



Montana Department of Public Health and Human Services  
Community Services Block Grant

COMMUNITY SERVICES BLOCK GRANT

Program Policies & Procedures

October 2024



*The manual and guides provide a basic overview of the Community Services Block Grant and its eligible activities and requirements. It is to be used by HRDCs to implement their programs. Policies and procedures may be updated as the need arises. They are not intended to replace existing guidance produced by Office of Community Services (OCS). Additional program information can be found on the [OCS CSBG Page](#).*

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# Montana Department of Public Health and Human Services Community Services Block Grant

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## Montana Department of Public Health and Human Services Community Services Block Grant

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### SECTION 1: BACKGROUND

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The Community Services Block Grant (CSBG) provides federal funds to states, territories and tribes for distribution to local agencies to support a wide range of community-based activities to reduce poverty. CSBG funds are administered at the federal level by the Department of Health and Human Services (HHS) Office of Community Services (OCS).

The origins of the Community Services Block Grant (CSBG) date back to 1964 when the Economic Opportunity Act (P.L. 88-452; 42 U.S.C. § 2701) established the War on Poverty. The Office of Economic Opportunity (OEO) authorized the Community Action Program under which a nationwide network of Community Action Agencies (CAAs), known in Montana as Human Resource Development Councils (HRDCs), was developed. A key feature of Human Resource Development Councils is the direct involvement of people with lower incomes in the design and administration of antipoverty activities through mandatory representation on the HRDCs' governing boards, even though those representatives do not need to be lower income themselves, a democratic selection process must have been used for the election of the board representatives.

The Community Services Block Grant (CSBG) Act was enacted as part of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35, Title VI, Section 671; 42 U.S.C. § 9901). The CSBG Act was last authorized in 1998 under P.L. 105-285.

The Governor of the state of Montana authorizes the Department of Public Health and Human Services (DPHHS) to administer the CSBG program. The Intergovernmental Human Services Bureau (IHSB), of the Human and Community Services Division (HCSD) of DPHHS, contracts with the ten (10) Human Resource Development Councils in Montana to provide CSBG services.

CSBG funds are used for activities designed to have a measurable and potentially major impact on causes of poverty. A wide variety of activities can be undertaken on behalf of families and individuals experiencing lower incomes, including welfare recipients, homeless, migrants, seasonal farm workers and the elderly.

Funds are to be used for activities to help families and individuals achieve self-sufficiency, find and retain meaningful employment, attain an adequate education, make better use of available income, obtain adequate housing and achieve greater participation in community affairs. Funds are also used to address the needs of youth in lower income communities, coordinate with related programs, including state welfare reform efforts and provide emergency food-related services.

The Intergovernmental Human Services Bureau (IHSB) manages CSBG funding for the state by acting as a partner in the network of ten (10) Human Resource Development Councils (HRDCs) throughout the state.

IHSB plays a strategic role in promoting collaboration among agencies to address the needs of households with incomes. Use of the CSBG funds is geared to assisting lower income individuals and families become self-sufficient.



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Some of the programs administered by IHSB:

- Community Services Block Grant (CSBG) – These funds are allocated to the Human Resource Development Councils to provide a wide range of community based human service programs.
- Low Income Home Energy Assistance Program (LIHEAP) to assist lower income individuals and families with home heating costs during the heating season.
- Weatherization programs which include funding from the Department of Energy (DOE) as well as other funding sources.
- Emergency Solutions Grant (ESG) program to assist individuals and families with housing needs.
- Housing Opportunities for Persons with AIDS (HOPWA).
- United States Department of Agriculture (USDA) Commodity Food Distribution programs including The Emergency Food Assistance Program (TEFAP), the Commodity Supplemental Food Program (CSFP), and the Food Distribution Program on Indian Reservations (FDPIR).
- Commodity food storage and distribution for USDA commodity foods for elderly feeding sites and storage of USDA food for distribution to school lunch programs.
- Montana Community VISTA Program (MCVP)

### *AUTHORITY*

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- The CSBG Act, which constitutes Section II of the federal Community Opportunities, Accountability, and Training and Educational Services Act of 1998, also known as the Coats Act, is the most recent federal reauthorization of the CSBG program. The CSBG Act is available online at: <https://www.govtrack.us/congress/bills/105/s2206/text>.
- In accordance with Section 676(a) of the CSBG Act, the Governor of Montana has designated the Montana Department of Public Health and Human Services (DPHHS) as the lead agency for administering the state's CSBG funds.
- Montana Code Annotated Title 53 Ch 10 Part 5 define the state's regulations for CSBG funds. The statutes are available online at: [https://leg.mt.gov/bills/mca/title\\_0530/chapter\\_0100/part\\_0050/sections\\_index.html](https://leg.mt.gov/bills/mca/title_0530/chapter_0100/part_0050/sections_index.html)
- The Administrative Rules of Montana (ARM) for the Community Services Block Grant Program 37.2.901-27.2.925 provide additional guidance on contractor approval and allotment of funds. The ARM can be found online at: <https://rules.mt.gov/gateway/Subchapterhome.asp?scn=37%2E2%2E9>

### *PURPOSE*

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In order to clarify the federal and state requirements for CSBG and encourage the efficient use and management of these funds, DPHHS issues policies and procedures which are applicable to all recipient grantees funded through CSBG (herein generally referred to as "HRDCs" but often referred to as CAAs, CAP Agencies, subrecipients and CSBG CAA on the national level).



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This manual has three distinct purposes:

1. To give an overview of the CSBG program and its administration by HRDCs.
2. To provide guidance to CSBG program administrators to assist in developing policies and procedures appropriate to their specific programs.
3. To provide guidance on the three elements that govern program oversight by the Department of Public Health and Human Services (DPHHS or department): CSBG statute, contract with DPHHS and federal organizational standards applied to the program.

This manual also describes how monitoring processes are used to support HRDCs in achieving successful program implementation in compliance with Community Services Block Grant (CSBG) statute, their contracts with DPHHS and federally mandated organizational standards.

The monitoring section has two distinct purposes:

1. To describe the risk assessment content and process used to assign a risk status to HRDCs.
2. To describe monitoring content and process for HRDCs, as well as the progression of steps engaged at the state level to seek resolution of compliance issues: corrective action, quality improvement plan, and to describe the organizational standards, content and process used as part of risk assessment and monitoring HRDCs.

### *FEEDBACK AND REVISIONS*

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If any policy or procedure conflicts with federal regulations or our State Plan, federal regulations and our State Plan will take precedence. Policies may be revised during the year. HRDCs will be notified when this occurs.

#### *Clarifying/interpreting policy or procedure:*

Form "IHSB Policy Manual Change Request"—If, after consulting this manual, Program Directors/Coordinators, and State Program Staff are unable to answer questions or resolve issues that arise in the course of their work, they may request a clarification or interpretation from the Department that would result in a change to the manual. If a request is initially made by telephone, such request may be followed by a written request on the subject.

#### *PROCEDURE:*

Requesting clarification/interpretation change to the manual. The Program Director/Coordinator or Field Supervisor will:

1. Complete Form IHSB POLICY MANUAL CHANGE REQUEST.
  - a. State question or issue clearly and provide background to question or issue as appropriate.
  - b. Sign and date request. State Program Staff may complete the form on behalf of the HRDC.



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- c. The HRDC may make such request to State Program Staff, or the State Program Staff may initiate the process when the same question arises from more than one HRDC through monitoring or conversations.
2. Keep a copy and send the original to the Intergovernmental Human Services Bureau (IHSB) Community Services Program Specialist.

### *Answering question or issue*

#### IHSB Chief or Designee

1. Upon receipt of Form IHSB POLICY MANUAL CHANGE REQUEST from requester:
  - a. Identify and research question or issue.
  - b. Answer question clearly, providing basis for answer or resolution of issue.
  - c. Under "Disposition," cite sections of state and federal law, rules and regulations, Department policies and practices that support your response to the question or issue.
  - d. If changes to the Administrative Rules of Montana (ARM) or to any of the State Plans are indicated by the response, note such.
2. Submit to staff for review.
3. As appropriate, incorporate recommended changes.

### *Upon receipt of answer*

#### State Program Staff

1. Upon receipt of the completed form, act on the basis of the answer or instruct the local Program Director/Coordinator to do so.
2. Return a copy to the originating HRDC.



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### SECTION 2: ADMINISTRATION

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#### *The Promise of Community Action*

Community Action changes people's lives, embodies the spirit of hope, improves communities, and makes America a better place to live. We care about the entire community, and we are dedicated to helping people help themselves and each other.

As outlined by the CSBG Act, CSBG has the following purposes:

1. Strengthening community capabilities to use available resources related to the elimination of poverty in response to local needs and conditions.
2. Organizing a range of services to impact the causes of poverty in the community to help families and individuals achieve self-sufficiency.
3. Supporting innovative community-based approaches that attack the causes and effects of poverty and community breakdown.
4. Ensuring the maximum feasible participation of lower income people in the process of identifying the problems and needs of lower income communities, as well as the design and evaluation of approaches to meet these needs; and
5. Mobilizing local private, religious, charitable, and neighborhood-based organizations, as well as private individuals in efforts to eliminate poverty.

#### *National Goals*

Regardless of the programs provided to customers, the programs must be goal-directed, and support individual/family, community, and/or agency goals. Goals should be results-oriented with predetermined measures used to evaluate success. They include:

Goal 1: Individuals and families with lower incomes are stable and achieve economic security.

Goal 2: Communities where people with lower incomes live are healthy and offer economic opportunity.

Goal 3: People with lower incomes are engaged and active in building opportunities in communities.

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### *CSBG GRANT FORMULA AND STATE PLAN*

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The CSBG Act requires that states submit a CSBG State Plan and Application to OCS for each grant award period to describe the states' proposed use of CSBG funds and include assurances that CSBG will be used in accordance with legislative intent. IHSB develops and submits a CSBG State Plan and Application every two years in collaboration with the CAAs and with the Montana Community Action Network (MCAN). The CSBG State Plan and Application is due September 1 preceding the start of the federal fiscal year. IHSB will solicit public comments during the process of developing the CSBG State Plan and Application. IHSB will post the State Plan on the IHSB website. IHSB holds a public hearing, with notice sent to CAAs, other pertinent stakeholders, and the public at least 10 days in advance. The state also holds a legislative hearing every two years to provide a review of CSBG programming and plans. Revisions to the CSBG State Plan and Application may be made in response to written and verbal public comments.



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The State will pass through at least 90% of its CSBG allocation to eligible entities. Award amount for the eligible entities is determined through base and formula. No more than 5% of the CSBG allocation may be used for the State's administrative expenses, and the remaining funds may be used at the State's discretion to support activities consistent with the CSBG Act and with priorities identified in the State's CSBG Plan.

The 90% CSBG state pass through funds are distributed between each HRDC through the following means: (i) A base amount of \$50,000 and then (ii) one-half based upon the population residing within the areas of human resource development councils; and (ii) one-half based upon the population with incomes below the federal poverty level, as that population may be determined under the provisions of the block grant, residing within the areas of the human resource development councils. The annual allocation is based on the previous 5-year average of the Poverty population and the General Population numbers from the American Community Survey for the areas each agency serves. Funding allocations are updated every two years and included for public review as part of the state plan approval process.

### *CSBG DISCRETIONARY FUNDS*

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CSBG Discretionary Funds, may be used at the State's discretion for projects that are consistent with the purposes of the CSBG legislation. DPPHS may award discretionary grants for a wide variety of projects as indicated within the State Plan.

Organizations eligible to receive grants supported through discretionary funds include HRDCs, the Montana Community Action Network and other organizations that support ameliorating the causes and conditions of poverty in Montana.

- A. CSBG Discretionary applications for funds will be reviewed and approved by IHSB staff.
- B. Projects supported by discretionary funds are subject to reporting requirements defined within the grant award agreement.
- C. Discretionary awards are subject to CSBG monitoring.

In the case of unused discretionary funds, the funds will be allocated to HRDCs according to formula.

### *FUNDING CYCLE*

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The reporting cycle for CSBG is the Federal Fiscal Year (10/1-9/30). The budget and program periods are awarded for 24 months starting October 1<sup>st</sup> through the last day of September following the close of the Federal Fiscal Year.

### *COUNTY SIGN-OFFS*

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As required in the Administrative Rules of Montana for the Community Services Block Grant Program 37.2.908: the contractor shall submit their plan to the county governing bodies within its multicounty area. A county governing body may approve, disapprove, or offer amendments to the plan. If the county governing body and the contractor cannot agree as to the plan's components, the department shall prepare and approve a plan for such county.



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County sign-offs shall be –

- Presented to a county governing body after the State Planning process has cleared a final version of the agency work plan;
- Obtained only once for the two-year State Plan cycle unless a significant amendment has been made\*; and
- Be submitted with the first year's contract of the two-year State Plan cycle.

\*Amendments that present a significant shift in the activities or type of activities being funded would require approval from the Department and another county sign-off during the two-year cycle.

### *GRIEVANCE PROCEDURE*

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The CAA shall establish and implement a system through which beneficiaries of the services provided may present grievances about the operation of the program as it pertains to and affects said beneficiary. The CAA shall advise applicants of their right to present grievances concerning denial or exclusion from or operation of the program. The CAA will advise applicants in writing of their rights and the procedures to appeal. The CAA will accommodate limited English proficiency and visually disabled applicants in advising applicants of their rights and the procedures of appeal.

