

McKinney's Consolidated Laws of New York Annotated

Executive Law (Refs & Anno's)

Chapter Eighteen. Of the Consolidated Laws

at Article 6-D. Community Services Block Grant Program (Refs & Anno's)

§ 159-e. Definitions

When used in this article:

1. "Eligible entity" shall mean any organization

(a) officially designated as a community action agency or a community action program under the provisions of section two hundred ten of the economic opportunity acts of 1964 [FN1] for fiscal year 1981, unless such community action agency or a community action program lost its designation under section two hundred ten of such act as a result of a failure to comply with the provisions of such act; or

(b) designated by the process described in section one hundred fifty-nine-m of this article (including an organization serving migrant or seasonal farmworkers that is so described or designated).

Such eligible entity shall have a tripartite board as its governing board which fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities and through which the entity shall administer the community services block grant program. However, such eligible entities which are public organizations shall have either a tripartite board or another mechanism specified by the state to assure decision making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this article.

2. "Tripartite board" shall mean

(a) the governing board of a private nonprofit entity selected by the entity and composed so as to assure that

(1) one-third of the members of the board are *elected* public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than one-third of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such one-third requirement;

(2)(A) not fewer than one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and

(B) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under clause (A) of this subparagraph resides in the neighborhood represented by the member; and

(3) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served; or

(b) the governing board of a public organization, which shall have members selected by the organization and shall be composed so as to assure that not fewer than one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members

(1) are representative of low-income individuals and families in the neighborhood served;

(2) reside in the neighborhood served; and

(3) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this article.

3. "Indian tribes" and "tribal organizations" shall mean those tribes, bands or other organized groups of Indians recognized in the state or considered by the federal secretary of the interior to be an Indian tribe or an Indian organization for any purpose.

4. "Community based organization" shall mean any organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within its designated community. Such organization must have a board of directors of which more than half of the members reside in such designated community.

5. "Department" shall mean the department of state.

6. "Secretary" shall mean the secretary of state.

[FN1] 42 USCA § 2790 (repealed).

§ 159-f. Functions, powers and duties of the secretary

The secretary or his duly authorized officers or employees, shall have the following functions, powers and duties:

1. To act as the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the federal community services block grant act of 1981 [FN1J, as amended;
2. To allocate federal community services block grant funds pursuant to contracts with recipients of such funds in the manner required by federal law and regulation;
3. To assist the governor in applying for the state's allocation under the federal community services block grant act [FN1], including the fulfillment of any planning requirements;
4. To cooperate with the legislature in conducting hearings required by the federal community services block grant act [FN1]; and
5. To monitor and evaluate the use of funds received by the state pursuant to the federal community services block grant act [FN1].

[FN1] 42 USCA § 9901 et seq.

§ 159-g. Rules and regulations

The secretary shall promulgate rules and regulations necessary to carry out the provisions of this article.

§ 159-h. Limitation of administrative costs

Not more than five percent of the community services block grant funds received by the state shall be retained for administration at the state level.

§ 159-i. Distribution of funds

At least ninety percent of the community services block grant funds received by the state shall be distributed pursuant to a contract by the secretary to eligible entities as defined in subdivision one of section one hundred fifty-nine-e of this article. Each such eligible entity shall receive the same proportion of community services block grant funds as was the proportion of funds received in the immediately preceding federal fiscal year under the federal community services block grant program as compared to the total amount received by all eligible entities in the state, under the federal community services block grant program.

The secretary shall, pursuant to section one hundred fifty-nine-h of this article, retain not more than five percent of the community services block grant funds for administration at the state level.

The remainder of the community services block grant funds received by the state shall be distributed pursuant to a contract by the secretary in the following order of preference: a sum of up to one-half of one percent of the community services block grant funds received by the state to Indian tribes and tribal organizations as defined in this article, on the basis of need; and to community-based organizations. Such remainder funds received by eligible entities will not be included in determining the proportion of funds received by any such entity in the immediately preceding federal fiscal year under the federal community services block grant program.

§ 159-k. Monitoring and evaluation

1. The secretary shall monitor and evaluate the use of community services block grant funds made available pursuant to this article by the recipients of such funds in order to evaluate the performance of such recipients. Evaluations shall include, but not be limited to:

- (a) determining the effectiveness of recipients' administrative operations, organizational structure, planning and programming, self evaluation, and general decision making; and
- (b) reviewing the recipients' compliance with federal and state law and regulation.

