

Eligibility Determination: Public Transportation System

January 4, 1995

MEMORANDUM FOR: James Barnes, Director, Community Planning and Development, 5D

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

SUBJECT: Request for Eligibility/National Objective Determination: Public Transportation System City of Kankakee, Illinois - CDBG Program

This is in response to Richard H. Wilson's memorandum of October 13, 1994, forwarding a request from the City of Kankakee, Illinois, for an eligibility determination for a proposed Community Development Block Grant (CDBG)-funded public transportation demonstration program.

The City of Kankakee is exploring development of a Public Transportation Demonstration Program that will operate only within the City. The need for a public transportation system has been documented in various local needs assessments, including the Strategic Plan prepared for the City's Enterprise Community application. Since this is a limited Demonstration Program, Federal and state funds are not available.

The Public Transportation Demonstration Program would be available to elderly and/or physically and/or mentally challenged persons on a demand-response basis, and would run a fixed route in certain areas which, according to the 1990 Census, have median family incomes below 80 percent of the median family income for the City of Kankakee. The City claims that the Demonstration Program, as it is being planned, will meet the National Objective test at 24 CFR 570.208(a)(2)(i)(A) and (D), benefiting a limited clientele generally presumed to be principally low- and moderate-income and being of such a nature and in such location that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons.

The City believes that the Demonstration Program is an eligible community economic development activity as defined at the currently proposed 24 CFR 570.204(a)(2). The City claims that from a practical standpoint, the present lack of a transportation system leaves persons who cannot afford automobiles without the ability to get to any jobs they may be able to secure. Other low- and moderate-income residents who do have access to cars lack the income or resources for the inevitable mechanical repairs. For these persons, the immediate economic crisis of losing transportation can either result in loss of employment or savings. During the Demonstration phase of the Public Transportation project, the City will attempt to document the local correlation between transportation and employment. The City states that research from Federal and state studies supports the correlation. In addition to providing a

necessary service to the unserved segment of the City's population targeted by CDBG, the Demonstration project is intended to show that a public transportation system in Kankakee is feasible on a long-term basis community-wide and that it is an effective and efficient means of increasing economic opportunity.

The operation of a community transit service is usually eligible as a public service activity under the CDBG program and subject to the 15 percent public service cap. Based on discussions with staff from your office, it is my understanding that such an eligibility classification for this activity would cause the City to exceed its public service cap. In order for the City of Kankakee to classify the Public Transportation Demonstration Program as a community economic development project under 24 CFR 570.204, the City must document compliance with three important criteria. First, the City must establish a clear link between the activity and either an increase in economic opportunity, principally for low- and moderate-income persons, or the stimulation or retention of businesses or permanent jobs. It is noted that the City states that during the course of the subject demonstration phase of its public transportation project, it "will attempt to document, as much as possible, the local correlation between transportation and employment." While this correlation may not be proven until the demonstration project is implemented, the City must have reasonable grounds for believing that such a local correlation exists prior to the start of the activity. One important aspect of establishing this correlation should include an analysis of the relationship between the route areas served and the location of existing or expected job centers.

The second eligibility criterion that the Public Transportation Demonstration Program must meet in order to be classified as a community economic development project is that the project must be carried out by a qualified subrecipient under 24 CFR 570.204(c). There is no indication in the City's September 21, 1994, letter that any such entity will be involved. Discussions with staff from your office indicate, however, that the City has the potential for involving a qualified entity in this project. In this regard, it should be noted that the qualified entity must actually carry out the project, and it must be independent of the City.

The final important eligibility criterion for the City of Kankakee's proposed Public Transportation Demonstration Program relates to the public service cap. Current CDBG entitlement regulations do not permit service activities to escape the public service cap even when they are classified under 24 CFR 570.204. On May 31, 1994, HUD published a proposed rule that included a modification of that provision such that certain services qualifying under 24 CFR 570.204 would not be considered as subject to the public service cap. The final rule is currently being developed. Until such time as a rule may be published for effect in this regard, the City of Kankakee would need to request a waiver of 24 CFR 570.201(e) if the obligation of CDBG funds **

for the subject Demonstration Program would cause it to exceed its public service cap. In order to obtain a waiver, the City must demonstrate that it meets the requirements of 24 CFR 570.5.

In regard to compliance with CDBG national objective requirements, the City claims that the Public Transportation Demonstration Program is a low- and moderate-income limited clientele activity, as noted above. After review and consultation with staff from your office, it is my understanding that in the areas along the proposed fixed route, the transit service will be available to all persons, not just elderly and/or physically and/or mentally challenged persons. Based on that information, in order to meet the national

objective of benefiting low- and moderate-income persons, this activity must qualify as an area benefit activity. Thus, at least 51 percent of the residents of the overall service area must be low- and moderate-income persons.

The Public Transportation Demonstration Program proposed by the City of Kankakee may qualify for CDBG assistance as a community economic development project if all of the above-noted criteria are met. However, the information provided thus far by the City is insufficient to permit such a determination to be made. It is recommended that your office relay this information to the City of Kankakee and work with the City to determine whether all of the required criteria can be satisfactorily addressed. If you have any questions concerning this matter, please contact the Entitlement Communities Division on (202) 708-1577.

cc: John E. Wilson, SC

****Note:** The final rule that exempts employment-related transportation services carried out under §570.204 from being subject to the public service cap became effective February 6, 1995.