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ATTACHMENT #2

BLOCK GRANTS -
MAINE

STATE OF MAINE
EXECUTIVE DEPARTMENT
DIVISION OF COMMUNITY SERVICES

FINAL RULES
COMMUNITY SERVICES BLOCK GRANT PROGRAM

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Director

September 15, 1985

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STATE OF MAINE
07 EXECUTIVE DEPARTMENT
107 DIVISION OF COMMUNITY SERVICES

RULES

CHAPTER 2, COMMUNITY SERVICES BLOCK GRANT PROGRAM

- I. Basis Statement. These rules were adopted to enable the Division of Community Services to provide consistent statewide guidelines for the use of federal funds appropriated under the Community Services Block Grant Act of 1981 (P.L. 97-35) as amended by the Human Services Reauthorization Act (P.L. 98-588). The rules also implement the Maine Community Services Act (5 M.R.S.A., Section 3511 et seq.). These rules establish funding and program requirements, implementation, monitoring, evaluation, procurement and property management procedures for administrative and program expenditures made by the Community Action Agencies which are the designated recipients of CSBG funds from the Division.

The amendment reflects changes in several areas. The significant revisions are as follows:

1. A definition of agency-wide audit has been added at section 1.2(A).
2. A conflict of interest, Section 1.2(C)(2) and (4), now exists when a board member participates in any contracting decision affecting an organization of which he/she is an employee or officer or in which a member of his/her immediate family has a financial interest. Sections 1.4(A)(4) and 1.4(D)(11) provide for a board member to abstain from voting or not serving on the board where certain conflicts exist.
3. A new section 1.5(E) "Procedure for Termination of Funding" was added as required by the Human Services Reauthorization Act (P.L. 98-588). A CAA will be afforded an opportunity for a hearing and review by the Secretary of Health and Human Services prior to any termination of funding.
4. Sections 1.5(A)(B) and (C) were rewritten to describe what information must be submitted by a CAA upon its designation and the information that must be submitted annually.
5. Section 1.5(D)(5)(b) increases the amount of fidelity bonding and liability insurance a CAA must carry from \$100,000 to \$500,000.
6. Section 1.6 provides that a CSBG evaluation will occur every three years instead of every two years, in compliance with a recent change in state law.
7. Section 1.7 "Monitoring and Technical Assistance" has been rewritten to more accurately reflect the responsibility of the Division monitors.

8. Section 1.8. and Attachment A have been expanded in the areas of procurement and property management.

9. Other grammatical and structural changes were made.

II. Public Comment. Comments were received on the proposed rules from four community action agencies and from the Maine Community Action Association. Oral testimony was received from one community action agency at a public hearing held on July 16, 1985. The Division responds to the comments as follows:

1. A number of comments were received concerning the requirements of an agency-wide audit. The Maine Community Services Act (5 M.R.S.A. § 3511 et seq.) provides that a community action agency's board of directors shall be responsible for the performance of an annual audit by an independent qualified auditor. The Division has always interpreted this to mean an agency-wide financial audit; a compliance audit is not required. The rules have been amended to make this requirement clear. The Division does not view this requirement as being unduly burdensome. Such an audit is an important management tool for the board and agency staff and it is necessary for the Division to be aware of the overall financial position of the CAAs to which it grants funding.

Some commentators questioned the funding for agency-wide audits. This financial audit will not replace the compliance audit performed by auditors retained by the Division. Therefore, costs associated with this audit are allowable under CSBG or other DCS grants except if paid for by other funding sources or if the agency decides for its own purposes to include compliance-testing of Division-funded programs.

One commentator suggested delaying the implementation of this audit format until the Transition Committee for the Maine Uniform Accounting and Auditing Practices Act for Community Agencies makes its recommendations. These recommendations are not due until July 1987 and the Division believes it is necessary to clarify this requirement now. In addition, the Division notes that the majority of the CAAs either presently have or are planning an agency-wide audit. Therefore no change is being made from the proposed rule. (Section 1-2(A))

2. Two commentators suggested that the increase in fidelity bonding and insurance from \$100,000 coverage to \$500,000 may be too costly and unnecessary. The Division disagrees on both points. Most agencies are already required to have fidelity bonding in the amount of \$1 million because of a requirement of the Maine Department of Human Services, Bureau of Social Services. Furthermore the incremental cost

of raising the level of bonding from \$100,000 to \$500,000 is minimal. (Section 1.5(D)(5)(b))

3. Several comments were made concerning the proposal to make procurement a section in the rules. The major issue was the length and location of the section. The suggestion was made to have procurement guidelines remain as an attachment to the rules. The Division agrees to do so, but with the understanding that an attachment to rules formally promulgated under the Administrative Procedures Act has the same force and effect as the rules themselves.

The second issue was the length of the section. The slight increase in length from previous rules and the Attachment is due largely to the inclusion of direct quotations from the guiding OMB circular. The language has been specifically included in the rules for the convenience of those responsible for procurement at both the CAP and the Division level.

The only substantive comment concerning procurement questioned whether the rules apply to non-CSBG funded purchases. The CSBG rules only regulate procurement with CSBG funds including purchases made only partially with CSBG funds. To clarify this point we have added the words "purchased in whole or in part with CSBG funds" where appropriate. (Attachment A)

Additionally, organizational changes have been made for ease of understanding. Several provisions from the former rules had been unintentionally omitted from the draft rules and have been included in these final rules amendments.