2. For purposes of evaluations conducted under this section, recipients shall make available to the secretary, or any duly authorized officer or employee of the department, appropriate books, documents, papers and records for examination, copying or mechanical reproduction on or off the premises of the recipient upon a reasonable request therefor.

§ 159-l. Decertification and reduction of entity shares

1. Any eligible entity that received funding in the previous federal fiscal year through a community services block grant made under this article shall not have its funding terminated under this article or reduced below the proportional share of funding the entity received in the immediately preceding federal fiscal year, as determined pursuant to section one hundred fifty-nine-i of this article, unless, after providing notice and an opportunity for a hearing on the record, the state determines that cause exists for such termination or such reduction, subject to review by the secretary of the United States department of health and human services. For purposes of making a determination that cause exists for:

(a) a funding reduction, the term "cause" shall include

(1) a statewide redistribution of funds provided through a community services block grant under this article to respond to

(A) the results of the most recently available census or other appropriate data;

(B) the designation of a new eligible entity; or

(C) severe economic dislocation; and

(2) the failure of an eligible entity to comply with the terms of an agreement or a state plan, or to meet a state requirement, as described in this section; or

(b) a termination, the term "cause" includes the failure of an eligible entity to comply with the terms of an agreement or a state plan, or to meet a state requirement, as described in this section.

2. If the state determines, on the basis of a final decision in a review pursuant to this article, that an *eligible* entity fails to comply with the terms of an agreement or the state plan to provide services under this article or to meet appropriate standards, goals, and other requirements established by the state (Including performance objectives), the state shall:

(a) inform the entity of the deficiency to be corrected;

(b) require the entity to correct the deficiency;

(c)(I) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the secretary of the United States department of health and human services a report stating the reasons for the determination; or

(2) if the state determines that such training and technical assistance are not appropriate, it shall prepare and submit to the secretary of the United States department of health and human services a report stating the reasons for the determination;

(d)(I) at the discretion of the state (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement and submit to the state, within sixty days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the state; and

(2) not later than thirty days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph one of this paragraph, either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

(e) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this article of the eligible entity unless the entity corrects the deficiency.

3. A determination to terminate the designation or reduce the funding of an eligible entity pursuant to subdivision two of this section is reviewable by the secretary of the United States department of health and human services, pursuant to the processes set forth in the federal community services block grant act of 1981, as amended.

§ 159-m. Designation and redesignation of eligible entities in unserved areas

1. Qualified organization in or near area. (a) In general. If any geographic area of the state is not, or ceases to be, served by an eligible entity under this article, and if the governor decides to serve such area, the governor may solicit applications from, and designate as an eligible entity

(1) a private nonprofit organization (which may include an eligible entity) that is geographically located in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this article; and

(2) a private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area.

(b) Requirement. In order to serve as the eligible entity for the area, an entity described in subparagraph two of paragraph (a) of this subdivision shall agree to add additional members to the board of the entity to ensure adequate representation

(1) In each of the three required categories described in paragraph (a) of subdivision two of section one hundred fifty-nine-e of this article, by members that reside in the community comprised by the unserved area; and

(2) in the category described in subparagraph two of paragraph (a) of subdivision two of section one hundred fifty-nine-e of this article, by members that reside in the neighborhood to be served.

2. Special consideration. In designating an eligible entity under subdivision one of this section, the governor shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this article and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

3. No qualified organization in or near area. If no private, nonprofit organization is identified or determined to be qualified under subdivision one of this section to serve the unserved area as an eligible entity the governor may designate an appropriate political subdivision of the state to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a tripartite board or other mechanism as required in section one hundred fifty-nine-e of this article.

§ 159-n. Report of the Secretary

The secretary of state shall report to the governor and the legislature by March fifteenth of each year on the administration of the community services block grant program. The report shall include, but not be limited to, the results of the monitoring and evaluation of recipients of funds under the program and any recommendation for changes which the secretary of state deems necessary for the effective administration of the program.

Current through L.2015, chapters 1 to 13
END OF DOCUMENT

Compilation of Codes, Rules and Regulations of the State of New York Currentness

Title 19. Department of State

Chapter XIV. Division of Economic Opportunity

- Part 700. Community Services Block Grant (Csbg) Hearing Rules of Procedure (Refs & Annas)

Section 700.1. Scope and purpose

(a) This Part applies to all adjudicatory proceedings commenced by service of a preliminary determination of funding action upon public or private grantees which receive or are entitled to receive Community Services Block Grant (CSBG) entitlement funds under P.L. 97-35, as amended, and Article 6-D, Executive Law, section 159-1, as amended.

