

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

September 27, 2019
1:00 p.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on adoption of amendments to and repeal of the following regulations:

The following regulation is proposed for AMENDMENT:

481 NAC 1 – *Introduction*

The proposed changes will streamline the regulations by: removing any direction to agency staff from the regulations; removing any repeated statutory language from the regulations; and consolidating three chapters of regulations into one chapter. The proposed regulations will address eligible entity requirements; administrative requirements; and financial administration.

The following regulations are proposed for REPEAL in their entirety. Portions of the current Chapter 2 and Chapter 3 are being included in the proposed amendment to Chapter 1.

481 NAC 2 – *Administrative Requirements*

481 NAC 3 – *Financial Administration*

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call

DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 481	Prepared by: Matt Thomsen
Chapter: 1,2,3	Date prepared: 4/23/19
Subject: Community Services Block Grant	Telephone: (402) 417-9435

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency: **None**

Political Subdivision: **None**

Regulated Public: **None**

If indeterminable, explain why:

TITLE 481
COMMUNITY SERVICES BLOCK GRANT PROGRAM
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TITLE 481
COMMUNITY SERVICES BLOCK GRANT PROGRAM

CHAPTER 1-000 INTRODUCTION

1-001 Scope and Authority: These regulations govern the Community Services Block Grant (CSBG) Program. The Community Services Block Grant Program was created by the Economic Opportunity Act of 1964 and amended by Public Law 105-285, cited as the Coats Human Services Reauthorization Act of 1998.

1-002 Purposes and Goals: The purposes and goals of CSBG are to:

1. Provide assistance to states and local communities, working through a network of community action agencies and other neighborhood-based organizations for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a state program carried out under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and
2. Accomplish the goals described in number 1 through:
 - a. The strengthening of community capability for planning and coordinating the use of a broad range of federal, state, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;
 - b. The organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;
 - c. The greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;
 - d. The maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this program to empower residents and members to respond to the unique problems and needs within their communities; and
 - e. The broadening of the resource base or programs directed to the elimination of poverty so as to secure a more active role in the provision of services for:
 - (1) Private, religious, charitable, and neighborhood-based organizations; and
 - (2) Individual citizens, and business, labor, and professional groups who are able to influence the quantity and quality of opportunities and services for the poor.

~~1-003 Definitions: For use within CSBG, the following definition of terms will apply unless the context denotes otherwise:~~

~~Department: The Nebraska Department of Health and Human Services.~~

~~Director: The Director of the Nebraska Department of Health and Human Services.~~

~~Eligible Entity: An entity that was eligible on October 26, 1998, the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998, or designated by the process described in 481 NAC 2-011.~~

~~Poverty Line: The official poverty line established by the Director of the Office of Management and Budget based on the most recent data available from the Bureau of the Census.~~

~~Secretary: The Secretary of U.S. Health and Human Services, Office of Community Services.~~

~~1-004 Nondiscrimination and Equal Opportunity: An eligible entity must not discriminate on the basis of race, color, national origin, religion, sex, familial status, disability or age. The eligible entity must make known that use of the facilities and services are available to all on a nondiscriminatory basis. The eligible entity must have procedures to make known their policy of nondiscrimination. Eligible entities and recipients must also adopt procedures which will make available to interested persons information concerning the location of services and facilities that are accessible to persons with disabilities.~~

~~1-005 Confidentiality: All eligible entities must adopt written policies to protect the confidentiality of all persons served, and all persons employed by the eligible entities. Confidentiality policies regarding persons served must be framed in the best interests of the client, and must include disclosure to the client of any potential sharing of information.~~

~~1-006 Access to Records: All eligible entities must adopt written policies that identify those records which are available to the public, those records which are not available to the public, and the conditions under which records may be made available. The Department's intent is that information regarding the eligible entity's policies, financial operations, and operating effectiveness must be available to the public under reasonable conditions.~~

~~1-007 Appeals Process: All eligible entities must have a written appeals process through which clients or potential clients may appeal denials of service or improper provision of service. The appeals process should extend at least to the eligible entity's governing board.~~

~~1-008 Child Support Services and Referrals: During each fiscal year for which an eligible entity receives a CSBG grant, the entity must:~~

- ~~1. Inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this program about the availability of child support services; and~~
- ~~2. Refer eligible parents to the child support offices of state and local governments.~~

TITLE 481 - COMMUNITY SERVICES BLOCK GRANT PROGRAM

CHAPTER 2 - (Repealed)

TITLE 481 - COMMUNITY SERVICES BLOCK GRANT PROGRAM

CHAPTER 3 - (Repealed)

TITLE 481 COMMUNITY SERVICES BLOCK GRANT PROGRAM

CHAPTER 1 PROGRAM REQUIREMENTS

001. SCOPE AND AUTHORITY. These regulations govern the Community Services Block Grant (CSBG) Program. The Community Services Block Grant Program was created by the Economic Opportunity Act of 1964 and amended by Public Law 105-285, cited as the Coats Human Services Reauthorization Act of 1998.