4. The final issue raised in comments was that the requirement that CAAs provide data to the Division was not specific enough. We have expanded the language to provide a non-exclusive list of information that must be reported for the annual report. A due date of December 1 has also been added, covering the previous October 1 - September 30 period. The Division will make every effort to inform the CAAs as soon as possible precisely what information is needed. (Section 1-5 (C)(4))

Authority: .5 MRSA Section 3516
Effective Date: September 15, 1985

STATE OF MAINE
EXECUTIVE DEPARTMENT
DIVISION OF COMMUNITY SERVICES

RULES

CHAPTER 2 COMMUNITY SERVICES BLOCK GRANT PROGRAM

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DIVISION OF COMMUNITY SERVICES

RULES

CHAPTER 2, COMMUNITY SERVICES BLOCK GRANT PROGRAM

1.1 Policy

The purpose of the original rules for the Community Services Block Grant Program was to implement on a State and local level Title VI of the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. Section 9901 et seq. That Act establishes a five-year Community Services Block Grant Program through which federal grants will be made to states in order to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community.

These rules were amended to improve upon the Community Services Block Grant Program and to implement the Maine Community Services Act, 5 M.R.S.A. Section 3511 et seq. and the Human Services Reauthorization Act of 1984, P.L. 98-558. These rules are applicable to all agencies which have been designated or have applied for designation as eligible to receive Community Services Block Grant funds.

1.2 Definitions

As used in these rules, the following terms shall have the following meanings, unless the context otherwise indicates:

- A. Agency-wide audit. "Agency-wide audit" means a financial audit of all agency funds, restricted and unrestricted, by an independent qualified outside auditor which leads to submission of agency financial statements as of the end of the CAA's fiscal year. Such agency financial statements at a minimum shall include:
1. Auditor's report (opinion).
 2. Statement of Support, Revenue and Expenses and Changes in Fund Balances showing unrestricted and restricted funds.
 3. Comparative consolidated Agency Balance Sheet showing unrestricted and restricted funds.
 4. Appropriate notes to financial statements.
 5. A schedule of grant Revenues, Expenses and Changes in Grant Balances.

- B. Community Action Agency. "Community Action Agency" (CAA) means a private, nonprofit agency which has previously been designated by and authorized to accept funds from the federal Community Services Administration under the United States Economic Opportunity Act of 1964.
- C. Conflict of interest. "Conflict of interest" means any of the following:
1. A person employed by a community action agency while serving, or while a member of his or her immediate family serves, on a board or committee of that agency if that board or committee has authority to order personnel actions affecting his or her job;
 2. A board member of a community action agency participating in any decision affecting an organization of which he/she is also an officer or employee when the organization is contracting with that agency to perform a component of its CSBG work program;
 3. A person whose salary is paid for in whole or in part with CSBG funds for a job over which a member of his or her immediate family exercises supervisory authority; or
 4. A board member participating in any decision in which the member or a member of his/her immediate family has a direct or indirect financial interest.
- D. Delegate agency. "Delegate agency" means any agency, corporation, municipality, board or council which receives CSBG funds from a community action agency under the terms of any agreement, subcontract or contract for special services when such funds exceed \$20,000 in any program year.
- E. Direct service. "Direct service" means an expenditure that is directly attributable to a client benefit and is not an agency or program administrative cost.
- F. Division. "Division" means the Division of Community Services, within the Executive Department, State of Maine, or its successor agency.
- G. Immediate family. "Immediate family" means any of the following persons: husband, wife, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law.
- H. Low-income person. "Low-income person" means a person whose income is at or below 150% of the poverty line promulgated by the federal Office of Management and Budget or who is eligible for any other program which has income guidelines and is operated by the community action agency.

- I. Procurement standards. "Procurement standards" means procedures for purchasing property, services, equipment and inventory for programs operated in whole or in part with CSBG funds which are consistent with the provisions of Attachment O to OMB Circular A-110, Section 1.8 of these rules and Attachment A.
- J. Property management standards. "Property management standards" means procedures for maintaining and disposing of property acquired in whole or in part with CSBG funds which are consistent with the provisions of Attachment N to OMB Circular A-110 and Section 1.8(B) of these rules.
- K. Service area. "Service area" means the geographic area within the jurisdiction of the community action agency and which area is to be served with CSBG funds. In no event shall the geographic boundaries of a CSBG service area be different from those of a county in the State of Maine, unless specifically authorized by the Director of the Division, provided that a community action agency may target CSBG funds to specific communities within this service area in light of the following factors:
 - 1. The extent of persistent unemployment and underemployment;
 - 2. The number and proportion of persons receiving cash or other assistance on a needs basis from public agencies or private organizations;
 - 3. The number of migrant or transient low-income families;
 - 4. School dropout rates, or other incidence of low educational attainment;
 - 5. The incidence of disease, disability and infant mortality;
 - 6. Substandard housing conditions;
 - 7. Adequacy of community facilities and services; and
 - 8. The incidence of crime and juvenile delinquency.

Notwithstanding the above factors, residents of all communities within the community action agency's service area shall be eligible for CSBG-funded services.

1.3 Designation

- A. No community action agency may receive, obligate, or expend Community Services Block Grant funds under a sub-grant with the Division unless it maintains a designation under these rules.

B. The Division shall designate an agency as eligible to receive Community Services Block Grant funds for its service area and to carry out the purposes of a Community Services Block Grant program as defined in the Maine Community Services Act and these rules. The following criteria shall be considered:

1. A board of directors established in accordance with Section 1.4.
2. Evidence of adequate fiscal control and fund accounting procedures in order to assure the proper disbursement of and accounting for CSBG funds.
3. Evidence of adequate program planning for a comprehensive program in accordance with Section 1.5(C)(1).