(b) The purpose of this Part is:

(1) to comply with P.L. 97-35, as amended by P.L. 98-558, with respect to terminations of present and future funding; and

(2) to provide CSBG grantees with notice and an opportunity for a hearing on the record of the department's preliminary determination of funding action for a statutory allocation of CSBG entitlement funds for cause.

(c) This Part applies to any grantee receiving its statutory allocation of CSBG entitlement funds under Executive Law, section 159-j, as amended, as allocated to the State in PL 97-35, as amended. This Part does not apply to the remainder of CSBG funds, commonly referred to as "discretionary" funds, which may be received by a grantee or other statutorily specified entity.

Section 700.2. Definitions

As used in this Part:

(a) **Department.** The Department of State.

(b) **Entitlement funds.** The statutory allocation proportion of CSBG funds received by a "grantee" under P.L. 97-35, as amended, and Executive Law, section 159-i, as amended.

(c) **Grantee.** Any public or private "grantee" as defined in Executive Law, section 159-e(l), as amended.

(d) **Suspension.** A decision for cause by the department to temporarily curtail the statutory allocation of CSBG entitlement funds in part prior to the termination date of a CSBG entitlement contract.

(e) **Termination.** A decision for cause by the department that the present or future CSBG funding to a CSBG grantee, which received CSBG entitlement funds in the previous fiscal year, shall be permanently terminated, in whole or in part.

Section 700.3. Grounds for funding action

(a) *Future funding action.* A grantee's application for future CSBG funding may be permanently rejected when there has been (1) substantial failure, or (2) repeated or successive failure, by a grantee to comply with any provision of (i) law, (ii) rule, regulation or program instruction issued by the department, or (iii) a term or condition of a current or prior CSBG entitlement contract with the department. The ground for substantial failure under this subdivision shall include the abandonment by a grantee of the services to be performed under a CSBG entitlement contract, in whole or in part, for a previous fiscal year in accordance with subdivision (b) or (c) of his section. In the absence of unusual circumstances, an application for future CSBG funding shall not be rejected for this cause

unless the department has given the grantee notice, as set forth in section 700.4 of this Part, of one or more of the two grounds for rejection and reasonable opportunity to take effective corrective action.

(b) *Present funding action.* A CSBG entitlement contract may be permanently terminated, in whole or in part, for cause, when there has been (1) substantial failure, or (2) repeated or successive failure, by a grantee to comply with a provision of (i) law, (ii) rule, regulation or program instruction issued by the department, or (iii) a term or condition of a current or prior CSBG contract with the department. The ground for substantial failure under this subdivision shall include the abandonment by a grantee of the services to be performed under a CSBG entitlement contract, in whole or in part. Failure of the grantee to resume performance of the services abandoned under a CSBG entitlement contract, within 20 days after receipt of a notice of funding action in accordance with section 700.4 of this Part, on the ground of substantial failure by abandonment, shall be deemed refusal by such grantee to take effective corrective action. In the absence of unusual circumstances, a CSBG entitlement contract shall not be permanently terminated, in whole or in part, for this cause unless the Department has given the grantee notices as set forth in section 700.4, of one or more of the two grounds for permanent termination and reasonable opportunity to take effective corrective action.

(c) *Contract suspension funding action.* A CSBG entitlement contract may be suspended, in whole or in part, for cause, when there has been (1) substantial failure, or (2) repeated or successive failure, by a grantee to comply with a provision of (i) law, (ii) rule, regulation or program instruction issued by the department, or (iii) a term or condition of a current or prior CSBG entitlement contract with the department. The ground for substantial failure under this subdivision shall include the abandonment by a grantee of the services to be performed under a CSBG entitlement contract. Failure of the grantee to resume performance of the services abandoned under a CSBG entitlement contract, within 20 days after receipt of a notice of funding action in accordance with section 700.4 of this Part, on the ground of substantial failure or abandonment shall be deemed refusal by such grantee to take effective corrective action. In the absence of unusual circumstances, a CSBG entitlement contract shall not be suspended, in whole or in part, for this cause unless the department has given the grantee notice as set forth in section 700.4, of one or more of the two grounds for suspension and reasonable opportunity to take effective corrective action.