### *SAFEGUARDING PROTECTED INFORMATION*

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HRDCs will establish internal policies to protect the privacy of program participants. Electronic and paper records must be stored in a secure location with access to records limited to authorized staff.

#### *Releasing Information to The Client*

1. Information that can be released to the client:  
Upon presentation of government issued photo identification, client may view and copy anything to do with the case record unless it has been obtained from a third party. The client or their representative **cannot** remove the client file from the HRDC.

#### *Releasing Information to Sources Other Than the Client*

1. If the client names an authorized representative in writing, case record information may be released to that person as if he/she were the client. Written authorization must be signed in the presence of HRDC staff or must be notarized. Anything mailed by the HRDC will be mailed to the client's address of record unless client provides reasonable explanation of alternate address.
2. Who information can be released to:  
The CAA can release case record information to an authorized outside source that safeguards the case record information on clients. This includes community groups who have written internal confidentiality policies.
3. Who information cannot be released to:
  - Anyone requesting information for commercial or political reasons.
  - Any outside source for any reason not previously listed.
  - The general public.



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### *ANNUAL REPORT*

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- Each CSBG HRDCs must submit annual reports to DPHHS. HRDCs that receive CSBG funding directly from DPHHS should report on all funds expended and all activities taking place during the program year, to include CSBG and other funding sources.
- Annual reports are due to OCS March 31<sup>st</sup> every year for the program period of October 1 to September 31 of the previous year.
- DPHHS will create an internal annual report timeline that includes key dates for data clean up and report submission from the HRDCs to DPHHS. Upon submission to DPHHS, state staff will review the report and data for errors and/or accuracy; and will follow up with the HRDCs with any questions or clarification requirements that may arise. This will be done prior to submission to OCS. OCS will then review the data and submit follow-up questions as needed. The timeline for this follow-up and finalization by OCS varies from year to year. Additional guidance on the annual report can be found on the [NASCSP Resources page](#).

### *AMERICAN CUSTOMER SATISFACTION INDEX (ACSI):*

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The ACSI is a survey administered to HRDCs and the state association to measure the State's effectiveness in meeting CSBG Act requirements, including development of the State Plan, Distribution of Funds, Use of Remainder/Discretionary Funds. Training and Technical Assistance, Monitoring and Corrective Action, Linkages, and overall satisfaction of HRDCs with State partnership.

The State will share ACSI results with the HRDCs and state association and will use ACSI survey results to improve its performance and quality of its partnership in each of the areas.



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### SECTION 3: CSBG PROGRAM

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#### *ELIGIBILITY CRITERIA*

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##### *Income Eligibility*

In accordance with both the CSBG Act and state statute, individuals and families receiving CSBG supported services must have incomes at or below 125% of the poverty guideline, also referred to as the federal poverty level (FPL), updated periodically in the Federal Register by the U.S. Department of Health and Human Services (HHS) under the authority of [42 U.S.C. 9902\(2\)](#). In the event income eligibility is redefined at the federal level, a reconciliation between this policy manual and state statutes will have to be made. DPHHS will issue communications on these issues as they arise. Current and prior poverty guidelines are available on the HHS website.

HRDCs and any of their sub-recipients are required to conduct eligibility screenings as part of their client intake process. Agencies must have their own written policies and procedures for each program they administer that uses CSBG funds to ensure CSBG funds are only used to support individuals and families who meet the income eligibility requirement. Agencies may determine the types of documentation they require for income verification. If a household's income is at or below 125% FPL upon intake into the program, the individual (or household) is eligible to continue receiving services in accordance with the agency's program policies, until the agency conducts a formal reassessment. [Section 673\(2\) of the CSBG Act](#), [HHS Office of the Assistant Secretary for Planning and Evaluation](#)

##### *Other Eligibility Criteria*

HRDCs may set other eligibility criteria for programs supported by CSBG funds, including non-income related eligibility criteria. For example, a program may only serve homeless families with minor children, or an agency may choose to set an income eligibility limit for a specific program at lower than 125% FPL. However, HRDCs may not discriminate on the basis of race, color, national origin, sex, age, religion, or disability. In addition, agencies cannot ban non-citizens from CSBG programs solely on the basis of their immigration status unless such exclusion is authorized by another statute. [OCS IM#30](#)

OCS, through direction of Congress, may expand the eligibility limit. Such expansions will be authorized in Montana through a communication from DPHHS.

#### *DIRECT AND COMMUNITY WIDE SERVICES*

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The Administrative Rules of Montana, Subchapter 9 - Community Services Block Grants, allows HRDCs to provide emergency assistance in accordance with Section 37.2.907 (1)(b)(v) and (1)(c). Section 678F of the CSBG Act allows low-cost residential weatherization or other energy-related home repairs.



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If CSBG funds are used to provide weatherization services to households, the household must be at or below 125% of the current federal poverty level (per 42 USC 9902). Such services must be included in the HRDCs work plan and approved by the Department.

If CSBG funds are used to provide direct services to households, the Department has determined that the household must be at or below 125% of the current federal poverty level (per 42 USC 9902). Such services must be included in the HRDCs work plan and approved by the Department.

A client file is required for each household provided with CSBG direct services. At a minimum, files must contain:

- a signed and dated agency intake form sufficient to record data required for ROMA (or another agency's form where income and household number are recorded),
- verification of income eligibility and household size,
- the date(s) and type(s) of assistance provided,
- grievance procedures,
- and documentation that custodial parents in single-parent families were informed about the availability of child support services and referred to appropriate offices. \*

\* Documentation is required for any custodial parent in a single-parent family that participates in programs, activities or services carried out or provided under the CSBG subtitle.

### *Income Eligibility for General/Short-Term Services:*

For services with limited in-take procedures, where individual income verification is not possible or practical, the HRDCs must generally verify income eligibility for services.

HRDCs can use a variety of methods to generally verify income eligibility for general/short term services like emergency food assistance including:

- Asking program participants income information at in-take
- Examining census data to demonstrate the percentage of residents that meet eligibility thresholds in the area, and
- Reviewing income information of existing and past clients in the state's CSBG database system or other approved data systems that participated in programs that have already verified income.

It is often the case that these services are sought by individuals or families that have already accessed a service with more demanding income verification processes. Because HRDCs are required to enter such clients into the CSBG database system, they are able to track all services sought by a client within the network state-wide.

### *Community-targeted Services:*

For services that provide a community-wide benefit like the development of community assets/facilities or building partnerships with other organizations), the HRDCs must ensure services target and benefit communities with incomes below the federal poverty level.

HRDCs can examine census data to demonstrate the percentage of residents that meet eligibility thresholds in the area as well as local economic and infrastructure information about the demographic make-up of towns and neighborhoods.



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Because the CSBG database system should include all HRDC programmatic services HRDCs can retrieve income information for a vast number of individuals that sought services by a targeted geographical area.

### *Allowable Activities*

CSBG funds can be used for a wide variety of services designated to assist lower income families and individuals, including households experiencing homelessness, refugees, migrant or seasonal farmworkers, and elderly lower income individuals and families. Activities must be included in their work plan which is supported by a community needs assessment.

The following list provides a general idea of allowable activities, but services do not have to be limited to just these examples.

CSBG-funded services for families and individuals can include assistance to:

- Secure and retain meaningful employment;
- Attain an adequate education;
- Make better use of available income;
- Secure needed transportation;
- Obtain and maintain adequate housing and a suitable living environment;
- Obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs;
- Remove obstacles and solve problems that block self-sufficiency;
- Achieve greater participation in the affairs of the community, including the development of public and private grassroots partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners; and
- Make more effective use of other programs that can help individuals and families with Lower incomes meet their basic needs and achieve greater self-sufficiency.

HRDCs may also use CSBG funds to:

- Address the needs of youth in lower income communities through youth development programs and after-school childcare programs;
- Research the causes of and problems created by poverty in the community;
- Determine if programs to reduce poverty are working effectively;
- Coordinate and establish linkages between governmental and other social services programs to eliminate duplication of services and ensure the effective delivery of services to lower income individuals;
- Create methods by which persons experiencing poverty can work with private groups to solve common problems;
- Apply for funds from various sources to support a community action program; and
- Encourage the use of private sector resources in efforts to alleviate poverty in the community.

Agencies will determine the specific assistance and programs they will provide in their CSBG Application, based on the findings of their Community Needs Assessment (CNA).



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### *FISCAL POLICIES AND PROCEDURES*

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HRDCs will provide DPHHS with operations/accounting policies and procedures that detail all fiscal policies and procedures for the HRDC, including maintenance of records, procedures for disbursement, procurement procedures, and all other relevant policies and procedures, upon request. HRDCs will be monitored to ensure they are fulfilling their own local policies and procedures as well as federal uniform guidance found in [45 CFR Part 75](#) and [2 CFR Part 200](#). Follow HHS' version of UG (45 CFR Part 75). HHS' version of UG was approved by the Office of Management and Budget (OMB) and is aware of differences adopted by HHS.

As a condition for receipt of CSBG funds, HRDCs must have a financial management system that meets the following standards. Financial systems must ensure that each HRDC will:

- Be able to make accurate, current, and complete disclosure of each CSBG award.
- Maintain records that adequately identify the source and application of funds for each CSBG award.
- Maintain effective control of all funds, property, and other assets, adequately safeguard all such assets, and assure that they are used solely for authorized purposes.
- Have established procedures for determining the reasonability, allowability, and allocability of costs in accordance with the provisions of the applicable cost principle and terms of the contract.
- Make comparison of actual outlays with budget amounts for each grant or other agreement.
- Maintain accounting that is supported by source documentation.
- Have in place a systematic method to assure timely and appropriate resolution of audit findings and recommendations.
- Provide assurance that any agency sub-awarded CSBG funds by the HRDC must have a financial system which meets these CSBG financial systems requirements.

HRDCs are recommended, but not required by DPHHS, to procure fidelity bonding or other protection covering those who are authorized to sign checks, certify vouchers and/or handle or control funds (beyond petty cash), checks, securities, or property.

#### *Retention of Records*

Financial records, supporting documents, statistical records and all other records, in whatever format pertinent to a CSBG grant award are covered by these retention requirements:

- Records must be retained for a minimum of eight (8) years, or longer if required by law.
- If any litigation, claim or audit has not been fully resolved before the expiration of the eight (8) year period, all relevant records must be retained until one (1) year after the resolution of such litigation, claim or audit.
- The retention period starts ninety (90) days after the end date of the grant period.
- HRDCs and their sub-recipients must provide appropriate DPHHS staff with access to all books, records, documents and compilations of data relating to CSBG supported activities.



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### *ALLOCATING DIRECT AND ADMINISTRATIVE COSTS*

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Direct costs are expenses that are associated with the delivery of the projects, services, or activities of the CSBG program that are directly attributable to CSBG programming. These direct costs could include salaries and benefits of program staff and managers, equipment, training, supplies, conferences, travel and contracts, and other expenses as long those expenses are reasonable and necessary for carrying out the CSBG program. All direct costs must adhere to the HHS grant guidance (45 CFR Part 75). These costs may include cost-allocated expenses such as facilities, legal, accounting, information/technology or other program costs as outlined in [CSBG Information Memorandum \(IM\) 37](#) as long as such costs are not included in an indirect cost rate. Notably, this IM also asserts that CSBG funds do remain subject to the standard grant policy prohibition against "cost shifting."

The CSBG Act allows for a broad range of activities to meet the goals of helping lower income families move towards self-sufficiency and the revitalization of lower income communities, including programs to "strengthen community capabilities for planning and coordination, organizing a range of services, and broadening the base of resources" to address poverty. This allows for CSBG funds to be used for expenses with characteristics that are typical of administrative costs but should be considered as direct costs for CSBG purposes. Informational Memorandum #37 provides additional guidance on the CSBG specific distinctions between direct and administrative costs and includes these specific examples of costs that should be considered direct costs.

#### *Allocating Direct Costs*

Direct and Cost Allocated Personnel: Salary, wages, and benefits may be substantiated by timesheets directly tracking time spent on CSBG eligible activities and general ledger payroll detail with fringe benefits from the time period of the reimbursement request.

- Alternatively, a cost allocation method (not tracked by timesheets) may be substantiated by another connection to benefit of the CSBG program, for example basing time and effort on percentage of population served that is income qualified for CSBG, which must be clear, documented, and/or included in a cost allocation plan.

Travel and Training: Travel and training costs related to CSBG activities may be cost allocated or may be charged directly to CSBG based upon the activity furthering the purposes of the federal CSBG program locally.

Supplies (including computer purchases below capital expenditure threshold): Supplies costs related to CSBG activities may be cost allocated or may be charged directly to CSBG based upon the activity furthering the purposes of the federal CSBG program locally.

Services: Under certain circumstances, individual level determination of income eligibility may not be required. For example, services which are provided on an individual basis, but circumstances make it infeasible or unreasonable to obtain income documentation and indicate that those benefiting are likely to meet the CSBG income eligibility requirements and/or that the services facilitate linkages and coordination of services to people with lower incomes in the community. For example: a food pantry open to individuals and families living in a census tract with area median



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income at or below the CSBG income eligibility limit, may have a cost sharing basis that is not based on family level income verification. Some transportation services may also fit this description. Please see Eligibility Criteria for more information.

