

Termination of Cooperation Agreement

January 24, 1995

Honorable Terry E. Caldwell
Mayor, City of Victorville
Victorville, California 92393-5001

Dear Mayor Caldwell:

Thank you for your letter dated December 7, 1994, to James Broughman, Director of the Office of Block Grant Assistance, requesting that the Department of Housing and Urban Development (HUD) permit the City of Victorville to terminate the cooperation agreement it entered into with San Bernardino County for participation under the County's Community Development Block Grant (CDBG) program. According to your letter, the city expects that by early 1995 the City's population will exceed 50,000, thereby meeting the threshold for metropolitan city status under the CDBG program. Your letter and a previous letter from former Mayor Jim Busby indicate that the City will not be able to claim its status because of its participation in San Bernardino's CDBG program through Fiscal Year (FY)1996. The City is therefore requesting that it be allowed to terminate its cooperation agreement with San Bernardino County.

Under section 102(d) of the Housing and Community Development Act of 1974, as amended, ". . . the population of any unit of general local government which is included in that of an urban county. . . shall be included in the population of such urban county for three years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant under section 106 as a separate entity, unless the urban county does not receive a grant for any year during such three-year period." Because inclusion of a city's population in an urban county for a three-year period is statutory, the City, even if its population exceeds 50,000 during that qualification period, cannot withdraw from the urban county. This permits the urban county to count on a reasonably stable funding level for three consecutive fiscal years regardless of changes in its population or boundaries or population changes in any communities contained within the urban county during that period.

Furthermore, the statute does not authorize the Department to terminate an urban county's cooperation agreement in order to permit a participating community to withdraw for purposes of becoming a separate entitlement. The statute, as noted above, provides for a cooperation agreement to be terminated only if a county did not receive its entitlement grant. Moreover, since San Bernardino County is the recipient of CDBG funds, and the law gives local governments flexibility in the administration of their programs, HUD does not have the authority to intervene in any decisions, funding or otherwise, unless the urban county fails to meet the requirements of the CDBG program.

The September letter from the City mentions that at the time Victorville committed to a 3-year participation with San Bernardino's program, information on the City's eligibility to become a metropolitan city was not available from either the County or HUD. In 1993, when San Bernardino County last qualified as an urban county, Victorville's population was 40,674 based on 1990 Census data. Based on 1992 Census data, the City of Victorville's population is 48,147. The City still does not have the requisite

population. It is highly likely that Victorville's population will exceed 50,000 at approximately the same time San Bernardino requalifies as an urban county in 1996 for its FY 1997-1999 qualification period. At that time, if Census data reflects that Victorville is a metropolitan city, HUD will notify Victorville that it has the option to take its designation as a metropolitan city, defer designation as a metropolitan city and participate as a small city in the urban county, or take its status and enter into a joint agreement with the urban county for purposes of planning and implementing a joint community development program. Once Victorville accepts its status as a metropolitan city, it cannot at a later date request to defer or relinquish in order to participate under the urban county again.

It is hoped that this is responsive to your concerns. Thank you for your interest in the CDBG program.

Very sincerely yours,

(signed KCWilliams)

Kenneth C. Williams
Deputy Assistant Secretary

cc: Marsha Turoci