

Income Guidelines

January 18, 1989

MEMORANDUM FOR: Robert W. Dolin, Manager, Columbus Office, 5.3S

ATTENTION: Jack E. Riordan, Director
Community Planning and Development Division, 5.3C

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

**SUBJECT: Community Development Block Grant (CDBG) Program
Cleveland Heights, Ohio
Income Guidelines**

This is in response to your request for assistance in responding to a number of questions raised by the City of Cleveland Heights, Ohio regarding the City's income guidelines for determining eligibility under the CDBG program.

The program regulations at 24 CFR 570.3(q) define low and moderate income households, and 24 CFR 570.3(r) provides a definition of low and moderate income persons. The definitions are intended to reflect the requirements of section 102(a)(20) of the Housing and Community Development Act of 1974, which establishes parity with certain similar definitions under the Section 8 Housing Assistance Payments program.

Section 102(a)(20) of the Act specifies that, for purposes of these terms, "the area involved shall be determined in the same manner as such area is determined for purposes of assistance under Section 8 of the United States Housing Act of 1937." Therefore, income limits established for CDBG purposes must be equivalent to those used in the Section 8 program. However, the statute does not require CDBG grantees to use the Section 8 program's definition of income to calculate incomes of individual families to be applied against such limits. In addition, the definitions of "low and moderate income households" and "low and moderate income persons" contained in the CDBG Entitlement program regulations state that for purposes of determining income under the CDBG program, the method utilized under the Section 8 Housing Assistance Payments program need not be used. The Section 8 methodology was developed exclusively for determining income under a HUD rental assistance program. However, grantees may use that methodology for CDBG activities if they wish, including the various exclusions if used in conjunction with the rest of that methodology.

Outlined below are the issues that were raised by the City with a respective response to each issue.

1. **Titleholder Issue.** It appears the City is requesting an affirmation to their understanding of what constitutes a "household." For purposes of the CDBG program, section 570.3(n) defines a "household" as all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements. In calculating annual household income, income from each member of the household is to be considered. The City has indicated that it will require a non-resident owner, such as a spouse or ex-spouse, to sign a notarized statement certifying that they will not reside at the property. While this is an acceptable local program policy, this action is not necessary if such persons will not share living arrangements in accordance with the definition of "household" which is the definition used for determining eligibility for CDBG housing assistance.
2. **Family Definition.** The term "family" as defined at §570.3(m), means all persons living in the same household who are related by birth, marriage, or adoption. When such persons occupy the same housing unit they are considered as members of the family. Their incomes are to be aggregated for calculating family income.
3. **Children, Age 18-25.** It appears the City is desirous of adjusting the annual income of a household to omit certain income of children over 18 that may reside at home. The definition of "household" does not provide for such exceptions. The income of children over 18 years of age living in the household, whether contributing to the household expenses or not, is to be included in the calculation of annual income for determining household income.
4. **Minimum Property Standards.** The CDBG regulations at §570.306(e) require the grantee to develop its own definition of substandard housing which, at a minimum, shall include units which do not meet the Section 8 Existing Housing Quality Standards.
5. **Occupancy Limits and Civil Rights.** The City indicated that it included in its housing rehabilitation guidelines that "a violation of the occupancy limit will be sufficient cause to declare an applicant ineligible." The Department acknowledges that communities should be enforcing local codes as they relate to overcrowded conditions, but determining an applicant ineligible on this basis is not acceptable and such actions may be perceived as a discriminatory practice. In a community where overcrowding is linked heavily to one or more minority groups, the refusal to rehabilitate overcrowded units could result in a "disparate" treatment of those groups. In other words, a decision to deny CDBG assistance on the basis that there are too many people in the family may be perceived as evidence that the City's policy, practice, or method of administration, although neutral on its face, operate to deny or adversely affect in a significant disparate way the provision of benefits or participation to persons of a particular race, color, sex, or national origin. HUD regulations do not preclude the provision of rehabilitation assistance to overcrowded housing units. In fact, in section 106 of the Housing and Community Development Act of 1974, housing overcrowding is an element used for determining grant amounts. The CDBG regulations at §570.202(b)(2) permit renovations through alterations, additions to, or enhancement of existing structures to address overcrowded conditions. While the selection of housing units to receive CDBG rehabilitation assistance is a local decision, HUD's comments should in no way be interpreted as encouraging or endorsing the exclusion of households living in overcrowded conditions from receiving such assistance.
6. **Annual Income and Medical Expenses.** The City's correspondence included a reference to 24 CFR 913.106(c)(2) regarding the deduction of medical expenses from the calculation of annual income. The

correct citation can be found at 24 CFR 913.106(c)(4) which establishes eligibility to participate in the Public Housing and Indian Housing Programs. (Note that the same definitions and criteria for determining eligibility are also found at §813.106(c)(4) for the Section 8 Housing Assistance Payments Program, which is the preferred section for purposes of the CDBG program because of its strong statutory link with the Section 8 program.) This provision states that annual income does not include "Amounts received by the Family that are specifically for, or in reimbursement of, the costs of medical expenses for any family member;..." This is intended to make clear that any reimbursement for medical expenses from any source, such as insurance, will not be considered as additional income to the household.

7. Day Care Expenses. Neither the Housing nor the CDBG program regulations provide adjustments to annual income for day care expenses. We do not see why this exclusion should be made.
8. Income Flexibility. In determining if a household is eligible to receive CDBG funded housing rehabilitation assistance, grantees should develop clear and objective guidelines upon which eligibility can be effectively determined. An eligibility determination based on income should utilize factual and defensible data from which the grantee can demonstrate compliance with such guidelines. Such guidelines may not provide exceptions for individuals or families whose incomes "just exceeds guidelines." By allowing those having income within a certain percentage above the limit, you have simply re-set the limit, and there will be those who are "just above" the new limit.

We recognize that the local administration of the CDBG program is complicated by the absence of a regulatory definition of income for determining whether program beneficiaries are low and moderate income persons or households. The Department intends to develop such a definition in the near future to assure uniform program administration. Such a definition will be published for comment as a proposed rule and will become part of the CDBG Entitlement Regulations in Part 570. In the meantime should you have any further questions or concerns relative to this issue, please do not hesitate to contact Dan Dodrill in the Entitlement Cities Division at FTS 755-5977.