

 WEST VIRGINIA Economic Development	<u>CSBG Policies & Procedures</u> Monitoring, Corrective Action, and De-designation	Effective Date: 10/1/2024
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SUBJECT: CSBG Monitoring, Corrective Action, and De-designation

PURPOSE:

The State Office is committed to the diligent adherence to the requirements of Section 678B (a) of the Community Services Block Grant (CSBG) Act. Monitoring is one of the most important forms of support the State Office can provide to subrecipients. While the basic obligation of monitoring is to assess compliance, the State Office also views monitoring as a continuing opportunity to learn about the subrecipient, the communities it serves, and to offer technical assistance or provide support to the entity as requested. Based on routine State monitoring, reviews, or investigations related to specific complaints or allegations, the State CSBG office may determine that an eligible entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. In such cases, the State will follow the corrective action procedures outlined below. In instances where corrective action procedures are not sufficient, or deficiencies involve evidence of fraudulent reporting or use of funds, or other evidence of criminal wrongdoing, the State will follow the termination or reduction of funding procedures outlined below.

CSBG MONITORING PROCEDURES:

Types of State Monitoring

The State Office will conduct the following types of monitoring of CSBG subrecipients.

- A. **Biannual Comprehensive Monitoring:** In compliance with the CSBG Act, the State Office will conduct a comprehensive monitoring biannually. The purpose of the monitoring is to assess compliance of the eligible entity with the programmatic and fiscal requirements of the CSBG Act, as well as an assessment of the CSBG Organizational Standards. This monitoring will be conducted in accordance with the guidance provided in Information Memorandum Transmittal No. 97, dated October 10, 2006.
- B. **New Eligible Entity Monitoring:** An onsite review of each newly designated eligible entity is conducted immediately after the completion of the first year in which such entity receives funds through the Community Services Block Grant program.
- C. **Follow-up Monitoring:** Follow-up reviews will occur for subrecipients, and their programs that fail to meet the goals, standards, and requirements established by the State. If the on-site monitoring reveals serious deficiencies and/or deficiencies are not corrected in a timely manner in accordance with requirements, the State Office will conduct a follow-up on-site monitoring review and provide training and technical assistance as deemed necessary.
- D. **Additional Monitoring:** Other reviews are conducted as appropriate. These might include reviews of CSBG subrecipients with programs that have had other Federal, state,

or local grants (other than assistance provided under the Community Services Block Grant program) terminated for cause. ('676B(a) When a CSBG subrecipient is experiencing problems with programs other than CSBG, the State Office will conduct additional reviews and maintain close contact with the entity to ensure that state staff members are available to provide training and technical assistance as deemed necessary for the CSBG program operations.

- E. The State will thoroughly investigate any instances of "whistleblower" complaints or allegations of fraud or abuse of CSBG funds or funds from closely-related programs. In any instances in which complaints or allegations of fraud are considered credible and raise significant "red flags," OCS will be informed of findings and may assist with additional compliance review or referrals to appropriate investigative authorities.
- F. The State also conducts routine in-house desk reviews which include an examination of performance and expenditure rates based on monthly reports submitted to the State Office by each subrecipient and a review of periodic outcome and performance data.

Pre-Monitoring Procedures:

The State Office will provide timely notification of monitoring of subrecipients and complete some parts of the monitoring prior to arriving on-site for monitoring. Those activities include:

- A. Distribute notification of monitoring at least 30 days prior to on-site monitoring to the Executive Director, CFO, and CSBG designated point of contact. The subrecipient should confirm receipt of the notification and respond within 48 hours if the dates for monitoring need to be changed for any reason. Provision of a 30-day notice may not be possible for Follow-up monitoring or Additional monitoring.
- B. Once the dates of monitoring have been confirmed, the subrecipient will prepare and send the items requested in the official notification of monitoring by the deadline indicated in the notification.
- C. Once the documents are received, a monitoring team member will confirm receipt of the documents.
- D. During the week prior to on-site monitoring, the State Office monitoring team will request any additional information needed from the subrecipient and confirm arrival times and any necessary logistics.

On-site Monitoring Procedures:

The State Office will make all efforts to conduct an on-site monitoring as indicated in the Types of Monitoring listed above. A typical visit can be expected to require three (3) to five (5) days on-site. The State Office reserves the right to conduct comprehensive monitoring virtually if necessary. If monitoring must be conducted virtually due to extenuating circumstances, the monitoring may take longer. Monitoring types a, b, and d noted above will usually consist of the following:

- Entrance and Exit meetings.
- Review of subrecipient policies and procedures, governance documents, personnel documents, program documents, and other documentation as needed.
- Interviews with program staff regarding program operations and job functions.
- Interviews with administrative and fiscal staff.

- Interviews with members of the tripartite board of directors.