C. Term of Designation

A designation shall be effective for seven years unless withdrawn prior thereto in accordance with Section 1.3(D). Prior to the expiration of a community action agency's designation, the Division, at its discretion, may conduct a public hearing in the agency's service area in order to generate public comment regarding the agency's effectiveness.

D. Withdrawal of Designation

1. The Division may withdraw the designation of a community action agency when the agency has demonstrated substantial incompetency and a clear inability to carry out the purposes of the Maine Community Services Act, the CSBG Program or these rules. Such incompetency and inability shall at a minimum be documented by a noncompliance finding as a result of the procedures established by Section 1.7(B) of these rules.
2. The Division shall notify the Community Services Advisory Board, the CAA executive director and board chairperson of a proposed withdrawal of designation. This notice shall be written and shall state the reasons for the intent to withdraw the designation, what corrective actions are necessary and a reasonable time, not to exceed 6 months, within which the agency must rectify the problem.
3. At the end of the time provided for in Subsection (2) above a designation withdrawal evaluation focusing on the specific conditions cited in the notice of intent to withdraw designation shall be performed by the Division. The results of this evaluation shall be shared with the CAA executive director and board, and the Community Services Advisory Board.

4. The CAA may request a hearing before a review board to show cause why the CAA should not have its designation withdrawn. The request shall be made to the Division director within 10 working days of receipt of the results of the evaluation. A meeting of the Community Services Advisory Board shall be scheduled within 20 working days of receipt of the request in order to appoint an ad hoc review board to be composed of 3 members of the Community Services Advisory Board.
5. The review board shall hold a hearing within 20 working days of its appointment.
6. The review board shall issue a written recommendation in support of or in opposition to the Division's evaluation within 10 working days of the review board hearing.
7. Within 5 working days of the review board's recommendation, the Director of the Division shall issue an order which withdraws designation, or rescinds the notice of intent, or provides for other appropriate action. If no hearing was requested, the Division Director may issue a withdrawal of designation within 15 working days after the notice of the results of the evaluation.
8. To appeal the Division's order withdrawing designation, the community action agency must file a petition for review of the final agency decision in the appropriate superior court within 30 days, under the Maine Rules of Civil Procedure, Rule 80B.
9. Notwithstanding any other provision, financial malfeasance by a community action agency may be cause for immediate withdrawal of the agency's designation by the Division. Financial malfeasance is the mismanagement and/or unlawful use of CSBG funds which has a significant impact on the CSBG program.

1.4 Community Action Agency Board of Directors

- A. Composition of the Board. The board shall consist of at least fifteen and not more than thirty members.
 1. Elected public officials or their permanent representatives or officials of public agencies operating in the service area shall comprise one-third of the board.
 2. Representatives of low-income persons shall comprise one-third of the board.
 3. Representatives of business, industry, labor, religious, welfare, civic, education, or other major groups

and interests in the community shall comprise one-third of the board.

4. No person shall serve on the board of directors where a conflict of interest exists, as defined in Section 1.2(C)(1) and (3).

B. Board Powers and Responsibilities. The board of directors of a CAA shall possess the following powers and responsibilities:

1. To provide overall direction, oversight and policies of the agency;
2. To hire, fire, and evaluate the performance of the executive director of the CAA;
3. To determine major personnel, organization, fiscal and program policies;
4. To determine overall program goals and priorities for the CAA, including provisions for evaluating programs against performance;
5. To make final approval of all program proposals, budgets and contracts;
6. To enforce compliance with all contract and grant requirements;
7. To convene public meetings to provide low-income and other citizens of the service area the opportunity to comment upon policies and programs of the community action agencies;
8. To determine rules and procedures for the board of directors and committees consistent with these rules;
9. To select the officers and all committees of the board of directors;
10. To hold meetings of the board of directors in accordance with the freedom of access law;
11. To perform an annual agency-wide audit which shall be submitted to the Division of Community Services within 6 months of the end of the CAA's fiscal year;
12. To evaluate agency programs and assess community and agency needs;
13. To fill all board vacancies as soon as reasonably practicable.

C. Meetings and Minutes.

1. Full board meetings shall be held at least once every ten weeks, and at least six times annually. Annual meetings shall be publicized with a notice in a local newspaper no less than seven days prior to the annual meeting.
2. No less than five days prior to each full board meeting, the agenda and all attachments except those documents that emanated from the Division shall be mailed to the Division. Minutes and all attachments of each board meeting and all committee meetings shall be recorded and copies forwarded to the Division no later than the date of mailing the agenda of the next meeting. Minutes shall be made available to the public upon request. All meetings of CAA boards shall be open to the public.
3. Voting by proxy is not permitted at meetings of the board or of its committees. This prohibition applies to all members of the board.

D. Bylaw Requirements. The bylaws of the community action agency shall include the following:

1. The total number of seats on the board and the allotment of seats to public officials, representatives of low-income individuals, and representatives of organizations.
2. Specific procedures for selecting board members:
 - a. Each sector of the board should reasonably reflect the geographic distribution of low-income people served by the CAA.
 - b. Representatives of low-income persons shall be chosen in accordance with democratic selection procedures adequate to assure that they represent the low-income persons in the geographic area served by the CAA. Low-income persons shall be permitted to vote in the selection process. In order to qualify for board membership a low-income representative need not be low-income himself or herself.
 - c. The board shall select organizations from the private sector such as business and industry, educational, welfare, civic, labor, or religious organizations to be represented on the board of directors. Once an organization is selected and indicates its agreement to be represented, it

shall choose the person to represent it on the board.

