

Guidelines Used in Determining Service Areas

December 1, 1992

Ms. Eleanor Tinsley
Councilwoman, City of
Houston
City Hall
Houston, TX 77251

Dear Ms. Tinsley:

Thank you for your letter of October 19, 1992, in which you requested that I reconsider the guidelines used in determining the service areas for some of the public school locations where the City of Houston's SPARKS program has constructed neighborhood parks. There are three locations funded by Houston's Community Development Block Grant (CDBG) program in 1991 and three planned for funding in the 1992 program year that are affected by the CDBG national objective requirements for benefiting low- and moderate-income persons.

According to the information provided in your letter, the City of Houston has used CDBG funds since 1983 to assist in the development of neighborhood parks, making use of public school grounds. Each park is required to have a gate open after school hours and on weekends in order to maintain access to it for the surrounding neighborhood's use. Each project assisted with CDBG funds must meet one of the statutory national objectives of the program. Staff from the Department of Housing and Urban Development (HUD) Fort Worth Regional Office and the City of Houston's Housing and Community Development Office agree that SPARKS projects can only qualify as public facilities activities which benefit low- and moderate-income persons on an area wide basis. As such, the benefits of the activity must be available to all the residents of a residential area which contains at least 51 percent low- and moderate-income persons. During a monitoring visit conducted by the HUD staff in the spring of 1992, it was determined that the areas served by three elementary schools, Cornelius, Mark Twain, and Pilgrim, did not have populations of at least 51 percent low- and moderate-income persons.

The CDBG program regulations at 24 CFR 570.208(a)(1) require the most recently available decennial Census data to be used to determine the percentage of low- and moderate-income persons benefitting from an area benefit activity. (The most recent data provided in a usable form at this point in time is taken from the 1980 Census.) The regulations permit a grantee to conduct a current survey of the residents of the service area if it believes that the Census data do not reflect the current relative income levels in the service area. The use of such Census data or a current survey are the only two acceptable bases permitted in the CDBG regulations for determining whether the minimum percentage of low- and moderate-income persons reside within a designated service area.

The HUD Fort Worth Regional Office staff have discussed these regulations, and the guidelines which must be followed in order to conduct an acceptable survey, with Houston's Housing and Community Development Office. The use of statistics from the school lunch program is not an acceptable basis for

determining low and moderate income area benefit. The regulations require the entire population of the area served by the park to be taken into account, not just those families with children attending the school.

HUD believes that its regulations requiring that the entire population be considered is a statutory requirement. It is not possible to grant a waiver of a statutory requirement. Therefore, the findings previously made by HUD will not be cleared until corrective actions are taken in accordance with the recommendations previously made to the City by the HUD Fort Worth Office. The City has been given the option by HUD of conducting a survey of the entire service population for each of the three school parks in question. The City has previously determined the service area to be a one-mile radius around the school, which HUD did not challenge. The City is free to reconsider the boundaries of the service area if it believes that other boundaries more accurately reflect the population which may use the park.

In designating the service area for a particular activity, the City should take into account 1) the nature of the activity; 2) the location of the activity; 3) accessibility (e.g., geographic barriers, user fees, hours service is available); and 4) comparable facilities or services. The results of this analysis should then be applied against the appropriate Census block groups or tracts. However, HUD is responsible for determining whether the grantee correctly identified the service area of the activity, for determining whether the most accurate Census area(s) was used to calculate benefit and for approving the methodology used to conduct a survey if the City chooses to use one in lieu of the Census data.

I understand that the City's Housing and Community Development office has notified the SPARKS program coordinator that three of the proposed school sites selected for 1992 CDBG assistance are not eligible to receive the CDBG funds because they do not appear to serve areas which have low and moderate income populations of at least 51 percent, according to the available 1980 Census information. As with the three locations which were previously funded with CDBG, the City has the option of conducting HUD-approved surveys to determine more current income information about the service areas. As you noted, the 1990 Census data will not be made available by HUD until some time in 1993. The City can delay the actual funding of these three sites until the new data is made available if it does not choose to conduct acceptable surveys now and if the new data demonstrates that at least 51 percent of the population in the service area are low- and moderate-income persons.

I would like to take this opportunity to applaud you for your efforts to bring the SPARKS program to so many neighborhoods in Houston. Thank you for your interest in the CDBG program.

Very sincerely yours,

(signed)

Randall H. Erben
Acting Assistant Secretary