



CENTER FOR COMMUNITY SERVICES DIRECTIVE

Title: Governing Boards for Private Entities

Directive #: C2018-02

Effective: October 1, 2018

To: Community Services Block Grant Subgrantees

From: Lynette Praster, Director – Center for Community Services *LMP*

1.0 Purpose

To provide guidance to private, nonprofit Community Services Block Grant (CSBG) eligible entities regarding governing boards.

The tripartite composition of the CEE governing board is required by sections 676B of the Community Services Block Grant Reauthorization Act of 1998. The tripartite governing board is responsible for oversight and governance of the community action agency in accordance with this directive. Administrative boards for public CEEs are addressed in CSBG Directive C2018-03.

2.0 Revision History

This CSBG Directive is effective October 1, 2018 and replaces C2016-02.

3.0 Policy

Tripartite Board Purpose

The governing board of the CEE has full policy and decision-making authority for the CEE, and consequently, bears the full responsibility for any and all actions taken by the agency. Legally, the governing board is the CEE. This point is important when considering the relationship between the CEE and the state. This relationship is based on a grant from the state to the board, and it is the board, not the Executive Director, that the state holds responsible for abiding by the terms of the grant. CEEs are required to have tripartite governing boards to gain and retain designation as eligible entities and to receive CSBG funding. Effective tripartite boards reflect and promote the unique anti-poverty leadership, action, and mobilization responsibilities assigned by law to community action agencies. Boards are responsible for assuring that agencies continue to assess and respond to the causes and conditions of poverty in their community, achieve anticipated family and community outcomes, and remain administratively and fiscally sound.

Tripartite Board Composition

To achieve the purpose intended by statute for each of the three components of agency boards, local agencies are required to compose the governing board in the following manner:

1. Representatives of Low Income Individuals and Families

The board must be comprised of at least one-third representing the low-income population who are chosen by democratic selection procedures in the area served. A description of how these procedures will be implemented must be stated in the board's by-laws. Representatives must reside in the service area of the agency as required by Section 676B of the Community Services Block Grant Act (Public Law 105-285, the Community Opportunities, Accountability, and Training and Educational Services Act of 1998). The implicit intent of this requirement is to ensure that those who currently reside in areas served by the agency are represented so that they have a strong voice in agency governance and direction.

Because some programs operated by CEEs, especially Head Start, also require governance involving families being served, overall agency coordination and communications across programs are further enhanced when a few (one or two) members of Head Start Policy Councils serve on agency tripartite boards. The Head Start regulations require that the Policy Council and the board cannot have identical membership, so this must be observed.

Every effort should be made by eligible entities to ensure that board members representing low-income individuals and families:

- Have been selected on the basis of democratic procedure either directly through election or public forum, or if not possible, through a similar democratic process such as election to a position of responsibility in another significant service of a community organization such as a school parent-teacher association, a faith-based organization leadership group or an advisory board/governing council to another low-income service provider; and
- Are truly representative of current residents of the geographic area to be served including racial and ethnic composition, as determined by periodic selection or reselection by the community. Being current should be based on the recent or annual demographics changes as documented in the community needs assessment. This does not preclude extended service of low-income community representatives on boards but does suggest that continued board participation of longer term members be revalidated and kept current through some form of democratic process and the assessment of community changes.

2. Elected Public Officials or their Representatives

The board must also be comprised of exactly one-third elected public officials currently holding office or their designated representative. If the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, appointed public officials may be counted in meeting the one-third requirement.

The overarching purposes for having elected officials serve on tripartite boards are to encourage awareness of poverty needs within the community and action by local governments, and to foster close coordination and partnership between public agencies and the eligible entities. The statute requires that elected public officials must be holding office on the date of selection to a tripartite board; however, the statute does not identify which public officials should serve on the tripartite board. The statute allows public officials elected, or appointed, to name someone to represent

them on the board if necessary. Again, while the statute does not set term limits for this category of board membership, the spirit of the law suggests that the local governments participate in agency oversight and governance in this capacity only while they are in office.

Similarly, individuals designated by elected or appointed officials to represent them on boards serve only while their principals are in office or are re-designated by those in office. Agencies are responsible for making sure that this category of board membership remains current through such procedures as prompt notification of newly elected or currently elected public officials of the opportunity for board service or representation, and timely replacement of board members, or their representatives, who no longer hold public office.

Local agencies that wish to extend the board service of either formerly elected officials or their representatives may choose to appoint them as representatives of major groups and interests in the community.

3. Representatives of Major Groups and Interest in the Community

The remainder must be members of business, industry, labor, faith based, human service, education or other major groups and interests within the community.

