
**COMMUNITY SERVICES BLOCK
GRANT PROGRAM**

Information Memorandum

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Community Services
Division of State Assistance
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447
<http://www.acf.dhhs.gov/programs/ocs/csbg>

Transmittal No. 60

Date: February 6, 2002

- TO:** State (including Territorial) Community Services Block Grant Program Officials
- SUBJECT:** Duties and Interests with Respect to Property Purchased, Constructed, or Improved by an Eligible Entity Using Block Grant Funds Provided Under Public Law 105-285 Section 678(a)(1)&(2) Limitation on Use of Funds and the Secretary's Right to Waive the Prohibition.
- PURPOSE:** The purpose of this memorandum is to remind State CSBG program officials of the legislative prohibition against the use of CSBG funds related to the purchase or permanent improvement of real property and to convey information related to the authority and procedures for applying for a waiver under the CSBG Act.
- BACKGROUND:** **Information Memorandum No. 60 supercedes Information Memo No. 2, dated March 11, 1993 and Information Memo No. 3, dated April 14, 1993.**
- The CSBG Act, Section 678F, Limitation on Use of Funds.
- (a) Construction of Facilities.
- (1) Limitations-- states that "Except as provided in paragraph (2) grants made under this subtitle....may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or facility."
- (2) Waiver-- The Secretary may waive the limitation contained in paragraph (1) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle."

DISCUSSION:

The State agency administering the CSBG program is responsible for providing the information and background that the waiver being requested is justified on the basis of "extraordinary circumstances" and that it will "contribute to the State's ability" to carry out the purpose of the Act.

There is no single criterion or basis for determining that sufficient circumstances exist or that the waiver will contribute to the State's ability to implement the purposes of the Act. Judgement of the background information provided by a State and its subgrantee is solely the responsibility of the Secretary (as designated by Congress) and which has been delegated to the Director, Office of Community Services. Requests are reviewed and determined on a case-by-case basis.

In considering information to support requests for waivers, answers to the following questions are important:

1. What evidence is there that the problems being addressed are extraordinary in their scope or severity?
2. Is there no other reasonable alternative to the waiver?
3. Have the resources of other public programs designed for these purposes been exhausted?
4. What other sources of funding been sought and obtained?
5. How will approval of the waiver contribute to the ability of the State to carry out the purposes of the CSBG program or, conversely, how will disapproval of the waiver inhibit the State's ability to accomplish its goals and objectives?
6. What long term benefits will the waiver provide for the low-income population being served?
7. Has the State and subgrantee provided a reasonable cost-benefit analysis?
8. What are the advantages of capital expenditures over other alternatives, e.g. rent or lease?

Examples where waivers have been granted include the human suffering and destruction of property caused by natural disasters such as floods, hurricanes, tornadoes or earthquakes and have met the "extraordinary circumstances" criterion. An exceptionally high incidence of poverty and health problems, such as open drainage ditches being use for sewage in a local neighborhood, have satisfied OCS's criterion. A service center located in an architectural historical area that could not be renovated or expanded and needed replacing has also met the criterion. The use of relatively small amounts of CSBG funds as leverage on large amounts of other resources to support self-help housing efforts has also received favorable consideration.

PROCEDURES: Requests for waivers must be submitted by the State office responsible for administering the CSBG program. Requests received directly from local eligible entities of CSBG funds will not be considered. Such requests must be supported and endorsed by the State agency and submitted by the State to:

Director
Office of Community Services
Administration for Children and Families
370 L'Enfant Promenade, S.W.
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**DISPOSAL
OF
PROPERTY:**

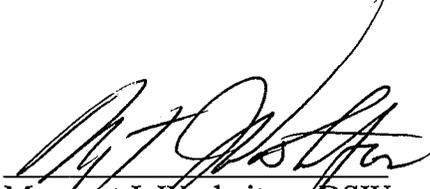
Generally, the Department of Health and Human Services has a reversionary interest in property obtained with grant funds. There are a number of options available in determining the manner in which property can be disposed of when no longer needed for the authorized grant purposes. In making a determination regarding property purchased with CSBG funds, the Office of Community Services has chosen a process which is consistent with the Department's block grant policies, i.e. minimum interference with State administration of the program, while ensuring that the Federal interest in the property is protected to the extent of limiting its use to the broad purposes for which funding was originally provided. The procedure is as follow:

- When granting a waiver under Section 678F(2), OCS will (1) require that the State retain reversionary interest in the property and that it inform the subgrantee of such; and (2) notify the State that it will recover funds from the State under 45 C.F.R. 96.32 if the State fails to monitor the use of such property or fails to use reverted property to carry out the purposes of the CSBG Act.

- If the subgrantee ceases to use the property for the purpose specified in the approved waiver request, the State may allow the subgrantee to use the property for other purposes connected with "ameliorating the causes of poverty" within its community.

- If no other appropriate alternative use can be found in the community, the State may take over the property and use it or the proceeds from its sale to carry out the purposes of the CSBG Act.

If you have any questions regarding this procedure, please contact the Division of State Assistance at (202) 401-9343.



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Director of State Assistance
Office of Community Services