Direct client services and sub-recipient client services costs related to CSBG activities may be cost allocated or may be charged directly to CSBG based upon the activity furthering the purposes of the federal CSBG program locally. Cost sharing may be based upon the percentage of the population served that is eligible for the CSBG program or other method such as square footage, clients served, etc.

### *Indirect Administrative and Facilities Costs*

Indirect facilities and administrative costs are expenses that can be assigned to a specific purpose or funding source based on their actual benefit to each program using a federally negotiated indirect cost rate, 10% de minimis, or cost allocation plan. These costs relate to the general management of the organization such as strategic direction, accounting, and facilities costs.

### *Matching Funds*

The use of federal funds such as CSBG as matching of funds for another federal program is not permitted unless explicitly allowed by federal statute. [CSBG Information Memorandum \(IM\)135](#) gives guidance for using CSBG funds to match McKinney Vento Act funds for the purpose of homelessness assistance programs. HRDCs are not required to provide a local match for the purpose of applying for and accepting CSBG funds.

### *Legal Expenses*

Routine legal expenses incurred by an HRDC by way of consultation, or the obtaining of legal interpretations are allowable. Legal consulting contracts must comply with the procedures established elsewhere in this section. Legal expenses incurred which are the results of any legal action taken by the HRDC either as a plaintiff or respondent will be disallowed.

### *Ineligible Expenses*

Per Section 678F of the [CSBG Act](#), the following uses of CSBG funds are not allowable:

- The purchase or improvement of land or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or facility.
- As a match requirement for another grant, other than:
  - AmeriCorps and McKinney-Vento Homeless Assistance Act programs (reference: [OCS IM #135](#)); and
  - McKinney-Vento Homeless Assistance Act programs (reference: [OCS IM #139](#));
- Leasing of space, buildings, and/or other assets not associated with one of the three CSBG national goals or allowable activity; and
- Political activity such as:
  - Any partisan or nonpartisan activity or any political activity associated with a candidate.
  - or contending faction or group, in an election for public or party office,
  - Any activities to provide voters and prospective voters with transportation to the poll or



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- provide similar assistance in connection with an election, or
  - Any voter registration activity.
- To be expended for religious purposes including sectarian worship, instruction, or proselytization.

Costs that are not reasonable within the context of the overall budget may require additional documentation to verify eligibility. DPHHS has the final authority in determining the eligibility of submitted expenses for the purpose of reimbursement.

### *Personnel Expenses*

CSBG funds may be used to pay staff salary and fringe benefits for the delivery of CSBG services, however, CSBG funds may only be used to pay for the pro rata share of vacation, leave, sick leave, FMLA, retirement, and other fringe benefits allocated to CSBG. CSBG funds may not be used to pay staff who are on pre-disciplinary or disciplinary leave.

CSBG funds may not be used to pay the salary of any staff member, or the expenses of any agency engaged in activities designed to influence legislation or appropriations. Employees, volunteers, and board members must not use CSBG funds for any political purpose or to influence any election for public or party office. The Federal Hatch Act outlines complete requirements regarding employee conduct in relationship to running for elected office or influencing legislation.

### *Capital Purchases*

The federal grant rules (45 CFR § 75.439) require prior approval for capital expenditures. The definition of capital expenditures (45 CFR § 75.2) means to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. HRDCs should notify DPHHS.

### *Equipment Disposition*

Equipment purchased with CSBG funds no longer needed by the sub grantee that initially purchased it will be offered to other Montana CSBG HRDCs at no charge. If no other CSBG HRDC in the state accepts the equipment, the sub grantee that initially purchased the equipment shall sell it at fair market value. All proceeds from the sale of equipment purchased with CSBG funds will be reinvested into the CSBG Program.

If the agency wishes to sell the equipment a bid will be put out to prospective bidders. The bidder with the highest bid will be awarded the equipment.

An HRDC will send the email for permission to dispose of their equipment to their respective monitor.

### *Period of Performance*

Federally, the period of performance for CSBG spans two-years from October 1 of the federal fiscal year that the award was approved to September 30th of the following federal fiscal year. State policies and procedures may differ; check DPHHS contract language for specifics.



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An HRDC must liquidate all obligations incurred under the federal fiscal year award not later than 90 days after the end of the funding period. See 45 CFR 75.309(b).

### *Procurement*

Recipients are to follow established local procurement procedures or adopt the State's procurement procedures for the purchase of supplies, equipment, and other materials. Procurement procedures should also address soliciting bids from contractors and/or consultants as applicable and should adhere to HHS grant guidance (45 CFR Part 75 and OMB Uniform Guidance 2 CFR Part 200).



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### SECTION 4: ORGANIZATIONAL STANDARDS

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Under the block grant framework established in the CSBG Act, States have both the authority and the responsibility for effective oversight of HRDCs that receive CSBG funds. In 2012, the federal Office of Community Services (OCS) funded a cooperative agreement for the CSBG Organizational Standards Center of Excellence (COE). The two-year cooperative agreement coordinated – with input from local, state, and national partners – the development and dissemination of a set of organizational standards for HRDCs for the purpose of ensuring that all CSBG HRDCs have the capacity to provide high-quality services to individuals and communities with lower incomes. [CSBG Information Memorandum 138](#), issued by OCS in January 2015, states the process for implementing the standards and requires states to use the organizational standards to assess HRDCs beginning in 2016.

The COE-developed standards are organized in three thematic groups comprising nine categories. There are 58 standards for private, nonprofit HRDCs.

1. Maximum Feasible Participation
  - a. Consumer Input and Involvement
  - b. Community Engagement
  - c. Community Assessment
2. Vision and Direction
  - a. Organizational Leadership
  - b. Board Governance
  - c. Strategic Planning
3. Operations and Accountability
  - a. Human Resource Management
  - b. Financial Operations and Oversight
  - c. Data and Analysis

The Organizational Standards Annual Assessment is compiled by each HRDC as they continually collect and update information to demonstrate they meet the CSBG Organizational Standards. The annual assessment requires that each Organizational Standard have documentation provided to show compliance and must be submitted to DPHHS annually. HRDCs will need to demonstrate they meet all Standards annually. Many individual Standards require action on an annual basis, while others do so on a biannual, triennial, or even five-year span. There will be materials HRDCs will need to collect that may not change over a five-year period (e.g., bylaws, strategic plan). In addition, there will be documents that will need to be collected that may be created monthly (e.g. board minutes). There are certain documents that will be used to demonstrate the HRDC meets multiple Standards. This tool is provided to be a guide to help agencies think about how to collect, store, and report needed materials over time, limiting duplication of effort. HRDCs may request a waiver for good cause to postpone completing the organizational standards within the timeframe as indicated. Waivers will be reviewed and approved on a case-by-case basis by DPHHS. In order to meet statewide objectives or initiatives DPHHS reserves the right to approve statewide waivers as necessary.



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Organizational Standards must be available during regular monitoring from DPHHS or provided to DPHHS on an annual basis. An initial review will then be completed with notes on standards being found as “unmet” provided back to the HRDC. The HRDC will then have 45 days to respond and/or provide additional documentation. After this response to the initial review is submitted the annual assessment will be finalized and the aggregated compliance rate will be used for the Annual Report.

Complete compliance across all standards all the time is not expected. There should be continuous improvement to maintain compliance with the standards and to meet standards that are out of compliance. Some standards being unmet will require immediate action, such as not maintaining proper structure of the Tripartite Board.

### *MAXIMUM FEASIBLE PARTICIPATION*

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#### Community Needs Assessment

The state must prepare and submit an application and State plan covering a period of at least one fiscal year, but no more than two (Section 676). Human Resource Development Councils (HRDCs) must provide the assurances and other information required in the State’s application and work plan. In accordance with Montana’s State Plan assurance (11), the Department has included an example of a [Community Needs Assessment Survey Tool Template](#).

A Community Needs Assessment (CNA) is a comprehensive evaluation and analyzation of a communities data on poverty conditions as well as available resources to determine if programs match the need to eliminate poverty based on current published information and the HRDCs own assessment.

HRDCs must conduct a CNA and issue a report once every 3 years. (Organizational Standard 3.1). HRDCs may request a waiver for good cause to postpone conducting a CNA within the timeframe of three years. Waivers will be reviewed and approved on a case-by-case basis by DPHHS.

At a minimum the CNA must:

- Be a dated, written document labeled as a “Needs Assessment”,
- Include partners,
- List data sources and methods,
- List findings and priorities,
- Describe how priorities are addressed,
- Be included in the HRDC strategic planning process, and
- Follow [IM138](#) Organizational Standards 1.2, 2.2, and 3.1-3.5 which state an organization must:
  - Analyze information collected directly from individuals with lower incomes as part of the CNA. (1.2)
  - Utilize information gathered from key sectors of the community in assessing needs and resources, during the community assessment process or other times. These sectors would include at minimum: community-based organizations, faith-based organizations, private sector, public sector, and educational institutions. (2.2)



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- Collect and include current data specific to poverty and its prevalence related to gender, age, and race/ethnicity for their service area(s). (3.2)
- Collect and analyze both qualitative and quantitative data on its geographic service area(s) in the community assessment. (3.3)
- Include key findings on the causes and conditions of poverty and the needs of the communities assessed. (3.4)
- Obligate the governing board to formally accept completed CNA. (3.5)

### Community Action Plan

Each HRDC must have an annual Community Action Plan, also known as their CSBG work plan, developed under the guidance of the HRDCs board of directors, which provides a basis for directing and monitoring the HRDCs efforts in addressing poverty-related problems in the community. This plan is integrated into an HRDCs annual CSBG application and outlines the services and activities the agency will implement, based on the findings of the CNA. It must be outcome-based and anti-poverty-focused. The board of directors' involvement and participation in the Community Action Plan is a vital component of compliance with the CSBG Act. The board of directors' record should clearly document their ongoing involvement and leadership in the development, implementation, and evaluation of the Community Action Plan. Board ratification of a staff prepared plan does not demonstrate adequate involvement and leadership in compliance with the CSBG Act.

The board should establish processes to ensure ongoing involvement and participation in the development, implementation, and evaluation of the plan (ROMA cycle) that is responsive to the identified needs of the lower income population in the community served by the agency. The board must also ensure that the national CSBG goals and National Performance Indicators (NPIs) are incorporated in the formulation of the plan. For this reason, agencies' board members must receive ROMA training as described in Section 5. The board must receive an update on the progress made on the Community Action Plan at least once every 12 months.

The Community Action Plan must include the following components:

- Must be outcome based, anti-poverty focused, that is based on the most recent Community Needs Assessment;
- Selection of problems that the agency will target for direct intervention and the specific programmatic approaches the agency will take;
- Goals, based on ROMA goals and NPIs, that state in precise terms what the agency proposes to accomplish through its activities during the period of the plan; and
- A plan for ongoing evaluation of the agency's activities.

Reference: Section 676(b)(11) of the [CSBG Act](#), [OCS Information Memorandum 82](#), and [OCS Information Memorandum 138](#)



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### *VISION AND DIRECTION*

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Organizational leadership includes the board, executive and support staff and volunteers who interact with the CSBG program in an organization or department. Organizational leadership structure and processes must encompass all elements listed in the CSBG organizational standards. These standards apply to all HRDCs.

#### *Tri-Partite Board Requirements*

Per Section 676B of the CSBG Act Reauthorization of 1998, CSBG HRDCs are required to have governing boards. By statute, board of directors of CSBG HRDCs must fully participate in the development, planning, implementation and evaluation of programs and operations supported by CSBG funds.

Board structure and processes must encompass all elements listed in the CSBG organizational standards, including Category 5. The board must be aware of CSBG's role within the agency or organization and must receive all pertinent information related to CSBG grant operations, monitoring, and reporting. The organization's governing board must have written procedures that document a democratic selection process for lower income board members adequate to assure that they are representative of the lower income community. The board, as applicable, must be immediately informed of any sanctions or disciplinary action that DPHHS takes against the HRDC.

HRDCs will provide DPHHS with a current, dated copy of local CSBG board bylaws, policies and procedures upon request. HRDCs will be monitored to ensure they are fulfilling their own local policies and procedures.

#### *Board Composition*

To receive or continue to receive CSBG funds, all HRDCs must comply with certain requirements pertaining to board composition and operation. Tripartite boards must have a minimum of three members chosen in compliance with the following:

1. No less than 1/3 of the members are representative of households with lower incomes in the neighborhood/community served by the member. Representatives of lower income persons must be chosen in accordance with democratic selection procedures adequate to assure that they represent persons with lower incomes in the geographic area served by the HRDC.

HRDCs must retain records documenting the democratic selection of lower income representatives seated on the board. Among the selection procedures which may be used, either separately or in combination, are the following:

- Publication of the tripartite board vacancy in places that reach lower income community members such as program materials, agency lobbies, flyers distributed by case managers or other public venues.
- Nominations and elections within the neighborhood, agency or community as a whole.



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- Selection at a meeting or conference of lower income persons, when the date, time and place of the meeting or conference have been adequately publicized to ensure access.
  - The process for selection of lower income community members must be consistent with local Boards and Commissions processes including announcement of vacancy, application, interview, recommendation and selection of board members.
2. One-third of the members are elected/public officials, holding office on the date of selection, or their representatives. Examples of elected officials and/or their offices might include, but are not limited to, board of county commissioners, school boards, sheriff's office, town council, and other local offices as appropriate.

