DATE RECEIVED BY CITY: _____

APPLICATION FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS

INTRODUCTION:

This application will help City staff and officials make a decision regarding the funding of your project through the Neighborhood Stabilization Program (NSP). It will be used for the preliminary review of your funding request only. Completion and submission of this application does not obligate the City of Ontario to allocate NSP funds to your activity.

A comprehensive checklist of all attachments required for the application to be considered complete is included at the end of the application. **If all requested information, including attachments, is not received, the application will be deemed incomplete and will not be processed.**

Section 1. General Project Information

Project Address _____

Applicant's Name _____

Names of all principals _____

Applicant Address _____

_____

Phone Number _____ **Fax Number** _____

E-Mail Address _____

Property Description

# of Bedrooms _____ **# of Bathrooms** _____

Lot square footage _____ **Dwelling square footage** _____

Ontario NSP Funds Requested: _____

Please attach photographs of all sides of the exterior and all interior rooms, including interior and exterior photos of any accessory structures, such as a shed, garage, etc. (Attachment A).

Section 2. Current Ownership

All properties considered for NSP funds must be foreclosed or abandoned in accordance with the definitions established in the NSP guidelines.

Current Owner _____

Contact Person _____

Address _____

_____

Phone Number _____ **Fax Number** _____

Please attach a current preliminary title report for the subject property (Attachment B).

Section 3. Project Site Acquisition Details

Acquisition Price

NSP Discount
(% difference from appraised value) 0.00%

Please describe the terms of the acquisition, including all costs and fees associated with the acquisition.

Describe how the acquisition meets the NSP guidelines for acquisition of foreclosed and abandoned homes.
Please see attached NSP guidelines for more information.

Please attach a copy of the estimated appraised value of the property (Attachment C). A final appraisal will be required before the project is approved for funding.

Section 4. Budget

Please attach an itemized breakdown of the complete sources and uses of funds that details the total estimated cost of the proposed project including the terms and conditions of all financing sources listed (Attachment D). Please complete the following tables summarizing the Sources and Uses of funds identified in Attachment D.

Sources of Funds	Amount
Developer Equity	
Ontario NSP Funds (this amount must match amount requested in Section 1)	
Other Sources (please specify)	
Other Sources (please specify)	
Other Sources (please specify)	
Other Sources (please specify)	
Total Sources	**$0.00**

Uses of Funds	Amount
Acquisition costs	
On-site and off-site costs	
Hard construction costs	
Permits and fees	
Architect and Engineering fees	
Contractor overhead and profit	
Developer fee	
Relocation	
Financing costs	
Resale costs	
Other uses (please specify)	
Other uses (please specify)	
Other uses (please specify)	
Total Uses	**$0.00**

Financing Plan: Please describe the financing plan for the project, including financing for the end user.

Please attach a complete development budget for the repairs/renovation, including all permit or other required fees as necessary (Attachment E). Please see Section 5 – Repairs and Renovations for more details and guidelines.

Section 5. Repairs and Renovations

1. Please include written reports, including pictures, evaluating the presence of asbestos, mold, or lead-based paint at the subject property. If asbestos, mold, or lead-based paint is present, include a plan for remediation.
2. Please include written verification from the Building Department that all room additions, patios, conversions, or other building alterations requiring a permit were properly constructed and permitted (i.e., copies of permits on file).
3. Please include a copy of any code violation notices on file and an explanation of how the noted violations are addressed in the rehabilitation plan.
4. Please include a detailed written evaluation of repairs/renovations needed and a detailed line item budget, including evidence supporting costs (i.e., bids or estimate performed by a qualified construction cost estimator).
5. Please include a development schedule from the opening of escrow through final sale to the end user.
6. Please include a written evaluation of the roof, plumbing, mechanical, electrical, and structural condition from an ICBO or other certified inspector, including copies of the inspector's certification to perform such an evaluation.

Section 6. Marketing and Sales Price

Please attach a marketing plan (Attachment F).

Please provide an analysis of the proposed sales price and attach recent comparable sales supporting the proposed sales price (Attachment G).

Section 7. Developer Experience

Provide the following information related to developer experience for projects similar to the project proposed in this application (i.e., single-family acquisition, rehabilitation, and resale).

