

Eligibility of Funding Section 8 Housing Options Programs with CDBG Funds

September 20, 1993

MEMORANDUM FOR: R. D. Smith, Regional Director, Office of Community Planning and Development, 6C

FROM: Don I. Patch, Director, Office of Block Grant Assistance, CGB

SUBJECT: Eligibility of Funding Section 8 Housing Options Programs with Community Development Block Grant Funds City of Dallas, Texas

This is in response to your memorandum of August 10, 1993, in which you seek guidance on the eligibility of certain activities proposed by the City of Dallas in its Community Development Block Grant (CDBG) final statement. Under Section 3.9 of the 1990 Walker Consent Decree, the City was required to spend up to \$50,000 per year for eight years (from CDBG and other resources) to assist in the desegregation of Dallas Housing Authority (DHA) public housing and affirmatively further fair housing by providing additional Section 8 units for low-income, large families in non-minority areas of Dallas County. Under the Section 8 Options program, the City would lease units in non-minority areas of Dallas County and hold them to allow DHA Section 8 certificate holders an opportunity to inspect and lease the units.

In the initial years of the Options program, the City leased three- and four-bedroom units in non-minority areas. The program was partially funded by CDBG funds as an eligible cost under 24 CFR 570.206(g), administrative expenses to facilitate housing. However, the City determined that the program was not reaching as many families as originally expected and sought to have the Consent Decree changed in order to permit other types of efforts. By Court order of June 24, 1991, the City was permitted to alter the use of its Section 3.9 resources by allowing the City to provide for a bonus payment to landlords who would rent to Section 8 eligible families. The City wrote to your office on July 28, 1993, inquiring whether CDBG funds used for the Bonus program can qualify as an eligible housing activity, instead of classifying it as a planning and administrative activity subject to the cap as the Options program had been. The City's intention is to provide a one-time payment of \$400 to any eligible landlord once an applicable Section 8 family has moved into the landlord's unit.

Activities previously carried out under 570.206(g) are no longer eligible as a result of the Comprehensive Housing Assistance Strategy (CHAS) requirement which replaced Housing Assistance Plans (HAPs), thus nullifying this section of the regulations.

In the instant case, we believe that use of CDBG for the provision of bonus payments to landlords may only be classified by the grantee in one of two ways. Given the nature of the Walker Consent Decree to affirmatively further fair housing in Dallas, the Bonus program could qualify under the provisions of 24 CFR 570.206(c) as a fair housing activity "designed to further the housing objective of avoiding undue concentrations of assisted person in areas containing a high proportion of low and moderate income

persons." This would still subject expenditures to the statutory limitation on planning and administrative costs which I understand the City would like to avoid.

The program could also qualify as a public service activity under the provisions of 570.201(e). This, however, would subject the funding of the program to the statutory limitation on public services obligations. The activity is not dissimilar to one-time payment programs carried out by other grantees either to pay utility costs on behalf of eligible persons or to prevent homelessness. Such payments made on behalf of low- and moderate-income tenants, but not directly to low- and moderate-income tenants, would not violate the prohibition in 570.207(b)(4) against income payments.

Although Dallas has not specifically asked the question in its letter, the grantee has the ability to continue using CDBG funds for the purchase of Options. Such a use could qualify under either of the eligibility categories discussed in this memorandum. As with the Bonus program, however, any expenditure must come under the applicable cap. If you have any questions concerning this, please contact the Entitlement Communities Division at (202) 708-1577.

cc: Robert P. Allen, SC