

Purchase of Equipment for Land Reclamation Project

February 18, 1993

MEMORANDUM FOR: Burton Bloomberg, Deputy Regional Administrator-
Regional Housing Commissioner, 2S

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

FROM: Don I. Patch, Acting Deputy Assistant Secretary
for Grant Programs, CG

**SUBJECT: Community Development Block Grant (CDBG) Program
Purchase of Equipment for Land Reclamation Project
New York, New York**

This is in response to Ms. Joan T. Dabelko's memorandum dated May 13, 1992, requesting a determination regarding the applicability of 24 CFR 570.207(b)(1)(iii) to New York City's request to purchase certain vehicles and equipment with CDBG funds for use in the City's Land Reclamation Project. This project is funded entirely with CDBG funds. Additional information regarding the history of this activity was provided by your office in June 1992. The nature of the Land Reclamation Project raised issues that required review by both our office and the Office of General Counsel.

Pursuant to 24 CFR 570.207(b)(1)(iii), the purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property is generally ineligible. However, as Ms. Dabelko's memorandum notes, that section of the regulations does further provide that CDBG funds may be used to purchase such items when they are necessary for use by a recipient in the administration of activities assisted with CDBG funds. Given this provision, a grantee may thus purchase such necessary equipment and vehicles for the administration of eligible CDBG activities without any special exemption or waiver required.

A key consideration in determining whether the purchase of equipment is eligible is ensuring that the assisted activity for which the equipment is to be used is itself eligible under the CDBG program. Ms. Dabelko's memorandum indicates that New York City and your office have been considering the Land Reclamation Project eligible as a public improvement activity under §570.201(c) for several years. However, our review of the information provided indicates that this is a misclassification.

The Land Reclamation Project is described by the City as a "low-cost land treatment program for large tracts of vacant City-owned land where there is little private sector interest or imminent development potential." There is no indication that the properties treated under the program were acquired by the City with CDBG funds. The goal of the program is to help make the targeted neighborhoods cleaner, safer, and more attractive. Annual CDBG expenditures for the project total approximately \$300,000 per year. The project involves the cleaning of targeted sites and a multi-year treatment of seeding, fertilizing, and mowing. In a December 1984 eligibility monitoring finding, your office required New York City to clarify

the length of the initial treatment period and clearly delineate that period from any ineligible post-treatment maintenance activity. The City's March 1985 response to that monitoring finding, which was accepted by your office, stated that three years is the minimum length of time for which treatment is needed to establish a stable ground cover of grasses, clover, and other wildflowers. Thus, your office and the City have differentiated this three-year treatment period from "routine maintenance" which is generally ineligible pursuant to 24 CFR 570.207(b)(2). No CDBG funds are reportedly now used for further maintenance of the properties after the three-year treatment period.

Contrary to the position taken by the Regional Office, our review of the information provided indicates that New York City's Land Reclamation Project is a property management activity. The CDBG regulations do not support considering the multi-year program of seeding, fertilizing, and mowing of City-owned property as anything other than a maintenance activity that is generally ineligible pursuant to 24 CFR 570.207(b)(2). The initial cleanup of the sites might possibly qualify as an interim assistance activity under 24 CFR 570.201(f)(1)(ii) if it is carried out as a precursor for some further redevelopment of the sites to be carried out as soon as practicable. We note, however, that this does not appear to be the intent of the Land Reclamation Project as it is currently implemented. All information provided indicates that the activity is targeted to properties for which there is little private sector interest or foreseeable development potential. The mix of plants with which the sites are seeded has also been developed by the City so as to require minimal care over the long term. This further supports the premise that the sites are expected to remain vacant for the foreseeable future.

In conclusion, New York City's Land Reclamation Project is ineligible for CDBG assistance as it is currently implemented. Therefore, the purchase of equipment needed for the program is also ineligible under the CDBG program. The Regional Office should advise the City not to obligate any further CDBG funds for this activity. To the extent that the City was operating the Land Reclamation Project within the guidelines previously approved by the Regional Office, recovery of CDBG funds already expended for the activity does not appear warranted. However, the Regional Office may consider other corrective and remedial actions as it determines to be appropriate pursuant to 24 CFR 570.910.

If you have any questions concerning this matter, please contact the Entitlement Communities Division at (202) 708-1577.

cc: Robert P. Allen, SC