

Request for Waiver on Regulations Which Limit Planning and Administrative Funds

February 23, 1984

Mr. William D. Tucker
County Executive
Snohomish County
Everett, Washington 98201

Dear Mr. Tucker:

Thank you for your letter dated January 25, 1984, to Secretary Pierce in which you express objection to and request a waiver of the revised Community Development Block Grant (CDBG) regulations which limit planning and administrative funds to 20 percent based on funds expended during a program year.

The Department recognizes the importance of planning in the community development process; however, the 20 percent statutory limitation on planning and administrative costs is a clear reflection of the Congressional intent to focus funds on activities having more direct impact on community development needs.

Our decision to measure compliance based on expenditures rather than on obligations in our new regulations at § 570.200(g) was predicated on the following:

1. Although the Housing and Community Development Act of 1974, as amended does not specify how costs are to be measured, the limitation in the HUD Appropriations Act specifically uses the term "expenditure";
2. Many grantees have not been able to allocate their planning and administrative costs by source year of funds making it unfeasible to require this approach; and
3. The approach adopted in the current rule was endorsed by the HUD Inspector General's office as being a more practical way of ensuring compliance with the 20 percent limitation, based on problems identified in its recent study of this statutory requirement.

For these reasons, we do not believe a waiver of the regulation in question is appropriate.

It should be noted that funds budgeted and expended, rather than obligated, as referenced in your inquiry, were used in the former regulation in applying the 20 percent limitation. As further noted in the preamble to the new regulation, the provision of § 570.200(g) sets forth a less burdensome and more practical method for measuring expenditures to determine whether the Congressional intent has been met. The regulation states that a grantee "will be considered to be in conformance" with the limitation under the new method described. However, if a particular grantee can show that it has met the statutory percent limitation on planning and administrative costs by demonstrating that expenditures allocable to

the specific grant from which the funds were derived do not exceed the 20 percent limitation, we would accept that as meeting the requirement. In such a case, the alternative method would have to be applied consistently from year to year. I believe the use of this alternative method would fully resolve your concerns.

Please contact Robert Scalia, Director of Community Planning and Development of our Seattle Regional Office to discuss your interest in demonstrating compliance through the alternative approach discussed above. His address is Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101 and his telephone number is 206/442-4521.

Sincerely yours,

(signed)

Stephen J. Bollinger
Assistant Secretary