

Proceeds from the Sale of Property

March 1, 1991

Honorable Leon B. Panetta
Member, United States House
of Representatives
380 Alvarado Street
Monterey, CA 93940

Dear Mr. Panetta:

Thank you for your letter dated February 4, 1991, seeking clarification of the McKinney Homeless Assistance Act regulations pertaining to proceeds from the sale of property. According to information provided by the HUD San Francisco Regional Office, the City of Santa Cruz used \$530,000 of Community Development Block Grant (CDBG) funds to acquire property for use as a homeless shelter. No other funds were involved in the acquisition. Emergency Shelter Grant (ESG) funds, provided through the McKinney Act by the State of California, were used in conjunction with other funding sources to rehabilitate two structures on the property. The grantee now is considering selling a vacant portion of the site for \$350,000 and is inquiring as to whether the proceeds from the sale would be considered program income.

Because ESG funds were not used to rehabilitate the property under consideration for sale and because only CDBG funds were involved in the acquisition of the property, the CDBG rules governing program income are applicable in the instant case.

The CDBG regulations at 24 CFR 570.500(a) covering program income define it as "gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds." This includes "proceeds from the disposition by sale. . . of real property purchased or improved with CDBG funds" (570.500(a)(1)(i)). The regulations at 570.505 further state that, when CDBG funds in excess of \$25,000 have been used to acquire or improve real property that is owned by the grantee, the use of the property cannot be changed without providing for citizen participation; additionally, the new use must meet one of the three national objectives of the program which are benefit to low- and moderate-income persons, prevent or eliminate slums and blight, and meet an urgent community development need. If the changed use of the property does not meet one of the national objectives of the program, the grantee can dispose of the property if the CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion attributable to expenditures of non-CDBG funds.

The proceeds from the sale of the vacant portion of the property are, in their entirety, considered to be CDBG program income and are thus governed by the regulations covering the receipt and expenditures of such program income as defined in our regulations at 570.504. Essentially, this means that program income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds. Furthermore, if the use of the vacant portion of the property will not meet one of the three national objectives of the program, the CDBG program must be reimbursed in an amount at least equal to

the current fair market value of that portion of the property. If the re-use does meet one of the program's national objectives, the issue of repayment to the CDBG program in an amount equal to the current fair market value is not applicable; however, any income received from the sale of this parcel would still constitute CDBG program income.

I hope that this information is of use to your constituent.

Very sincerely yours,

(signed J. Broughman)

Timothy L. Coyle
Assistant Secretary