While the statute does not set term limits for these board members, their role is to reflect and involve key interests and resources within the community to guide agency actions and outcomes. For this category, agencies should strive to assure that:

- Groups and interests with current influence or resources deemed critical to the success of the agency are represented; and
- Members are empowered by their organizations to participate in board activities and play a role in agency outcomes.

Although not required, boards may form committees comprised of volunteer, non-voting members of the community to assist and advise on agency activities.

Board Code of Ethics

Three (3) primary legal principles should be followed by the tripartite board. These principles are:

1. Obedience is the duty of board members to ensure that the organization does what is expected of it and does not undertake any action that is beyond its powers as defined by statutes, its corporate charter or by laws.
2. Diligence is the duty of board members to ensure against negligent mismanagement. Such mismanagement can hinge on inaction as well as overt actions. Mismanagement stemming from inaction results when specific responsibilities have been delegated to a board member or committee and that person or group fails to exercise diligent inquiry or oversight that might include failure to attend or hold board meetings to seek out the information necessary to carry out the responsibilities that were delegated to the person or committee.
3. Loyalty is the duty of board members to adhere to the mission of the organization, to adhere to the authorities granted to the organization and requires that board members not engage in personal activities in such a manner as to cause harm or to take advantage of the organization.

Board Meeting Requirements

Board meetings must be held at least quarterly. It is recommended as a best practice to hold public meetings unless a closed meeting is necessary to discuss confidential matters. A quorum must be present for all decisions requiring voting. The constitution of a voting quorum must be described in the Agency's by-laws. Board meetings must be formally documented by minutes. By-laws must include this specific operational requirement

Tripartite Board Responsibilities

1. Development

As the designated anti-poverty agency within their community, both public and private eligible entities are required to conduct periodic needs assessment of the causes and conditions of poverty within their service area and to decide what role, or mission, the agency will assume relative to other community organizations and resources, in addressing those needs.

Tripartite boards are key players in these developmental processes:

- Community Needs Assessment (CNA) – Board members, especially those that live in communities to be served and that represent low-income people, should be a primary source of information and insight concerning the conditions in their neighborhoods. Representatives of low-income families can help fashion agency outreach and communication strategies, on an ongoing basis, to assure that agency staff and programs are responsive to changing community needs and conditions. Board members that represent elected officials, and other community groups and interests, all bring critical information and perspective to the needs assessment process. Elected officials or their representatives can commission or make available government-sponsored studies of local economic, social, educational, and key conditions that affect poverty. Business, labor, religious, and other community group representatives offer similar information from the private sector and access to short-term and longer-range service and resource assessments and/or development plans that may impact the nature or extent of poverty in the community.
- Clarifying Agency Mission – The way each Community Action Agency perceives its role, or mission, is central to what they do and how they assess their effectiveness. Tripartite boards, if correctly constituted, provide an agency with a broadly-based, in-house panel of “experts” on most aspects of community need, resources, and opportunities. Their expertise should help inform agency leadership and staff concerning the role(s) community action should and could play to reduce poverty vis-à-vis other public and private programs and initiatives. Creating and/or periodically reviewing mission statements can provide a focus for collaborative strategic planning among board members and agency leadership and staff, and a foundation for meaningful board oversight of agency operations and effectiveness.

2. Planning

Tripartite boards are important participants in agency annual and longer-range planning activities. Specifically, individual members of the board, and the board as a whole, should contribute to, and benefit from, various aspects of program planning:

- Long-range Strategic Planning – For those CSBG entities that are 501 (c) (3) non-profit agencies, tripartite boards are ultimately responsible for the overall direction, conduct, and effectiveness of agency programs and activities. As such, participation of boards is essential in strategic planning discussions of how the agency will determine what constitutes its success. Tripartite boards are encouraged to help the agency:
 1. Identify board goals and results it hopes to achieve through its work among low-income individuals and families and with the community being served;
 2. Mobilize an array of programs and activities, both within and outside the agency, to achieve those goals and results; and
 3. Establish and maintain procedures for gathering and presenting information on goals and results for agency and board use.

- Annual Planning – Tripartite boards should participate in the identification of what the agency hopes to accomplish each year and to help the agency establish specific performance expectations, in terms of both the nature and number of improvements to be achieved among low-income people and within the community, to guide agency programs and activities. Milestones, or intermediate steps toward achieving the ultimate results, should be identified by agency staff so that board members will be able to track progress throughout the year.

