

**TAB 7**

**POINT PAPER**  
**OPTION OF JOINING IN CDBG URBAN COUNTY PROGRAM**  
**May 19, 2008**

**Issue:** Manatee County has qualified as an Urban County under the CDBG Program for Fiscal Years 2008, 2009, and 2010. Palmetto is the only City not participating in this Urban County Program.

If the City accepts the County's offer to join the Urban County Program for Fiscal Years 2009 and 2010, by June 6, 2008, we must notify both the County and HUD in writing that we have accepted the offer. Palmetto would not be able to apply for Small Cities funds while participating in the Urban County Program.

The City will have to sign a Cooperation Agreement for Fiscal Years 2009 and 2010, which will have to be received at the State by July 11, 2008. The appropriate supporting resolutions from the County and the City will also have to be received by the July 11<sup>th</sup> deadline. The Cooperation Agreement would be only for Fiscal Years 2009 and 2010, but it could contain an automatic renewal clause for subsequent three year qualification periods. The County's draft agreement is attached.

**Background:** Non-entitlement cities, or cities that opt out of an urban entitlement program, with a population less than 50,000 are eligible to apply for Small Cities Community Development Block Grant funds. While our low and moderate income population (percentage) has declined, and we are not especially competitive in the "Neighborhood Grants" program, there is ample funding available in the "Economic Development Grants" program, and we are likely to be successful in funding applications.

For any infrastructure that is related to commercial growth and the creation of jobs, we can apply for up to \$750,000 from the DCA (Department of Community Affairs). If we opt to join with the County in their CDBG Program, there will not be any particular dollar amount allocated to the City of Palmetto's projects, and we will have excluded ourselves from the opportunity to apply for funding directly.

**Alternatives:** Join with the County in the CDBG Program or maintain our ability to apply for Small Cities CDBG funding.

**Recommendation:** Decline the County's offer to join with them in the CDBG Urban County application, and retain the opportunity to utilize Small Cities CDBG funding.

## COOPERATION AGREEMENTS

All cooperation agreements must meet the following standards in order to be found acceptable:

- A. The governing body of the county and the governing body of the cooperating unit of general local government shall authorize the agreement and the chief executive officer of each unit of general local government shall execute the agreement.
- B. The agreement must contain, or be accompanied by, a legal opinion from the county's counsel that the terms and provisions of the agreement are fully authorized under State and local law and that the agreement provides full legal authority for the county. Where the county does not have such authority, the legal opinion must state that the participating jurisdiction has the authority to undertake, or assist in undertaking, essential community renewal and lower income housing assistance activities. A mere certification by the county's counsel that the agreement is approved as to form is insufficient and unacceptable.
- C. The agreement must state that the agreement covers the CDBG Entitlement program and, where applicable, the HOME Investment Partnership Program (i.e., where the urban county receives funding under the HOME program as an urban county or as a member of a HOME consortium).
- D. The agreement must state that, by executing the CDBG cooperation agreement, the included unit of general local government understands that it:
  1. May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the urban county's CDBG program; and
  2. May receive a formula allocation under the HOME Program only through the urban county. Thus, even if the urban county does not receive a HOME formula allocation, the participating unit of local government cannot form a HOME consortium with other local governments. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for HOME funds, if the state allows. An existing renewable agreement need not be amended to add this Note. It is included here only for purposes of clarification.)
- E. The agreement must specify the three years covered by the urban county qualification period (e.g., Federal FYs 2008-2010), for which the urban

county is to qualify to receive CDBG entitlement funding or, where applicable, specify the remaining one or two years of an existing urban county's qualification period. (In this case the agreement would initially only be for Fiscal Years 2009 and 2010.) At the option of the county, the agreement may provide that it will automatically be renewed for participation in successive three-year qualification periods, unless the county or the participating unit of general local government provides written notice it elects not to participate in a new qualification period. A copy of that notice must be sent to the HUD Field Office.

Where such agreements are used, the agreement must state that, by the date specified in HUD's urban county qualification notice for the next qualification period, the urban county will notify the participating unit of general local government in writing of its right not to participate. A copy of the county's notification to the jurisdiction must be sent to the HUD Field Office by the date specified in the urban county qualification schedule in Section II.

Cooperation agreements with automatic renewal provisions must include a stipulation that requires each party to adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period, and to submit such amendment to HUD as provided in the urban county qualification notice (see Section IV, Documents to be Submitted to HUD, paragraph E), and that such failure to comply will void the automatic renewal for such qualification period.

- F. The agreement must provide that it remains in effect until the CDBG (and HOME, where applicable) funds and program income received (with respect to activities carried out during the three-year qualification period, and any successive qualification periods under agreements that provide for automatic renewals) are expended and the funded activities completed, and that the county and participating unit of general local government cannot terminate or withdraw from the cooperation agreement while it remains in effect.
- G. The agreement must expressly state that the county and the cooperating unit of general local government agree to "cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities." If the county does not have such powers, the agreement must expressly state that the cooperating unit of general local government agrees to "undertake, or assist in undertaking, community renewal and lower-income housing assistance activities." As an alternative to this wording, the cooperation agreement may reference State legislation authorizing such activities, but only with the approval of the specific

alternative wording by HUD Field Counsel.

- H. The agreement must contain a provision obligating the county and the cooperating unit of general local government to take all actions necessary to assure compliance with the urban county's certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 109 of Title I of the Housing and Community Development Act of 1974, and other applicable laws. The agreements shall also contain a provision prohibiting urban county funding for activities in, or in support of, any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with the county's fair housing certification. This provision is required because noncompliance by a unit of general local government included in an urban county may constitute noncompliance by the grantee (i.e., the county) that can, in turn, provide cause for funding sanctions or other remedial actions by the Department.
- I. The agreement must expressly state "that the cooperating unit of general local government has adopted and is enforcing:
  - 1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
  - 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions."
- J. The agreement may not contain a provision for veto or other restriction that would allow any party to the agreement to obstruct the implementation of the approved Consolidated Plan during the period covered by the agreement. The county has final responsibility for selecting CDBG (and HOME, where applicable) activities and submitting the Consolidated Plan to HUD, although if the county is a member of a HOME consortium, the consortium submits the Plan developed by the county (see Section I, General Requirements, paragraph C).
- K. The agreement must contain language specifying that, pursuant to 24 CFR 570.501(b), the unit of local government is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 CFR 570.503 (see Section VIII, Special Considerations, paragraph B).

L. A county may also include in the cooperation agreement any provisions authorized by State and local laws that legally obligate the cooperating units to undertake the necessary actions, as determined by the county, to carry out a community development program and the approved Consolidated Plan and/or meet other requirements of the CDBG (and HOME, where applicable) program and other applicable laws.