



Proposed Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -901
Regulation title	Community Services Block Grant Program
Action title	Criteria for the designation of a new community action agency
Document preparation date	October 20, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This amendment to the Community Services Block Grant Program regulation adds six new sections dealing with the process for providing community action agency services to low-income individuals and families in areas of the Commonwealth that do not currently receive those services.

The amendments lay out the preferences stated in federal law for expansion of community action agencies into unserved areas of the Commonwealth. The amendments address the process for expanding the services area of an existing community action agency and designation of a new community action agency. In addition, amendments address funding for new community action agencies and those who have expanded their service area.

Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Legal Authority for promulgation of this regulation by the State Board of Social Services is in §§ 63.2 – 217 and 2.2 – 5402 of the Code of Virginia. Regulations dealing with allocation of Community Services Block Grant funds are mandatory. The sections of the regulations which describe the process for designating a new community action agency or expanding the service area of an existing agency are discretionary. While discretionary, these sections provide a fair and consistent process to help ensure that the best qualified organizations are designated to provide services.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this regulatory action is to provide guidelines for the Virginia Department of Social Services (VDSS) to use in evaluating organizations for designation as a community action agency. The guidelines will be used by the VDSS in making its recommendations to the Governor for designation and funding of new community action agencies.

Most of Virginia's community action agencies have been in existence since the late 1960s and were "grandfathered" in when their funding was block granted to the states in 1982. The current network consists of 26 local community action agencies and three statewide community action organizations. Virginia is one of only a few states without statewide coverage. Currently there are 43 jurisdictions in Virginia that are not served by a community action agency. Individuals and groups from a few unserved localities have expressed interest in identifying an organization to be designated as a community action agency. The goal of this proposal is to provide guidance to ensure that the process used in designating any additional community action agencies in Virginia is consistent with federal and state requirements, takes advantage of the experience and lessons learned over the past 20 years, mitigates the impact on existing services to low-income communities, and supports the goals of the Community Services Block Grant Act. Those goals include: reducing poverty, revitalizing low-income communities, and empowering low-income families to become fully self-sufficient.

This proposal will protect the health, safety and welfare of citizens by developing a process for finding the best qualified organizations to provide community action services in areas not currently receiving those services.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

This proposal will add the following provisions to this regulation:

Three new definitions were added to 22 VAC 40-901-10.

22 VAC 40-901-40 - This section establishes the preferences indicated in federal law in selecting an organization to provide services to a locality currently not receiving services funded by the Community Services Block Grant.

22 VAC 40-901-50 – This section describes the process to be used when an existing community action agency expands its provision of services into a new locality.

22 VAC 40-901-60 – This section describes the process to be used by a community organization to request designation as a community action agency.

22 VAC 40-901-70 – This section describes the process to be used by a locality or group of localities to request designation as a community action agency.

22 VAC 40-901-80 – This section describes the process to be used by VDSS to evaluate requests from a community organization or a locality or group of localities and make recommendations to the Governor.

22 VAC 40-901-90 – This section address the method to be used to determine funding for new or expanded community action agencies.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Virginia is one of only a few states without statewide coverage by community action agencies. Currently, 43 jurisdictions in Virginia are not served by a community action agency. Individuals and groups from a few unserved localities have expressed interest in identifying an organization to be designated as a community action agency.

Lack of new funding for potential expansion of community action throughout the Commonwealth will be an issue of concern to existing and potential community action agencies. These funding issues exist on the federal, state and local levels.

This proposed regulatory action deals with the criteria to be used in recommendations for designating an organization as a community action agency in an area unserved by community action. Designating new community action agencies would expand the community action network and result in the redistribution of existing funding. Although this could cause a reduction of services provided by existing community action agencies, this reduction should be offset by the potential for new and increased services to low-income families provided by the new agencies.

This regulation would not have a negative impact on the provision of services by other human service organizations. It poses no disadvantage to the public or Commonwealth.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None
Projected cost of the regulation on localities	Unknown If new community action agencies are designated, Alexandria and Fairfax (the two public community action programs) could have a reduction in CSBG funds as a result of redistribution of those funds.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Existing community action agencies, as above, could have a reduction in funding as a result of a redistribution of CSBG funds.
Agency’s best estimate of the number of such entities that will be affected	24 (This excludes the two public agencies)
Projected cost of the regulation for affected individuals, businesses, or other entities	None

This regulation does not mandate changes. It provides a process for dealing with expansion of community action services which is currently allowable under state and federal law.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

One alternative is to continue with the status quo and not develop regulations. State law provides a framework for expansion of community action but does not provide a specific process.