If the number of elected officials reasonably available and willing to serve on the board is less than one-third of the membership, another appointed public official or their representative may be counted in meeting such one-third requirement.

Both the elected and the appointed public officials selected to serve on the board must have either executive government responsibilities, or responsibilities which require them to be involved with poverty-related matters. Each public official may choose one representative to serve on the board, full-time on their behalf. This member need not be a public official themselves, but they assume the elected (or appointed) official's seat on the board.

HRDCs that plan to seat an appointed public official or their representative, rather than an elected public official or their representative, must demonstrate reasonable attempts to seat an elected official and document the reason that an elected official is not available to serve.

3. The remaining 1/3 of the members are representatives of business, industry, labor, law enforcement, religious groups, welfare, education and other groups or interests in the community. These members are referred to as private sector representatives.

Each member of the board selected to represent a specific geographic area within the community must live or work within the area they represent. No person may serve on the HRDCs board that is an employee of the HRDC or an employee of the HRDC unless written conflict of interest procedures exist that require board members to absolve themselves from voting on decisions concerning their respective agency.

To ensure an independent body, board members may not be related to one another or to the executive director. The following individuals meet the definition of "related": domestic partner and biological, adoptive, foster or stepfather, mother, brother, sister, aunt, uncle, first cousin, son, daughter, mother-in-law, father-in-law, brother-in-law, sister-in-law and grandparent.

Prospective board members should be informed of the HRDCs expectations of their board and its members prior to their election or appointment to the board. New board members should receive an orientation and/or materials that include at minimum a program overview, schedule of meetings, Board bylaws, policies and procedures, current financial statements, community needs assessment, strategic plan, and community action plan within six months of being seated.



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The appointment of tripartite board members for private HRDCs must be consistent with board bylaws including announcement of vacancy, application, interview, recommendation and selection of members.

### *Board Bylaws Requirements*

HRDCs will ensure that DPHHS is provided a current, dated copy of approved bylaws upon request. HRDCs will be monitored to ensure they are fulfilling their own local bylaws. The board will develop and approve bylaws by which the board will operate. Bylaws should include:

- Total number of seats on the board and the allotment of seats to public officials, representatives of lower income individuals and private sector representatives.
- Defined terms for each member position. Term limits, if applicable, may be expressed as multiple terms.
- The quorum for a meeting should be at least fifty (50) percent of the non-vacant seats on the board, unless otherwise stated in bylaws. Establishing a quorum for each meeting should be a standard notation in board meeting minutes.
- Procedures for the recruitment and selection of board members should ensure that the lower income community will be represented as feasible.
- Requirement that governing boards elect (vote to seat) all members, no matter the selection method used to identify prospective members. Procedures limit votes to one per person.
- Representatives of the lower income-Income sector of the board should be seated based upon a democratic selection process based on local policies and procedures.
- Performance standards such as attendance and standards of conduct for members of the board, the violation of which may be grounds for removal.
- Specific procedures to be followed for the removal of board members.
- Procedures for recruiting and selecting new board members in the case of a vacancy on the board.
- Conflict of Interest policy and process that is conducted at least every two years for seated board members, and upon initial seating of new board members.

### *Board Code of Ethics/Conflict of Interest*

The Board should annually approve a code of ethics for Board members. All Board members would be given a copy of the code of ethics and would also be expected to adhere to the provisions of that code.

Any board member, employee or member of their family having a financial interest in a contract with the HRDC which is supported by CSBG funds must make complete disclosure of such interest to a responsible and objective HRDC official.

A board member or employee of an HRDC will refrain from all participation in any matter involving CSBG funds which affect, to their knowledge, the financial interest of:

- Their business partner(s) or a business organization with which they are associated.
- Any person or organization with whom they are negotiating or has any arrangement concerning prospective employment.



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All members of the tripartite board must disclose any conflict of interest to the tripartite board staff representative and must not vote on any matter or make any recommendations or influence the decisions of other members when a conflict of interest exists as set forth in the bylaws. Members and employees of HRDCs must refrain from conduct which violates any of the above standards or gives the appearance of violating the standards.

### *Filling Board/Committee Vacancies*

A vacancy occurs on the tripartite board when a term has expired, a member has been notified of their official removal by the board, a member submits their resignation, a member dies, a member who is an elected public official leaves office, or a member is the representative of a public official and the public official leaves office. HRDCs will notify DPHHS and will actively work to fill the position within 90 days. If the position cannot be filled within 90 days, the HRDC will submit to DPHHS an explanation and action plan for filling the vacancy. Tripartite Board vacancies must be filled within 18 months. If the vacancy is not filled within 18 months the HRDC will be considered out of compliance with the CSBG Act requirements, and a Corrective Action Plan will need to be put in place.

When the seat of a representative of a public official becomes vacant, the board may request that the public official, or appointing authority, name a replacement. Alternatively, they may request a different public elected official to fill the position themselves or identify a designee to fill the position.

When the seat of a representative of lower income persons becomes vacant, the bylaws may include the following methods for filling a vacancy: the selection procedure may be repeated or alternately, the remaining lower income representatives may select a replacement to serve for the remainder of the term. In the latter case, the person selected will, to the maximum extent possible, represent the same constituency as the original representative. When the seat of a representative of the private sector becomes vacant, the board may consider its skill set requirements and recruit accordingly.

### *Frequency of Meetings*

It is recommended that the board meet on a regular basis. At a minimum, the board must meet two (2) times during the CSBG program year unless more meetings are required in the bylaws. The board must keep written minutes for each meeting, even if a quorum is not present. Minutes are to be made available to the public upon request.

Meeting notices, agendas, minutes, and financial reports received by the board, must be submitted to DPHHS with the annual Organizational Standards assessment. Voting by proxy is not permitted at meetings of the board.

Any decision, policy change or action by the staff/board which would result in a change in the contracted program scope of work or in the approved budget categories, beyond the allowable variance of 10% of annual amount, must be reported to DPHHS within ten business (10) days of the board action.



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Each HRDC should establish and maintain a calendar of activities which will ensure that the board annually participates actively in the development, planning and implementation and evaluation of programs funded with CSBG. Items requiring annual review/updates include:

- HRDCs accomplishments and the community action plan along with analyzing outcomes and making strategic program adjustments/improvements.
- Board bylaws and membership updates
- Annual performance appraisal and approval of annual compensation of the HRDCs CEO/executive director.
- An analysis of customer satisfaction data.
- An update(s) on progress meeting the goals of the applicable strategic plan.
- Program and Financial Reports should be provided at every board meeting.
- The agency or public entity's Audit/Financial Review along with any CSBG related findings and/or corrective actions required.
- Annually approves an organization-wide budget.

### *Allowable Board Costs*

Board members and their families should not enjoy any financial gain from their position, including receipt of salary, goods or special services for their board participation.

The following board costs are allowed:

- Board members may be reimbursed for expenses associated with board service, such as incidental costs of supplies, or mileage, per diem, and lodging expenses incurred while attending out of town conferences or training.
- Reasonable cost of necessary meals furnished by the HRDC for participating in scheduled meetings. Such costs are allowable only if the board members are not reimbursed as per diem or otherwise.

[Information Memorandum #82](#) recommends against paying board members. An HRDC should also consider the implications of paying board members under local laws and government policies with an attorney licensed in Montana.

### *Board Training*

HRDCs should have a documented process that ensures initial and continued board training to include, as applicable: board responsibilities including program oversight and fiduciary responsibilities, results oriented management and accountability (ROMA), program and services information, the causes and effects of poverty, emerging issues and the origin, source and impact of CSBG funding.



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### *Board Oversight of Nonprofit Management Processes*

The governing board of each private, non-profit HRDC will conduct an annual performance evaluation of the HRDCs' executive director. Evidence of the evaluation should appear in Tripartite Board meeting minutes. [Information Memorandum #138 \(Standard 7.4\)](#)

A succession plan for the position of CEO/executive director must be included in an HRDCs operating documents. This plan must, at a minimum, address a hiring process to be used to employ an executive director and a current job description for the position. Board approval of the plan is required of private, non-profit HRDCs.

### *OPERATIONS AND ACCOUNTABILITY*

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#### *Electronic Signatures*

Electronic signatures (or e-signatures) are permitted on agreements, program documents, and client documentation instead of a manual signature to the extent permitted by law.

#### *Personnel Policies and Procedures*

Upon request, each HRDC must provide DPHHS with published personnel policies and procedures that outline consistent and equitable treatment of employees and ensure that all employees fully understand the terms and conditions of their employment. HRDCs will be monitored to ensure they are fulfilling their own local policies and procedures.

Personnel policies and procedures must contain all elements listed in the CSBG Organizational Standards including:

- Agency rules governing vacations, sick leave, periodic salary increases, and other conditions of employment.
- A description of any benefit plans with details on HRDC and employee contributions to those plans.
- Any rules governing promotion, separation, resolution of grievances, and employee conduct.
- Orientation and regular professional development and training opportunities.

HRDCs must adhere to the following standards governing the selection of personnel for employment in CSBG-supported programs.

- Each HRDC will employ persons who can perform their duties with competence.
- Every consideration must be given to providing employment opportunities to qualified lower income persons.
- HRDC hiring practices should be informed and guided by Diversity, Equity, Inclusiveness, and Belonging (DEIB) principles.
- No HRDC will discriminate in its hiring and personnel procedures against any applicant for employment or any employee because of race, color, religion, national origin, age, sex, marital status, ancestry, physical or mental disability, veteran status, gender identity, sexual orientation, or any other legally protected characteristic.



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HRDCs must adhere to the following practices:

- The salary for each position should be in accordance with prevailing practice in comparable local public or private nonprofit agencies.
- Time sheets and time allocation records for all employees must be maintained and must be signed by both the employee and the employee's supervisor.
- An HRDC may provide for periodic salary increases that are in accordance with prevailing practice in comparable local public or private nonprofit agencies.
- HRDCs must have an established employee grievance procedure. Employee grievances must be given prompt and fair consideration. HRDCs will make provision for review of personnel actions by the governing body in any case in which there is a claim of unfair treatment or of dismissal without cause.

HRDCs will maintain an employee-signed and dated job description indicating current tasks for which the employee is held accountable. HRDCs must make available the Community Action Code of Ethics to staff and board members working on the CSBG Program.

### *Responsible Administrators and Key Personnel*

Following a voluntary resignation or involuntary termination or the hire of key leadership positions listed below, DPHHS should be informed when it occurs if it is the responsible administrator.

Key personnel include (but are not limited to):

- Chief Elected Official
- Responsible Administrator
- Executive Director/ CEO
- Program Fiscal Officer
- Program Manager
- Chief Financial Officer
- Tripartite Board Chair

The Responsible Administrator is listed in the contract. The individual in that role carries responsibility for administering the program effectively and is authorized to sign program and financial reports. In the case that the Responsible Administrator changes, the organization's Board of Directors Chair/President should provide a signed letter identifying the new Responsible Administrator for the CSBG contract. In the same letter, the Board of Directors Chair or someone designated to sign on their behalf can identify other individuals they authorize to sign request for reimbursement forms, program reporting forms, or request contract amendments.

### *Conflict of Interest*

HRDCs will have a conflict-of-interest policy and provide policy training for board members, staff, and volunteers. The CAA is responsible for having the policy and training information available for IHSB inspection. This policy should focus on the prevention of self-dealing where there is an appearance of individuals taking advantage of their position within the organization to enrich themselves or to gain other advantage.



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### *Nondiscrimination*

The Federal Civil Rights Act of 1964 as amended (42 USC § 2000d) prohibits discrimination on the grounds of color, religion, sex, or national origin. No person may be discriminated against on these grounds in applying for or participating in Federal or State funded assistance or programs.

Any program or activity supported with CSBG funds must comply with all Federal and State nondiscrimination laws, rules, and regulations, including but not limited to:

- A. Title IX of the Education Amendments of 1972 which generally states that no person, on the basis of sex, shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
- B. Americans with Disabilities Act (ADA) as amended (42 USC § 12101 et seq.) which generally requires that any person otherwise qualified with a disability shall not be excluded from participation in or denied the benefits of or otherwise subjected to discrimination in any program or activity receiving Federal assistance, by reason of that disability.
- C. The 1975 Age Discrimination Act as amended (42 USC § 6101 et seq.) provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age, under any program or activity receiving Federal funds.
- D. Other Federal, State or local nondiscrimination statutes which may apply.

### *Child Support and Referrals*

Per [Section 678G\(b\)](#) of the CSBG Act, HRDCs are required to inform custodial parents in single-parent families that they serve about the availability of child support services by referring eligible parents to the local child support agency. Agencies will report on this process during IHSB's on-site monitoring visit. [See CAPLAW](#) resource for more information.

### *Collaboration With Other Service Providers & WIOA*

HRDCs will develop collaborative relationships with other providers of services to lower income individuals and families in their area, including creating linkages and partnerships with WIOA partners. This may be demonstrated through MOUs and referrals, as well as through integration of community partners and resources into the HRDCs community action plan.