Post-Monitoring Procedures:

The State Office will provide timely feedback to subrecipients on the results of each monitoring visit with an opportunity for the monitored entity to respond to all observations, concerns, and findings.

Monitoring Reports will be provided within 60 calendar days of the conclusion of monitoring. A copy of the monitoring report may also be provided to the presiding officer and/or the entity's governing board at the discretion of the State Office. Monitoring Reports will make note of any previous findings in addition to current monitoring observations, concerns, and findings.

When the State has determined that a Subrecipient has any issues of non-compliance, the State will communicate the issues of non-compliance to the Subrecipient and require the Subrecipient to correct each issue of non-compliance. To establish compliance with the requirements of the CSBG Act, records of correspondence or other communications related to an enforcement action against an eligible entity will be maintained.

CORRECTIVE ACTION PROCEDURES:

Determination of Performance Deficiencies or Failure to Comply with State Requirements:

Based on routine State monitoring, reviews, or investigations related to specific complaints or allegations, the State may determine that an eligible entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. The State's determination may be based on the agency's failure to provide CSBG services, or to meet appropriate standards, goals, or other requirements established by the State, including performance objectives. The State will document the basis for such determination and the specific deficiency or deficiencies that must be corrected.

Communication of Deficiencies and Corrective Action Requirements:

When the State has determined that a Subrecipient has a specific deficiency, the State will communicate the deficiency to the Subrecipient and require the Subrecipient to correct the deficiency within the amount of time specified by the State.

Technical Assistance to Correct Deficiencies:

The State may require training and technical assistance, if appropriate, to help a Subrecipient correct identified deficiencies or failures to meet State requirements. Technical assistance may be offered concurrently with the notification of a deficiency or deficiencies and should focus on the specific issues of the Subrecipient to the extent possible.

The State will prepare and submit to the Secretary, a report describing the training and technical assistance offered. Alternatively, if the State determines that training and technical assistance are not appropriate, the State must prepare and submit a report to the Secretary stating the reasons that technical assistance is not appropriate.

Some examples of situations in which the State may determine that technical assistance is not appropriate may include, but are not limited, to the following:

- A deficiency for which the Subrecipient has the expertise and skills available within the organization to make corrective actions without assistance;
- A deficiency for which the State has previously provided technical assistance and the Subrecipient has failed to institute corrective actions;
- Multiple, widespread, and/or repeated deficiencies that cannot feasibly be addressed through technical assistance;
- A deficiency that involves evidence of fraudulent reporting or use of funds, or other evidence of criminal wrongdoing.

Quality Improvement Plan

Section 678C(a)(4) of the CSBG Act allows for State discretion in the implementation of a quality improvement plan by a Subrecipient to correct an identified deficiency or deficiencies. The State will consider the seriousness of the deficiency and the time reasonably required to correct the deficiency.

Examples of instances in which the State may exercise discretion on whether a quality improvement plan is appropriate or necessary may include, but are not limited to the following:

- A deficiency for which a Subrecipient has previously instituted a corrective action plan and has repeated findings;
- A deficiency that involves evidence of fraudulent reporting or use of funds, or other evidence of criminal wrongdoing and therefore presents a risk requiring immediate action.

If the State determines that a Subrecipient should be allowed to develop and implement a QIP, the State will allow the Subrecipient up to 30 days to develop their plan after being informed of a deficiency. The State will review quality improvement plans and issue decisions on whether the plans are approved or need revisions within 30 days of receipt of the Subrecipient's plan to correct the deficiency. Including both 30 day allotments of time for development of a corrective action plan by the Subrecipient and time for the State to review and accept the plan, the Subrecipient will have 60 days to develop and implement their plan to correct deficiencies.

The quality improvement plan should identify actions that will be taken to correct the deficiency within a reasonable period of time as determined by the State. The State may exercise discretion based on the specific circumstances.

If a QIP is allowed, the State will review and issue a decision on whether to approve the plan no later than 30 days after receiving the plan from an eligible entity. If the State does not accept the plan, the State must specify the reasons why the proposed plan cannot be approved and allows time for a revised plan by the Subrecipient.

A follow-up on-site or desk monitoring will be scheduled as deemed necessary to ensure that deficiencies have been corrected. Once the State Office monitoring team has determined that all deficiencies have been corrected, the entity will be informed, and the Quality Improvement Plan will be closed.

In instances where technical assistance or a quality improvement plan are not appropriate, the State will proceed with Termination Procedures outlined in the next section.

CSBG DE-DESIGNATION:

Under Sections 676(c)(1)(B) and 676(c)(2) of the CSBG Act, States may reduce funding or terminate eligibility for CSBG funding based on an eligible entity's failure to comply with the terms of an agreement or a State plan, or to meet a State requirement, to provide services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives.