Total number of years experience developing/rehabilitating projects		
Total number of projects and units developed/rehabilitated		
Number of projects and units developed/rehabilitated *in the last five years*		
Number of years experience developing/rehabilitating projects in California		
Number of projects and units developed/rehabilitated in California		
Number of projects and units developed/rehabilitated in California *in the last five years*		

Please attach a list of addresses of projects constructed and/or rehabilitated by the Developer, including the year the project was completed and total development costs (Attachment H).

Please attach resumes for all principals and key staff members that will be assigned to work on the proposed project (Attachment I).

Please attach a list of references (Attachment J).

Section 8. Legal Status of Applicant

For the purposes of the following questions, the term "Applicant" shall include, in addition to the entity itself, officers, directors, principals and senior executives if the Applicant is a for-profit or not-for-profit corporation or affiliate, or partners if Applicant is a partnership, or members or managers if Applicant is a limited liability company.

If the answer is yes to any of the following questions, please attach a separate sheet to provide additional information, the sheet shall be labeled **"Attachment K – Legal Status of Applicant."**

Has the applicant filed for bankruptcy, defaulted on a loan, or been foreclosed against in the past ten years?	☐ Yes	☐ No
Is the applicant currently a party to any civil litigation, which may materially affect the financial condition of the applicant's business?	☐ Yes	☐ No
Have there been any administrative or civil settlements or judgments against the applicant within the prior ten years, which materially affected the financial condition of the applicant's business?	☐ Yes	☐ No

Is the applicant currently subject to any civil proceeding or investigation by a licensing or accreditation agency or by a state or federal taxing authority?	☐ Yes	☐ No
In the last ten years, has the applicant been subject to any civil proceeding or investigation by a licensing or accreditation agency or by a state or federal taxing authority that resulted in a settlement, decision, or judgment?	☐ Yes	☐ No
Is the applicant currently subject to any criminal litigation, which may materially affect the financial condition of the applicant's business?	☐ Yes	☐ No
Is the applicant currently subject to any criminal proceeding or investigation by a licensing or accreditation agency or by a state or federal taxing authority?	☐ Yes	☐ No
In the last ten years, has the applicant been subject to any criminal proceeding or investigation by a licensing or accreditation agency or by a state or federal taxing authority that resulted in a settlement, conviction, decision, or judgment?	☐ Yes	☐ No
Have there been any criminal settlements, convictions, or judgments against the applicant within the prior ten years, which materially affected the financial condition of the applicant's business?	☐ Yes	☐ No
Within the last ten years, has the applicant been convicted of any felony?	☐ Yes	☐ No
Within the last ten years, has the applicant been convicted of any misdemeanor related to the program to which the applicant is applying or any financial or fraud related crime (e.g., embezzlement)?	☐ Yes	☐ No

Section 9. Business License

Please attach a copy of the applicant's City of Ontario Business License (Attachment L). If the applicant does not currently have a City of Ontario business license, one must be obtained prior to the award of any funds.

Section 10. Insurance Requirements

Provide the information requested and attach copies of current insurance certificates evidencing the coverage described below (Attachment M).

The City of Ontario requires general liability insurance, automobile liability insurance (if any vehicle are operated for any organizational purpose that the City has funded), and worker's compensation and employer's liability insurance (if any individuals are employed by your organization). **Note:** If your funding request is approved, the City will require that new insurance certificates and endorsements be issued pursuant to City requirements. The City of Ontario requires minimum limits of liability insurance to be not less than $1,000,000 per occurrence.

Name of Insurance Company	Effective Dates of Policy	Limits of Liability	Deductibles per Occurrence
General Liability Insurance			
Automobile Liability			
Worker's Compensation			

Section 11. Form of indemnification.

Please review the indemnification form attached to this application form. If the project is approved by the City and awarded NSP funds, the developer will be required to execute this indemnification form.

Section 12. Certifications

Complete the following certifications.