## Montana Department of Public Health and Human Services Community Services Block Grant

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### SECTION 5: RESULTS ORIENTED MANAGEMENT AND ACCOUNTABILITY (ROMA)

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"The Monitoring and Assessment Task Force (MATF), a task force of Federal, state, and local community action officials, created ROMA in 1994. Based upon principles contained in the Government Performance and Results Act of 1993, ROMA provides a framework for continuous growth and improvement among more than 1000 local community action agencies and a basis for state leadership and assistance toward those ends." (NASCS, 2018)

ROMA is a performance management framework which includes: the CSBG Organizational Standards; the State Accountability Measures; and the Federal Accountability Measures. The ROMA methodology involves practice of a data driven cycle: assessment, planning, implementation, achievement of results, evaluation, and re-assessment, etc. ROMA is required to be integrated into HRDC management and administrative processes from conducting a needs assessment, implementing agency-wide strategic planning, the carrying out of services and strategies, and reporting and analyzing data.

The Community Services Network is guided by three broad anti-poverty goals:

Goal 1: Individuals and families with lower incomes are stable and achieve economic security.

Goal 2: Communities, where people with lower incomes live, are healthy and offer economic opportunity.

Goal 3: People with lower incomes are engaged and active in building opportunities in communities. HRDCs will use ROMA methodology in their work toward realization of these goals.

HRDCs will report on the progress in meeting these goals via the CSBG Annual Report (Modules 2-4):

- Module 2—CSBG Eligible Entity Expenditures, Capacity, and Resources
- Module 3—Community Level
- Module 4—Individual and Family Level

HRDCs are required through compliance with the organizational standards to implement actions that focus on results-oriented management and results-oriented accountability. HRDCs develop and implement strategies to measure and record improvements in the condition of lower income people and communities in which they live that result from community action intervention. Information about outcomes and results are used by HRDC tripartite boards and staff to determine overall effectiveness of programs, inform annual and long-term planning, and to support agency advocacy, funding, and community partnership activities.



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### *Results-Oriented Management Principles*

- Assess poverty needs and conditions within the community.
- Define a clear anti-poverty mission for the CSBG Network and the strategies and services to address those needs, both immediate and longer term, in the context of existing resources and opportunities in the community.
- Identify specific improvements, or results, to be achieved among people with lower incomes and communities in which they live.
- Organize and implement programs, services, and strategies within the agency and among partnering organizations, to achieve anticipated results.

### *Results-Oriented Accountability Principles*

- Develop and implement processes to identify, measure, and record improvements in the condition of people with lower incomes and the communities in which they live that result from CSBG Network intervention.
- Use information about outcomes, or results, among agency tripartite boards and staff to determine overall effectiveness; inform annual and long-range planning; and promote new funding and community partnership activities.
- Encourage state CSBG offices and state CAA associations to work in coordination to advance ROMA performance-based concepts among CSBG Eligible Entities through ongoing training and technical assistance.

One of the HRDC accomplishments has been their willingness to understand and adapt to changing client needs, community conditions, financial support and public expectations while maintaining a steady focus on eliminating poverty. The most successful HRDCs have come to understand that community action thrives when it engages in continuous self-examination.

As an effort in progress, ROMA has built strong foundations for continuous program improvement and accountability among State agencies, community action associations, and local entities.

### *Results-oriented and accountability concepts:*

1. Ensure that all HRDCs are strong financially, administratively and programmatically and they achieve robust and measurable improvements in the lives of clients and communities.
2. Reinforce the role of the HRDC as an effective and accountable partner to other service providers, including faith-based organizations; and
3. Have State and HRDCs understand and use ROMA for improved service strategies, strong program and fiscal management and ultimate accountability based on client and community change.

## ***ROMA IMPLEMENTATION***

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ROMA implementation has helped HRDCs to:

1. Use ROMA as a framework for rethinking and redefining the Agency's overall mission, realigning services, empowering staff, and evaluating effectiveness.



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2. Expand and enrich cooperation among community agencies and improve communication and coordination among State CSBG officials and HRDC Executive Directors.
3. Provide a focus for meaningful Agency outreach and create a common way to understand what community action does and how best to do it.
4. Use results-oriented management to target and coordinate services, document and publicize the resulting success of clients to become self-sufficient. These agencies have also used ROMA-generated data to gain additional political and financial support.
5. Prompt the development of new ways of tracking, recording and reporting what a HRDC does. Information systems permit collection, storage, retrieval and analysis of client-focused service and outcome information across funding sources.
6. Build new alliances and contractual relationships with other agencies that share responsibility for client or community outcomes.
7. Build greater staff cohesion, commitment, and effectiveness. ROMA information has helped all staff understand their connection and contribution to agency goals and client/community/organizational outcomes.

ROMA is far more than a measurement and reporting strategy. It is both necessary and appropriate to apply ROMA concepts to the work of community action, not CSBG alone.

### *Core activities that have constituted ROMA implementation:*

#### State Agency:

1. The Department ensures that the HRDCs have developed, in coordination with other HRDCs and the Department, a statewide commitment to the goals and purposes of community action within the State that supports the three (3) national ROMA goals. The Department also encourages each HRDC to also participate in, and contribute to the broader State anti-poverty/community development initiatives with outcome measures and goals compatible with ROMA.
2. The Department will partner with the HRDCs and State Association to train HRDC staff and its Board in outcome-based management to guide needs assessment, Agency mission review, activity planning, resource allocations, service delivery, measuring and reporting results.
3. The Department will implement ROMA in state office practices.
4. The Department reviews Agency work plans and program reports to determine if each Agency describes activities to achieve projected outcomes and evaluate results based on measurable improvements of condition(s) among clients and/or communities served.
5. The Department submits complete, accurate, and timely annual reports to Office of Community Services (OCS) on the measured performances of the HRDCs in the State as required by Section 678E of Public Law 105-285 of the Community Services Block Grant Reauthorization Act of 1998.

#### Community Action Agencies (HRDCs):

1. The Agency and its Board complete regular assessments of the Agency's overall mission, desired impact(s) and program structure, taking into account:
  - a. the needs of the community and its residents;



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- b. the relationship, or context, of the activities supported by the Agency to other anti-poverty, community development services in the community; and
  - c. the extent to which the Agency's activities contribute to the accomplishment of one or more of the three ROMA national goals.
2. Based upon the periodic assessments described above, the Agency and its Board has identified yearly (or multi-annually) specific improvements, or results, it plans to help achieve in the lives of individuals, families, and/or the community as a whole;
3. The Agency organizes and operates all its programs, services, and activities toward accomplishing these improvements, or outcomes, including linking with other agencies in the community when services beyond the scope of the Agency are required. All staff are helped by the Agency to understand the direct or indirect relationship of their efforts to achieving specific client or community outcomes; and
4. The Agency provides information to the Department that describe client and community outcomes and that capture the contribution of all Agency programs, services, and activities to the achievement of those outcomes.

The three (3) national ROMA goals reflect a number of important concepts that transcend CSBG as a stand-alone program. The goals convey the unique strengths that the broader concept of community action brings to anti-poverty efforts:

1. Focusing efforts on client/community/organizational change, not particular programs or services. The goals provide a basis for results-oriented, not process-based or program-specific plans, activities, and reports.
2. Understanding the interdependence of programs, clients and community. The goals recognize that client improvements aggregate to, and reinforce, community improvements, and that strong and well administered programs underpin both.
3. Recognizing that CSBG does not succeed as an individual program. The goals presume that community action is most successful when activities supported by a number of funding sources are organized around client and community outcomes, both within an Agency and with other service providers.

### *Technical assistance:*

The Intergovernmental Human Services Bureau (IHSB) provides the HRDCs with technical assistance and training for all aspects of ROMA. Training and technical assistance is available from IHSB for all Agency staff and Boards to assure full compliance with ROMA requirements and reporting activities.

Also, training and technical assistance is available from IHSB for entering information into the CSBG Database System to assure that the Agency reports correctly on the three (3) National ROMA goals and for the Agency to use information and reports for planning and community reporting purposes.

IHSB is committed to meet the ongoing technical assistance needs among Agencies, particularly those related to strengthening overall program administration, fiscal management and ROMA outcome-based strategies. Agencies need to contact IHSB for further assistance.



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### SECTION 6: CSBG MONITORING PROCESS

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The Department of Public Health and Human Services (DPHHS) Intergovernmental Human Services Bureau (IHSB) will review all HRDCs onsite at least once every three years and annually via a desk monitoring using a monitoring template provided by IHSB. Each year, IHSB will determine the risk level (low to high) which will inform how monitoring is configured. If a HRDC is identified as “high risk” reviews may be conducted more frequently.

42 U.S.C. 9914(a) states that HRDCs will be monitored on performance goals, administrative standards, financial management requirements, organizational standards and other requirements of a State. The template has three areas of analysis:

- General Agency, including factors such as management staff turnover, unresolved monitoring findings, agency systems, and board function.
- Fiscal Operations, including Audit findings, unresolved monitoring findings, systems and procedures, and accurate reporting.
- Program Operations, including compliance and reporting issues and quality of programs based on monitoring.

The risk assessment template allows IHSB to determine if an HRDC needs immediate attention, follow-up monitoring or can receive on-site monitoring as part of the regular annual rotation. The regular monitoring rotation ensures that HRDCs are monitored at least once every three years. The focus of monitoring will include any risk areas identified.

Desk monitoring is provided throughout the grant period. Desk monitoring includes communication and problem solving with HRDCs, technical assistance, analysis of monthly fiscal and program reports, annual audits, and may include program participant file review.

On-site monitoring looks at the overall agency systems in place to deliver services and random selection of participant files. Agency systems are determined through a guided discussion with program managers and staff. Participant files are reviewed for required documentation, follow-up and supportive services. Program regulations, number of participants served, and timeliness of grant expenditures are also verified and technical assistance is provided as appropriate. HRDCs receive a written monitoring report after each on-site visit.

IHSB conducts trainings, including ROMA to HRDC staff and board members, and periodic meetings as needed. On-going communication, training, and meetings provide HRDCs with a variety of opportunities to raise questions and provide feedback.

#### *Organizational Standards:*

IHSB will assess eligible entity’s compliance with established organizational standards every fiscal year. Review of the standards will be conducted through on-site, or desk monitoring as determined by their annual risk assessment.

The State expects all agencies to be in compliance with the CSBG organizational standards. A compliance rate that is below full conformity will require corrective action for each standard that is



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not met. State issued corrective action will be developed in partnership with the agencies and progress will be monitored by the State. The IHSB will provide final approval, determination of corrective action type, and revisions on all required corrective action plans made in partnership with individual agencies.

### *CSBG Monitoring Legal Framework:*

Many of the federal statutes and regulations that make up the monitoring parameters are in the CSBG terms and conditions that a state CSBG office agrees to comply with when it accepts CSBG funding. Appendix C of Community Action Partnership's and CAPLAW's "[Monitoring Map for CAAs: A Guide for Navigating the CSBG Review Process](#)" details these parameters.

There are four monitoring parameters set forth in the CSBG Act and under each parameter is a reference to some of the federal laws, regulations and guidance that flesh out the standards by which a state may monitor a CAA. *Please note that this list of laws is not all-inclusive but, rather, is intended to give CAAs a deeper understanding of many of the laws that the state is working with throughout the monitoring process.* If a state CSBG office applies a law during a monitoring that a CAA is not aware of and/or is not included in this list, the CAA should ask the state CSBG office for additional information about the law and its authority to apply it to the CSBG program, as discussed in Section 3 in Part II; Section 2 in Part III and [Appendix C](#).

### *PERFORMANCE GOALS*

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The following provisions of the federal CSBG Act and federal grant regulations set forth the performance goals a CAA is required to meet, and a state is required to assess when monitoring a CAA:

- **Purposes and Goals** (42 U.S.C. § 9901(2)): Describes the goals of the federal CSBG Act to provide assistance to states and local communities by working through a network of CAAs and other neighborhood-based organizations to reduce poverty, revitalize lower income communities, and empower lower income families and individuals in rural and urban areas to become fully self-sufficient.
- **State Assurances** (42 U.S.C. § 9908(b)): Sets forth the assurances a state is required to make in its state plan regarding the types of programs and activities CSBG monies fund and the ways in which CAAs meet the needs of the community served. See also OCS's listing of the state assurances from the federal CSBG Act.
- **Performance Measurement System** (42 U.S.C. § 9908(b)(12)): Requires states to participate in some type of a performance measurement system, such as the Results Oriented Management and Accountability System (ROMA).
- **Drug and Child Support Services and Referrals** (42 U.S.C. § 9919): Requires CAAs to either inform custodial parents from single-parent families who are clients about the availability of child support services or refer the parents to state and local government child support offices. Also allows state to implement drug testing of program participants and referral to rehabilitation services at a state's expense.
- **Performance Reporting Requirements for Subgrantees** (45 C.F.R. § 92.40(b)(4)): Instructs states to compare actual accomplishments with goals and objectives established for the period. States must be prepared to explain why established goals were not met and to



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address other information, when appropriate, such as an explanation of cost overruns or high unit costs.

### *ADMINISTRATIVE STANDARDS*

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The following provisions of the federal CSBG Act and guidance from the Office of Community Services (OCS) set forth many of the administrative requirements that govern a CAA and the standards by which a state monitors a CAA:

- Board Composition (42 U.S.C. § 9910): Establishes the tripartite structure of the governing board and the responsibility of board members to fully participate in the development, planning, implementation, and evaluation of the program to serve lower income communities.
- Board Composition and Governance Guidance (IM 82): Offers non-binding guidance on board composition and the role and responsibilities of board members.
- Limitations on Use of CSBG Funds (42 U.S.C. § 9918): Lists restrictions on how CSBG funds may be used such as, prohibiting use of CSBG funds to pay for political activities. Also incorporates by reference the application of the federal nondiscrimination laws relating to race, sex, age, disabilities, etc.
- CSBG Terms and Conditions: Incorporates by reference the application of federal laws and regulations noted in the list above which generally ensure that federally funded programs do not discriminate basis of age, handicap, faith, and sex and that certain federal grant laws are followed.