3. A description of performance standards (such as attendance, etc.) for members of the board, the violation of which may be grounds for removal. This shall include standards of conduct for board members.
4. A description of specific procedures to be followed in the case of removal of representatives of low-income persons, organizations, and public officials.
5. Provisions for the selection and service of board member alternates if alternates are to be used including:
 - a. Alternates must be elected/selected in the same manner, at the same time, and by the same people who have elected/selected the representative.
 - b. No alternate may be counted toward a quorum or cast a vote when his/her primary board member is present at a meeting.
 - c. No alternate may hold an office of the board.
6. Procedures for selecting new board members in the case of a vacancy on the board including:
 - a. An explanation of when a vacancy occurs; and
 - b. A provision that all board vacancies shall be filled as soon as reasonably practicable.
7. Provision for the term of office for board members and provision for the total length of service which shall be the same for all sectors.
8. Provision for residency requirement, if any.
9. Provisions for the appointment and responsibilities of board committees, if any. Each sector of the board must be fairly represented on the executive committee. Each sector of the board should be fairly represented on other committees to the maximum extent feasible.
10. Provision for the number of members present which shall constitute a quorum for board or committee meetings:
 - a. Members present shall represent more than 50% of the non-vacant seats on the board or committee; and
 - b. At least one representative from each sector must be present for a board meeting.

11. Provision for board members to abstain from voting on any matters that present a conflict of interest as defined in Section 1.2(C)(2) and (4).

1.5 Annual Requirements

- A. Community action agencies shall submit the following items upon designation and thereafter submit to the Division any changes or amendments to those items:
 1. Articles of Incorporation;
 2. Proof of IRS Section 501(c)(3) status;
 3. A statement of the appeals procedure available to denied applicants for services operated in conjunction with CSBG funds;
 4. Biographical summaries of the community action agency executive director and fiscal officer.
- B. The following documents are to be reviewed by the board of directors each year and submitted to the Division if any amendments or changes have been made:
 1. Bylaws;
 2. Personnel Policies;
 3. Affirmative Action Plan; and
 4. Financial Procedures Manual, which documents all financial activities.
- C. Annually the CAA shall:
 1. Adequately plan for a comprehensive program designed to use available funds:
 - a. To provide a range of services and activities having a measurable and potentially major impact on causes and conditions of poverty in the service area or those areas of the service area where poverty is a particularly acute problem.
 - b. To provide activities designed to assist low-income residents including the elderly poor in the service area:
 - (i) To secure and retain meaningful employment;
 - (ii) To attain an adequate education;
 - (iii) To make better use of available income;

- (iv) To obtain and maintain adequate housing and a suitable living environment;
 - (v) To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;
 - (vi) To remove obstacles and solve problems which block the achievement of self-sufficiency;
 - (vii) To achieve greater participation in the affairs of the community;
 - (viii) To make more effective use of other programs related to the purposes of this CSBG program.
- c. To provide on an emergency basis for the provision of such supplies and services, nutritious food stuffs, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor.
 - d. To coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals.
 - e. To encourage the use of the private sector of the community in efforts to ameliorate poverty in the service area.

2. Agree and certify that:

- a. No CSBG funds of a community action agency or its delegate agency shall be used to pay the salary or expenses of any staff member or agent acting for such recipient or delegate agency to engage in any activity designed to influence legislation or appropriations pending before the U.S. Congress.
- b. Its board members, volunteers and employees will not:
 - (i) Use his or her official position authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for public office; or
 - (ii) Directly or indirectly coerce, attempt to coerce, command or advise a state, local or CAA officer or employee to pay, lend, or contribute anything of value to a party, committee,

organization, agency or person for political purposes.

- c. Its employees will not be a candidate for public elective office, except nonpartisan candidacies are permitted. An employee may be a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.
 - d. No CSBG funds or CSBG-funded employees or equipment shall be used for activities to provide voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity. This does not prohibit access to the public areas or office space of a community action agency's facilities for voter registration activities, so long as those activities do not interfere with the normal operation of the office.
 - e. It will provide for coordination between anti-poverty programs in its service area where appropriate with the emergency energy crisis intervention program (ECIP) conducted in its service area.
 - f. No person shall on the ground of race, color, national origin, sex, age or handicap be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under a CSBG sub-grant.
3. Submit the following documents as a part of its funding application on a date set by the Division:
 - a. Work Plan (CSBG Forms 2, 2a) - 4 copies;
 - b. Budget (CSBG Forms 3, 4, 5) - 4 copies;
 - c. Board Membership List by sector and indicating the date of appointment/election and the term of office;
 - d. Updated Financial Procedures Manual.
 4. Submit agency and program information and data as prescribed by the Division for purpose of preparation of the annual report. This information is to be made available to the Division by December 1 of each

calendar year. The reporting period shall be the previous federal fiscal year beginning on October 1 and ending on September 30. This information shall include, but not be limited to the following:

- a. Senior staff;
 - b. Board membership;
 - c. Program services information, such as households served and program budget information;
 - d. Brief program descriptions for use in program glossary;
 - e. Summary of agency financial support data by source of funds: total, federal, state, county, town and others, as well as the percent each category represents of total agency funding;
 - f. Agency administrative budget and employment.
5. Submit a copy of the CAA annual report.