The undersigned certifies that:

(a) The information contained in this document is complete and accurate;

(b) This application is being submitted for the purposed described herein;

(c) The applicant understands that it is the applicant's responsibility to provide the City of Ontario with a complete application and understands that succinct answers providing the requested information are required;

(d) The applicant understands that the City of Ontario will verify the information provided and analyze the materials submitted as well as conduct its own investigation to evaluate the application;

(e) The applicant recognizes that it has a duty to inform the City of Ontario when any information in the application or attachments is no longer true and to supply the City of Ontario with accurate information;

(f) The applicant has read all guidelines and regulations relevant to the funding sources requested as part of this application;

(g) The applicant has an obligation to comply with all applicable federal and state laws regarding unlawful discrimination and will abide by all program requirements in carrying out the proposed project;

(h) The applicant acknowledges that information submitted to the City of Ontario in this application or attachments may be subject to the Public Records Act or other disclosure and understands that the City of Ontario may make such information public;

(i) The applicant declares under penalty of perjury that the information contained in the application, exhibits, and attachments is true and correct to the best of its knowledge and belief and understands that misrepresentation may result in the cancellation of any funds awarded and other legal actions available to the City of Ontario; and

(j) The applicant certifies that the project can be completed within the development budget and schedule set forth in the application.

_____

Signature of Authorized Applicant Representative *Date*

_____

Print Name and Title of Authorized Applicant Representative

Section 13. Application Submittal

PLEASE SUBMIT THIS APPLICATION AND ALL REQUIRED DOCUMENTS (SEE ATTACHED CHECKLIST) TO: **City of Ontario, Housing and Neighborhood Revitalization Agency, 208 W. Emporia St., Ontario, CA 91762, Attn: Katryna Gonzalez, Project Manager**

You will be contacted, in writing, by the Project Manager regarding the receipt and status of your grant application. If you have any questions regarding your grant application, or NSP in general, please contact Katryna Gonzalez, Project Manager at (909) 395-2322.

Thank you for your interest

NEIGHBORHOOD STABIZATION PROGRAM (NSP)

APPLICATION SUBMISSION CHECKLIST

PROJECT ADDRESS _____

To be considered for funding, all applications **must** be completed in their entirety with the following documents attached at the time of submission. Please submit **three (3)** complete application packets.

- ☐ **Attachment A – Photographs of the subject property**
- ☐ **Attachment B – Preliminary Title Report**
- ☐ **Attachment C – Estimated appraised value**
- ☐ **Attachment D – Detailed sources and uses of funds**
- ☐ **Attachment E – Budget and supporting documents for repairs/renovations**
- ☐ **Attachment F – Marketing plan**
- ☐ **Attachment G – Proposed sales price analysis and recent sales comparables**
- ☐ **Attachment H – List of recently completed projects**
- ☐ **Attachment I – Resumes of all principals and key staff members**
- ☐ **Attachment J – List of references**
- ☐ **Attachment K – Legal Status of Applicant**
- ☐ **Attachment L – City of Ontario Business License**
- ☐ **Attachment M – Copies of current insurance certificates**

Please submit applications to the following address:

City of Ontario, Housing and Neighborhood Revitalization Agency
208 West Emporia Street
Ontario, CA 91762
Attn: Katryna Gonzalez, Project Manager

If you have any questions regarding the required documents to be submitted or need assistance with this application, please contact Katryna Gonzalez, Project Manager, at (909) 395-2322

Federal Register

Monday,
October 6, 2008

Part III

Department of Housing and Urban Development

Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5255–N–01]

Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of allocation method, waivers granted, alternative requirements applied, and statutory program requirements.

SUMMARY: This notice advises the public of the allocation formula and allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations granted to grantees under Title III of Division B of the Housing and Economic Recovery Act of 2008, for the purpose of assisting in the redevelopment of abandoned and foreclosed homes under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes heading, referred to throughout this notice as the Neighborhood Stabilization Program (NSP). As described in the **SUPPLEMENTARY INFORMATION** section of this notice, HUD is authorized by statute to specify alternative requirements and make regulatory waivers for this purpose. This notice also notes statutory issues affecting program design and implementation.

DATES: *Effective Date:* September 29, 2008.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. FAX inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Authority To Provide Alternative Requirements and Grant Regulatory Waivers

Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA) (Pub. L. 110–289, approved July 30, 2008) appropriates $3.92 billion for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as the Neighborhood Stabilization Program (NSP). When referring to a provision of the appropriations statute itself, this notice will refer to HERA; when referring to the grants, grantees, assisted activities, and implementation rules, this notice will use the term NSP.