- Agency Planning - Boards are encouraged to identify possible ways to strengthen agency operations, including needed staff or facility enhancements, and to identify specific results it expects to be achieved. Boards may choose to utilize annual agency performance expectations, or anticipated program results, as important components of annual performance plans and compensation agreements they negotiate with the agency's executive director and other key staff.

3. Implementation

Because members of tripartite boards have fiduciary responsibility for the overall operation of private, non-profit CEEs and, members are expected to carry out their duties as any reasonably prudent person would do. At a minimum, the Department suggests:

- a. Regular attendance at board and committee meetings;
- b. Thorough familiarity with core agency information, such as the agency's bylaws, articles of incorporation, sources of funding, agency goals and programs, federal and state CSBG statutes;
- c. Careful review of materials provided to board members;
- d. Decision-making based on sufficient information;
- e. Ensuring that proper fiscal systems and controls, as well as a legal compliance system, are in place; and
- f. Knowledge of all major actions taken by the agency.
- g. Continuous evaluation of CSBG Organizational Standards compliance.

Two aspects of the requirements described above: board oversight of agency programs and board oversight of fiscal control, are explained in detail by the following information:

- Fiscal Controls – Because tripartite boards of private, non-profit agencies are ultimately responsible for assuring that agency funds are spent and accounted for in accordance with all applicable federal, state, and local statutes and regulations, boards must make sure that

fiscal controls and procedures are put in place and maintained by the agency that provide for:

- a. Trained and qualified staff to manage fiscal accounts and records of the agency on a day-to-day basis;
- b. Commonly accepted financial procedures for transactions, recordkeeping, and reporting, such as those required by the CSBG Act, Part 74 of the Code of Federal Regulations, the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Final Rule, 2 CFR Chapter 1, Chapter 2, Part 200, et. al. commonly referred to as the OMB Super circular;
- c. Frequent reports to the board by agency fiscal staff on overall agency fiscal status, procedures, practices, and transactions;
- d. Required board review and prior approval of all “substantial” agency fiscal transactions or commitments, as defined by statute or agency bylaws; and
- e. Audits and audit reports to the board by a CPA firm independent of board member of agency staff association.

4. Evaluation

Tripartite boards of both public and private agencies are encouraged to focus their attention on results as set forth in the Results Oriented Management and Accountability (ROMA) cycle in all phases of agency program activity, including program development, planning, implementation, and especially evaluation. Boards should request and be provided with information concerning actual changes or improvements that have occurred among clients and community as a result of agency assistance. To determine the relative success of the agency, its staff, and programs, boards may compare the nature and level of these outcomes with performance expectations, or targets, which were developed during the agency’s planning cycle. Outcome or performance-focused information from one year can inform and strengthen program planning by the agency and its board in subsequent years.

Tripartite Board Relationship with Executive Director

The best relationship between a tripartite board and the agency executive is one that advances the work of the agency in achieving results, or improvements, in the lives of low-income people and the community in which they live. The following general principles are offered to promote strong, focused, and effective working relationships between the tripartite board and an agency’s executive director:

1. Boards Establish Policy, Executive Directors Execute Policy

Tripartite boards are responsible for establishing and approving policies that govern all aspects of agency operations, including agency and board bylaws, administrative and fiscal control policies, and personnel policies. Executive directors are responsible for assuring that the board established policies are carried out by the agency, and for providing information to the board on the execution of its policies as requested by the board. In many agencies, boards work with the executive director and agency staff collaboratively to develop agency policies and procedures, but the ultimate responsibility for promulgating such policies remains with the board.

2. Boards Set Agency Mission, Executive Directors Accomplish Agency Mission

Boards are responsible for determining the overall mission, or direction, of the agency, taking into account the needs of the community and the relative anti-poverty role played by the agency vis-à-vis other programs and resources in the community. Executive directors are responsible for providing the necessary information and assistance to the board that will help them determine the

overall mission or direction of the agency, and for organizing the agency's programs and services in such a way that will best accomplish the mission. In many communities, boards, executive directors, and agency staff work collaboratively to both set the agency's mission and organize programs and services toward that end.

3. Boards Set Performance Targets, Executive Directors Guide Work to Achieve Targets

Ideally, tripartite boards will officially approve annual performance targets, or outcomes they expect the agency to achieve. These performance targets may be developed in concert with the board, agency staff, and key community partners. How the agency organizes and operates services and programs to achieve these board approved performance targets is the responsibility of the executive director and the staff of the agency. Boards, therefore, should not routinely be involved in the day-to-day manner in which services are provided, but should pay particular attention to following the consequences, or results of agency programs as they unfold and are reported throughout the year.

