

# Pre-agreement Costs

March 8, 1993

MEMORANDUM FOR: Lynn G. Stowell, Deputy Regional Administrator - Regional Housing Commissioner, 10S

ATTENTION: John W. Peters, Regional Director, Community Planning and Development, 10C

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

**SUBJECT: Community Development Block Grant (CDBG) Program**

**Request for a Waiver of Pre-Agreement Costs**

**City of Bremerton/Kitsap County, Washington**

This is in response to your December 7, 1992, memorandum requesting a waiver of 24 CFR 570.200(h), Reimbursement for Pre-Agreement Costs, on behalf of the City of Bremerton and Kitsap County, Washington. The proposed waiver is being sought so that the City of Bremerton, which recently relinquished its metropolitan city status in order to allow Kitsap County to attain its urban county status, may continue to provide CDBG assistance for public service activities until Kitsap County executes a CDBG grant agreement for FY 1993.

It is our understanding that the City of Bremerton intends to utilize available FY 1991 and FY 1992 CDBG monies in its line of credit to continue to fund public service activities in FY 1993. According to your memorandum, the City has expressed concern that the public service activities that were assisted with CDBG funds during the 1992 program year would experience undue hardship should the City not receive its anticipated entitlement for the 1993 fiscal year. The City of Bremerton seeks a waiver of 24 CFR 570.200(h) to allow its CDBG line of credit to be reimbursed by Kitsap County's FY 1993 CDBG entitlement grant, once the grant agreement is executed.

A waiver is not appropriate since the CDBG regulation at 24 CFR 570.200(h) stipulates that reimbursement of pre-agreement costs may only be made for expenditures of local funds. The City of Bremerton's request concerns the reimbursement of CDBG funds for costs incurred prior to the execution of the FY 1993 grant agreement by Kitsap County. Since there is no intention to reimburse local funds pursuant to 24 CFR 570.200(h), there is no basis for a waiver of pre-agreement costs. Further, a grantee may not use its CDBG funds to reimburse another's CDBG line of credit, as this is not a CDBG eligible activity.

The City and the County do, however, have two options available to them to fund these public service activities in the interim. The City may use CDBG funds currently in its line of credit to fund the public



service agencies. Although the City of Bremerton has relinquished its entitlement status for FY 1993, the City will have a 1993 Program Year. The City may elect to amend its FY 1992 final statement to include the funding of the public service activities during the 1993 program year. Since the obligations will be subject to the 15 percent limitation on public service activities, the City may only obligate an amount equal to 15 percent program income it received in its 1992 program year. Should the City fund the social service agencies with its CDBG funds, all program requirements must be met by the City.

The second option is the use of local funds to fund the social service agencies in the interim. Local funds may come from either the City or the County. If this approach is used, Kitsap County may request a waiver of 24 CFR 570.200(a)(5) and 24 CFR 570.200(h) to reimburse local funds spent on the public service activities. The waiver request must be submitted prior to the drawing down of CDBG funds from Kitsap County's line of credit. Please advise the County that its final statement for 1993 would need to identify each activity assisted in this manner and that it must ensure that each activity is in compliance with the statutory and regulatory provisions in effect at the time of the reimbursement from the County's grant.

Under 24 CFR 570.5, HUD has the authority to grant waivers of the CDBG regulations not required by law whenever it is determined that undue hardship would result from applying the requirement and where application of the requirement would adversely affect the purposes of the Act. While the grantee may have already made this determination, HUD must do so and thus the waiver request must include the description of undue hardship anticipated and how the Act will be adversely affected. The request should specifically outline each activity to be assisted and the amount of CDBG assistance to be provided. Furthermore, please advise the County that all future waiver requests must be submitted by the County, on its letterhead and must be signed by the appropriate County Official.

As mentioned above, the City of Bremerton will have a 1993 program year, independent of Kitsap County's 1993 grant. Please advise the City of Bremerton that if it received program income in its 1992 program year which was not programmed as part of the final statement, it must prepare a final statement identifying the amount and use of those funds for its 1993 program year. Likewise, should it receive such program income during its 1993 and/or subsequent program years, it must prepare a final statement of proposed activities for each such program year. Also, please advise the City that, as a grantee independent of the County through FY 1992, it is responsible for submitting a separate GPR for PY 1992 and subsequent years to report on the funds provided directly to it by HUD until the requirements of 24 CFR 570.509 have been fully met.

Should you have any further questions pertaining to this matter, please contact the Entitlement Communities Division at (202) 708-1577.

cc:Robert P. Allen, SC