HERA authorizes the Secretary to specify alternative requirements to any provision under Title I of the Housing and Community Development Act of 1974, as amended, (the HCD Act) except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint), in accordance with the terms of section 2301 of HERA and for the sole purpose of expediting the use of grant funds. (Current and former disaster recovery CDBG grantees should note that this authority is substantially and significantly more limited from that generally provided with disaster recovery CDBG supplemental appropriations; therefore, waivers under the NSP are much more limited. For example, HUD does not have authority to provide alternative requirements for the National Affordable Housing Act (NAHA) or for the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 (URA). Unless this notice describes how HERA has superseded one of their provisions, these statutes will apply as in the CDBG program. Such regulatory relief as HUD deemed necessary and was authorized to provide under 24 CFR 5.110 and 91.600 to permit implementation of the NSP is provided in this notice.)

The Secretary finds that the following alternative requirements are necessary to expedite the use of these funds for their required purposes.

Under the requirements of HERA, the Secretary must provide Congress written notice of its intent to exercise the authority to specify alternative requirements not less than 10 business days before such exercise of authority is to occur. Under the HUD Reform Act, regulatory waivers must be justified and published in the **Federal Register**. The Department is also using this notice to provide grantees information about other ways in which the requirements for this grant vary from regular CDBG program rules. Compiling this information in a single notice creates a helpful resource for grant administrators and HUD field staff.

Except as described in this notice, statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subpart I for states or, for CDBG entitlement communities, including those at 24 CFR part 570 subparts A, C, D, J, K, and O, as appropriate, shall apply to the use of these funds. (The State of Hawaii will be allocated funds and will be subject to part 570, subpart I, as modified by this notice.) Other sections of the notice will provide further details of the changes, the majority of which deal with adjustments necessitated by HERA provisions, simplifying program rules to expedite administration, or relate to the ability of state grantees to act directly instead of solely through distribution to local governments. In a separate guidance issuance, HUD also will provide a simplified ''crosswalk'' of NSP and State CDBG requirements for state grantee administrators.

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I. Allocations

A. Formula: Allocation

HERA provides $3.92 billion of funds that are generally to be construed as CDBG program funds for the communities and in the amounts listed in Attachment A to this notice. Attachment A also includes a description of the allocation formula used to determine the grant amounts, as required by HERA.

B. Formula: Reallocation

1.a. To expedite the use of NSP funds, the Department is specifying alternative requirements to 42 U.S.C. 5306(c). If a unit of general local government receiving an allocation of NSP funds under this notice (as designated in Attachment A) fails to submit a substantially complete application for its grant allocation by December 1, 2008, or submits an application for less than the total allocation amount, HUD will simultaneously notify the jurisdiction of the cancellation of all or part of its allocation amount and proceed to reallocate the funds to the state in which the jurisdiction is located.

b. If a state or insular area receiving an allocation of funds under this notice fails to submit a substantially complete application for its allocation by December 1, 2008, or submits an application for less than the total allocation amount, HUD will simultaneously notify the state or insular area of the reduction in its allocation amount and proceed to reallocate the funds to the 10 highest-need states based on original rankings of need.

2. If any jurisdiction, state, insular, or local area fails to meet the requirement to use its grant within 18 months of receipt of the amounts, as required, HUD, on the first business day after that deadline, will simultaneously notify the grantee and restrict the amount of unused funds in the grantee's line of credit. HUD will allow the grantee 30 days to submit information to HUD regarding any additional ''use'' of funds not already recorded in the Disaster Recovery Grant Reporting system (DRGR). Then HUD will proceed to recapture the unused funds. HUD will reallocate these unused funds in accordance with 42 U.S.C. 5306(c)(4).

II. Alternative Requirements and Regulatory Waivers

This section of the notice briefly provides a justification for alternative requirements, where additional explanation is necessary, and describes the necessary basis for each regulatory waiver. This section also highlights some of the statutory items applicable to the grants. This background narrative is followed by the NSP requirement(s).