4. Boards and Executive Directors Evaluate Agency Performance; both are Accountable

Based on reports of results generated by the agency and presented via the Executive Director, boards are ultimately responsible for deciding whether or not the agency and the executive director have been successful in accomplishing the mission of the agency. Boards are encouraged to focus on client and community results as a major factor in evaluating the work of the agency, its executive director, and staff. Indeed, such results may point to institutional needs, such as staff enhancement and training or program revisions, which may improve performance in subsequent years.

5. Boards Supervise Directly Only One Employee – the Executive Director

One of the most important concepts conveyed by agencies that have well-functioning relationships between their tripartite board and executive director is supervising the agency's director.

This concept embodies the notion that board and agency staff functions are indeed separate, but they are joined through the relationship between the board and the one person they must hold accountable for the work of everyone else – the executive director. This clearly means the boards must hold the executive director responsible for the activities of the agency. The board should appraise the executive director's performance on an ongoing basis, but at a minimum, the board should have a complete appraisal annually. The intent is to prevent boards from bypassing the agency's executive director to provide day-to-day instructions to agency staff. It must be clear that the concept should also prevent an executive director from gaining too much authority over all aspects of agency policy and operations by assuming roles and functions that clearly reside with the tripartite board.

The concept is not intended to diminish or distort the fiduciary responsibility of tripartite boards of private, non-profit agencies to oversee the overall functioning of their agency and the cumulative work of agency staff.

When a tripartite board is faced with the responsibility of recruiting and hiring a new executive director, members may set whatever criteria they deem appropriate. Boards are encouraged to seek out and employ a leader capable of:

1. Working cooperatively with the board to assure there is on-going consensus concerning the agency's anti-poverty purpose, or mission among board members, agency staff and the

- broader community;
2. Mobilizing and coordinating programs and services both within and outside the agency toward accomplishing this mission;
 3. Serving as a key community leader and advocate for the preservation and expansion of opportunities to assist low-income individuals and neighborhoods move out of poverty;
 4. Achieving strong administration and fiscal control over agency resources; and
 5. Employing performance-based management concepts embodied in ROMA and the Organizational Standards for CEEs as outlined in the Department of Health and Human Services Information Memorandum Number 138 as the framework for relating to the board, and for all aspects of agency operations, including program planning, resource allocation, service provision, program and staff evaluations.

Training - Board Responsibilities

All board members should receive timely and continuous training which includes new board member orientation, training on legal and fiduciary responsibilities and ROMA training. At a minimum it is recommended that board training cover the following topics:

1. Orientation to statutory and regulatory requirements CSBG Act, other federal, state or local statutes and regulations specific to agency services, including non-profit board requirements.
2. Agency articles of incorporation, bylaws, etc.
3. Overview of Board functioning – appointment, representation, meetings, committees, conflict of interest policy, relationship to executive director and staff, etc.
4. Role and Responsibilities of the Executive Director.
5. Role and Responsibilities of the Board regarding the employment, retention, and compensation of the Executive Director and key staff.
6. Overview of agency administration and financial management policies and procedures oversight role and responsibilities of the board.
7. Orientation to, and how to oversee, agency mission, long-range and annual plans.
8. Orientation to, and how to oversee, agency programs and services.
9. Orientation to, and how to oversee, agency evaluation and reporting policies and procedures – role of the board in program and personnel performance evaluation.

ROMA Training

All new Board members must receive ROMA Training for Board Members within six (6) months of being seated. The entire Board must undergo ROMA refresher training conducted by a certified ROMA Trainer every twenty-four (24) months at a minimum.

Agency Leadership – Board Roles and Responsibilities

1. Agency Development
 - Needs/Assessment
 - Agency Mission determination
 - Risk Assessment
2. Agency Planning
 - Strategic Long-Range Planning
 - Annual Planning – performance expectations and targets
 - Agency operational planning, i.e., staffing, facilities, etc.
 - Forming Partnerships with other resources in the community
 - Outreach and advocacy
 - Funding outreach opportunities

3. Program Implementation
 - Tracking of Milestones, interim performance results and reports.
 - Making mid-course corrections to improve performance.
4. Evaluation – Results-Focused Evaluation – clients and community
 - Results-Focused Evaluation (including ROMA) – agency and staff
 - Using Information for Planning
 - Using Information for Additional Funding and Advocacy
 - Organizational Standards Compliance

4.0 Effective Date

This directive takes effect October 1, 2018 and replaces C2016-02. It will remain in effect, in its entirety, until it is amended, replaced, superseded, or nullified. Only a directive from the Center for Community Services or equivalent office may countermand any statement herein contained.

cc: Center for Community Services Staff
Fiscal Management Center, DCED