### *FINANCIAL MANAGEMENT REQUIREMENTS*

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The following provisions of the federal CSBG Act and federal grant regulations set forth many of the financial management requirements a CAA is required to meet, and a state is required to assess when monitoring a CAA.

- Fiscal Controls and Audits (42 U.S.C. § 9916): Sets forth the fiscal controls, procedures, audits, and inspections that a state is required to ensure CAAs follow.
- Corrective Action, Termination or Reduction of Funding Guidance: Offers non-binding guidance that state CSBG offices are expected to fully investigate any instances of whistleblower complaints or allegations of fraud or abuse of CSBG funds or funds from closely related programs.
- Cost Principles OMB Circular A-122, 2 C.F.R. Part 230 (for nonprofit CAAs), OMB Circular A-87, 2 C.F.R. Part 225 (for government CAAs): Describes cost principles that are used to determine which costs may be paid with federal funds and discusses cost allocation.
- Single Audit (45 C.F.R. § 96.31; OMB A-133): Requires recipients of CSBG funds to undergo an external audit.<sup>1</sup>

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<sup>1</sup> A state CSBG office may review a CAA's audit as part of the monitoring process. Thus, it is very important for a CAA to pursue and document any disagreement it has with audit findings.



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### *STATE REQUIREMENTS*

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The following is a list of where a state's monitoring requirements may be found. A state is permitted to develop more detailed state requirements to implement the federal CSBG Act as long as the state's requirements do not conflict with federal or state law and comply with the state laws for adopting legally binding requirements.

- State CSBG Act and regulations;
- State CSBG plan State; and
- State CSBG contract with CAA (including any other state or federal laws and regulations incorporated by reference in the state contract; for example, Uniform Administrative Requirements for Grants with Non-Profit Organizations, OMB Circular A-110, 2 C.F.R. Part 215 is one of the federal laws that is often incorporated by reference in state CSBG contracts with CAAs.<sup>2</sup>

There is a complaint process available for an HRDC. Community Action Partnership's and CAPLAW's "Monitoring Map for CAAs: A Guide for Navigating the CSBG Review Process" and 45 CFR 96.50 explains when and how to file a complaint.

45 CFR, Section 96.50(e) states that, "The Department recognizes that under the block grant programs the States are primarily responsible for interpreting the governing statutory provisions. As a result, various States may reach different interpretations of the same statutory provisions. This circumstance is consistent with the intent of and statutory authority for the block grant programs. In resolving any issue raised by a complaint or a Federal audit the Department will defer to a State's interpretation of its assurances and of the provisions of the block grant statutes unless the interpretation is clearly erroneous. In any event, the Department will provide copies of complaints to the independent entity responsible for auditing the State's activities under the block grant program involved. Any determination by the Department that a State's interpretation is not clearly erroneous shall not preclude or otherwise prejudice the State auditors' consideration of the question.

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<sup>2</sup> The application of OMB Circular A-110, 2 C.F.R. Part 215, to entities receiving CSBG funds is unclear. The federal CSBG Act requires states to "ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of [CSBG] funds" but does not explicitly state which OMB circulars will apply. OMB Circular A-110 does not fit within the description of the type of OMB circulars described in the CSBG Act since OMB Circular A-110 sets forth administrative requirements and not cost and accounting standards. Moreover, the 2012 OCS CSBG terms and conditions incorporate by reference the application of OMB Circular A-122 (2 C.F.R. Part 230) and OMB Circular A-133 but make no mention of OMB Circular A-110. However, because many states incorporate OMB Circular A-110 by reference in their CSBG contracts with CAAs, we include the circular as one of the legal requirements that a state may apply to CAAs as part of the monitoring process.



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### SECTION 7: DESIGNATION, DE-DESIGNATION AND RE-DESIGNATION

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#### *DESIGNATION*

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The designation of eligible entities for Community Service Block Grant (CSBG) is set out in 42 US Code 9909. MCA 53-2-201 grants DPHHS the power to administer public assistance programs including food commodities, energy assistance, weatherization, and other programs as necessary to strengthen and preserve families. MCA 53-10-501 (3) states that "Human resource development council" means a nonprofit public or private community organization serving lower income persons in a multicounty area that has the same boundaries as one or more substate planning districts established by executive order of the governor. Further, MCA 53-10-503, states Eligible human resource development councils. The department may not distribute [CSBG] block grant funds unless the human resource development council:

- 1) meets the eligibility requirements set forth in 42 U.S.C. 9904, including composition of the board; and
- 2) has complied with federal and state fiscal control requirements and agrees to comply with all fiscal and program requirements of federal law. [42 US Code 9909 actually describes the eligible entity requirements.]

In 1983, HB 695 & 708 set up statutory provisions to provide that the Community Services Block Grant, lower income energy assistance and weatherization programs be administered by community nonprofit entities representing one or more of the governor's substate planning districts. These are the HRDCs. This is reflected in MCA 53-10-501.

As a part of the annual or biannual application and plan required by subsection 676 of Community Services Block Grant Act, as amended, (412 U.S. C.9901 et seq.) (The Act), the designee of the Chief Executive of the State agrees to the Assurances in Section 676 of the Act. Assurance 6 states that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to lower income home energy assistance) are conducted in such community. In accordance with the CSBG Act, if a county in Montana is not covered or ceases to be covered by an HRDC, and DPHHS decides to serve that county, DPHHS will first request an existing Community Action Agencies (CAA) that is located and provides services in a contiguous county to serve the unserved county. If no existing CAA is located in a contiguous county, a request will be made to the CAA located within the closest proximity, or another existing CAA within reasonable proximity to the unserved county.

If existing CAAs decline to serve the unserved county, the creation of a new CAA is possible. Such an entity would be a private nonprofit organization that is geographically located in the area or in an area contiguous to, or within reasonable proximity to, the unserved area and is capable of meeting all CSBG requirements. DPHHS would solicit applications from interested organizations through a Request for Proposal (RFP) process.



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In alignment with OCS [Information Memorandum 42](#), DPHHS will seek a qualified private nonprofit organization as the first option for designation. 42 USC § 9909(a)(1). Only in circumstances where no such private nonprofit organization can qualify may a State consider designating a political subdivision or public organization. 42 USC § 9909(c). If a qualified private nonprofit organization exists, a political subdivision may not be designated.

Therefore, in designating a new HRDC, a State must first solicit applications from

1. private nonprofit organizations within the unserved area that could be capable of providing a range of services and meeting the requirements of the CSBG Act;
2. private nonprofit organizations that are already HRDCs in an area contiguous with or within reasonable proximity to the unserved area.

In alignment with OCS [Information Memorandum 116](#), if no private nonprofit organization is identified or determined to be qualified as an HRDC to serve the area, DPHHS may designate an appropriate political subdivision of DPHHS to serve as an HRDC for the area. Any nonprofit or public agency receiving CSBG funds must meet the tripartite board requirements specified in Section 676B of the CSBG Act and Organizational Standards as established in [IM 138](#).

Reference: Section [676A of the CSBG Act](#), [CSBG IM 42](#), [CSBG IM 116](#) and the Montana CSBG State Plan

### *DE-DESIGNATION*

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Per Section 676(c) of the CSBG Act, the only "causes" that can necessitate a reduction or removal in funding would be:

1. A statewide redistribution of funds in response to new census data;
2. The designation of a new HRDC;
3. Severe economic dislocation; or
4. The failure of the HRDC to comply with the terms of an agreement or a state plan, or to meet a state and/or federal requirement.

DPHHS would begin the process of de-designating an agency if it fails over a period of time to take action to resolve significant findings that DPHHS had identified through the IHSB General Monitoring Process, the annual CSBG Organizational Standards desk audit, or another documented method that an agency is not in compliance with state and/or federal CSBG requirements. This would take place after an agency has failed to make adequate progress through the normal technical assistance and/or corrective action plan processes and has had the opportunity to develop and implement a Quality Improvement Plan (QIP). DPHHS will only begin the process of de-designating an agency if it fails to cooperate with DPHHS and does not develop a QIP or make progress on its approved QIP.

DPHHS will de-designate a contract agency as a CSBG HRDC through a joint decision by both the legislative body of the county, city, village, or town that originally was designated as the HRDC and DPHHS. At least 90 days before rescinding approval, DPHHS would notify the agency of its reasons for the action and hold a public hearing in the community.



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If after holding the public hearing DPHHS finds cause to terminate or reduce funding, DPHHS will initiate proceedings to de-designate or reduce the funding to the HRDC. DPHHS would notify both the HRDC and OCS of its decision. The HRDC would have 30 days following notification of DPHHS's decision to request a federal review by HHS. In alignment with OCS Information Memorandum 116, DPHHS will provide the affected HRDC with information on how to request a federal review.

If the HRDC requests a federal review, DPHHS will not discontinue present or future funding until HHS responds to the request. If the HRDC does not request a federal review within the 30-day limit, DPHHS's decision will be effective at the expiration of the 30-day period.

References: [Section 676\(b\)\(8\)](#) of the CSBG Act, [Section 678C\(b\)](#) of the CSBG Act,

### CORRECTIVE ACTION

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#### *Corrective Action Plans (CAPs)*

If DPHHS determines through the annual CSBG Organizational Standards desk audit process or other documented method that an agency is not in compliance with one or more of the CSBG Organizational Standards, DPHHS will identify the specific deficiencies in a monitoring summary report issued to the agency within 30 days of the exit interview. The report will identify the participants, strengths of the agency and programs, findings and related required actions, recommendations and training and technical assistance provided.

If deficiencies are identified the monitoring summary report will document the basis for DPHHS's determination, and the agency will be asked to complete a CAP within 60 days of request from DPHHS to address the issues identified. DPHHS will provide training and technical assistance, if appropriate, to help an HRDC correct identified deficiencies or failures to meet State/Federal requirements. Technical assistance will be offered concurrently with the notification of a deficiency or deficiencies and will focus on the specific issues of the HRDC to the extent possible.

The CAP must identify the actions the agency will take to correct the deficiency within a reasonable period. Alternately, the agency may provide documentation corrections have already been made, and therefore a CAP is not needed for the issue(s) in question. DPHHS will have 30 days to approve the agency's proposed CAP or specify the reasons why the proposed plan cannot be approved. If the CAP is approved, DPHHS will monitor the contract agency's progress towards compliance. If deemed necessary, DPHHS may conduct an onsite follow-up review, desk audit, or other monitoring activity as appropriate. During the follow-up review, each finding listed in the original report will be addressed and documented as being "corrected," "not corrected," or "corrective action in progress." Any findings not corrected will continue to be documented in subsequent monitoring reports until satisfactorily corrected or closed as a result of providing verification of compliance. An HRDC may request training and technical assistance from DPHHS to assist the agency in resolving all findings in a timely manner. Within 60 days of receiving documentation that the finding(s) has been corrected, DPHHS will provide written notification of closure of finding(s).

If DPHHS determines an agency has failed to address its findings through the CAP process, the agency will be deemed to be at "high risk" and DPHHS will follow the process outlined in Section



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678C of the CSBG Act and the guidelines provided in OCS Information Memorandum 116. DPHHS will require the agency to develop and implement a QIP within 60 days after being informed of its unresolved deficiencies. As required, DPHHS will communicate with OCS regarding the situation. The QIP must include plans to resolve the identified deficiencies within a reasonable period of time. Within 30 days after receiving the QIP, DPHHS will either approve the contract agency's proposed QIP or specify the reasons why it cannot be approved. If a contract agency fails to make progress on an approved QIP, DPHHS may initiate proceedings to terminate the agency's designation as an HRDC or reduce its funding.

Reference: [OCS IM 116](#), Montana CSBG State Plan, [Section 678C](#) of the CSBG Act

### *Quality Improvement Plans (QIPs)*

If the monitoring process results in the identification of repeat findings, corrective actions, or deficiencies, a Quality Improvement Plan (QIP) including appropriate metrics and timeline for required action may be requested from the agency. The CSBG staff will consider the seriousness of the identified issue(s) and may exercise discretion on whether a Quality Improvement Plan is appropriate or necessary. Examples include, but are not limited to the following:

1. A repeat finding, corrective action or deficiency that has not been resolved within a reasonable timeframe;
2. Failure of the agency to sufficiently monitor sub-recipients;
3. A deficiency involving waste or abuse

The agency will have 60 days after the request to develop and submit their Quality Improvement Plan. The QIP should list actions that will be taken to correct the identified issue(s), staff responsible, and the amount of time required to reasonably implement the actions or resolve the issue(s).

The submitted Quality Improvement Plan will be reviewed by CSBG monitoring staff to ensure that it addresses appropriate actions to remedy or resolve the identified issue(s). A decision on whether the plan is approved or not will be issued within 14 days. This notification will specify the specific reason why the plan was not approved as well as the information and actions necessary for acceptance. Discretion will be exercised based on specific circumstances.