D. Funding Approval

1. The Division will approve an application for funding from a designated agency when the work plan:
 - a. Shows evidence of adequate program planning;
 - b. Proposes services and activities having a measurable and potentially major impact on causes of poverty in the service area; and
 - c. Provides that CSBG funds will be used for direct service activities designed to assist low-income residents as set forth in Section 1.5(C)(1)(b) as follows:
 - (i) At least 10% of the CSBG funds for CSBG FY 1985;
 - (ii) At least 20% of the CSBG funds for CSBG FY 1986;
 - (iii) At least 30% of the CSBG funds for CSBG FY 1987.
2. The Division reserves the right to require an applicant for CSBG funding to alter or revise its work plan and/or budget in order to meet realistic planning objectives or avoid duplication.

3. The Division reserves the right to publicize and issue a Request for Proposals in a competitive CSBG funding process for any service area or any portion of a service area when:
 - a. The service area is not being served;
 - b. A withdrawal of designation has occurred or has been initiated; or
 - c. The Division has discretionary funds to be expended.
4. The Division reserves the right to place a special condition on any sub-grant. Special conditions may include but are not limited to:
 - a. Designating mandatory provisions of an approved work plan;
 - b. Establishing alterations in a community action agency's service area;
 - c. Assuring compliance with state and federal rules and laws and the sub-grant;
 - d. Requiring improved service delivery to area residents;
 - e. Assuring implementation of the CSBG plan.
5. Division approval of the work plan and budget is expressly contingent on the following conditions:
 - a. Improvement of Real Property. The community action agency agrees to expend no CSBG funds for the purchase or improvement of land, or the purchase, construction or permanent improvement of any building or other facility, with the exception of low-cost residential weatherization or other energy-related home repairs.
 - b. Fidelity Bonding/Liability Insurance. The community action agency agrees to:
 - (i) Secure fidelity bonding in the aggregate amount of no less than \$500,000 for each employee and board member authorized to sign checks or obligate funds for the agency;
 - (ii) Assume liability for unauthorized or improper fund obligations;

- (iii) Obtain adequate liability insurance for all professional staff, for personal injury and for property damage; and
 - (iv) Secure indemnification insurance for board members.
- c. CSBG Fund Accounting. The community action agency agrees to maintain records in a manner that demonstrates proper disbursement of and accounting for CSBG funds and to cooperate with the Division's annual audit of CSBG funds and with other state or federal investigations fulfilling the purposes of Section 679 of the Community Services Block Grant Act.
 - d. Nondiscrimination. The community action agency agrees that no person shall on the basis of race, sex, national origin, religion, color, age or handicap be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with CSBG funds.
 - e. Quarterly and Periodic Reports. The community action agency agrees to submit quarterly financial reports on CSBG Form 269 no later than twenty working days after the end of each calendar quarter. Such quarterly financial reports shall indicate all actual personnel, non-personnel and other expenditures for the quarter.
 - f. Revisions of Work Plan or Budget. The community action agency agrees to submit to the Division for its approval four (4) copies of CSBG Form 8, with attachments as necessary, in the event of any proposed revision of an agency's approved work plan (Form 2 and 2A) or approved budget (CSBG Form 3, 4 and 5). No revision will be effective until the Division grants written approval on CSBG Form 8, except that the Sub-Grantee may transfer total amounts not to exceed 10% from one line item cost category of an approved budget to another line item cost category without securing prior Division approval.
- E. Procedure for Termination of Funding.
- 1. The Division may terminate present or future funding for any community action agency which received funding in the previous fiscal year for cause.
 - a. "For cause" shall include but not be limited to the following reasons:

- (i) The Division's CSBG grant or any State appropriation or both have been suspended or terminated in whole or in part by CSBG, the State, or both;
 - (ii) The CAA has failed or is unwilling to comply with the terms and conditions of its approved work plan or of its sub-grant;
 - (iii) The CAA has submitted required reports which are incorrect or incomplete in any material respect or are filed untimely;
 - (iv) The CAA has failed to adequately monitor and evaluate program activities delegated to another agency or party;
 - (v) The CAA has failed to respond adequately to an audit disallowance under any CSBG sub-grant between the CAA and the Division. Notwithstanding the above, the Division shall not withhold funds for allowable costs incurred prior to any such termination;
 - (vi) Any matter that would constitute grounds for withdrawal of designation under Section 1.3(D).
2. A termination shall be preceded by a written notice of intent to terminate sent from the Division to the CAA executive director and board chairperson and the Community Services Advisory Board chairperson. The notice shall state the grounds for termination and set forth the procedure by which the CAA may show cause why the funding should not be terminated.
 3. The CAA may request a hearing before a review board to show cause why the CAA should not be terminated. The request shall be made to the Division Director within 10 working days of receipt of the notice of intent. A meeting of the Community Services Advisory Board shall be scheduled within 20 working days of receipt of the request in order to appoint an ad hoc review board to be composed of 3 members of the Community Services Advisory Board.
 4. The review board shall hold a hearing within 20 working days of its appointment.
 5. The review board shall issue a written recommendation in support of or in opposition to the Division's notice of intent within 10 working days of the review board hearing.

6. Within 5 working days of the review board's recommendation, the Director of the Division shall issue an order which terminates funding for the CAA, or rescinds the notice of intent, or provides for other appropriate action. If no hearing was requested, the Division Director may issue a termination order within 15 working days after the notice of intent to terminate.
7. A termination order is reviewable by the Secretary of Health and Human Services upon the request of either the CAA or the Division within 5 days of the order. The Division shall request a review by the Secretary of any termination order. Such review shall be based upon the record. The termination order shall not become effective until a finding is issued by the Secretary confirming the Division's finding of cause.
8. To appeal the Division's termination order, the community action agency must file a petition for review of the final agency decision in the appropriate superior court within 30 days, under the Maine Rules of Civil Procedure, Rule 80B.

