

Grantee Loans to Constituent Jurisdictions

JULY 14, 1988

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

Mr. John Klaiber
Assistant City Manager
City of Converse
P.O. Box 36
Converse, TX 78109-1965

Dear Mr. Klaiber:

This is in response to your letter of June 1, 1988, inquiring as to whether an urban county can make loans from its annual entitlement grant to communities which comprise the consortium of participating units of general local government in the urban county Community Development Block Grant (CDBG) Program. As outlined in your letter to the HUD San Antonio Office, we understand that the purpose of these loans, which are provided by Bexar County, are to financially assist communities to carry out certain public improvements which are eligible and authorized under the Housing and Community Development Act of 1974.

Section 102(a)(6)(A) of the Housing and Community Development Act of 1974 defines, in relevant part, an urban county as any county within a metropolitan area which-

"(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and ii) . . . (l) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government ... (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, . . ."

The amount of the entitlement grant allocable to an urban county under the provisions of section 106(b) is based on the demography of the county's unincorporated area and its "included" units of general local government. Section 106(b) provides that the urban county is entitled to an annual grant in the amount so allocated.

On the basis of these provisions it is evident that an urban county is a specially constituted single entity created by statute to receive one entitlement grant; that the county government, as administrator of the grant, must have full authority under State law or cooperation agreements to carry out all essential activities in the entire area comprising the urban county; and that in this context the individual units of general local government included in the urban county do not have an independent role because they are (all or part of) the "urban county." Consequently, when a CDBG activity is undertaken in an included unit of general local government, it is an urban county activity, paid for with urban county funds, for which the urban county has full responsibility to HUD, whether the activity is actually contracted for or undertaken by the county government or the local government, whether payments for the cost of the activity are the county government or by the local government.

The distribution of urban county grant funds government (as the administrator of the grant) to of general local government is therefore simply an process for handling expenditures chargeable to the urban county CDBG program. The funds remain urban county grant funds and such disbursements are neither subgrants or loans, even though the use of the funds may be subject to an agreement between the county and local governments for administrative and financial management purposes. A loan of urban county grant funds to a local government would necessarily have to be made to the borrower in its independent governmental capacity in contravention of the statutory identity of the urban county as a single entity of which the included units of general local government are a part. Such loans are therefore impermissible and cannot be approved.

We hope this information will prove useful in making an informed decision about your future status in the CDBG program. Should you desire further information or clarification, please contact the HUD San Antonio Office at (512) 229-6781 or the Entitlement Cities Division in Washington at (202) 755-5977.

Sincerely,

(signed)

Jack R. Stokvis
General Deputy
Assistant Secretary