HUD's resources for implementing HERA are limited and have other calls upon them (for managing the regular CDBG and HOME Investment Partnership programs (HOME) and the New York, Gulf Coast, and Midwest disaster recovery grants), and the Department wants to target the use of its resources toward achieving NSP program performance, and preventing and eliminating fraud, waste, and misuse of program funds. Because no funds were available specifically for tracking the use of NSP grants, HUD is applying an existing system, unmodified. This all militates toward keeping standards simple or familiar, wherever possible. Therefore, throughout this notice, where HUD had any choice of a standard to use to measure compliance, HUD selected the simplest one to administer, giving a preference to a standard already in common use.

Each grantee eligible for an NSP grant already receives annual CDBG allocations, has carried out needs hearings, has a consolidated plan, an annual action plan, a citizen participation plan, a monitoring plan, an analysis of impediments to fair housing choice, and has made CDBG certifications. The consolidated plan already discusses housing needs related to up to four major grant programs: CDBG, HOME, Emergency Shelter Grants (ESG), and Housing Opportunities for Persons With AIDS (HOPWA). A grantee's annual action plan describes the activities budgeted under each of those annual programs.

HUD is treating a grantee's use of its NSP grant to be a substantial amendment to its current approved consolidated plan and annual action plan. The NSP grant is a special CDBG allocation to address the problem of abandoned and foreclosed homes. HERA establishes the need, targets the geographic areas, and limits the eligible uses of NSP funds. Treating the NSP as a substantial amendment will expedite the distribution of NSP funds, while ensuring citizen participation on the specific use of the funds. HUD is waiving the consolidated plan regulations on the certification of consistency with the consolidated plan to mean the NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the grantee's substantial amendment. In addition, HUD is waiving the consolidated plan regulations to the extent necessary to adjust reporting to fit the requirements of HERA and the use of the DRGR.

The waivers, alternative requirements, and statutory changes apply only to the grant funds appropriated under HERA and not to the use of regular formula allocations of CDBG funds, even if they are used in conjunction with NSP funds for a project. They provide expedited program implementation and implement statutory requirements unique to this appropriation.

A. Definitions for Purposes of the CDBG Neighborhood Stabilization Program

Background

Certain terms are used in HERA that are not used in the regular CDBG program, or the terms are used differently in HERA and the HCD Act. In the interest of speed and clarity of administration, HUD is defining these terms in this notice for all grantees, including states. For the same reason, HUD is also defining eligible fund uses for all grantees, including states. States may define other program terms under the authority of 24 CFR 570.481(a), and will be given maximum feasible deference in accordance with 24 CFR 570.480(c) in matters related to the administration of their NSP programs.

Requirement

Abandoned. A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

Blighted structure. A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

CDBG funds. CDBG funds means, in addition to the definition at 24 CFR 570.3, grant funds distributed under this notice.

Current market appraised value. The current market appraised value means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property by a grantee, subrecipient, developer, or individual homebuyer.

Foreclosed. A property ''has been foreclosed upon'' at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the

property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Land bank. A land bank is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purposes of the NSP program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and dispose of the land-banked properties. If the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.

Revenue for the purposes of section 2301(d)(4). Revenue has the same meaning as program income, as defined at 24 CFR 570.500(a) with the modifications in this notice.

Subrecipient. Subrecipient shall have the same meaning as at the first sentence of 24 CFR 570.500(c). This includes any nonprofit organization (including a unit of general local government) that a state awards funds to.

Use for the purposes of section 2301(c)(1). Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity; for example, for acquisition of a specific property. Funds are obligated for an activity when orders are placed, contracts are awarded, services are received, and similar transactions have occurred that require payment by the state, unit of general local government, or subrecipient during the same or a future period. Note that funds are not obligated for an activity when subawards (*e.g.*, grants to subrecipients or to units of local government) are made.

B. Pre-Grant Process

Background

With this notice, HUD is establishing the NSP allocation formula, including reallocation provisions, and announcing the distribution of funds. CDBG grantees receiving NSP allocations may immediately begin to prepare and submit action plan substantial amendments for NSP funds, in accordance with this notice. (Insular areas should follow the requirements for entitlement communities.)

To receive NSP funding, each CDBG grantee listed in Attachment A must submit an action plan substantial amendment to HUD in accordance with this notice by December 1, 2008.

