

# Exception to the Public Service Eligibility Regulations

October 1, 1991

Mr. Gordon R. Wackett  
Councilman, City of Binghamton  
City Hall  
Binghamton, NY 13903

Dear Mr. Wackett:

This is in response to your August 26, 1991, letter asking for assistance in preparing a request for an exception to the public service eligibility regulations under the Community Development Block Grant (CDBG) program.

As we noted in our July 24, 1991, response to Senator Alfonse M. D'Amato on this issue, 24 CFR 570.201(e)(1) allows certain ongoing public services to become eligible for CDBG funding if HUD determines that the decrease in the level of service provided with local or State funds is the result of events not within the control of the City. HUD would consider granting such an exception if the City can clearly document that the cutbacks are beyond its control and that they are equitably distributed in the overall City budget so that CDBG is not asked to assume a disproportionate share. The City must also document that any service proposed to be funded under the CDBG program meets one of the national objectives specified in the law. These objectives are to benefit low- and moderate-income persons, prevent or eliminate slums and blight, and meet other community development needs of particular urgency.

The memorandum from your Corporation Counsel is correct in stating that a blanket request for an exception will not be accepted by HUD. Any request must clearly describe specific services to be funded under the CDBG program. In documenting that cutbacks in local or State funding are outside of the City's control, the City must provide information that clearly indicates that it is unable to fund the specific activity as opposed to choosing not to fund it. The City must also provide information describing how the cutbacks have impacted the overall City budget. This information should be in sufficient detail to document that the CDBG program is not being asked to absorb a disproportionate share of the cutbacks.

Of equal importance in qualifying for CDBG funding is demonstrating that the specific services proposed to be carried out under the program meet a national objective. Based on discussions with our Buffalo Field Office, it is our understanding that its concerns with the City's informal request were principally based on the issue of whether the City could satisfactorily demonstrate such compliance. It should be noted that CDBG may not simply be added to a pool of funds to supplement City staffing levels on a general basis. Any employees whose salaries are to be paid with CDBG funds must work on specific activities that can be demonstrated to meet the national objective criteria delineated at 24 CFR 570.208. For example, any police officers paid with CDBG funds must be principally assigned to certain targeted neighborhoods, generally those where at least 51 percent of the residents are low- and moderate-income persons. Sufficiently detailed daily time records must be maintained to support any salary charges to the CDBG program.

Should the City desire to pursue this matter further, any formal request for an exception to the regulations should initially be submitted to the Buffalo Field Office. Upon completion of its review, that office will then forward the request here to Headquarters with its recommendation. A final determination will be made by the Assistant Secretary.

Thank you for your interest in the Department's programs.

Very sincerely yours,

James R. Broughman  
Director  
Entitlement Communities Division

cc:  
CGBE NEAL 7282 CGBE ZINNI 7282  
CGBE BROUGHMAN 7292 CHRON 7282  
CGBE FILES 7282