Another alternative to this regulatory action would be to amend the Community Action Act in the Code of Virginia. This will be considered during the development of the regulation; however, it is unlikely that legislation will be pursued, as regulations can provide a level of detail and flexibility inappropriate for statute.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No comments were received.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This proposed regulatory action would not have a direct impact on the institution of the family or family stability. It deals with the criteria to be used in recommendations for designating an organization as a community action agency in an area unserved by community action. Designating new community action agencies would expand the community action network and result in the redistribution of funding. Although this could cause a reduction of services provided by existing community action agencies, this reduction should be offset by the potential for new and increased services to low-income families provided by the new agencies. This regulation would not have a negative impact on the provision of services by other human service organizations.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22 VAC 40-901-10			Three new definitions were added to this section: “Community organization” was added to identify the types of organizations which can be designated as a community action agency. This definition includes faith-based organizations. “Department” was added to clarify references to the Department of Social Services. “Locality” was added to clarify the areas included in a community action agency’s service area.

	<p>22 VAC 40-901-40</p>	<p>Federal law establishes a preference for designating an organization to provide Community Services Block Grant services. State law does not include a preference.</p> <p>No regulations exist on this matter.</p>	<p>This section establishes the preferences indicated in federal law in selecting an organization to provide services to a locality currently not receiving services funded by the Community Services Block Grant. Federal law looks first to expansion of an existing community action agency, next to the designation of a non-profit organization as a new community action agency. A local government would be designated only after considering the previous two options.</p>
	<p>22 VAC 40-901-50</p>	<p>Federal and state law allow for the expansion of community action agencies to provide services into localities currently not served.</p> <p>No regulations exist on this matter.</p>	<p>This section describes the process to be used when an existing community action agency expands its provision of services into a new locality. This includes developing an agreement between the community action agency and one or more localities relating to, among other things, the method for providing services and expanding the community action agency board to include representation from the new localities. Once the agreement has been approved by VDSS, the locality will adopt a resolution designating the community action agency to provide services in its jurisdiction.</p>
	<p>22 VAC 40-901-60</p>	<p>Federal and state law allow for the designation of an organization as new community action agency to provide services in localities currently not served.</p> <p>No regulations exist on this matter.</p>	<p>This section describes the process to be used by a community organization to request designation as a community action agency.</p> <p>Subsection A sets out conditions that will be considered in recommending a community organization to be designated as a community action agency. These considerations include:</p> <ol style="list-style-type: none"> 1. The organization's governing board meets the requirements of federal and state law for a community action agency. 2. Each locality to be served by the community organization has approved a resolution recommending the designation. 3. The community organization and its management has a record of successfully providing services to low-income individuals. 4. The low-income population to be served is large enough to justify funding a variety of programs. 5. The community organization is financially stable. 6. The community organization has financial procedures in place to meet Generally Accepted Accounting Procedures. 7. The community organization has developed a plan for providing Community Services Block Grant funded services within

			<p>the proposed service area.</p> <p>Subsections B provide that the community organization must submit a written plan for review by VDSS.</p>
	22 VAC 40-901-70	<p>Federal and state law allow for the designation of a locality as new community action agency to provide services in localities currently not served.</p> <p>No regulations on this matter exist.</p>	<p>This section sets out the conditions that will be considered in recommending a locality or group of localities to be designated as a community action agency. These conditions include:</p> <ol style="list-style-type: none"> 1. A description of the efforts made to first obtain services through the expansion of an existing community action agency or designation of a community organization. 2. A resolution adopted by the governing body of the locality or group of localities to be designated as a community action agency. 3. A resolution adopted by the locality or group of localities establishing a community action board that meets the requirements of federal and state law. 4. A plan for providing Community Services Block Grant funded services in the locality or group of localities.
	22 VAC 40-901-80	<p>Federal and state law allow for the designation of a new community action agency to provide services in localities currently not served.</p> <p>No regulations on this matter exist.</p>	<p>This section describes the process to be used by the Department to evaluate requests from a community organization or a locality or group of localities and make recommendations to the Governor. This process can include onsite monitoring and requests for additional information and documentation.</p> <p>This section also provides that if the Governor designates the community organization or locality, a contract will be issued July 1 following the designation.</p>
	22 VAC 40-901-90	<p>Federal and state law provide for funding an expanded or new community action agency but do not specify a method to determine an amount.</p> <p>No regulations on this matter exist.</p>	<p>This section addresses the method to be used to determine funding for new or expanded community action agencies. Subsection A describes the allocation method. The allocation method is that 75 percent of the funding is based on the number of low-income persons, 20 percent is based on the number of localities, and 5 percent is based on the number of square miles. The formula compares these numbers for a new or expanded community action agency to the totals for the service area of the entire community action network to arrive at the allocation for the new organization.</p>

			<p>Subsection B provides that when an existing community action agency has expanded its service area, the agency's new allocation will be the greater of their current allocation or the allocation provided in the formula in Subsection A.</p> <p>Subsection C provides that when a new community action agency is designated, its allocation will be based on the formula in Subsection A.</p>
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