HUD encourages each grantee to carry out its NSP activities in the context of a comprehensive plan for the community's vision of how it can make its neighborhoods not only more stable, but also more sustainable, competitive, and integrated into the overall metropolitan fabric, including access to transit, affordable housing, employers, and services.

HUD encourages each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline versus the capacity of the state administrator. HUD expects that after such consideration, some jurisdictions may choose to apply for less than the full amount, which will allow the balance of their grants to pass to the NSP administrator at the state level.

Another way jurisdictions may cooperate to carry out their grant programs is through a joint request to HUD. HUD is providing regulatory waivers and alternative requirements to allow joint requests among entitlement communities and to allow joint requests between an entitlement community and a state. Any two or more contiguous entitlement communities (metropolitan cities or urban counties) that are in the same metropolitan area and that are eligible to receive an NSP grant may instead make a joint request to HUD to implement a joint NSP program. A jurisdiction need not have a joint agreement with an urban county under the regular CDBG entitlement program to request a joint program for NSP funding. Similarly, any entitlement community eligible to receive an NSP grant may instead make a request for a joint NSP program with its state. An NSP joint request under a cooperation agreement results in a single combined grant and a single action plan substantial amendment. Potential requestors should contact HUD as soon as possible (as far as possible in advance of publishing a proposed NSP substantial amendment) for technical guidance. The requestors will specify which jurisdiction will receive the funds and administer the combined grant on behalf of the requestors; in the case of a joint request between a local government jurisdiction and a state, the state will administer the combined grant. (Grantees choosing this option should consider the Consolidated Plan and citizen participation implications of this approach. The lead entity's substantial amendment will cover any participating members. The citizen participation process must include citizens of all jurisdictions participating in the joint NSP program, not just those of the lead entity.)

Given the rule of construction in HERA that NSP funds generally are construed as CDBG program funds, subject to CDBG program requirements, HUD generally is treating NSP funds as a special allocation of Fiscal Year (FY) 2008 CDBG funding. This has important consequences for local governments presently participating in an existing urban county program, and for metropolitan cities that have joint agreements with urban counties. HUD will consider any existing cooperation agreements between a local government and an urban county governing FY2008 CDBG funding (for purposes of either an urban county or a joint program) to automatically cover NSP funding as well. These cooperation agreements will continue to apply to the use of NSP funds for the duration of the NSP grant, just as cooperation agreements covering regular CDBG Entitlement program funds continue to apply to any use of the funds appropriated during the 3-year period covered by the agreements. For example, a local government presently has a cooperation agreement covering a joint program or participation in an urban county for federal FYs 2007, 2008 and 2009. The local government may choose to discontinue its participation with the county at the end of the applicable qualification period for purposes of regular CDBG entitlement funding. However, the county will still be responsible for any NSP projects funded in that community, and for any NSP funding the local government receives from the county, until those funds are expended and the funded activities are completed.

A third method of cooperating is also available. A jurisdiction may choose to apply for its entire grant, and then enter into a subrecipient agreement with another jurisdiction or nonprofit entity to administer the grant. In this manner, for example, all of the grantees operating in a single metropolitan area could designate the same land-bank entity (or the state housing finance agency) as a subrecipient for some or all of their NSP activities.

Each grantee will have until December 1, 2008, to complete and submit a substantial amendment to its annual action plan. A grantee that wishes to initially submit its action plan

amendment to HUD electronically in the DRGR system rather than via paper may do so by contacting its local field office for the DRGR submission directions. Paper submissions to HUD also will be allowed, although each grantee must set up its action plan in DRGR prior to the deadline for the first required performance report after receiving a grant.

HUD is using DRGR for the NSP because no other application and reporting system was sufficiently flexible to deal with the alternative requirements. The emergency nature of this legislation and corresponding statutory time frames do not give HUD sufficient time to develop a new system or modify an existing system to perfectly fit NSP.

HUD encourages grantees, during development of their action plan amendments, to contact HUD field offices for guidance in complying with these requirements, or if they have any questions regarding meeting grant requirements.

Normally, in the CDBG program, a grantee takes at least 30 days soliciting comment from its citizens before it submits an annual action plan to HUD, which then has 45 days to accept or reject the plan. To expedite the process and to ensure that the NSP grants are awarded in a timely manner, while preserving reasonable citizen participation, HUD is waiving the requirement that the grantee follow its citizen participation plan for this substantial amendment. HUD is shortening the minimum time for citizen comments and requiring the substantial amendment materials to be posted on the grantee's official website as the materials are developed, published, and submitted to HUD.