Agencies engaged in a Quality Improvement Plan will be identified as medium or high risk for the duration of the plan.

### *CLOSEOUT*

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DPHHS awarding agency will close out DPHHS award when it determines that all applicable administrative actions and all required work of DPHHS award have been completed by former HRDC. Closeout activities include the following:

1. No later than 90 calendar days after the end date of the period of performance or an earlier due date if specified by DPHHS award, or the date of de-designation, the HRDC must submit all financial, performance, and other reports as required by the terms and conditions of



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- DPHHS award. DPHHS awarding agency may approve extensions when requested by the HRDC.
2. Unless DPHHS awarding agency authorizes an extension, the HRDC must liquidate all obligations incurred under DPHHS award not later than the liquidation date indicated in DPHHS award or 90 calendar days after the end date of the period of performance, whichever is earlier, as specified in the terms and conditions of DPHHS award.
  3. Closeout activities are not complete if payment by DPHHS awarding agency to the HRDC is outstanding for allowable reimbursable costs under DPHHS award being closed out.
  4. The HRDC must promptly refund any balances of unobligated cash that DPHHS awarding agency paid in advance or paid and that are not authorized to be retained by the HRDC for use in other projects.
  5. Consistent with the terms and conditions of DPHHS award, DPHHS awarding agency must make a settlement for any upward or downward adjustments to DPHHS share of costs after closeout reports are received.
  6. The HRDC must account for any real and personal property acquired with state funds or received from DPHHS government in accordance with the Property Standards and Performance and Financial Monitoring and Reporting sections.
  7. DPHHS awarding agency should complete all closeout actions for state awards no later than one year after receipt and acceptance of all required final reports.

### *Post-Closeout Adjustments and Continuing Responsibilities*

The closeout of a state award does not affect any of the following:

1. The right of DPHHS awarding agency to disallow costs and recover funds based on a later audit or other review. DPHHS awarding agency must make any cost disallowance determination and notify the HRDC within the record retention period.
2. The obligation of the HRDC to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
3. Audit Requirements of Montana
4. Property management and disposition requirements specified in the Property Standards section.
5. Records retention as required by the Records Retention and Access section.

After closeout of DPHHS award, a relationship created under DPHHS award may be modified or ended in whole or in part with the consent of DPHHS awarding agency and the HRDC, provided the responsibilities of the HRDC referred to in this section, including those for property management as applicable, are considered and provisions made for continuing responsibilities of the HRDC, as appropriate.

### *Collection of Amounts Due*

Any funds paid to the HRDC in excess of the amount to which the HRDC is finally determined to be entitled under the terms of DPHHS award constitute a debt to DPHHS of Montana. If not paid within 90 calendar days after written demand, DPHHS awarding agency may reduce the debt by:

1. making an administrative offset against other requests for reimbursements;



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2. withholding advance payments otherwise due to the HRDC; or
3. other action permitted by state statute

### *RE-DESIGNATION*

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In order to be re-designated, after formally having a reduction in funding or having been terminated, an organization that is interested in re-designation must submit a proposal in the RFP process mentioned in paragraph two in the Designation section. The HRDC must be able to show:

1. All deficiencies that lead to their reduction/termination have been addressed;
2. Must meet all CSBG Requirements as outlined in [Section 676A](#) of the CSBG Act;
3. Must not be on the debarment list; and
4. The CAA is no longer "high risk."



## Montana Department of Public Health and Human Services Community Services Block Grant

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### SECTION 8: GLOSSARY AND APPENDICES

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#### *DEFINITION OF TERMS*

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1. American Customer Satisfaction Index (ACSI): Part of the CSBG State Performance Measures, the ACSI is a survey administered to Community Action Agencies and the state association to measure the State's effectiveness in meeting CSBG Act requirements, including development of the State Plan, Distribution of Funds, Use of Remainder/Discretionary Funds, Training and Technical Assistance, Monitoring and Corrective Action, and Linkages.
2. Community Action Agencies (CAAs): CAAs are local, private and public nonprofit organizations that carry out the Community Action Program. There are over 1,000 CAAs in the United States and its territories. Montana has 10 CAAs, each of which serves a specific geographic area of Montana. All counties in Montana are included within the jurisdiction of one of the CAAs.
3. Community Action Plan (CAP): Submitted by HRDCs to IHSB every three years, this plan details community response to local need identified in the community needs assessment, including specific programs offered by the CAA.
4. Community Needs Assessment (CNA): Completed by each HRDC and submitted to IHSB every three years, the CNA is a detailed analysis of the causes and conditions of poverty in the community.
5. Community Services Block Grant (CSBG): Federal block grant, anti-poverty program administered by the Federal Office of Community Services.
6. CSBG Act (42 USC Ch. 106): Part of the Coats Human Services Reauthorization Act of 1998, the act authorizes the purpose, use, limitations, as well as the application, administration, and reporting requirements of CSBG funds.
7. CSBG State Plan: The State's application for CSBG funding to the Federal Office of Community Services.
8. Department of Health and Human Services (HHS): the Federal department that houses the Office of Community Services, which administers the CSBG block grant.
9. Department of Public Health and Human Services (DPHHS): Montana's department that houses public assistance programs. CSBG is administered by the Human and Community Services Division within DPHHS.
10. Eligible Entity (EE): An eligible entity is an agency that carried a designation of Community Action Agency or other qualifying organization as of the day before the enactment of the Coats Human Services Reauthorization Act of 1998, has retained that designation, and has a tripartite board. These agencies are eligible to receive CSBG funds. In Montana, there are 10 community action agencies (HRDCs) which may receive funds, and which serve all 56 counties.
11. Human and Community Services Division (HCSD): Division within DPHHS that houses the Intergovernmental Human Services Bureau which administers the CSBG grant.
12. Human Resource Development Council (HRDC): eligible entities implementing CSBG grant activities.
13. Intergovernmental Human Services Bureau (IHSB): the bureau within HCSD that administers the CSBG grant.



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14. Montana Community Action Network (MCAN): State Association for Montana's community action agencies
15. Monitoring "Finding": An area of noncompliance observed during a monitoring visit or desk top review.
16. Monitoring "Weakness": An area of noncompliance observed during a monitoring visit or desk top review that did not rise to the level of finding.
17. Office of Community Services (OCS): the Department of Health and Human Services, Administration for Children and Families, Office of Community Services is the Federal administrative agency over CSBG.
18. Related Individuals (for income verification): two or more persons related by birth, marriage, and/or adoption, who reside together.
19. Tripartite Board: A three-part governing or advising board for a CAA which must be composed of:
  - At least one third democratically selected representatives of the lower income community residing in the area served by the CAA;
  - One-third local elected officials (or their representatives); and
  - The remaining members from major groups and interests in the community
20. Unrelated Individuals (for income verification): an individual who is not an inmate of an institution: (1) who resides alone or (2) who resides with one or more persons who are not related to him/her by birth/marriage, and/or adoption.
21. Workforce Innovations and Opportunity Act (WIOA): The primary source of federal funding for workforce development and requires states to strategically align workforce development programs, including establishing linkages and partnerships with CSBG-funded entities. The CSBG Act (Section 676) also requires linkages with WIOA programs.

### *APPENDIX A: MONTANA LEGAL LIABILITY*

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**Overview:** This Chapter provides information pertaining to Montana HRDCs' legal liability as summarized through the Legal Liability Audit conducted by CAPLAW in June 2012. We use this with CAPLAW's permission.



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### CAPLAW Legal Liability Audit: Montana Supplement

Updated by CAPLAW, June 2012

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This supplement summarizes those Montana laws applicable to nonprofit organizations that are relevant to Community Action Agencies (CAAs).

*IMPORTANT NOTE: This supplement is not intended to provide legal or business advice and is not a substitute for the services of an attorney. This supplement summarizes only certain sections of the statutes referenced and is intended to be used simply as a guide. For greater detail, the statutes themselves should be consulted. Additionally, we strongly recommend that any CAA using this supplement consult with a Montana attorney before making any determinations relating to the laws discussed herein.*

### Montana Nonprofit Corporate Requirements

[Title 35, Chapter 2 of the Montana Code Annotated \(MCA\)](#) contains all of the applicable Montana statutes associated with nonprofit corporations. This chapter of the MCA is commonly known as the "Montana Nonprofit Corporation Act" (the "Act"). The Act was last substantially amended in 1991 to correspond in most parts with the Model Nonprofit Corporation Act that was prepared by the American Bar Association. As such, most of the Act's provisions are similar to the nonprofit statutes of the majority of the other states in the nation. Minor amendments of the Act have followed in 2007 and 2011.

Anyone seeking to incorporate a new nonprofit organization should review the entire Act and all relevant statutes that are associated with the proposed actions of the new corporation. Additionally, preexisting organizations, especially those that were established prior to 1991, should review the Act to ensure that its operations and organizational documents are consistent with the statutory requirements.

Following are some of the highlights of the Montana Nonprofit Corporation Act:

#### 1. Corporate Powers

Section 35-2-118, MCA, provides for the general powers of a nonprofit corporation. An organization's articles of incorporation can provide specific powers that are consistent with those listed in the general powers, however, if the articles of incorporation are silent with regard to general powers, then those listed in the statute will control. The "general powers" dealt with in



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this statute are intended to govern the types of actions that are allowable for a corporation and its board of directors to approve. This differs from the corporation's "purpose" which may be narrowly drafted to comply with federal law or to achieve the organization's tax-exempt status.

### 2. Filing Requirements

Section 35-2-119, MCA, sets forth all of the required elements for a document to be filed with the Secretary of State's office. This section works in conjunction with Section 35-2-213, MCA, setting forth all of the required provisions that must be included within articles of incorporation filed with the Secretary of State. The Secretary of State's web site at <https://sosmt.gov/elections/forms/> provides a number of forms for the common actions of the Montana nonprofit corporation.

### 3. Corporate Powers

Section 35-2-118, MCA, provides for the general powers of a nonprofit corporation. An organization's articles of incorporation can provide specific powers that are consistent with those listed in the general powers, however, if the articles of incorporation are silent with regard to general powers, then those listed in the statute will control. The "general powers" dealt with in this statute are intended to govern the types of actions that are allowable for a corporation and its board of directors to approve. This differs from the corporation's "purpose" which may be narrowly drafted to comply with federal law or to achieve the organization's tax-exempt status.

### 4. Filing Requirements

Section 35-2-119, MCA, sets forth all of the required elements for a document to be filed with the Secretary of State's office. This section works in conjunction with Section 35-2-213, MCA, setting forth all of the required provisions that must be included within articles of incorporation filed with the Secretary of State. The Secretary of State's web site at <https://sosmt.gov/elections/forms/> provides a number of forms for the common actions of the Montana nonprofit corporation.

Section 35-2-419, MCA, provides that the articles of incorporation or bylaws must specify the terms of the directors. Terms of directors may not exceed five (5) years. In the absence of any term specified by the articles of incorporation or bylaws, the term for each director is statutorily set at one (1) year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups, and the statute indicates that the terms of the office of the groups need not be uniform.

Section 35-2-421, MCA, provides for the removal of directors. There is a set procedure that must be followed if the corporation is a membership corporation. If the organization is not a membership organization, then a director may be removed without cause by a vote of two-thirds of the directors in office or by a greater number if it is set forth by the articles or bylaws. Additionally, if, at the beginning of a director's term on the board, the articles or bylaws provide that the director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. However, the director may be removed for such purpose only if a majority of directors, then in office vote for the removal.



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### 5. Board Meetings

Section 35-2-427, MCA, sets forth the requirements for board meetings. Board meetings may be held either within or outside of the state. Organizations may hold board meetings through the use of conference telephone so long as all directors participating in the meeting may simultaneously hear each other during the meeting. Note that there is no statutory provision for a director to provide a "proxy" to any other member of the board of directors. As such, a director must be present in person or via conference call to act on a matter, unless the unanimous consent provision discussed below is used.

Section 35-2-428, MCA, provides that a board may take an action without a formal meeting only if a written consent describing the action that is taken is signed by every director authorized to vote and is included in the minutes of the organization.

Section 35-2-429, MCA, provides the requirements for the call and notice of meetings of the board of directors. Unless the date of a meeting is specified in the organization's bylaws, then all meetings of the board of directors must be preceded by at least two (2) days' notice to each director of the date, time and place of the meeting. Montana law allows for fairly lenient forms of notice. Unless the articles or bylaws specify a different type, then notice simply must be reasonable under the circumstances. Section 35-2-115, MCA, provides that notice may be communicated in person; by telephone, telegraph, teletype, fax, or other form of wired or wireless communication; or by mail or private carrier. Additionally, if these forms of personal notice are impracticable for the form of the governing body, then notice may be communicated by a newspaper of general circulation in the area where it is published, or by radio, television, or other form of public broadcast.

Montana has a very broad definition of agencies that are subject to the state's "open meeting" laws. Section 2-3-203, MCA, provides that the meetings of all organizations "supported in whole or in part by public funds or expending public funds must be open to the public." Although there has been no direct guidance or ruling on this matter, it appears that these provisions apply to all of the Human Resource Development Councils in the state because all of the organizations are funded in whole or in part by governmental block grant funds.