002. DEFINITIONS. The following definition of terms will apply unless the context denotes otherwise:

002.01 DEPARTMENT. The Nebraska Department of Health and Human Services.

002.02 ELIGIBLE ENTITY. An eligible entity as defined in the Community Services Block Grant Act.

003. ELIGIBLE ENTITY REQUIREMENTS. Eligible entities receiving funds under the Community Services Block Grant Program must comply with federal statutes and regulations, state regulations, and the sub-award.

003.01 NONDISCRIMINATION AND EQUAL OPPORTUNITY. An eligible entity must not discriminate on the basis of race, color, national origin, religion, sex, familial status, disability, or age. The eligible entity must make known that use of the facilities and services are available to all on a nondiscriminatory basis. The eligible entity must have procedures to make known their policy of nondiscrimination. Eligible entities and recipients must also adopt procedures, which must be made available to interested persons, that contain information concerning the location of services and facilities that are accessible to persons with disabilities.

003.02 CONFIDENTIALITY. All eligible entities must adopt written policies to protect the confidentiality of all persons served. Confidentiality policies regarding persons served must be framed in the best interests of the client, and must include disclosure to the client of any potential sharing of information.

003.03 ACCESS TO RECORDS. All eligible entities must adopt written policies that identify those records which are available to the public, those records which are not available to the

public, and the conditions under which records may be made available. The Department's intent is that information regarding the eligible entity's policies, financial operations, and operating effectiveness must be available to the public under reasonable conditions.

003.04 APPEALS PROCESS. All eligible entities must have a written appeals process through which clients or potential clients may appeal denials of service or improper provision of service. The appeals process should extend at least to the eligible entity's governing board.

004. ADMINISTRATIVE REQUIREMENTS. The Community Services Block Grant Program is administered in accordance with the federal statutes and regulations governing the program and the Department's approved state plan. Eligible entities seeking to participate and receive funding, must complete and submit a Community Action Plan for evaluation and approval by the Department.

004.01 SELECTION AND COMPOSITION OF BOARD OF DIRECTORS. The eligible entity must ensure that a process is in place for the selection of members of the board in accordance with the Community Services Block Grant Act.

004.01(A) BOARD POWERS. The board must have all of the powers required under Nebraska Revised Statute, Chapter 21, Article 19, (The Nebraska Nonprofit Corporation Act) and its successors.

004.01(B) SELECTING REPRESENTATIVES OF THE SECTORS. The board must adopt a written plan which describes the procedures for selecting representatives for each of the three sectors of the board.

004.01(C) LIMITATIONS ON LENGTH OF SERVICE. The board must develop policies as to the length of time members may serve on the board.

004.01(D) CONFLICT OF INTEREST. The following individuals are considered to have a conflict of interest and must not serve on the board of directors:

- (1) A person who is an officer or an employee of an organization contracting to perform a component of the work program funded by Community Services Block Grant;
- (2) A paid employee of the eligible entity; and
- (3) An employee of the Department.

004.01(D)(i) RESTRICTIONS. These restrictions may be waived by the Department.

004.01(E) PETITION FOR REPRESENTATION ON THE BOARD. Eligible entities must establish procedures allowing a petition for adequate representation if a low income individual, community organization, religious organization, or representative of low income individuals feels under-represented on the board.

004.01(F) ALTERNATES. The board may allow alternates to substitute for members. If alternates are allowed, the board must maintain written policies which specify:

- (i) How alternates are selected;
- (ii) The powers given alternates; and

(iii) The limitations placed on alternates.

004.01(G) FILLING VACANCIES. The board must maintain written policies that describe the procedures to be used in filling vacancies.

004.01(H) COMPENSATION. Although expense allowances for low income individuals and reimbursements to all members of the board for expenses are permitted, regular compensation to all members for their service on the board is not permitted.