1.6 CSBG Evaluation

- A. An evaluation of each community action agency shall be performed by the Division, or its subcontractor designee every three years.
- B. This evaluation shall evaluate, make recommendations, and identify required remedial actions in any or all of the following areas:
 1. The extent of compliance with the provisions of these rules, the Division's CSBG sub-grant agreement, State statutes and pertinent U.S. Department of Health and Human Services grant and regulatory requirements.
 2. The extent of effective management and coordination of all agency programs, whether or not funded by the Division, which may include but are not limited to Home Energy Assistance, Weatherization, Transportation, Energy Crisis Intervention, Head Start, WIC, Family Planning, Housing, Day Care, Community Food, and Alcoholism programs.
 3. The extent of unresolved questioned costs identified in the most recent final audit of each agency program.
 4. The extent of accurate reporting of fiscal disbursements and proper accounting for expenditures, as required by Section 1.5(C) of these rules.

5. The extent of participation of low-income residents in agency decision making.
6. The extent of the organization and functioning of the board of directors.
7. The extent to which financial, material and human resources are mobilized.
8. The extent to which the agency develops and maintains effective community support and community relations.

1.7 Monitoring and Technical Assistance

- A. **Monitoring.** The Division will assign fiscal and program monitors to ensure compliance with federal regulations, with these rules and with each sub-grant.
 1. Monitors will be responsible for making periodic on-site visits to each community action agency.
 2. Monitoring visits will include a review of compliance, CSBG administration and contract performance.
 3. Monitors will be required to submit on-site reports to the Director of the Division with a copy to the executive director of the community action agency, within thirty calendar days of the visit.
 4. Program monitors will be responsible for attending community action agency board of directors meetings on a quarterly basis.
 5. Fiscal monitors will determine the accuracy of record keeping and make a thorough examination of the agency's CSBG budget for conformity to program rules and agency work plans.
 6. Monitors will provide training and technical assistance. This T&TA will be the result of either Division or the CAA's recognized needs and will be separate from compliance monitoring.
- B. **Monitoring Follow-up and Noncompliance Findings.** Division CSBG program and fiscal monitoring staff will adhere to the following schedule in the case of noncompliance with federal regulations, these rules, an agency's approved work plan or the sub-grant agreement.
 1. Within ten calendar days of a determination of non-compliance, resulting from a monitoring visit and made after consultation with the Division's CSBG Program Director and with the Business Manager, if appropriate,

the nature of the noncompliance will be reported in writing to the community action agency requesting correction of the problem. Appropriate corrective action must be made within a reasonable and appropriate time not to exceed thirty calendar days of receipt of the notice.

2. Monitoring staff will work with the agency throughout the period providing technical assistance to work out the problem.
 3. Monitoring staff will prepare a final report on the result of any noncompliance finding and will send copies to the CSBG Program Director of the Division and the community action agency's executive director and board chairperson.
 4. If a significant noncompliance condition is not resolved to the satisfaction of the Division by the agency within the stated time frames, the Director of the Division may withhold that community action agency's funding for the coming month or months until the noncompliance is resolved to the Division's satisfaction. Written notice of the Division's intent to withhold shall be given to the CAA executive director and board and to the Community Services Advisory Board.
- C. Technical Assistance. The Division will provide technical assistance and training to community action agencies to enhance general program performance and to correct noncompliance conditions based on:
1. Periodic monitoring findings;
 2. Evaluation findings;
 3. Agency requests; and
 4. Periodic assessment of training or technical assistance needs.

1.8 Financial Policies and Procedures

- A. Procurement. When purchasing materials, equipment, property or services with CSBG funds, the community action agency shall follow the requirements of Attachment A, "Procurement", which is hereby incorporated by reference.
- B. Property Management Requirements
 1. Federal Requirements. The CAA shall be bound by, and the Division shall use in its review, general federal

property management requirements set out in Attachment N to OMB Circular A-110. Reference to the "Federal sponsoring agency" shall be interpreted to read "Division of Community Services".

2. Inventory. Each CAA shall maintain and update an accurate listing of all property, tools and equipment retained in its inventory which have a unit cost of more than \$300 and are purchased in whole or in part with CSBG funds.
3. Property Purchase. Each CAA shall secure prior approval from the Division for the purchase of any vehicle, equipment, single inventory item or tool with an acquisition cost of \$10,000 or more, at least a portion of which is CSBG funded.
4. Property Disposition.
 - a. The CAA shall request and receive approval for disposition of any equipment, single inventory item or tool with a unit acquisition cost of \$1000 or more purchased in whole or in part with CSBG funds or any vehicle regardless of acquisition cost purchased in whole or in part with CSBG funds. All requests shall be submitted to the Division. The Division reserves the right to require reprogramming the entire resale amount.
 - b. Prior to the sale of any vehicle approved for disposition purchased in whole or in part with CSBG funds, the CAA shall:
 - (i) Prepare a bid announcement which identifies each vehicle, describes its condition and states that the high bid on each vehicle will be accepted;
 - (ii) Place an advertisement in a local newspaper for three days announcing a public sale with sealed bids to be submitted no later than a specified date and hour with the bid announcement to be mailed in advance upon request;
 - (iii) Prepare a notice of bid award to be mailed to all bidders;
 - (iv) Prepare title transfer documents;
 - (v) Reprogram the proceeds from the vehicle sale into the current CSBG budget;

(vi) Retain documentation for all bid solicitation, award and title transfer for no less than three years from the date of sale.

c. Public Sale of Other Materials, Equipment or Property. The CAA shall follow identical procedures as in 4(b) above in the case of the sale of any other property purchased in whole or in part with CSBG funds, with the qualification that like equipment or materials may be sold and listed in the bid announcements in lots, with quantities identified.

