

STATE OF NEW YORK
DEPARTMENT OF STATE

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Mr. Nelson Delerme
jdelerme1@aol.com

Dear Mr. Delerme:

This is in response to your inquiry regarding the constituency of boards of Community Based Organizations (CBOs). Specifically, you ask whether the boards of such organizations are required to be comprised of “more than 51 percent” of residents in the community serviced by the organization. You additionally ask that if such requirement pertains and a particular organization is “noncompliant,” what “enforcement process” exists to compel compliance and what steps you may take to become a member of the board. While we have previously replied to certain of your queries, it is of benefit to provide this more comprehensive response.

The Community Services Block Grant (CSBG) is a federal program created by the Omnibus Budget Reconciliation Act to ameliorate the causes of poverty. In New York State, the Secretary of State has been designated to act as official agent of the state in administering, carrying out, and otherwise cooperating with the federal government in the administration of the CSBG program (*see*, Exec. L. Art.6-D). At least 90 percent of the federal anti-poverty funding provided to the State through the CSBG program is required to be distributed by the Secretary on an annual basis directly to a statewide network of designated “eligible entities.” This network of grantees consists of specifically designated community action agencies (CAAs), community action programs (CAPs) and migrant and seasonal farmworker organizations (Exec. L. §159-i). With some limited exceptions, eligible entities are required to maintain a “tripartite” board designed to include membership that is composed in such a manner as to have one-third of the membership comprised of public officials, at least one-third comprised of individuals that are representative of low-income individuals and families in the service area, and the remainder comprised of officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served” (Exec L. §159-e[2]). For the membership of an eligible entity’s board, residency within the entity’s service area is demanded of those members (comprising at least 1/3 of the board) who are selected as representatives of low-income individuals and families in the service area (Exec. L. §159-e(2)(a)[2]).

Of the remaining ten percent of federal CSBG funding provided to the State, up to five percent may be used by the state for administrative purposes, and, pursuant to state law, the remainder of the funds may be provided by the Department of State directly to tribal organizations and “community based organizations” (see Exec. L. §159-i). To qualify for this direct CSBG funding from the Department of State, a community based organization (CBO) must be “incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within its designated community” and “must have a board of directors of which more than half of the members reside in such designated community (Exec. L. §159-e[4]).”^[1] Therefore, law requires that at least 51% of the board of

^[1] It is important to note that the label, “community based organization,” is employed in a variety of contexts and can and does indicate a form of organization different from that defined in Article 6-D for purposes of eligibility for CSBG funding (*see, e.g.*, 20 U.S. Code § 780, within 20 U.S.C. Ch. 70, entitled Strengthening and Improvement of Elementary and Secondary Schools, which labels and defines a community based organization as a “public or private nonprofit organization of demonstrated effectiveness that . . . is representative of a community or significant segments of a community; and provides educational or related services to individuals in the community.”



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directors of a CBO which receives CSBG funding directly from the Department of State be residents of the community the organization is formed to assist.^[2]

Please note that neither state nor federal law requires subcontractors of a designated eligible entity or subcontractors of a direct-funded CBO to meet and maintain the statutory board residency requirements applicable to tripartite boards and CBOs as described above. For instance, organizations that receive funding as subcontractors through the New York City Division of Youth and Community Development (DYCD), an eligible entity, are not covered by the statutory "eligible entity" or direct-funded "CBO" board residency requirements. As a designated eligible entity, DYCD receives CSBG entitlement funding directly from the Department of State, which it is permitted to use to subcontract to other agencies and not-for-profit-corporation to carry out programs and services throughout the New York City area. This situation should be distinguished from not-for-profits that receive discretionary CSBG funds through direct awards from NYS DOS, which are granted following a competitive RFA process. Such discretionary fund grantees must attest to being CBOs in the RFA application. An entity which fails to adhere to such requirement may be determined to be in breach of contract and suffer termination of funding.

In answer to what steps you may take to become a member of the board of a CBO, for the purposes of the CSBG, each such organization is a not-for-profit entity which develops and adopts its own bylaws for the requisites and selection of its members. I would thus recommend that should you wish to become a candidate for membership on the board of directors of a specific organization, that you consult with its executive staff.

I hope I have been of assistance to you.

Very truly yours,

Veronica Cruz, Ph.D.
Director, Division of Community Services

^[2] Your assertion that the tripartite boards of CAAs must be similarly comprised is in error. Residency is only demanded of those members (comprising at least 1/3 of the board) who are chosen "in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served" (Exec. L. §159-e(2)(a)[2]).