004.02 ASSURANCES. Eligible entities must comply with all requirements as described in Section 676(b) of the Community Services Block Grant Act.

004.03 NEEDS ASSESSMENT. Eligible entities must conduct needs assessments periodically and must, incorporate data from these sources:

(A) Low-income residents;

(B) Local elected officials and other service agencies; and

(C) Statistical data.

004.04 RESULTS ORIENTED MANAGEMENT AND ACCOUNTABILITY (ROMA) REPORTS. Results Oriented Management and Accountability (ROMA) reports must be submitted to the Department as specified in the written agreement with each eligible entity.

004.05 PERSONNEL POLICIES. All eligible entities must maintain written personnel policies that address all state and federal requirements.

004.06 FUND ALLOCATION. No less than 90 percent of the Community Service Block Grant funds made available to the Department must be used by the Department to make grants to the eligible entities. The fund allocation plan will be reviewed every ten years using poverty information taken from the United States Census. On an annual basis, the Department will notify eligible entities of the allocation breakout by entity upon receiving information from the Office of Community Services on the amount of the state's allocation. The Department will use up to five percent of the remainder for administration purposes and the remainder for discretionary purposes. The discretionary funds will be used according to the Community Services Block Grant Act and carried out according to written agreement with the United States Health and Human Services.

004.07 REPORTING REQUIREMENTS. Financial and program reports must be submitted according to the written agreements with each eligible entity.

004.08 SELF-EVALUATION REQUIREMENTS. Eligible entities must regularly evaluate the effectiveness and impact of their operations through peer reviews and other means, and report findings to the Department.

004.09 REVIEW REQUIREMENTS. Eligible entities must cooperate with the Department when the Department conducts an onsite review of their agency. These will occur at least every three years and may or may not be conducted simultaneously with a peer review. Other reviews as appropriate may be conducted, including reviews of entities with programs that

have had federal, state, or local grants, other than assistance provided under this program, terminated for cause.

004.10 AUDIT REQUIREMENTS. Eligible entities must comply with the federal audit guidelines, including 45 Code of Federal Regulations (C.F.R.) Part 75.

004.11 RELATIONSHIPS WITH LOCAL OFFICIALS. Eligible entities are encouraged to maintain close working relationships with all elected officials in their service areas. Annually, eligible entities must inform the county boards in their service areas as to the programs and activities to be carried out.

004.12 ELIGIBLE ENTITY'S GRIEVANCE PROCESS. An eligible entity may file a grievance following any decision by the Department to reduce or withhold funding. The eligible entity's grievance on the Department's decision must be filed within 30 days following the date the Department provides a written notice of disciplinary action, sanction, or warning. The grievance must be in writing and be filed with the Department.

005. FINANCIAL ADMINISTRATION. The expenditures of all Community Services Block Grant funds must be accounted for in accordance with generally accepted accounting principles, as per 45 C.F.R. Part 75.

005.01 ACCESS TO INFORMATION AND DOCUMENTS. Eligible entities and contractors must provide access to any books, documents, papers, or records that duly authorized representatives of the Department, the Secretary of the United States Health and Human Services, and the State Auditor determine are pertinent to an approved project plan. Eligible entities must comply with the Privacy Act of 1974, 5 United States Code (U.S.C.) 552a. An eligible entity must not establish restrictions which limit public access to the eligible entity's records or to the records of its contractors, except when the records must remain confidential for any of the following reasons:

- (A) To prevent a clearly unwarranted invasion of personal privacy;
- (B) To comply with an executive order or statute which specifically requires the records to be kept secret;
- (C) To protect commercial or financial information which was obtained from a person or a firm on a privileged or confidential basis;
- (D) To protect information which can be improperly exploited for personal gains;
- (E) To comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996;
- (F) To protect the confidentiality of individual program participant information; or
- (G) To protect the confidentiality of employee personnel records.

005.02 BONDING. Eligible entities must maintain adequate liability insurance, including employee malfeasance insurance, to cover the programs funded by Community Services Block Grant.

005.03 CARRY OVER OF UNSPENT FUNDS. Eligible entities may carry over up to 20 percent of the Community Services Block Grant funds awarded during a year. Upon the provision of adequate justification, the Department may allow a larger amount to be carried over. Eligible entities must annually submit a written explanation of any funds carried over.

DRAFT
05-14-2019

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

481 NAC 1

005.04 ALLOWABLE COSTS. The provisions of 45 C.F.R. Part 75, determine what costs are allowable or prohibited in the use of federal funds.