Each grantee must use its NSP funds within 18 months of receipt. A grantee will be deemed by HUD to have received its NSP grant at the time HUD signs its NSP grant agreement (or amendment thereof, in the case of a state that later receives reallocated grant funds).

Grantees are cautioned that, despite the expedited application and plan process, they are still responsible for ensuring that all citizens have equal access to information about the programs. Among other things, this means that each grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. This will be a particular issue for those states that this notice is allowing to make grants throughout the state, including into regular CDBG entitlement areas. Because regular State CDBG funds are not used in entitlement areas, State CDBG staffs may not be aware of limited English proficient (LEP) speaking populations in those metropolitan jurisdictions.

HUD will review each grantee submission for completeness and consistency with the requirements of this notice and will disapprove incomplete and inconsistent action plan amendments. HUD will allow revision and resubmission of a disapproved action plan in accordance with 24 CFR 91.500 so long as any such resubmission is received by HUD 45 days or less following the date of first disapproval and in no case later than the close of business February 13, 2009.

In combination, the notice alternative requirements provide the following expedited steps for NSP grants:

- Proposed action plan amendment published via the usual methods and on the Internet for no less than 15 calendar days of public comment;
- Final action plan amendment posted on the Internet and submitted to HUD by December 1, 2008 (grant application includes Standard Form 424 (SF–424) and certifications);
- HUD expedites review,
- HUD accepts the plan and prepares a cover letter, grant agreement, and grant conditions;
- Grant agreement signed by HUD and immediately transmitted to the grantee;
- Grantee signs and returns the grant agreements;
- HUD establishes the line of credit and the grantee requests and receives voice response system (VRS) access;
- After completing the environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receiving from HUD or the state an approved Request for Release of Funds and certification, the grantee may draw-down funds from the line of credit.

The action plan substantial amendment and citizen participation alternative requirement will permit an expedited grant-making process, but one that still provides for public notice, appraisal, examination, and comment on the activities proposed for the use of NSP grant funds.

Requirement

1. General note. Except as described in this notice, statutory and regulatory provisions governing the CDBG program for states and entitlement communities, as applicable, shall apply to the use of these funds.

2. Contents of an NSP Action Plan substantial amendment. The elements in the NSP substantial amendment to the Annual Action Plan required for the CDBG program under part 91 are:

a. General information about needs, distribution, use of funds, and definitions:

i. Summary needs data identifying the geographic areas of greatest need in the grantee's jurisdiction. (A state must include the needs of the entire state and not just the areas not receiving an NSP allocation. To include the needs of an entitlement community, the state may either incorporate an entitlement jurisdiction's consolidated plan and NSP needs by reference and hyperlink on the Internet, or state the needs for that jurisdiction in the state's own plan);

ii. A narrative describing how the distribution and uses of the grantee's NSP funds will meet the requirements of Section 2301(c)(2) of HERA that funds be distributed to the areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures. The grantee's narrative must address the three need categories in the NSP statute, but the grantee may also consider other need categories;

iii. For the purposes of the NSP, the narratives will include:

(A) A definition of ''blighted structure'' in the context of state or local law;

(B) A definition of ''affordable rents;''

(C) A description of how the grantee will ensure continued affordability for NSP-assisted housing; and

(D) A description of housing rehabilitation standards that will apply to NSP-assisted activities.

b. Information by activity describing how the grantee will use the funds, identifying:

i. The eligible use of funds under NSP;

ii. The eligible CDBG activity or activities;

iii. The areas of greatest need addressed by the activity or activities;

iv. The expected benefit to income-qualified persons or households or areas;

v. Appropriate performance measures for the activity (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels represented in DRGR, which are currently 50 percent of area median income and below, 51 to 80 percent, and 81 to 120 percent);

vi. Amount of funds budgeted for the activity;

vii. The name and location of the entity that will carry out the activity; and

viii. The expected start and end dates of the activity.

c. A Description of the general terms under which assistance will be provided, including:

i. If the activity includes acquisition of real property, the discount required for acquisition of foreclosed-upon properties;

ii. Range of interest rates (if any);

iii. Duration or term of assistance;

iv. Tenure of beneficiaries (e.g., rental or homeownership); and

v. If the activity produces housing, how the design of the activity will ensure continued affordability; and

vi. If the funds used for the activity are to count toward the requirement at section 2301(f)(3)(A)(ii) to provide benefit to low-income persons (earning 50 percent or less of area median income).

d. Information on how to contact grantee program administrators, so that citizens and other interested parties know who to contact for additional information.

