

Eligibility of Black Business Center Projects for the CDBG Entitlement Program

March 8, 1988

MEMORANDUM FOR: Robert D. Atkins, Manager
Knoxville office, 4.7S

ATTN: Robert D. Atkins, Acting Director
Community Planning and Development Division, 4.7C

FROM: Jack R. Stokvis, General Deputy Assistant Secretary for Community Planning and Development

SUBJECT: Memphis CDBG Entitlement Program Eligibility of Black Business Center Projects

This is in response to the December 16, 1987, memorandum from Robert Atkins to Bill Maynard requesting eligibility determinations for two related projects:

1. the purchase and renovation by the City of Memphis of the Memphis Area Chamber of Commerce building to house the Black Business Center (\$450,000); and
2. grants to the Black Business Association (\$100,000 for the first year and \$75,000 for each of the second and third years) to operate the facility.

Advice on the proper documentation to support the eligibility of these activities was also requested. Before responding to your specific requests, there is a preliminary issue which must be resolved prior to any action on this proposal.

The name of the proposed center, the name of the association that will operate it, and the description of the program itself appear to indicate that the program is for the exclusive benefit of black persons and businesses. While we note that the description of the proposed activity, include as an attachment to the city's request for approval, cites a priority for the creation of jobs for low income and disadvantaged persons, the remainder of the proposal discusses the intended beneficiaries as being black persons and businesses.

The use of Federal funds for the exclusive benefit of persons of a particular race would violate the prohibitions against discrimination in Section 109 of the Housing and Community Development Act of 1974. Therefore, before these activities can be found eligible, a more detailed description of the purpose of the proposed center and the programs to be operated at the center should be requested and reviewed to assure that the activities are intended to benefit low income and disadvantaged persons regardless of their race and that persons will not be excluded based on their race. Further, unless it can be demonstrated that publicity emphasizing that the benefits of these CDBG funded activities are available to persons regardless of their race will overcome the racial exclusivity implied through the use of the term

Black Business Center and Black Business Association, the name of the center and the name of the association which will operate it also must be changed.

This matter was discussed with Mr. Hershel Lipow, the City's Community Development Director, during an informal meeting on January 20, 1985, he arranged with Jim Broughman and other members of my staff. Mr. Lipow stated that the projects are not intended to exclusively benefit black persons, but that he would explore making the changes described above.

During the meeting, Mr. Lipow also described the activities which are planned to be carried out in the center. The eligibility of purchasing and renovating the center depends on the eligibility of the activities to be carried out there. We assume that operation of the center is synonymous with carrying out these activities: that is, the salaries, equipment, and furnishings mentioned as operational expenses are expenses which will be part of the cost of these activities.

Mr. Lipow indicates that the center would be used primarily for the following three activities:

1. reviewing and the processing applications from businesses for CDBG loans;
2. providing a small amount of space for star businesses, together with supporting services; and
3. providing education and training programs open to the community and designed to assist businesses and persons wanting to start businesses.

The first two activities, which provide assistance to specific for-profit businesses, are eligible under 24 CFR 570.203(b), if the City makes a determination for each business receiving a CDBG loan and for each business provided space and supporting services within the center that such assistance is 'necessary or appropriate for an economic development project' and meets a national objective of the CDBG program. Guidance on making and documenting these determinations is provided in my memorandum of June 2, 1987, on economic development activities.

The third activity is eligible as a public service under 24 CFR 570.201(e), if the limitations on public services described in that section of the regulations are not exceeded, and if documentation is maintained showing that at least 51 percent of the persons receiving the education and training are low and moderate income persons.

Provided these three activities are eligible and meet one or more of the national objectives of the CDBG program, and provided the building will be used primarily for the activities, then the acquisition and renovation of the building would be eligible for CDBG funding under 24 CFR 570.201(c), as acquisition and rehabilitation of a public facility.

Finally, you asked whether the City will be able to obtain funds from the Secretary's and for this project. You should advise the City to forward any inquiries concerning the Secretary's Fund to:

Sylvester Angel,
Director Office of Program Policy
Development, CPD

U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 7138
Washington, D.C. 20410

