

Using CDBG Funds for a Public Service Activity

March 7, 1994

MEMORANDUM FOR: Raymond A. Harris, Regional Administrator-
Regional Housing Commissioner, 4S

ATTENTION: Charles N. Straub, Director, Community Planning and Development, 4C

FROM: Andrew Cuomo, Assistant Secretary for Community
Planning and Development, C

**SUBJECT: Eligibility of Greater Ashland Right-to-Life Educational Program as a Public Service
Community Development Block Grant (CDBG) Program**

This responds to your memorandum dated June 30, 1993, requesting an eligibility determination of CDBG funding of a public service activity to be carried out by the Greater Ashland Right-to-Life organization in Ashland, Kentucky. The City of Ashland has awarded \$620 in CDBG funds to the Greater Ashland Right-to-Life organization to conduct an educational program and disseminate educational materials (literature and videos) primarily in the Hillcrest-Bruce housing complex area using the Hillcrest-Bruce Mission Community Center. Though the Louisville Office advised the City that this is an eligible public service activity, the City has withheld entering into a subrecipient agreement because of potential controversy until a formal determination is provided by HUD.

The material submitted by the Right-to-Life organization states that the subrecipient "seeks to educate as many persons as possible on the topics of fetal development, abortion, alternatives to abortion, and abstinence-based sex education. We carry out these educational efforts through literature distribution, video presentations, and speaking engagements to schools, youth groups, and other organizations." Such educational services would meet the eligibility criteria of a public service activity under 24 CFR 570.201(e) of the CDBG regulations. However, finding that such educational services are eligible for funding under CDBG should not be considered an endorsement of any particular subrecipient.

Once a CDBG recipient decides to carry out a particular activity, the recipient is responsible for the implementation of that activity. It may do so either directly by undertaking the activity itself or indirectly through the use of a subrecipient or contractor. If the recipient chooses to use a subrecipient to provide the services, it is obligated to approve a subrecipient agreement that includes a clear statement of the work the subrecipient is to carry out. The recipient is not obligated to accept any or all work elements that any particular subrecipient proposes. Moreover, the recipient is not required to accept any one subrecipient over another. For example, in this case, the City of Ashland may, if it chooses, put out a Request for Proposal outlining the essential elements of the educational services it would like to purchase, evaluate all responses and award a grant to whichever organization it feels possesses the combination of skills and capacity to perform the desired tasks. For many CDBG recipients the allocation of CDBG funds to subrecipients works quite differently than described above. Many cities are known to solicit proposals from non-profit organizations for a wide range of CDBG activities. Those proposals are

often prioritized and selection is based on a variety of reasons including an organization's privately funded service to the community, the neighborhood served, and sometimes political clout. While we acknowledge that a City may consider these and other factors in selecting a particular subrecipient, in the final analysis, HUD places the full responsibility for the development and selection of CDBG funded activities on the City. The City should ensure that the public service is defined to serve the broad interest of the public as articulated by the recipient and that the scope and content of the public service is not dictated by the subrecipient to serve the narrow interest of the group interested in receiving CDBG funds. Ultimately, if the content of the educational material is not consistent with the City's needs or desires, then the City must negotiate a content that is acceptable. If that is not possible, then the City should look elsewhere for the services. The City's responsibility includes the selection of the appropriate vehicles for the delivery of the activity, whether carried out by the City directly, or through a contractor or subrecipient. As a result, we cannot rule on the propriety of any one particular organization over another in carrying out a CDBG activity (except perhaps the limitation placed on political activity or religious organizations as noted below).

The City of Ashland should be advised that if it chooses the Greater Ashland Right-to-Life organization as the subrecipient that the requirements of 24 CFR 570.200(j)(3) may also be applicable. That provision governs the use of CDBG funds for public services through a primarily religious entity. The Greater Ashland Right to Life's proposal provides for the dissemination of its educational materials through the Hillcrest-Bruce Mission Community Center which is affiliated with the Hillcrest-Bruce United Methodist Ministries. If this is still the case, then the City should ensure that the subrecipient and the Hillcrest-Bruce Mission Community Center are aware of and follow the requirements for the provision of public services governed by 24 CFR 570.200(j)(3).

If you have any questions, please contact the Entitlement Communities Division at 202-708-1577.

cc: Robert P. Allen, SC