Community Action Agency Leaders,

As we continue to face the challenges that the past couple of years have represented for our communities, OHCS has been examining the ways in which we can assist you all in ensuring that capacity and staffing for vital services across the State are optimized. One of those strategies is around the very real workforce challenges that many industries are facing at this time, including non-profits and housing stabilization services providers. OHCS understands that with the current trends in the hiring market require flexibility in compensation structures to allow for attracting the top talent for this difficult work. We also appreciate the feedback and requests for this analysis from CAA’s. To that effect, OHCS wants to ensure that our Subgrantees are allowed to implement the following strategies for compensation for all OHCS grants:

OHCS believes that all OHCS grants allow for bonuses and incentive compensation subject to federal limitations, including the Fair Labor Standards Act, IRS regulations governing Non-Profit Compensation, the Code of Federal Regulations, and state laws/regulations. Community Action Agencies wishing to take advantage of this allowability should review the cited regulations and make a determination on the use of bonuses and incentive compensation in consultation with their human resources staff and financial auditors.

OHCS can offer Technical Assistance through our contractors in crafting this policy as CAA’s require it. The Nonprofit Association of Oregon will be providing training on this topic on November 30th during the HR focused training at noon. This is a great time to bring questions to a team of interdisciplinary non-profit professionals. Please contact Mike Savara and Tim Zimmer to discuss supports and TA you may need on this policy clarification.

Importantly, we’d like to draw your attention to 48 CFR 31.205-6 for more information on compensation for personal services requirements, specifically this section (f) and (h):

(f) **Bonuses and incentive compensation.**
- (1) Bonuses and incentive compensation are allowable provided the -
  o (i) Awards are paid or accrued under an agreement entered into in good faith between the contractor and the employees before the services are rendered or pursuant to an established plan or policy followed by the contractor so consistently as to imply, in effect, an agreement to make such payment; and
  o (ii) Basis for the award is supported.

- (2) When the bonus and incentive compensation payments are deferred, the costs are subject to the requirements of paragraphs (f)(1) and (k) of this subsection
(h) Backpay is retroactive adjustment of prior year’s salaries and wages. Backpay is unallowable except as described in (h) (1)-(3)

These requirements apply to State and federal grants, so each organization must utilize a consistent and reasonable approach to using bonuses that are in alignment with these regulations. To that end, we would like to provide a few helpful starting points for considering your policies from some key TA resources. OHCS does not endorse any of these, as some of them are slightly older, but hope that these are useful for your own consideration:

- Memo from CAPLAW on Hiring Bonuses
- Article on Employee Compensation from the Council of Nonprofits
- IRS Form 990 Instructions with information on compensation
- 48 CFR 31.205-6
- Fair Labor Standards Act – Department of Labor Memo on Bonuses

We would also encourage CAPO and all CAAs to work together on policies that align and support the housing stabilization services system as a whole. Additionally, recommended best practice regarding the use of hiring bonuses includes the creation and implementation of a policy outlining a compensation strategy that is consistent with all relevant state and federal laws governing the compensation of employees. The policy should be reviewed and approved by a governing body such as a Board of Directors or similar oversight structure.

Lastly, we hope this information will help ensure that our shared mission to serve the most vulnerable members of our State is possible by ensuring that those we serve have the opportunity to work with the highest caliber professionals. This work requires the ability to have stability and capacity within our staffing structures to do our best work for those we serve. We know that this single solution will not relieve all of the challenges with staffing and capacity that are a result of the current labor market, the pandemic and countless other factors. Please continue to elevate needs and changes you’d like to make in your organizations to meet this moment. We appreciate your partnership!

OHCS Housing Stabilization and Fiscal Teams