



Title: CSBG Civil/Criminal Penalties/Fines Guidance Memorandum 2017-1

Purpose: To provide consistent guidance on the expenditures related to civil penalties/fines.

Effective Date: December 1, 2016

Related (No Related GM)

Resources:

2 CFR PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS; NC DHHS Contract Section 14. Disbursements and NC DHHS General Terms and Conditions of the contract.

Background

During on-site monitoring OEO Staff noted Community Action Agencies paying participant's civil/criminal penalties (travel violations, court costs, DUI Classes, etc.) The Office of Economic Opportunity (OEO) has treated these costs as unallowable in past years during on-site based on the 2 CFR Part 230 guidance. Recently, OEO has sought federal guidance regarding the use of CSBG funds to pay civil penalties and/or fines. Upon review by the Office of Community Services, it was interpreted: ***The 2 CFR 200.435 and 2 CFR 200.441 specifically apply to the non-federal entity, not to a recipient of services, with the exception of 200.435(g) (costs of prosecution of claims against the Federal government) and 200.435(h) (costs related to patent infringement litigation). However, basic considerations of cost allowability at 200.403-405, in connection with the CSBG statutory provisions still apply to this situation. Even if the costs in question are not strictly prohibited by the selected items of cost provisions, they must still meet the dual reasonable and allocable requirements, the costs also must meet the purposes of and be allowable under the CSBG Act, and must be consistent with any applicable state laws and policies.***

Whether such activities meet the purposes for CSBG is debatable. Penalties, fines, and legal services, can definitely put a strain on a household that may barely sustain itself under normal circumstances. And it's possible that some legal services are necessary to obtain

benefits, which can improve the financial standing of the household. On the other hand, payment of such expenses, especially fines and penalties, certainly reduces the punishment that the court intended to impose upon the guilty. And there is a fairness issue raised if the government pays for the restitution that it intended the guilty party to pay. With the 2 CFR 200 not specifically addressing these types of penalties with regard to client services, OEO deemed it necessary to issue guidance relative to this matter to provide consistent guidance on allowable and unallowable costs related to non-civil and civil/criminal fees and penalties.

State Guidance and Interpretation on the payment of non-civil/criminal penalties and fees

The Agencies must follow established Financial Policies and Procedures which should detail the process for providing payments on behalf of clients for the following situations:

- 1.) Late fees on client services such as utility bills and rent payments are allowable.
- 2.) Fines/penalties assessed by court in relation to eviction proceedings filed by client's landlord are allowable.
- 3.) Penalty fees and Court fees to reinstate insurance are allowable.

Please note if other situations arise, contact OEO for guidance.

State Guidance and Interpretation on the payment of civil/criminal penalties and fine/fees

While OEO strongly encourages the use of non-restricted funding to assist eligible participants with related expenses which can be barriers to economic self-sufficiency, consider the following:

2 CFR Part 200.403 and 200.404 A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

When deemed appropriate to pay such costs:

- 1.) Agency should demonstrate that unrestricted and/or local funds have been exhausted.
- 2.) Agency should seek to assist with other costs/barriers to allow participants to use personal resources/income to address costs.
- 3.) If agency has no unrestricted funds and assisting participants with other costs will not alleviate the burden, the agency can pay for the civil penalties and fine/fees for an amount not to exceed \$600.
- 4.) This payment would be a one-time benefit to the participant. (If a participant exists and re-enters the program, they are not eligible to receive this type of service again.)
- 5.) Agency must have Board approved financial policies and procedures that detail the process for the payment and the required support documentation.
- 6.) Agency must maintain the documentation to support the payment of civil/criminal penalties and fines/fees.

This GM is accessible at the OEO website and will be sourced during OEO's ongoing monitoring, training and technical assistance activities. All sub-grantee agencies will be accountable to this information.



Director of Office of Economic Opportunity

12/1/16
Date