Section 35-2-431, MCA, provides for the quorum and voting requirements of the board. The minimum statutory requirements for a quorum are the greater of one-third of the number of directors in office or two directors. The bylaws or articles may set a quorum requirement higher than the required quorum for the board's meetings. If the bylaws or articles are silent, then the statute provides that a majority of the directors in office constitutes a quorum. Unless the articles or bylaws provide otherwise, a vote of a majority of the directors present is the act of the board.

### 6. Officers

Sections 35-2-439 through 444, MCA, set forth the duties and standards of conduct for the corporation's officers. The officers shall have the authority and shall conduct the duties that are set forth in the bylaws or as otherwise directed by the board of directors. The bylaws should



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provide a detailed description of the duties to be performed, as well as the procedure for board oversight of the officers' actions. Officers usually are board members, but this is not required.

### 7. Indemnification of Board Members and Officers

Sections 35-2-447 through 454, MCA, provide the authority and the manner in which an organization can indemnify its officers and directors against liability incurred in the course of an individual's service to the corporation. A corporation may indemnify an officer or director if the individual acted in good faith and reasonably believed his or her actions were in the best interest of the corporation. An individual may not be indemnified if the individual is found liable of improper personal benefit in a proceeding brought by or on behalf of the corporation. The Act provides for both mandatory and permissible indemnification.

*Mandatory Indemnification.* A corporation must indemnify a director or former director, who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a director of the corporation against reasonable expenses incurred by him or her in connection with the proceedings.

*Permissible Indemnification.* If the bylaws provide for it, the corporation may indemnify a director or former director made a party to a proceeding because he or she is or was a director of the corporation, against liability incurred in the proceeding, if determination to indemnify him or her has been made in the manner prescribed by the Act and payment has been authorized in the manner prescribed by the Act.

*Indemnification of Officers, Agents and Employees.* The bylaws can provide that an officer of the corporation who is not a director is entitled to mandatory indemnification under this Article to the same extent as a director. The corporation may also indemnify and advance expenses to an officer, employee, or agent of the corporation who is not a director to the same extent as a director or to any extent, consistent with the Act and public policy, that may be provided by the general or specific action of the board or by contract.

*Insurance.* The corporation may purchase and maintain insurance (a) to insure itself with respect to the indemnification payments it is authorized or obligated to make pursuant to this Article, and (b) on behalf of any person who is or was a director, officer, employee or agent of the Corporation.

### 8. Annual Reports

Section 35-2-904, MCA, requires that all nonprofit corporations must deliver an annual report to the Secretary of State setting forth the name of the corporation, the jurisdiction under whose law it is incorporated, its principal officers and directors, its registered agent, the registered business mailing address of its principal office, whether or not it has members, and a brief description of the nature of its activities. The Secretary of State generally mails its annual statement form out in February of each year, and the corporation must deliver the completed form by April 15. Failure to file the annual statement can result in the corporation losing its corporate status and being involuntarily dissolved. See the link in the Filing Requirements section above to download annual report forms.



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### Montana Community Services Block Grant Program

Note that although the Act provides that a board may have as few as three (3) directors, Human Resource Development Councils (HRDCs) must also structure their board of directors to be compliant with the eligibility requirements set forth in 42 U.S.C. § 9904, including the composition of the board of directors. As such, the board of directors of a Human Resource Development Council must be composed of at least one-third who are representatives of the poor, one-third who are publicly elected officers, and the remaining one-third who are members of business, industry, labor, religious, welfare, education, or "other major groups" in the community.

Sections 53-10-501 through 505, MCA, provide the statutory guidelines for the HRDCs' conduct of programs using the block grant funds. These provisions pull in many of the requirements set forth in the federal block grant act and may be viewed at [https://leg.mt.gov/bills/mca/title\\_0530/chapter\\_0100/part\\_0050/sections\\_index.html](https://leg.mt.gov/bills/mca/title_0530/chapter_0100/part_0050/sections_index.html). Sections have not been amended as recently as the federal act, and therefore there appear to be some requirements in the Montana statutes that are inconsistent with the more recent amendments of the federal law. In such case, it is most likely that to the extent that the Montana requirements are not consistent with the federal law, then the federal requirements will override the Montana requirements.

### Open Meetings Law

Board meetings of public and private Human Resource Development Councils must be open to the public. The Montana open meetings law requires that "[a]ll meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds ... must be open to the public." § 2-3-203, MCA.

The public's right to attend meetings of public HRDCs is also grounded in the Montana constitution, which provides that "[n]o person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure" and that "[t]he public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law." Mont. Const. art. II, §§ 8 and 9.

For more information regarding Montana's open meetings law, please refer to "The Basics of Open Meetings and Public Participation" produced by the <https://www.mtcoattorneysassn.org/>.

#### I. Notice to the Public

##### A. What Meetings Must Be Noticed?

1. Any "convening of a quorum of the constituent membership ... whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the [organization] has supervision, control, jurisdiction, or advisory power." § 2-3-202, MCA.



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This includes special meetings, meetings intended to be closed, and meetings between the board and its staff. 41 Att. Gen. Op. 38.

2. Any board-appointed committees and subcommittees meeting to conduct organization business. § 2-3-203(6), MCA.
3. Public meetings may be recorded, videotaped, or televised by any accredited press representative; however, the presiding officer may assure this activity does not interfere with the meeting. § 2-3-211, MCA.

### **B. Specific Notice Requirements When Convening in Executive Session**

Boards must follow all notice requirements applicable to open meetings when convening in executive session.

The agenda should be formulated in such a way to protect the privacy interests justifying an executive session: use of case numbers or agenda item numbers, etc.

In addition to the responsibilities of notice applicable to open session meetings, you have an additional responsibility to provide individual notice to any individual who will be discussed in executive session. *Goyen v. City of Troy*, 276 Mont. 213, 218, 915 P.2d 824, 828 (1996). *Goyen* involved the right to waive individual privacy in §2-3-203, MCA, and instructs that the right is meaningless unless the person about whom the discussion pertains is notified in advance of the discussion and given an opportunity to waive individual privacy thereby having the discussion held in open session.

### **C. Type of Notice Required**

1. The fact that a meeting is not closed does not make it an open meeting in compliance with the law. Notice to the public is imperative. *Board of Trustees v. Board of City Commissioners*, 186 Mont. 148, 155-56, 606 P.2d 1069, 1073 (1980).
2. Publication in a newspaper creates a presumption of sufficient notice, but other types of notice may be sufficient, such as broadcasting, posting, or a combination of these. §2-3-104(4), MCA; *Sonsteli v. Board of Trustees*, 202 Mont. 415, 658 P.2d 413 (1983).

### **D. How Much Time Is Sufficient Notice?**

1. There should be reasonable notice under the circumstances to permit public participation. Only rules of thumb are available but try to give at least one week's notice for regular meetings and at least 48 hours' notice for special meetings.
2. Notice to persons personally affected by the outcome of a meeting, such as employees subjected to board discipline, should be given sufficient time in which to prepare, consonant with board policies and state law.
3. Distribution of the agenda is a good way to give notice.



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### II. When Can a Meeting Be Closed?

A. All meetings are open unless closed for a specific purpose; this includes committee meetings. §2-3-203, MCA. Allowable purposes to close are:

1. During the time the discussion relates to a matter of individual privacy and then only if the presiding officer determines that the "demand of individual privacy clearly exceed the merits of public disclosure." If the party with the privacy interest waives his or her right of privacy, the meeting must be held in open session. Mont. Const. art. II, § 9; § 2-3-203(3), MCA; *Goyen*, 276 Mont. 213, 915 P. 2d 824.
2. Discussion of strategy to be followed with respect to litigation between a private party and the organization. (See Section IIB below.)

#### B. Individual Privacy

1. Cases in which the demands of individual privacy have been found to clearly exceed the merits of public disclosure:
  - a. Performance evaluations. *Missouliau v. Board of Regents*, 207 Mont. 513, 675 P.2d 962 (1984).
  - b. Grievance seeking discipline of school administrator. *Flesh v. Joint School District No. 2*, 241 Mont. 158, 786 P.2d 4 (1990).
  - c. The family and health problems, interpersonal relationships, personal finances, weaknesses, personal opinions, beliefs, and attitudes of employees or applicants for employment. *Missouliau*, 207 Mont. 513, 675 P.2d 962.
  - d. Discussion of employee performance for purposes of contract renewals. *Sonsteli*, 202 Mont. 415, 658 P.2d 413.
2. Cases in which the demands of individual privacy have *not* been found to clearly exceed the public's right to know:
  - a. The amounts of retirees' retirement benefits. 54 Att. Gen. Op. 3
  - b. Information about a public official's arrest which occurred during their term of service. *Jefferson County v. Montana Standard*, 318 Mont. 173, 79 P.3d 805 (2003).
3. Closure for personal privacy reasons does not mean the person discussed cannot be present. There is no basis to exclude the person about whom the discussion centers. An employee has the right to be present during board deliberations regarding his future with the employer. *Jarussi v. Board of Trustees*, 204 Mont. 131, 664 P.2d 316 (1983).
4. A person may waive his or her right to privacy, in which case the meeting shall be open. § 2-3-203(3), MCA. Notice must be provided to the person who is the subject of discussion



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at the meeting, to enable him or her to waive his or her right to privacy. See *Goyen*, 276 Mont. 213, 219, 915 P. 2d 824, 828.

5. Where there are competing rights, i.e. an employee wants a disciplinary hearing open, but individuals testifying want privacy, weigh each person's right in accordance with the law, and close those portions of a meeting during which the discussion affects a protected privacy interest.
6. The law is unclear as to whether action can be taken in closed meetings since Section 2-3-203, MCA, allows closures during "discussions." It is probably wise to make all "actions" a matter of public record, but be sure to keep private matters private by careful wording of public actions ( i.e. use an employee's initials or a number in the wording of a public action affecting an individual's privacy).

### C. Penalties for Closure of a Meeting in Violation of Law

1. Decisions made at a meeting which violate the open meetings law may be declared void by a district court, § 2-3-213, MCA, and a person bringing such an action need not proceed through the county superintendent before filing suit. *Jarussi*, 204 Mont. 131, 664 P.2d 316.
2. A lawsuit to void agency decisions must be commenced within 30 days from the date on which the plaintiff or petitioner learns, or reasonably should have learned, of the decision. § 2-3-213, MCA.
3. A plaintiff who prevails in a district court action to enforce their rights under Article II, section 9 of the Montana constitution (right to know provision) may be awarded costs and attorney fees. § 2-3-221, MCA.

### III. Minutes

- A. Section 2-3-212, MCA, requires appropriate minutes to be kept.
- B. Minutes of open meetings are open for public inspection. § 2-3-212, MCA.
- C. Minutes of closed meetings may, but are not required to, be kept; but, as these meetings often address personnel issues, it may be a good idea to keep minutes of closed meetings. Since the public's right to examine public documents does not extend to cases where the demand of individual privacy clearly exceeds the merits of public disclosure (Mont. Const. art. II, § 9), these minutes should be sealed and maintained separately. (They may be ordered to be released in subsequent court proceedings, however.) Reference may be made to their existence in the public minutes.

### Public Records Law

There is no indication in the text of either the relevant provisions of the Montana constitution or the Montana public records statute that private nonprofits (even those supported with government funds), must make their records open to the public. Moreover, to date, no Montana



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court or attorney general's opinion has addressed whether the state's public records laws apply to private CAAs or other private nonprofits.

### *APPENDIX B: NASCSP MONITORING STANDARDS*

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[https://nascsp.org/wp-content/uploads/2018/02/csbg\\_mntgstndsfinal\\_9-2017.pdf](https://nascsp.org/wp-content/uploads/2018/02/csbg_mntgstndsfinal_9-2017.pdf)

### *APPENDIX C: CSBG INFORMATION MEMORANDUM*

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The Office of Community Services, Division of Community Assistance, publishes Information Memoranda (IM) for distribution to CSBG program administrators. An Information Memoranda (IM) provides guidance to assist in implementing the CSBG legislation, program instruction and policy clarification, in addition to disseminating information and program practices to stakeholders.

The IM numbering system is chronological. The higher number reflects the most recently release IM. Only relevant IM's are posted on the web site, therefore the IM's posted may not be in sequential as out dated IM's have been removed.

The following Information Memoranda have been released to State CSBG Lead Agencies, State Community Action Associations, CAA Executive Directors and other nonprofit agencies receiving CSBG funds. <https://www.acf.hhs.gov/ocs/policy-guidance/csbg-information-memoranda>

### *APPENDIX D: RESOURCES*

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Listed here are some available resources:

- [Administration for Children & Families – Office of Community Services](#)
- [Administrative Rules of Montana \(ARM\) for the Community Services Block Grant Program 37.2.901 - 27.2.925](#)
- [Association of Nationally Certified ROMA Trainers](#)
- [42 U.S. Code Chapter 106 - Community Services Block Grant Program](#)
- [Community Action Partnership](#)
- [Community Action Program Legal Services, Inc. \(CAPLAW\)](#)
- [Community Services Block Grant \(CSBG\) Act Reauthorization 1998](#)
- [GAO - Internal Control Management and Evaluation Tool](#)
- [Montana Code Annotated \(MCA\)](#)
- [National Association for State Community Services Programs \(NASCSP\)](#)



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- Included on the NASCSP website is the CSBG T/TA Resource Center
  - [United States Government Accountability Office-The Green Book](#)
  - [United States Code Title 42 Public Law 105-285](#)
  - [Wipfli](#)