

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Development Services Agency

Regulation/Package Title: Community Services Block Grant

Rule Number(s): 122:5-1-01, 5-1-02,5-1-03,5-1-04,5-1-05,;

122:5-2-01,5-2-02,5-2-03,5-2-04

Date: December 20, 2013

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

122:5-1:

The regulations concern Community Services Block Grant (CSBG) funds and designated community action agencies (CAAs) that are the local recipients of CSBG funds. CSBG funds are administered and passed through to CAAs on a formula-basis. The regulations include the basis and process through which funds may be withheld from a CAA including requiring

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corrective actions, notice of intent to withhold or suspend funding, termination of funding, a CAA's opportunity for a hearing on the record and how a decision from such a hearing is reached and communicated.

122:5-2:

This regulation concerns community action agencies (CAAs). It defines a CSBG provider, a community, a service area, a low-income person, poverty line, grant agreement, program participant, chief elected official and Endorsement or the recognition and approval of a CAA by a chief elected official.

The regulation contains provisions for performance assessments of CAAs by the Office of Community Assistance at the Ohio Development Services Agency and describes the conditions that are to exist in order for a CAA to "be deemed to have obtained the endorsement..." of local elected officials.

The regulation describes the range and type of services and opportunities a CAA is to provide in order to have a measureable impact on the causes of poverty in a community. The regulation also sets forth the information a CAA is required to provide to the Office of Community Assistance as part of the CSBG application submission and approval process. This includes directives on the required composition and size of the agency's tripartite board of directors which is to include: local elected public officials, income-eligible persons or persons representative of the low income in the service area that were selected through a democratic process. The third membership component is made up of members of business, industry, labor, religious, welfare, education or other groups and interests in the community.

The regulation describes required elements of the CAA's program plan and budget including a set of Assurances that the CAA must comply with in order to be funded. The regulation provides that the CAA is subject to periodic auditing to assure compliance with fiscal and program requirements including the periodic submission of program and fiscal reports. The regulation explains the consequences of a failure to comply including suspension or termination of funding.

The regulation specifies that persons at or below 125% of federal poverty guidelines are eligible to receive services funded by CSBG and describes how eligibility is to be determined. The regulation requires each CAA Board of Directors to do an annual self-evaluation to assess the agency's progress toward meeting its goals and objectives and the impact of its programs on the needs of low income clients and the community being served. The self-assessment is to include Results Oriented Management and Accountability (ROMA) data as reported quarterly to the Office of Community Assistance and the results of the agency's Results and Learning meetings. The regulation indicates that programs and services are to be based on a needs assessment and sets forth the entities and interests that are to be included in the local evaluation in order to have broad community participation.

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2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

RC 122.68

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

Yes, the regulations being reviewed and amended do serve to implement federal Community Services Block Grant (CSBG) requirements including provisions in the CSBG law (Public Law No. 97-35 of the United States Code, as amended by Public Law No. 98-558) that govern:

- *suspension or withholding of funds or termination of funding to a CAA*
- *Opportunity for a CAA to request “Hearing on the Record”*
- *Opportunity for a CAA to appeal a decision of the State of Ohio Development Services Agency to the secretary of the U.S. Department of Health and Human Services and request the secretary to review any termination of CSBG funding to a CAA.*
- *Definitions of a Community Action Agencies/recipients of CSBG funding*
- *Endorsement of a CAA by local elected officials*
- *Composition of the Tri-partite Board of Directors*
- *Results Oriented Management and Accountability (ROMA) reporting*

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The regulations illuminate, amplify and in some cases, provide more specificity of requirements stemming from federal law.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules are needed to ensure compliance with the federal requirements surrounding CSBG and to provide a structure for administering the program. ODSA must ensure the funds received from the federal government are accounted for and used in the most efficient manner to accomplish the goals of the CSBG program. ODSA believes the regulations are beneficial to the Agency’s administration of CSBG grant funds in Ohio and to the performance of Ohio’s 50 community action agencies.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

