

Acquisition of Publicly Owned Real Property

October 28, 1993

MEMORANDUM FOR: John G. Bonham, Division Director Community Planning and Development, 10.3C

FROM: James R. Broughman, Director
Entitlement Communities Division, CGBE

SUBJECT: Acquisition of Publicly Owned Real Property

This is in response to your March 30, 1993, cc:Mail message requesting a policy determination on the acquisition of publicly owned property under the Community Development Block Grant (CDBG) program. You seek this determination in order to prevent entitlement grantees from "laundering" CDBG money through the acquisition of publicly owned land.

The Department's policy regarding acquisition is that the use of CDBG funds to purchase real property already owned by the grantee or an agent thereof, where there is no transfer of title, does not constitute an eligible acquisition pursuant to 24 CFR 570.201(a). A grantee may, however, use CDBG funds to acquire ownership of real property owned by a public entity other than the grantee, i.e. the Federal or State government, or independent units of local government, such as a school board, utility district, or public housing authority. All such acquired properties would be considered assets of the CDBG program.

Subrecipients, on the other hand, may use CDBG funds to acquire grantee-owned property. However, since this would not be an arms-length transaction, the Department and the grantee must ensure that the property, or interest therein, is sold at fair market value. An appropriate determination of value would need to be made by an independent appraiser, i.e. not a grantee employee or one that contracts with the jurisdiction for such purpose.

In the case of Washington County, Oregon, the County wishes to use CDBG funds to acquire real property from the Housing Authority. It is our understanding from conversations with your staff that the County Commissioners and the Housing Authority Board are one and the same. If the property owned by the Housing Authority is not held in the name of the County, the proposed transaction would appear to qualify as acquisition since there would be a transfer of title.

We do not agree that an exception should be made to allow grantees to purchase grantee-held land if the land is security for a bond and the sale proceeds are used to retire the bonds. This is not a bona fide acquisition. In this case, CDBG funds would only be used to pay off an existing debt. Since paying off an existing debt is generally not a CDBG eligible activity, it is the Department's position that this type of activity is not allowed under the CDBG program.

Thank you for raising this important issue to our attention. If you have any questions, feel free to contact my staff at
(202) 708-1577.

cc: Robert P. Allen, SC

