

Legal Opinion: GCB-0001

Index: 1.190, 1.200
Subject: CDBG Requirements--NAACP Request for Investigation

October 1, 1991

Mr. Kenneth Jenkins
President
Yonkers Branch of the N.A.A.C.P.
P.O. Box 614
Yonkers, New York 10702

Dear Mr. Jenkins:

This is in further response to your letter of June 26, 1991, to Secretary Kemp concerning the use of funds received by the City of Yonkers from the Department of Housing and Urban Development (HUD). Your concerns primarily involve the Community Development Block Grant (CDBG) program and the administration of community development activities by the City's Community Development Agency. We have looked into the issues raised in your letter and offer the following response.

As you may know, each CDBG grantee, such as the City of Yonkers, is responsible for establishing funding priorities for activities meeting one of the broad national objectives specified by law. These objectives are directed at benefitting low- and moderate-income persons, aiding in the prevention or elimination of slums and blight, or meeting other particularly urgent community development needs. The Department is responsible for ensuring that grantees' activities meet these objectives and other requirements.

You expressed concern that, with respect to the CDBG program, the City of Yonkers has expended in excess of \$800,000 for administrative costs out of a grant of 3.5 million dollars. Please be informed that the Department has been reviewing the City's expenditures for planning and general administration of the CDBG program. Although program regulations do not list standards for determining the reasonableness of the amount of CDBG funds expended for administration, they do contain a statutory limitation that no more than 20 percent of a CDBG grant, plus program income, may be expended for planning and administration. The classification of costs as either administrative or as direct project costs is extremely time-consuming and important. While we have not reached a conclusion regarding this categorization, I assure you it is being actively reviewed on a priority basis.

Your letter also raised questions about the City's compliance with civil rights requirements, particularly possible violations under Title VI of the Civil Rights Act of 1964, as amended, and the lack of minority employment at the middle and

top management levels of the Community Development Agency. Please be reassured that the Department stands committed to the letter and spirit of the Civil Rights laws and we will expeditiously investigate any complaint alleging illegal discrimination on the part of the City of Yonkers in its administration of the CDBG program. Allegations of illegal conduct should be brought to our attention immediately. Such allegations must contain adequate detail to allow the investigation to focus on specific conduct.

You also expressed concern about the City's decision to use revenue derived from the repayment of an Urban Development Action Grant (UDAG) to fund the Pierpont Redevelopment project, specifically that the project does not meet UDAG program requirements. After investigating this matter, we have found that the funds in question were UDAG loan repayments received by the City after the UDAG-funded project activities had been completed and closed out. Our regulations provide that such repayments are considered miscellaneous revenue and are, thus, not subject to all program requirements, including the relocation, displacement, and acquisition provision of 24 CFR Part 570. The only applicable HUD requirement is that miscellaneous revenues must fund activities eligible under Title I of the Housing and Community Development Act of 1974, as amended. The City's proposed use of UDAG repayment funds appears to meet this requirement.

With respect to the concern regarding the lack of a Section 8 implementation officer at the Municipal Housing Agency, our review of the Housing Authority's administration of the Section 8 rental voucher and rental certificate programs found its administration satisfactory. The Housing Authority has two persons assigned to the Section 8 program, one for rental certificates, and one for vouchers.

Lastly, regarding your request for "program report information," we would appreciate a list of the specific records you seek, dates, and other information that will help us in locating the necessary materials. Please send your written request to the New York Regional Office, as that office has jurisdiction over the City's program.

I appreciate your interest in the Department's programs and hope that this information is helpful to you.

Very sincerely yours,

Frank Keating
General Counsel