

Use of "Surplus Program Income" for Future Disallowances

October 27, 1994

MEMORANDUM FOR: Joan T. Dabelko, Director, Office of Community Planning and Development, 2C

FROM: Andrew Cuomo, Assistant Secretary
Community Planning and Development, C

SUBJECT: Community Development Block Grant (CDBG) Program
City of New York
Use of "Surplus Program Income" for Future Disallowances

This is in response to your April 6, 1994, memorandum regarding a March 9, 1994, request from the City of New York. In its letter, the City apparently requested that it be allowed to hold "surplus revenue" deposited in its program income account as a reserve to offset any possible future Community Development Block Grant (CDBG) program disallowances.

In making this request, your Office referred to a September 30, 1993, memorandum from the Office of the Inspector General in which that Office reluctantly agrees that the use of miscellaneous revenues to reimburse ineligible CDBG activities is legally permissible. In the case to which that memorandum refers, the revenues in question were generated by the Urban Development Action Grant (UDAG) program. That policy is not relevant in the instant case because the documentation submitted with your request indicates that the revenues in question were City funds erroneously placed into the CDBG account, as overpayments of applicable credits due to the CDBG program.

In your memorandum and the supporting documentation, the fees collected for reimbursement of lot cleaning services (described in Finding 1 of your February 28, 1994, letter to the City) are characterized as program income. This use of the term "program income" appears to be imprecise. The payments in question appear to be for activities already paid for either by CDBG or by tax levy funds. To the extent that the CDBG program funded the activity, a share of such payments would be applicable credits to the CDBG program, not program income. Because reimbursement of applicable credits and receipt of program income have differing effects on the calculation of the two CDBG funding percentage limitations (on planning and administration expenditures and public services obligations), your Office may wish to review whether the amounts in question will affect the City's compliance with these limits.

Following calculation of the overpayment amount, the City should be advised to separate these funds from its CDBG program income account. As noted above, the overpayment amounts (i.e., those amounts remaining after any CDBG applicable credits are properly accounted for) are City funds, not bound by CDBG requirements. If the City so chooses, using these funds to repay its CDBG account for future program disallowances is acceptable.

If your Office or the City requires any assistance in determining the appropriate disposition of these funds, or if you have any other questions relating to this matter, please contact the Entitlement Communities Division at (202) 708-1577.

cc: John E. Wilson, SC