

Blanket Waivers

June 12, 1997

MEMORANDUM FOR: John Bonham, Director, Community Planning and Development, Oregon State Office, OED

FROM: Jacquie M. Lawing, General Deputy Assistant Secretary for Community Planning and Development, D

**SUBJECT: Requests for Waivers of 24 CFR 570.206(g) Community Development Block Grant (CDBG) Program
Clackamas County and Eugene, Oregon**

This is in response to your memorandum of February 28, 1997, recommending approval of the requests from both Clackamas County and the City of Eugene, Oregon, for blanket waivers of 24 CFR 570.206(g). This section of the regulations limited the expenditure of CDBG funds for "necessary administrative expenses in planning or obtaining financing for housing... units identified in the recipient's HUD approved housing assistance plan (HAP)...". Because the Consolidated Plan is broader in scope than the HAP (by encompassing non-housing activities), and because it is not exclusively limited to low- and moderate-income persons, section 570.206(g) cannot be read to merely substitute costs related to the Consolidated Plan for costs formerly eligible in connection with the HAP.

Both grantees have identified the need for low- and moderate-income housing in their Consolidated Plans, and both express the need to have the ability to use CDBG funding for the administrative expenses to accomplish their housing goals.

In order for HUD to consider a waiver, the grantee is required to meet the requirements of 24 CFR 5.110, as referenced at 24 CFR 570.5. These provisions require that the grantee demonstrate good cause for the waiver by showing that undue hardship will result from applying the requirement (of not permitting CDBG funds to be used unless they are for HAP-related activities) and that the application of the requirement would adversely affect the purposes of the Act. If a specific activity is construed so as to include a HAP-type of implementing activity for costs statutorily permitted, the Department would be willing to consider a waiver of section 570.206(g) to permit the expenditure of CDBG funds for administrative expenses. However, in the County's and City's requests to you, there do not appear to be any specific activities, at this point in time, that generate the requests for waivers of 24 CFR 570.206(g). There is, therefore, an insufficient basis upon which a waiver of this regulatory requirement can be made.

Also, it should be noted that 24 CFR 570.206(g) was included in the regulations to enable a grantee to support activities needed to carry out its HAP that would not otherwise be eligible under sections 570.201 through 570.204. The regulation at 24 CFR 570.206(g) does not include activity delivery costs that can be classified under another eligibility category. Therefore, if the County or City has a specific activity, the Field Office may

wish to examine the eligibility of paying such costs under another eligibility category, including 24 CFR 570.204, special activities by community-based development organizations (CBDOs).

If you have any questions concerning this matter, please contact the Entitlement Communities Division at (202) 708-1577.