C. Records

1. Retention of Records.

- a. Financial records, supporting documents, statistical records, and all other records pertinent to a CSBG sub-grant are covered by these requirements.
- b. The retention period for each year's records starts from the end date of the CAA's program year.
- c. Records shall be retained for a minimum of three years. If any litigation, claim or audit has not been fully resolved before the expiration of the three-year period, all relevant records shall be retained until one year after resolution.

2. Access to Records.

- a. CAAs and CAA delegate agency(ies) shall provide the following agencies and persons with access to all books, records, documents and compilations of data relating to the CSBG program:
 - (i) The Division and its authorized representatives;
 - (ii) The United States Comptroller General or his/her designee; and
 - (iii) Department of Health and Human Services.

1.9 Safeguarding of Information and Investigations

All employees and other persons involved in the administration of the CSBG program shall adhere to the following policy regarding the safeguarding of information:

- A. Except as provided in Subsection B, the names of applicants for assistance from programs administered by a CAA and specific information about individually named applicants, such as income, assets, and assistance received, shall be confidential, shall not be open to public inspection, and shall not be released to any person or agency not directly involved in the administration or auditing of the CSBG program.
- B. Confidential information, as described in Subsection A, will be released only under the following circumstances:
1. Information concerning applicants for and recipients of assistance provided in whole or in part with CSBG funds may be used or disclosed for purposes directly connected with the administration of the CSBG or related program, including:
 - A. Establishing eligibility;
 - b. Determining type and amount of assistance; and
 - c. Providing services for applicants and recipients.
 2. Any confidential information about an applicant will be released if the applicant gives written consent to such release.
 3. All information pertaining to a decision on eligibility for assistance will be made available to the applicant or recipient or his or her authorized representative in conjunction with an agency appeals procedure under Section 1.5A(3) of these rules.
 4. A State agency with a legitimate reason to know shall have access to the information.
- C. Investigations
1. The Division will immediately follow up and investigate any reports from recipients, denied applicants, and other sources concerning poor administration of the program, conflict of interest or any other alleged violation of these rules or the CSBG program. The Division will notify the CAA of all such reports and nature of the complaint.
 2. The Division will provide to complaining parties and the executive director and board chairperson of the community action agency involved a written response stating the results of the investigation of the complaint.

1.10 Allocation

- A. The allocation of Community Services Block Grant funds shall be distributed as follows:
1. At least 90% shall be passed through to designated community action agencies.
 - a. Twenty percent (20%) of the amount passed through shall be divided equally among all designated agencies.
 - b. Forty percent (40%) of the amount passed through shall be divided among all designated agencies based on each agency's percentage of the State's low-income households.
 - c. Forty percent (40%) of the amount passed through shall be divided among all designated agencies based on each agency's percentage of low-income households within the agency's service area.
 2. Five percent (5%) shall be retained by the Division for administrative expenses at the State level.
 3. Up to 5% shall be set aside by the Division for a discretionary fund. This fund may be:
 - a. Retained by the Division for special projects or training;
 - b. Awarded to organizations or agencies which submit successful proposals in response to the Division's Request for Proposals; or
 - c. Used for any other lawful purpose.
- B. Any funds which are transferred to the Community Services Block Grant shall be distributed in an equitable manner to be established by the Division with 20% being divided equally among all designated agencies.

Procurement

A. General Procurement Goals and Objectives.

1. The community action agency must ensure that all procurement of materials, property or equipment with CSBG funds are conducted in a manner to provide open and free competition and to avoid any appearance of impropriety.
2. The CAA must maintain a written code of conduct to govern the performance of its officers, employees or agents engaged in the award of contracts and the administration of CSBG funds. The code shall include at a minimum the following provisions:
 - a. No CAA employee, officer or agent shall participate in the selection, award or administration of a contract in which CSBG funds are to be used where to his or her knowledge any of the following persons or entities may possibly benefit from the selection, award or administration of such contract:
 - (i) The employee, officer or agent;
 - (ii) A member of the immediate family of the employee, officer or agent;
 - (iii) A partner of the employee, officer or agent;
 - (iv) An organization in which any person described in subsections (i) through (iii) above has a financial interest or with whom said person is negotiating or has any arrangement concerning prospective employment.
 - b. No CAA employee, officer or agent shall solicit or accept gratuities, favors or anything of monetary value from a contractor or potential contractor;
 - c. The CAA agrees not to employ any person while he or she, or a member of his or her immediate family, is an officer or agent of the sub-grantee or exercises supervisory authority over that person; and
 - d. Disciplinary actions to be applied for violations of the code.
3. Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical and practical procurement.

4. Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured.
5. The CAA shall make positive efforts to utilize small and minority owned businesses as a source of supplies and services. Such efforts shall allow these sources the maximum feasible opportunity to compete for contracts which utilize CSBG funds.
6. Any information concerning contract requirements which CAA's personnel share with one prospective contractor must be shared with all prospective contractors to whom the CAA has sent bid materials.
7. Some form of price or cost analysis shall be made in connection with every procurement action.
8. Awards shall be made to the bidder whose bid is responsive to the requirements set out in the Invitation to Bid or Request for Proposals and is most advantageous to the recipient, price and other factors considered. Bid awards shall be in writing with all bidders notified of the successful bidder. All bid documents shall become public information subject to disclosure upon request after the bids are opened.
9. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.
10. The following provisions must appear in all contracts where procurement is, in whole or in part, CSBG funded:
 - a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
 - b. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the CAA including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated because of circumstances beyond the control of the contractor.

