

Request for Offset of CDBG Questioned Costs

MEMORANDUM FOR: Roberto Gomez, Acting Director, Office of Community Planning and Development, 6AD

FROM: Kenneth C. Williams, Deputy Assistant Secretary for Grant Programs, DG

SUBJECT: Request for Offset of Community Development Block Grant Program Questioned Costs - Wichita Falls, Texas

This is in response to a memorandum from Katie Worsham dated March 28, 1995, requesting Headquarters authorization to allow the City of Wichita Falls, Texas, to offset \$119,382 of questioned Community Development Block Grant (CDBG) costs with prior years' expenditures for which the City had never been reimbursed.

In an audit report dated March 17, 1994, the Office of the Inspector General (IG) questioned \$536,488 in salaries and other costs charged the CDBG program. The IG's audit found that the City charged the CDBG program \$536,488 for salaries and other costs allocable to other cost objectives because the City had not implemented procedures to adequately allocate costs and did not maintain time distribution records. The IG recommended that the City reimburse the CDBG program for any costs the City could not adequately support or justify as necessary and reasonable costs to the CDBG program.

The City was able to provide justification for \$417,105 of the questioned costs and has requested permission to offset the \$119,382 balance of sustained disallowed costs with \$144,500 of unreimbursed CDBG-eligible costs for code enforcement activities which were previously charged to the City's general fund. The code enforcement costs were billed to the general fund for disposal of waste materials resulting from demolition and clearance activities which were identified on the City's Final Statements for program years 1990-93.

The Field Office believes that approval of this offset is permissible because of a February 7, 1994, policy determination made by the Entitlement Communities Division in connection with an issue raised by the City of Lincoln Park, Michigan. This memorandum clarified that bookkeeping entries to substitute locally derived funds for costs of disallowed activities is generally unacceptable. However, in the case of Lincoln Park, such substitution was considered acceptable for two reasons: (1) the activities had been included in a Final Statement and carried out in accordance with program requirements, and (2) the City operated on a reimbursement basis and had not reimbursed itself for those costs.

I do not agree that the Lincoln Park case is substantially similar to the situation in Wichita Falls. This determination is based on the following facts.

1. Unlike the Lincoln Park case, the costs for the portion of the clearance activity which the City proposes to use to offset the disallowed costs do not appear to have ever been budgeted in the City's Final Statement. The Final Statement for Lincoln Park indicated a budgeted amount larger

than the amount for which the City had reimbursed itself, denoting the City's intent to charge the balance to the CDBG program. A review of the Final Statements and Grantee Performance Reports (GPR) for Wichita Falls for the applicable fiscal years (FYs) indicates that the budgeted amounts for the clearance activity equaled or were very close to the expended amount shown on the GPR, indicating that the City substantially expended the amount budgeted for this activity. The City indicated that the following amounts for each program year were additional eligible clearance costs which have not been charged to the CDBG program: FY 1990 - \$20,512; FY 1991 - \$28,692; FY 1992 - \$15,537; and FY 1993 - \$79,808.

In reviewing the Final Statements for FYs 1990 and 1991, it was difficult to determine how much was budgeted for demolition because the City did not separate the costs for code enforcement staff from the anticipated costs for demolition. However, a review of the GPRs for those years shows \$70,000 budgeted and \$66,090 expended in FY 1990 with the balance of \$3,901 expended in FY 1991. The FY 1991 GPR show \$66,400 budgeted and expended. A review of the FY 1992 Final Statement indicates that the amount budgeted for clearance (separated from code enforcement in this program year) was \$91,723; the GPR shows a budgeted amount of \$75,712 and an expended amount of \$74,925. There is no indication of what happened to the \$16,011 difference between the Final Statement and the GPR; the presumption is that it was reprogrammed to other activities. Both the FY 1993 Final Statement and GPR indicate a budgeted amount of \$122,123; the GPR indicates an expended amount of \$120,625. Therefore, it does not appear that there were funds budgeted for which the City should be reimbursed. Thus, it appears that Wichita Falls never intended to reimburse itself for the activities proposed to offset the ineligible cost.

2. Section 570.910 (Corrective and Remedial Actions) requires the Secretary to take actions "designed to prevent a continuation of the performance deficiency; mitigate, to the extent possible, the adverse effects or consequences of the deficiency; and prevent a recurrence of the deficiency." Aside from the fact that an offset would not be permitted in this case because the funds proposed for the offset were not originally included in a Final Statement, permitting the City to offset the disallowed costs does not address any of the conditions that led to the audit findings on undocumented salary costs. The offset or substitution of funds, in this instance, to resolve the audit findings of disallowed costs does not meet the remedial action requirements of §570.910. Furthermore, it serves to totally neutralize the consequences of the grantee's noncompliance.

For the above reasons, the request to use prior years' expenditures for which the City has never been reimbursed to offset the disallowed audit costs is denied. You are therefore requested to recommend a corrective action to reimburse the disallowed costs to the CDBG Line of Credit as requested in the IG audit or some other appropriate remedy that will meet the requirements of §570.910.

If you have any further questions, please contact the Entitlement Communities Division at (202) 708-1577.

cc: John E. Wilson, SC