

Request for Determination of Eligibility for Awards in Discrimination Cases

May 18, 1994

MEMORANDUM FOR: Karen A. Miller, Secretary's Representative Mid-Atlantic Office, 3C

ATTENTION: Choice Edwards, Acting Area Coordinator, HUD Pittsburgh Office, 3.3S

FROM: Kenneth C. Williams, Deputy Assistant Secretary for Grant Programs, CG

SUBJECT: Request for Determination of Eligibility for Awards in Discrimination Cases - Pittsburgh, Pennsylvania

This is in response to your letter dated November 16, 1993, requesting guidance in determining whether or not Community Development Block Grant (CDBG) funds may be used to pay any portion of a court ordered settlement in a discrimination case.

The question arose when two employees filed age discrimination cases against the Urban Redevelopment Authority (URA), a subrecipient of the Department of City Planning. The Department of City Planning administers the CDBG program for the City of Pittsburgh. Both of these employee's salaries were partially paid with CDBG funds. The two cases were tried in District Court and a jury found that URA had discharged the employees for discriminatory reasons based on age. The plaintiffs were awarded approximately \$700,000. The awards consisted of back pay, liquidated damages, front pay, attorneys' fees, and interest payments. The HUD Pittsburgh Office determined that URA paid 80 percent of the award with CDBG funds and 20 percent with local funds. The amount of CDBG funds used was based on the URA's time distribution and cost allocation system which prorates costs as CDBG and non-CDBG costs. The Field Office questions whether any portion of the award may be paid with CDBG funds.

OMB Circular A-87, provides uniform rules for determining allowable costs of Federal grants, contracts, and other agreements with state and local governments. Attachment B, Standards for Selected Items of Cost, Section D(5) prohibits the use of Federal grant funds to pay fines and penalties resulting from violations of, or failure to comply with Federal, state, and local laws and regulations. Therefore, CDBG funds may not be used to pay any of the court-awarded costs for liquidated damages, back pay, front pay, attorney's fees or interest on salary costs resulting from the grantee's violation of the Federal prohibition against age discrimination.

If the City has used CDBG funds to pay any of these costs, the Field Office should inform the City that it has violated the requirements of OMB Circular A-87. I understand that you will be advising the City to reimburse its CDBG account for any CDBG funds used to settle the court-ordered award. If the City does not comply, the Pittsburgh Office should forward to Headquarters a request to reduce the City's line of credit.

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

cc:Robert P. Allen, SC