Ms. Judenfriend
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DECISION THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

[Conflicting Provisions of Coastal Zone Management Act with Housing and Community Development Act]

FILE: B-197351 DATE: August 18, 1980

MATTER OF: Use of Community Development Block Grant Funds to Pay Local Matching Share of Coastal Zone Management Grant

DIGEST:

Local recipient of a grant under §§ 305 and 306 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. § 1451 et seq., may use community development block grant funds to pay the required local matching share even though section 318(c) of the Coastal Zone Management Act specifically prohibits use of federal funds to meet local matching requirements. B-167694, May 22, 1978, modified.

This decision is in response to a request from the Department of Commerce as to whether community development block grant funds may be used to pay the local matching share required for federal grants to States as authorized by sections 305 and 306 of the Coastal Zone Management Act of 1972, as amended. 16 U.S.C. §§ 1454 and 1455. Our consideration of the question is premised upon the proper inclusion of coastal zone projects within community development programs meeting all requirements of the community development act.

The question arises because of two apparently conflicting provisions of law.

The coastal zone act, which provides for federal grants on a sharing basis, specifically precludes the use of federal funds from other sources to meet the grantee's cost share. On the other hand, the Housing and Community Development Act of 1974, 42 U.S.C. § 5301 et seq., which authorizes grants on an entitlement basis, specifically provides for payment of non-federal shares required in connection with federal grant-in-aid programs undertaken as part of a community development program. How are we to reconcile the prohibition of the one with the authority of the other?

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Specifically, section 105 (a) (9) of the Housing and Community Development Act of 1974 provides that:

> "(a) A Community Development Program assisted under this title may include only -
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> "(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of the Community Development Program." Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 641; 42 U.S.C. § 5305.

And section 318 (c) of the Coastal Zone Management Act provides that:

> "Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309, or 310." Pub. L. 94-370, July 26, 1976, 90 Stat. 1019, 1031; 16 U.S.C. 1464(c).

The usual rules of statutory construction are not of much help in defining which of the two acts must bend to the other. The legislative histories provide little guidance. The legislative history of the coastal zone act shows a firm intention to assure local interest and involvement through financial participation in grant projects. The history makes clear that the prohibitory language was used to assure in a general sense achievement of the desired local participation. We perceive nothing to suggest that the prohibition was adopted to overcome any other Congressional enactment under which program funds might be provided pursuant to a concept compatible with the practice of applying federally derived funds to meet local non-federal matching requirements. See H. R. Rep. No. 1049, 92d Cong., 2d Sess. 17 (1972).

If the coastal zone act prohibition against using any federal funds for matching is specific, the authority provided in the community development act to do just that is no less so. And it is no answer to say that the prohibition is in mandatory terms while the authority is provided in permissive terms; for the "permission" to use federal grant funds is for the express purpose of overcoming the very requirements for local fund matching inherent in the prohibited use of federal funds.

The prohibition against using federal funds to meet grant matching requirements is generally applicable even though not expressly stated. See, for example, 57 Comp. Gen. 710 (1978). With this in mind, we have considered whether expression of the prohibition through statutory language serves to elevate it beyond its ordinary application. We find nothing in the statutory statement to suggest any meaning beyond that of emphatically requiring non-federal funds to meet the requisite matching.

We also have considered the sequence in which the two provisions at issue were passed. We find instances in connection with differing coastal zone programs where the prohibition preceded community development act authorization and other instances where the authorization came first. Without any pertinent legislative history for guidance, we do not under such circumstances consider the time of enactment a reliable indicator of Congressional intent.

We, therefore, approach the issue of legislative intent on the basis of reaching the most reasonable result consistent with the purposes of both acts.

Section 106 of the Housing and Community Development Act of 1974, 88 Stat. 642, 42 U.S.C. § 5306, provides an elaborate formula scheme under which "***each metropolitan city and urban county (subject, to be sure, to various limitations) shall***be entitled to annual grants***;". It is clear in the context of the act that funds granted thereunder are available to meet all approved project elements, and the act provides that the Secretary of Housing and Urban Development "shall approve" applications for funds to be applied to such purposes. 42 U.S.C. § 5304(c). (Underscoring supplied.) Section 105 referred to above lists the permissible uses of grant funds. One of these permissible uses is for payment of the non-federal share required in connection with federal grant-in-aid programs undertaken as part of the grantee's approved community development program. The question is whether the coastal zone act prohibition should be read as being paramount or subservient to this authority.

Given the broad scope of the Community Development Act, we see no reasonable basis upon which to limit its clearly stated authority to use community development funds to satisfy the coastal zone act requirement for non-federal matching, when the coastal project involved is incorporated

as a part of a larger community development program. On the other hand, the terms of the prohibition in the coastal zone act need not be read so broadly as to encompass those few formula entitlement programs, the legislative scheme of which explicitly permits the federal funds authorized thereunder to be used in satisfaction of non-federal matching requirements.

The prohibition need not be so construed, in our view, in light of its essential design solely as a mandate for achieving local participation through local matching funds, and the obvious intention that community development funds are to be viewed as local resources for the purpose of satisfying the local matching requirements of other federal grant-in-aid programs. Based on this reading, the coastal zone prohibition would apply to all federal programs that do not otherwise require program funds to be treated as local resources for matching purposes. The ban consequently would apply to the vast majority of federal grant programs, but not to federal community development grant funds provided pursuant to formula entitlements. Those funds effectively lose their character as "federal funds" insofar as that term is used in the Coastal Zone Management Act, and therefore are available as local resources to satisfy the match required in connection with a project properly incorporated as part of the grantee's community development programs.

The question presented is answered accordingly.

Our decision of May 22, 1978, B-167694, is modified, to the extent of any inconsistency with the conclusions we reach in this decision.

Milton J. Socolar

For The Comptroller General
of the United States

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197351 August 18, 1980

Honorable Howard W. Cannon, Chairman
Committee on Commerce, Science and
Transportation
United States Senate

Dear Mr. Chairman:

Enclosed is a copy of our decision of today concerning the use of community development block grant funds to meet the local matching fund requirements of coastal zone projects incorporated in community development programs.

Because the decision seeks to reconcile two apparently conflicting provisions of law, and recognizing that our interpretation of congressional intent cannot be free from all doubt, we are apprising your committee and other cognizant committees of the Senate and House of the decision so that you may take such action to clarify the law as you deem necessary or desirable.

Sincerely yours,

Milton J. Socolar

For The Comptroller General
of the United States

Enclosure

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197351 August 18, 1980

Honorable John M. Murphy, Chairman
Committee on Merchant Marine and
Fisheries
House of Representatives

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Sincerely yours,

Shilton J. Adams

For The Comptroller General
of the United States

Enclosure

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197351

August 18, 1980

Honorable William Proxmire, Chairman
Committee on Banking, Housing and
Urban Affairs
United States Senate

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Sincerely yours,

Milton J. Socolar

For The Comptroller General
of the United States

Enclosure

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197351 August 18, 1980

Honorable Henry S. Reuss, Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives

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Milton J. Socolar

For The Comptroller General
of the United States

Enclosure