If the State determines that a CSBG Eligible Entity's adherence to CSBG requirements cannot be improved through technical assistance and/or a quality improvement plan as noted above in Corrective Action Procedures; the State will notify the CSBG Eligible Entity's chief executive director and governing board president of the decision to initiate funding reduction or termination of organizational eligibility for CSBG funding, the reasons for the decision, and an opportunity for a hearing with at least thirty (30) days notice of the hearing.

Opportunity for a Hearing:

Under Section 678C(a)(5) of the CSBG Act, the State will provide adequate notice and opportunity for a hearing prior to terminating organizational eligibility for CSBG funding or otherwise reducing the proportional share of funding to an entity for cause.

From the date the subrecipient is notified of the decision to initiate funding reduction or termination, the subrecipient will have ten (10) days to confirm in writing if they wish to proceed with the scheduled hearing. Lack of response within ten (10) days waives the subrecipient's right to a hearing, and reduction or termination of organizational eligibility for CSBG funding will proceed without a hearing.

Hearing Procedures:

If the eligible entity confirms in writing that they wish to proceed with the scheduled hearing; a hearing shall be conducted at the time and location noted. The purpose of the hearing is to review the cause of the proposed termination, and provide an opportunity for the eligible entity to present evidence that the reasons for termination or reduction of funding are not warranted.

The WVDED General Counsel or Deputy General Counsel will preside as the hearing official. The review panel shall also consist of the WVDED Director or Deputy Director and a representative from the Accounting/Finance department.

The panel members shall convene the hearing and issue its recommendation(s) to the CSBG Authorized Official within seven (7) days following the hearing.

The CSBG Authorized Official shall notify the eligible entity of the Department's final decision on the case within fourteen (14) days after the hearing.

A transcript shall be provided by a court reporter to the CSBG Lead Agency as an official record of the hearing.

The State will maintain all necessary documentation relating to the determination, including, for example, transcripts of the hearing and any documentation used in reaching the State's decision. For purposes of any Federal review, the state will maintain the following information:

- A copy of the notice providing an opportunity for a hearing that includes the date of the notice and the date of the proposed hearing;
- The name of the presiding hearing official;
- The name(s) of official(s) or individual(s) responsible for determination of hearing findings or decisions;
- The names of the individuals participating in the hearing; and
- Documentation of evidence presented at the hearing.

State Proceedings to Terminate or Reduce Funding:

After providing an opportunity for a hearing, if the State finds cause for termination or reduction in funding, the State may initiate proceedings to terminate the designation of or reduce the proportional share of funding to an eligible entity. If a State CSBG Lead Agency determines that funding will be reduced or that eligibility for CSBG funds will be terminated, the State must notify both the eligible entity and OCS of the decision.

Opportunity for Federal Review:

A Federal review of the State decision to reduce or terminate funding may be initiated through a request from the affected organization. In accordance with 45 CFR §96.92, an eligible entity has 30 days following notification by the State of its final decision to request a review by the Secretary of the Department of Health and Human Services (HHS).

If a request for a review has been made, the State may not discontinue present or future funding until the Department responds to the request. Requests for Federal review must be received by OCS within 30 days of notification of a State decision. If no request for review is made within the 30-day limit, the State's decision will be effective at the expiration of the time.

Section 678C(b) of the CSBG Act specifies that a review by the Department of Health and Human Services shall be completed no later than 90 days after the Department receives from the State all necessary documentation relating to the determination to terminate the designation or reduce the funding. If the review is not completed within 90 days, the Act specifies that the determination of the State shall become final at the end of the 90th day.

Address to Request Federal Review:

To ensure that requests are received in time for Federal review, it is strongly recommended that requests be sent via overnight mail with a signed certification of receipt. Requests for review must be sent to the attention of the Division of State Assistance in the Office of Community Services at the following address:

U.S. Department of Health and Human Services
 Administration for Children and Families
 Office of Community Services
 Division of State Assistance
 Attention: Community Services Block Grant Program
 370 L'Enfant Promenade S.W., 5th Floor West
 Washington, D.C. 20447

Overnight mail submissions may be sent directly to the assigned Office of Community Services' CSBG Program Services - Regional Contacts to provide notification that a request has been submitted. This contact information is available on the CSBG program website.

Expedited Federal Review and Technical Assistance:

While the CSBG Act specifies that a Federal review of State documentation for terminating the designation or reducing funding to an eligible entity must be completed within 90 days, an expedited Federal review may be possible in some instances. This is particularly true in circumstances in which the State has consulted closely with OCS before and during proceedings and has provided documentation at each step of the process as described above. In some instances, particularly those involving potential waste, fraud and abuse, an on-site Federal review may be arranged to expedite the review of documentation and assist with CSBG procedures and requirements.

Supersedes: CSBG WV IM 2022-01	WVDED CSBG Policies and Procedures
The WV DED electronic version is the control version. All other printed or electronic versions are uncontrolled.	