

Using CDBG Funds for Removal of Architectural Barriers within Single and Multi-family Residences

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Susan L. Rea
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P.O. Box 3000
Freehold, N.J. 07728

Dear Ms. Rea:

Thank you for your correspondence dated June 5, 1990, regarding your concerns over the Monmouth County's "Barrier Free Programs" which receives Community Development Block Grant (CDBG) funds. Your letter has been referred to me for reply.

It is my understanding that the CDBG funds are used for removal of architectural barriers within single- and multi-family residences. In documenting benefit to low- and moderate-income persons, you indicate that you have a liberal procedure for barrier free situations which considers only the income of the disabled person. This is irrespective of whether it is an elderly person living with his or her children, a disabled foster child living with foster parents, a disabled client living with a friend who owns a single family house, etc.

All CDBG-funded activities must be eligible and meet one of three national objectives (benefit to low- and moderate-income persons; prevent or eliminate slums or blight; or meet urgent community development needs). Setting the eligibility issue aside, the implementation of your program could satisfy a national objective under one of three following conditions:

1. Benefit to low-and moderate-income persons within private single unit residential structure (whether publicly or privately owned): While the regulation at 570.208(a)(2)(i)(A) provides that handicapped persons are presumed to be low- and moderate-income persons, absent substantial evidence to the contrary, this presumption does not extend to removal of architectural barriers within single-unit dwellings which are considered improvements to permanent residential structures (570.208(a)(2)(i) and (a)(3)). In such cases, the household income must be low or moderate in order to qualify under this national objective. For purposes of the CDBG program, a "household" is defined at 570.3(n) as "all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements."

This means that removal of architectural barriers within private residential structures would require the income of the entire household to be taken into consideration in determining whether the activity would be a benefit to low- and moderate-income persons. However, it is the income of the

household occupying the unit that is rehabilitated that matters, whether or not the unit owner(s) are members of that household.

For removal of architectural barriers within some or all of the dwelling units of a multi-family structure, at least 51% of the units in the structure must be occupied by low- and moderate-income persons (570.208(a)(3)). HUD would consider a waiver of the regulations in instances where each residential unit to be rehabilitated within the multi-family structure would be occupied by a low- and moderate-income household upon completion of the architectural barrier removal.

2. Benefit to low- and moderate-income persons for removal of architectural barriers in the common areas of residential structures containing more than one dwelling unit: The regulations extend the presumption of low- and moderate-income status to handicapped persons as a group when architectural barriers are removed in the common areas of residential structures containing more than one dwelling unit. This regulation at 570.208(a)(2)(ii) would permit, for example, the installation of a pushbutton egress system on the exit doors of an apartment complex. In such cases, income information is not required, since the benefit is for handicapped persons generally, and not just for those living in the building.
3. Removal of architectural barriers to prevent or eliminate slums or blight on an area basis: The activity may qualify under this national objective only under limited circumstances which require that the structure must be substandard (as defined locally) and the work includes the correction of all deficiencies that make the structure substandard (570.208(b)(i)). In such cases, the income of the household is not a deciding factor. However, this provision does not permit removal of an architectural barrier by itself without additional rehabilitation work that meets the regulatory criteria of this section. This section of the regulation also carries with it other requirements that include, among other things, the designation of the area as slum or blighted by the grantee and the presence of a substantial number of deteriorated or deteriorating buildings or improvements throughout the area.

For informational purposes, the CDBG regulations do not define what constitutes income although such a definition is being considered. To qualify an activity as a CDBG low- and moderate-income benefit, a household must have an income equal to or less than the lower income limits established for family size equal to the size of the household, under the section 8 Housing Assistance Payments Program. The definition of "household" has already been discussed. The Section 8 program does specify a method for determining annual income (at 24 CFR 813.106) which you may wish to use for this purpose, although it is not required. Under the Section 8 program, for handicapped persons who have a "live-in aide", as defined at 813.102, it is not required to include the income of such persons who meet this definition. You may want to keep this in mind for clients of your "Barrier Free" program to whom this could apply.

Using one of the three methods outlined above will enable your "Barrier Free" program to comply with the CDBG national objective requirements. While it may not permit your program to assist all handicapped citizens in Monmouth County, the CDBG program is designed primarily to benefit low- and moderate-income persons. Under the CDBG program, a low- and moderate-income person is defined as a member of a low- and moderate-income family. Recent proposals to increase the overall percentage of CDBG funds that must be used to benefit low- and moderate-income persons clearly underscore our desire to

use scarce resources for the truly needy. As stated previously, HUD would consider a waiver under the circumstances described in # 1 above.

I hope that you will find this information useful for assessing your local program. If you have additional questions, please do not hesitate to contact Mr. Joshua Dancy, Rehabilitation Management Specialist, at our HUD office in Newark, at 60 Park Place, Newark, New Jersey, 07102-5504. His telephone number is (201) 877-1752. A copy of this letter is being sent to him. Thank you for your interest in the proper and effective administration of CDBG funded activities.

Very sincerely yours,

Russell K. Paul
Deputy Assistant Secretary
for Program Management