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The success of the regulations will be measured through the Results Oriented Management and Accountability (ROMA) performance system, on-site and desk-top monitoring of CAAs and through review and approval of agency applications, budget amendments, requests to use funds for specific purposes and requests for training and technical assistance.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

A Community Services Block Grant Advisory Committee comprised primarily of CAA executive directors, the director of the Ohio association of community action agencies and some state agencies, for example, the Depts. of Aging and Education and the Governor's Office of Faith-Based. The Committee provided input on the Agency's (State of Ohio's) 2014-2015 State Plan and Application submitted to and approved by the U.S. Department of Health and Human Services in October 2013. The plan contains Assurances that the State of Ohio certified that it will comply with as a condition of receiving CSBG funds. Those Assurances cover, among other matters:

- *Oversight of CAAs by tri-partite boards*
- *Provisions pertaining to with-holding or suspension of funds and termination of funding to a CAA*
- *Opportunity for a Hearing on the Record*
- *Needs Assessments and the types and range of services to be offered by CAAs using CSBG funds*
- *Use of the Results Oriented Management and Accountability (ROMA) system, etc.*

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The CSBG Advisory Committee officially endorsed the State Plan and Application for federal fiscal years 2014 and 2015 during a meeting of the committee on August 21, 2013. During discussions, some Committee members requested that the ODSA wait to implement emergent federal policies pertaining to CSBG until they are finalized at the federal level. Amendments to these regulations were made with this concern in mind. The current amendments were not reflected in the State Plan but the general concepts were agreed to by the committee members. The proposed amendments will be posted to the ODSA website from December 20 to January 3 for public comment. All providers will be notified of the posting, along with stakeholders and committee members.

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9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

N/A

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

ODSA considered eliminating regulations and relying more on the federal statute. However, with new federal requirements on the horizon for 2014 and 2015 and possible reauthorization of CSBG by the Congress, it was determined that substantial changes, if any, should be postponed until anticipated federal policy initiatives have been implemented.

11. Did the Agency specifically consider a performance-based regulation? Please explain. Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

Among the new federal policies anticipated in 2014 and 2015 are organizational performance standards applicable to CAAs, performance measures applicable to state and federal administrators of CSBG and a new generation of the Results Oriented Management and Accountability (ROMA) system. These new frameworks will focus more on outcomes and may be used to inject competition into what is currently a formula grant. The current ROMA system does measure performance of the CAAs and ODSA requires reporting by each CAA using the ROMA system.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

A side-by-side comparison of federal and state laws, rules and policies applicable to CSBG was prepared and consulted as part of the rule review and amendment process. ODSA is the state recipient of CSBG funds and responsible for administering the program.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Amended regulations will be communicated to CAA Executives and Boards in mailings, during in-person and web-based training events and during grant monitoring. Stakeholders were also made aware of the changes via an information update email and can view the changes on ODSA's rules' website.

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Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. **Identify the scope of the impacted business community;** *local community action agencies*
- b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);** *Impacts include staff/agency time to maintain compliance, ensure the reporting/assessment requirements of the regulations are being met, and preparation of a program plan and budget. Monetary impacts would be projected should the agencies have CSBG funds suspended or terminated. Time associated with preparing for a hearing would also impact the agency should they choose to do so.*
- c. **Quantify the expected adverse impact from the regulation.**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The amount of time and money expended on the tasks listed in section 14 (a) would vary depending on the size of the agency and its available resources.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

ODSA is the state recipient of CSBG funds and is charged with administering the program. These regulations provide a framework to manage the program and ensure the federal funds are being used responsibly and the providers are in compliance with the rules and guidelines of the program so that services to customers can be maintained.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

N/A

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

N/A

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18. What resources are available to assist small businesses with compliance of the regulation?

With regard to the CAAs to which the regulations do apply, training and technical assistance is available from the Ohio Development Services Agency's Office of Community Assistance on request.