

# Cap on Public Service Obligations

MARCH 16, 1989

MEMORANDUM FOR: Kenneth J. Finlayson, Regional  
Administrator-Regional Housing Commissioner, 3S

ATTENTION: John K. Kane, Director, Community Planning and  
Development, 3C

FROM: Jack R. Stokvis, Assistant Secretary for Community  
Planning and Development, C

**SUBJECT: Community Development Block Grant (CDBG) Program  
Inquiry From Anthony J. Dunleavy  
Cap on Public Service Obligations**

This memorandum is in response to your request for guidance on the statutory limitation on the use of CDBG funds for public service activities. We understand that your request is based on an inquiry from Mr. Anthony J. Dunleavy of Anthony J. Dunleavy Associates, Inc. We further understand that Mr. Dunleavy represents a number of CDBG communities as a consultant and wishes to confirm his understanding of the CDBG rule on the limitation on public service obligations.

Since 1979, there has been a statutory limitation for the CDBG program on the percentage of any grant that may be used for eligible public service activities. In 1983, the limitation was increased from 10 percent to 15 percent. However, a recipient which obligated more than 15 percent of its grant funds from Federal Fiscal year 1982 or 1983 appropriations may obligate more than 15 percent of its grant for public services so long as the amount obligated in any program year does not exceed the percentage or the amount obligated in Federal fiscal year 1982 or 1983, whichever method of calculation yields the higher amount. In the State of Pennsylvania, the City of Lancaster is the only entitlement community which falls under this exception.

The limitation on public service obligations is implemented in the CDBG Entitlement program regulations at 570.201(e)(2). The regulation reads:

"The amount of CDBG funds used for public services shall not exceed 15 percent of each grant except as provided in paragraph (3) below. For entitlement grants under Subpart D, compliance is based on the amount of CDBG funds obligated for public service activities in each program year compared to 15 percent of the entitlement grant made for that program year." (Emphasis added.)

The decision to implement the limitation on public service obligations rather than public service expenditures is based largely on the knowledge that many recipients utilize subrecipients to carry out many of their public service activities. Since the recipient can control with precision the amount of funds which it obligates to a subrecipient to carry out such activities and has less control of a subrecipient's expenditure rate, to ensure uniform program administration and for ease of compliance determination for both the recipient and HUD, it was concluded that the limitation would be placed on obligations.

To illustrate how the public service limitation should work, assume that a recipient receives an entitlement grant for \$1,000,000 and its program year runs from October 1 to September 30. This recipient may obligate an amount up to 15 percent or \$150,000 of this grant for eligible public service activities during its program (from October 1 to September 30). In the event the recipient obligated only 10 percent or \$100,000 during this particular program, it may not obligate more than 15 percent of its grant amount during the subsequent program year. A CDBG recipient may not "carry-over" that amount not obligated during a program year to a subsequent program year. So in the event the following year's grant for this recipient is \$800,000, it may not obligate more than 15 percent of \$120,000 for eligible public service activities. In the event a recipient had tried to obligate the full 15 percent of its grant for public services within the program year but, for factors beyond its control, it had been unable to do so, it could request a waiver of the regulations. Such a waiver request under 24 CFR 570.5 would need to show that undue hardship would result from applying the requirement and how application of the requirement would adversely affect the purposes of the Act.

Should you require additional information or assistance, please feel free to contact Dan Dodrill in the Entitlement Cities Division at Headquarters at FTS 755-5977.