

Public Services Limitation Differences between the Entitlement and State Administered CDBG Programs

August 28, 1990

MEMORANDUM FOR: Sam R. Moseley, Regional Administrator-
Regional Housing Commissioner, 6S

ATTENTION: R.D. Smith, Acting Regional Director for
Community Planning Development Division, 6C

FROM: Anna Kondratas, Assistant Secretary for
Community Planning and Development, C

**SUBJECT: Policy regarding the public services limitation Entitlement and State program
Community Development Block Grant (CDBG)**

This is in response to your June 19, 1990, memorandum forwarding a May 17, 1990, memorandum from Mr. Carlos Renteria of the Fort Worth Office of Community Planning and Development regarding a difference in the public service limitation policies of the Entitlement and States CDBG programs.

In the May 17 letter, Mr. Renteria observes that the States program does not consider non-physical activities carried out under Section 105(a)(15) of the Housing and Community Development Act of 1974 (the Act) to be subject to the 15 percent limitation on public services, while the Entitlement program does consider these services to be so limited.

Mr. Renteria is correct, but the difference exists primarily because the current States program rules, which have not been updated for eight years, are silent on this issue. However, it is noteworthy that the regulations currently being developed for the States CDBG program will embody policy similar to the Entitlement program in that, when applied at the State level, public services provided through subrecipients will be included under the 15 percent limitation. The income payments in question are non-physical and provide a service to the neighborhood residents or selected members of the community. The question of eligibility is a separate issue that does not alter the public service nature of these activities. When some ineligible activities, such as mortgage assistance, become eligible by virtue of being carried out by certain subrecipients as part of a special project, all other CDBG rules nevertheless apply.

The limitation on public services carries out a clear Congressional intent that the CDBG program be principally a physical development program. In pursuing affordable housing programs using CDBG, communities must remember that CDBG is primarily intended to provide physical development or redevelopment. Even when CDBG downpayment assistance is provided through a special subrecipient, it must be in conjunction with a neighborhood revitalization project that will have an impact on physical neighborhood decline. This confirms that the link to physical development is crucial and a defining characteristic of the CDBG program.

So, absent a change in the statute, we believe that income payments should be subject to the public service limitation. The other option you suggest, of supporting waivers to the public services limitation for activities associated with affordable housing, is already being done, although not quite as you suggest. For example, a waiver of the public services limitation was granted the City of Fort Worth this spring to enable it to fund an effort that provided rental subsidies and job training to single parents. The waiver permitted the City to apply program income earned the previous program year toward the calculation of the limitation. One of the reasons the waiver was favorably considered was because it supported current HUD job and affordable housing priorities.

Incidentally, The Guide to Eligible Activities does not include income payments under the public services listing because income payments are generally ineligible.

If you or your staff have any further questions, please contact the Entitlement Communities Division at (FTS) 458-1577.