(d)) This Part does not apply to:

- (1) terminations or reductions, in whole or in part, of present or future CSBG funding, which are required by or will implement a provision of Federal or State law; or
- (2) contract payments made in accordance with State Finance Law, article XI-A, as amended, also commonly referred to as the Prompt Payment Law; or
- (3) demand for reimbursement by the department for disallowed costs when a grantee has received payment of CSBG funds under a CSBG entitlement contract; or
- (4) Audit resolution process.

Section 700.4. Notice of preliminary determination

(a) When the department has reason to believe that one or more grounds for funding action exist as set forth in section 700.3(a), (b) or (c), the department shall serve upon the grantee a written preliminary determination of funding action, by certified mail, return receipt requested, which shall state the ground(s) for the proposed action and shall identify with reasonable specificity any facts or documents relied upon as a basis for that action.

(b) The preliminary determination shall advise the grantee that it has the opportunity within 20 business days of receipt of the preliminary determination, to make a written request for an adjudicatory hearing under this Part.

(c) The preliminary determination shall also advise the grantee of its right, if any, to continued funding under section 700.8 of this Part for funding action which falls within section 700.3(a) or (b).

(d) If the grantee advises the department in writing that it will not request a hearing or fails to request a hearing within the time prescribed in subdivision (b) of this section, or fails to resume performance of the services abandoned as set forth in section 700.3(b) or (c) of this Part, the department's preliminary determination of funding action under section 700.3(a), (b) or (c) shall become final and effective.

Section 700.5. Initiation of hearing

Upon receipt of a grantee's written request for a hearing under section 700.4 of this Part, the hearing officer unit of the department shall schedule the hearing and notify the grantee of the date, time, and place for the hearing.

Section 700.6. State Administrative Procedure Act applications

Any hearing under this Part shall be conducted in accordance with the New York State Administrative Procedure Act (SAPA), as amended.

Section 700.7. Review of department decision

(a) No funding determination based on section 700.3(a) or (b) of this Part shall become final and effective until a finding is made by the Secretary of the United States Department of Health and Human Services in accordance with P.L. 97-35, as amended by P.L. 98-558, confirming the department's decision.

(b) Additionally, any hearing decision of the department resulting in a termination of present or future funding to a grantee as prescribed in section 700.3(a) or (b) of this Part shall upon written request made within 20 business days of receipt of the department's decision be reviewed by the Secretary of the United States Department of Health and Human Services in accordance with P.L. 97-35, as amended by P.L. 98-558.

Section 700.8. Funding pending appeal decision

In accordance with P.L. 97-35, as amended by P.L. 98-558, the statutory allocation of CSBG entitlement funds to a grantee which has requested a hearing under section 700.3(a) or (b) of this Part shall continue until a finding is made by the Secretary of the United States Department of Health and Human Services, confirming the State's determination of cause, in whole or in part.

Section 700.9. Professional service costs

Costs of legal, accounting and consulting services, and related costs incurred in connection with an adjudicatory proceeding under this Part are not allowable costs under CS6G entitlement funds received by the grantee.

Current with amendments included in the New York State Register, Volume **XXXVII**, Issue 12, dated March 25, 2015.

END OF DOCUMENT

Compilation of Codes, Rules and Regulations of the State of New York currentness
Title 19. Department of State.
Chapter **XIV**. Division of Economic Opportunity
.. Part 701. Community Services Block Grant Advisory Council (Refs & Annas)

Section 701.1. Creation and membership

The Community Services Block Grant Advisory Council (hereinafter Council), is hereby created in the Department of State. The Council shall have twenty members, to include representatives from local governments, private non-profit providers and the public. Ten members shall be appointed by the Governor, five by the Temporary President of the Senate, and five by the Speaker of the Assembly. Members shall serve at the pleasure of their appointing authority.

Section 701.2. Duties

The Council shall have the following duties:

- (a) to assist low-income persons overcome the barriers of poverty. This may include providing services to individuals or performing activities intended to achieve institutional change;
- (b) to consult with the Secretary of State in the preparation of reports, and development of applications and the CSBG plan;
- (c) to advise the Secretary of State on strategies and activities to achieve these goals by either responding to actions proposed by the Secretary or suggesting new initiatives to the Secretary; and
- (d) to adopt and amend bylaws necessary to address the appointment and terms of Council officers and their duties, meetings of the Council, attendance by members, and other matters incidental to the Council's duties and proper functioning.

Section 701.3. Council Secretary

The Council Secretary shall be an employee of the Department of State designated by the Secretary of State and shall perform those duties assigned to him or her in the Council bylaws and by the Secretary of State.