

Using CDBG Funds for an Arts and Sports Complex

November 6, 1992

Honorable Esteban E. Torres
House of Representatives
Washington, DC 20515-0534

Dear Mr. Torres:

On behalf of Secretary Kemp, thank you for your October 15, 1992, letter asking that HUD provide Community Development Block Grant (CDBG) funding for the Norwalk Arts and Sports Complex. Your letter has been referred to my office for reply.

Unless requested to do so, HUD does not provide advance approval for activities that a community elects to assist with CDBG funds. The CDBG program provides annual grants on a formula basis to entitled communities to implement a wide variety of community and economic development activities that are initiated and developed at a local level based on a community's perception of its local needs, priorities, and benefit to the community. Under the CDBG program, each grantee community has the responsibility to ensure that each activity meets all applicable requirements. HUD Field Office staff review how the grantee used its funds and carried out its activities during a program year near the end of the grantee's program year.

In this particular case, the City of Norwalk asked the Los Angeles Field Office for help determining what costs were permissible. This request was made after the Complex was constructed, but before it was completely equipped. The Field Office in turn has requested information that it needs in order to provide such assistance. The information will help the Field Office decide whether the activity will meet a national objective of the CDBG program by providing benefits primarily to low- and moderate-income people.

The City identified the Complex in its Grantee Performance Report (GPR) as a "citywide" area benefit activity and has stated that no similar facility exists in the entire City. These statements imply that the Complex is a regional facility that will be available to all community residents, regardless of their income. This appears to conflict with the City's later information (enclosed with your letter) stating that the purpose of the project is to benefit at-risk low- and moderate-income youths from specific neighborhoods. If the Complex will benefit an area generally, it may qualify as meeting the low- and moderate-income benefit objective only on the basis of the income of the persons residing in the area served, regardless of the income of the users. In such case, the entire service area and the entire population served by the Complex must be considered in making a determination about whether the Complex primarily benefits low- and moderate-income persons. The Field Office needs the City to identify the entire actual service area of the Complex before it can help the City make a determination under this ground rule.

If, however, use of the Complex will be limited to youth or to gang members only, the City should make the Field Office aware of this and describe how use of the facility will be so limited. The Complex could possibly qualify under the limited clientele benefit criteria. To meet this benefit category, the City would be

required to demonstrate that the activity either serves persons who are primarily low- and moderate-income, or is of such nature and location that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons. For example, if the targeted users of the facility live in census block groups that are 51 percent or more low- and moderate-income, the Department would accept such a conclusion, absent substantial evidence to the contrary.

Another issue that may need to be resolved in this case is the CDBG eligibility of purchasing equipment for the Complex. Purchase of equipment that is not an integral structural fixture of a public facility is generally ineligible under the CDBG program. No agreement with HUD on the part of the City can change the essentially portable, non-real-estate nature of equipment such as basketballs and weights. Equipment that is necessary to carry out a public service may be eligible as part of that public service. If the City claims that the equipment is needed to provide recreation for the targeted population, funds spent for the equipment would be subject to the 15 percent limit on public service obligations.

The Los Angeles Field Office will continue to work with the City on the questions it has raised. I hope this information is helpful to you. If you have any further questions, either my office or the Los Angeles Field Office is available to address them. Thank you for your interest in the Department's programs.

Very sincerely yours,

(signed)

Russell K. Paul
Assistant Secretary