



STATE OF WEST VIRGINIA
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June 8, 2012

Erica L. Boggess, Acting Executive Director
West Virginia Housing Development Fund
5710 MacCorkle Avenue, SE
Charleston, WV 25304

Re: Advisory Opinion - Authority to act as Public Housing Authority
in the State of West Virginia

Dear Ms. Boggess:

We are responding to your request on behalf of West Virginia Housing Development Fund for an opinion from the Attorney General on the questions of (1) whether West Virginia Housing Development Fund is authorized to serve as the Performance-Based Contract Administrator for the State of West Virginia, and (2) whether any city, county or regional authority formed under West Virginia Code §§ 16-15-3 or 4 is a "public housing authority" authorized to serve as a PBCA for the State of West Virginia.

We have reviewed, among other materials, West Virginia Code § 15-16-1 *et seq.*, the PBCA Invitation, including Section 2.2, "Statutory Definition of 'Public Housing Agency' and Related Statutory Definitions," and the United States Housing Act of 1937, 42 U.S.C. § 1437 *et seq.*

Further, it is our understanding that the Annual Contributions Contract to be awarded in this instance may only be awarded, pursuant to 42 U.S.C. § 1437f(b)(1), to a "public housing agency" that is authorized to act throughout the state in accordance with the laws of the state.

It is our opinion that (1) West Virginia Housing Development Fund is authorized to serve as a PBCA for the State of West Virginia, and that (2) city, county or regional authorities formed under West Virginia Code §§ 16-15-3 or 4, having limited geographical authority, are not authorized to serve as a PCBA for the State of West Virginia.

We are preparing a detailed analysis of our reasoning for your review, but in light of the deadline for submission, we herewith submit this opinion as to our ultimate conclusions of law.

Very truly yours,

DARRELL V. McGRAW, JR.
ATTORNEY GENERAL

By: 

Barbara H. Allen
Managing Deputy Attorney General