- c. All contracts awarded in excess of \$10,000 by community action agencies and their contractors shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- d. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or agency shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The community action agency shall report all suspected or reported violations to the grantor agency.
- e. Where applicable, all contracts awarded by community action agencies in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers for work financed in whole or in part by CSBG funds shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- f. All contracts (except those awarded by the small purchases procedures of Section B.1) awarded by community action agencies shall include a provision to the effect that (1) the Division of Community Services, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract; and (2) the contractor must place the same provision as stated in subsection (1) in any subcontract which would have had to have the provision were it awarded directly by the community action agency.
- g. Community action agencies shall require contractors to maintain all required records for three years after final payments have been made and all

- c. Basis for award cost or price; and
 - d. Executed contract if one is required.
14. The CAA shall be bound by, and the Division shall use in its review, general federal procurement principles set out in Attachment O to OMB Circular A-110. Reference to the "Federal sponsoring agency" shall be interpreted to read "Division of Community Services".

B. Procurement Procedures.

- 1. In the case of individual purchases of \$300 or less, at least a portion of which is CSBG funded, the CAA may purchase items or services from the most convenient supplier provided the price is reasonable.
- 2. In the case of individual purchases between \$300 and \$2,500, the CAA shall:
 - a. Perform a price survey for the required items or services;
 - b. Receive price quotations or bids from at least three reputable vendors and document them on a survey sheet; and
 - c. Purchase the items or services from the vendor whose bid or proposal will be the most advantageous to the CAA, price and other relevant factors considered.
- 3. Competitive sealed bids with advertising and executed contracts are required for all other procurements, except as provided in Section B(4) below.
 - a. The CAA must prepare an Invitation to Bid or a Request for Proposals, which:
 - (i) Identifies all requirements which prospective bidders must fulfill;
 - (ii) Identifies all factors which the CAA will consider in evaluating bids;
 - (iii) Establishes relative weights of all factors, including cost, by means of which the CAA will rank bids; and
 - (iv) Establishes the maximum amount of the contract, its duration, and its geographical scope and states that failure to execute the contract will result in bid disqualification.

- b. The Invitation to Bid or Request for Proposals shall include the following provisions:
 - (i) The contract award is subject to prior approval by the Division upon review by its Attorney;
 - (ii) Any and all bids may be rejected when it is in the interests of the CAA to do so;
 - (iii) All bids constitute firm offers which may not be withdrawn for a specified period of time from the bid opening;
 - (iv) The submission of a bid constitutes acceptance of the terms and conditions of the Invitation to Bid or Request for Proposals; and
 - (v) All bids must be sealed and received by the specified CAA contact person prior to a specified time for a bid opening at a specified time and location.
- c. The CAA must publish a newspaper advertisement in, at a minimum, the newspaper with the greatest circulation in the CAA's service area.
- d. This newspaper advertisement shall specify and provide at least the following:
 - (i) A concise description of the materials, supplies or services to be procured;
 - (ii) The CAA's contact person from whom prospective bidders may obtain bid materials;
 - (iii) The deadline for delivery of sealed bids, including time of day and the time and place for the bid opening;
 - (iv) A statement that the advertisement is subject in all respects to the terms and conditions of the Invitation to Bid or Request for Proposals.
- e. The newspaper advertisement shall be published with enough time prior to the bid opening to permit prospective bidders to obtain, prepare and submit bids.
- f. The Invitation to Bid or Request for Proposals must be mailed or delivered to no less than three

prospective contractors who may reasonably be expected to submit a bid.

4. Sole source procurement may be used when procurement is infeasible under the methods set forth in Section B(1)(2) or (3).
 - a. Sole source procurement may be used only when:
 - (i) Public exigency or emergency will not permit a delay necessary for competitive solicitation, or
 - (ii) A specific item or service is available from only one source;
 - b. A written statement justifying the use of sole source procurement shall be included in the CAA procurement file.
5. The Division will not reimburse the CAA for procurements which are not made and documented in accordance with this part, including:
 - a. Documentation of the basis of contractor selection, including the method by which multiple price quotations from varying contractors were compared and evaluated: and
 - b. Documentation of the basis for the contract award amount, including the estimate for materials or services which the CAA expects to procure by means of the subcontractor.
6. The Division may permit procurement by methods other than as provided in these rules upon the written request with justification from a CAA.

C. Division Responsibilities Regarding Procurements.

1. The Division will provide prompt and timely review of all proposed sole source procurements requiring approval and will answer any such request in writing within a time frame which meets the needs which have prompted the request. If the Division denies a request for proposed sole source procurement, it will provide written reasons for this denial and technical assistance in finding alternative means of meeting the procurement need which necessitated the request.
2. Division staff will provide technical assistance for CAA's compliance with these requirements.

3. The Division may require that all bid materials be submitted to the Division for its prior written approval.
4. In any case where a CAA receives no responsive bid to an Invitation to Bid or Request for Proposal, or decides for any reason to award no bid, it shall immediately notify the Division's Attorney. A decision to reject all bids for proposals shall be supported by a well-documented rationale.
5. Neither the Division nor the State of Maine assumes any liability in the event of protests, disputes, or breaches of contract.

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