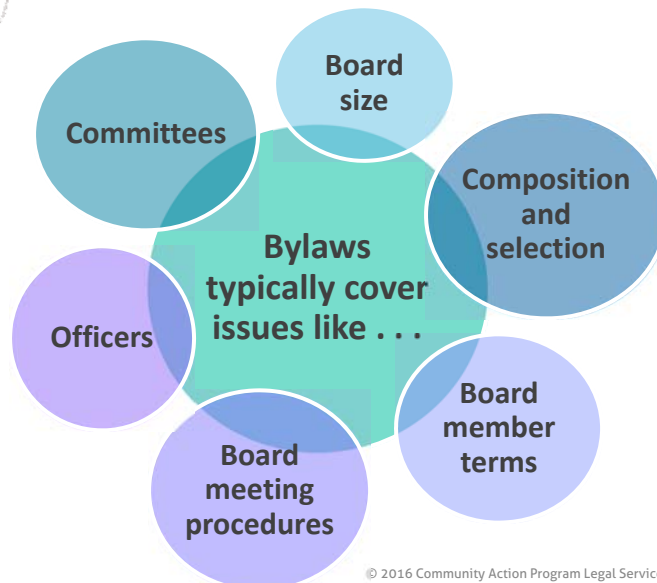
Public CAA Bylaws

- Most public CAA tripartite boards have either bylaws or some type of **governing document** similar to bylaws
- In general bylaws serve as an **operating manual** for the board

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Public CAA Bylaws



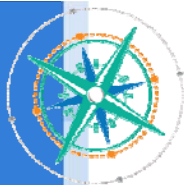
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Powers of Public CAA Board

- Public CAA board powers depend on the **authority delegated** to it by the local governing body
- Generally some type of **official document** sets forth delegation of power between the local governing body and the tripartite board

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Powers of Public CAA Board

- **Examples** of official delegation of authority documents:
 - County or city ordinances
 - County resolution and bylaws approved by the county commissioners
 - Community participation plan
 - Delegation of powers agreement by the county supervisors

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Board Role & Responsibilities

CSBG program **shall be administered** by a board (or other mechanism) that assures **decision making** and **active participation** by low-income individuals in the program:



- 42 U.S.C. § 9910(b)

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Board Role & Responsibilities

- **IM 82** offers guidance on how a tripartite board may fulfill its responsibilities
- An **administering** board, not merely advisory
- Check state CSBG/community action laws, regulations, policy manuals and grant contracts

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Development of CSBG Program

A tripartite board fully participates by:

- Acting as a key player in **needs assessments**
- Being a **primary source of information** and insight about the community served
- **Clarifying the mission** of the organization

- IM 82



Planning of CSBG Program

Board participates in the long-term & short-term strategic planning

LONG -TERM:	SHORT-TERM:
Identify broad goals	Identify yearly goals
Mobilize programs and activities	Help establish performance expectations
Establish and maintain procedures	Help establish milestones



Implementation of CSBG Program

A tripartite board's role includes:

- **Staying informed** of CAA programs and activities throughout the year
- **Tracking progress** toward milestones
- **Receiving financial info.** and monitoring CAA's finances
- **Overseeing compliance** with funding source rules
- **Being involved** in preparing for and responding to monitoring reports

- IM 82

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Implementation of CSBG Program

Relationships with public and private community orgs help achieve results

- Elected officials may **identify public resources and programs** and facilitate communications with them
- Reps of critical community interests may **identify sources of support** for clients
- All may **advocate** to increase or preserve needed services and programs

- IM 82

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Evaluation of CSBG Program

- **Board actively participates by:**
 - **Obtaining info** on actual changes or improvements in clients and community as result of CAA's programs and activities
 - **Comparing outcomes** with performance expectations developed during planning process
 - **Overseeing data gathering** for ROMA and similar evaluation for other grants

- IM 82

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Board Role & Responsibilities

Standard 6.1: Public

- Dept's strategic plan or comparable planning doc. has been reviewed and accepted by board within past 5 yrs. If none exists, the board will develop one.

Standard 6.5: Public

- Board received an update(s) on progress meeting goals of the strategic plan/comparable planning doc. within the past 12 mos.

Standard 8.5: Public

- Dept's board notified of any findings related to CSBG funding.

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Role of the Chief Staff Person

- Similar to a nonprofit CAA executive director
- The position **performs duties** such as:
 - Implements decisions
 - Oversees CAA's daily operations
 - Works closely with and reports regularly to tripartite board



Quiz #3: Board Powers

The powers of the public CAA tripartite board depend on the authority delegated to it by the local governing body

True or False?



Quiz #4: Board Powers

The federal CSBG Act details the delegation of powers between public CAA tripartite boards and local governing bodies.

True or False?



Engaging the Tripartite Board

Examples of how to engage the board:

1. Regularly Schedule meetings

2. Include discussions of quarterly reports and financial status

3. Involve board in decisions about subcontracts and allocation levels



Engaging the Tripartite Board

Examples of how to engage the board:

4. Establish action items on a variety of issues

5. Review funding applications & recommend awards

6. Oversee subgrantee performance



Engaging the Tripartite Board

Create Meaningful Meetings

Board chair & executive committee help set agenda

Distribute mtg minutes, committee reports, financial info. before mtg

Discuss critical issues facing CAA

Encourage active participation

Permit removal when certain # of mtgs missed



Role of Public CAA in Local Government

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Functioning Within Local Government

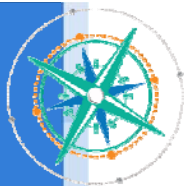
CAA location within local government may vary

- Division, department, quasi?

CAA functions vary:

- May oversee the issuing of grants to nonprofits
- May act as a direct provider of services

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Subgrantee Legal Considerations

Pursuant to the Uniform Guidance, a public CAA is responsible for:

- Entering into a subgrant agreement specifying certain terms
- Managing a subgrantee's performance
- Monitoring the subgrantee
- Documenting a subgrantee's expenditures

Recommendation

- Watch CAPLAW's webinar, "Nuts and Bolts of Subgrant Agreements," at www.capl原因.org

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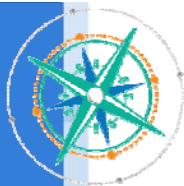


Quiz #5: Subgrants

If a public CAA delegates its CSBG program to local nonprofits, it is not held accountable for those CSBG activities.

True or False?

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Take Advantage of Public CAA Status

Some examples include:

Receiving in-kind support

Partnering with other entities

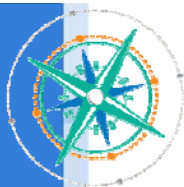
Managing and monitoring county resources

Leveraging CSBG funds with CDBG funds from HUD

Establishing multi-county joint powers agreement

Forming a separate 501(c)(3)

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Challenges Facing Public CAAs



Funding cuts



Educating



Misperception on funding needs



Bureaucracy

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Benefits of Being a Public CAA

- ✓ Easier to provide, and coordinate with, services within the community
- ✓ Access to insurance coverage, accounting and legal departments, payroll
- ✓ Accountability process in place helps keep fiscal system intact
- ✓ Lower administration and overhead costs

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Ways to be a Useful and Effective Public CAA

1. "Use **"ADMINISTERING"** vs. "Advisory" to describe the Community Action Board.
2. Negotiate for **authoritative position** of administrator in government organization.
3. Identify **"niche"** activities for the agency beyond pass-through role.
4. Create opportunities for board and staff to **interact with target population**.
5. Seek annual meeting of the governing and administering boards to achieve **shared vision."**

- From Lois J. Carson, Former Public CAA Executive Director

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