3. Continued affordability. Grantees shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties under this section remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of section 2301(f)(3)(A)(ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

a. In its NSP action plan substantial amendment, a grantee will define ''affordable rents'' and the continued affordability standards and enforcement mechanisms that it will apply for each (or all) of its NSP activities. HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e), and (f), and 92.254 to be in minimal compliance with this standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration. (Note that HERA's continued affordability standard is longer than that required of subrecipients and participating units of general local government under 24 CFR 570.503 and 570.501(b).)

b. The grantee must require each NSP-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. The grantee must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages (see, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at *http://www.fdic.gov/regulations/laws/rules/5000–5160.html)*. Grantees must design NSP programs to comply with this requirement and must document compliance in the records, for each homebuyer. Grantees are cautioned against providing or permitting homebuyers to obtain subprime mortgages for whom such mortgages are inappropriate, including homebuyers who qualify for traditional mortgage loans.

c. If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the grantee must revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

4. Citizen participation alternative requirement. HUD is providing an alternative requirement to 42 U.S.C. 5304(a)(2) and (3), to expedite distribution of grant funds and to provide for expedited citizen participation for the NSP substantial amendment. Provisions of 24 CFR 570.302 and 570.486 and those of 24 CFR 91.105(k) and 91.115(i), with respect to following the citizen participation plan, are waived to the extent necessary to allow implementation of the requirements below.

a. To receive its grant allocation, a grantee must submit to HUD for approval an NSP application by December 1, 2008. This submission will include a signed standard federal form SF–424, signed certifications, and a substantial action plan amendment meeting the requirements of paragraph b below. (24 CFR 91.505 is waived to the extent necessary to require submission of the substantial amendment to HUD for approval in accordance with this notice.)

b. Each grantee must prepare and submit its annual Action Plan amendment to HUD in accordance with the consolidated plan procedures for a substantial amendment under the annual CDBG program as modified by this notice or HUD will reallocate the funds allocated for that grantee. HUD is providing alternative requirements to 42 U.S.C. 5304(a)(2) and waiving 91.105(k) and 91.115(i) to the extent necessary to allow the grantee to provide no fewer than 15 calendar days for citizen comment (rather than 30 days) for its initial NSP submission, and to require that, at the time of submission to HUD, each grantee post its approved action plan amendment and any subsequent NSP amendments on its official website along with a summary of citizen comments received within the 15-day comment period. After HUD processes and approves the plan amendment and both HUD and the grantee have signed the grant agreement, HUD will establish the grantee's line of credit in the amount of funds included in the Action Plan amendment, up to the allocation amount.

5. Joint requests. To expedite the use of funds, HUD is providing an alternative requirement to 42 U.S.C. 5304(i) and is waiving 24 CFR 570.308 to the extent necessary to allow for additional joint programs described below.

a. Entitlement Community Joint Agreements. Two or more contiguous entitlement communities (metropolitan cities or urban counties) that are eligible to receive a NSP allocation and are located in the same metropolitan area may enter into joint agreements. All members to the joint agreement must be eligible to receive NSP funds, and one unit of general local government must be designated as the lead entity. The lead entity must execute the NSP grant agreement with HUD. Consistent with 24 CFR 570.308, the lead entity must assume responsibility for administering the NSP grant on behalf of all members, in compliance with applicable program requirements. The substantial amendment to the lead entity's action plan will include all participating entitlement communities.

b. Joint agreements with a state. Any entitlement community that is eligible to receive an NSP allocation may enter into a joint agreement with its state. The state shall be the lead entity and must assume responsibility for administering the NSP grant on behalf of the entitlement community, in compliance with applicable program requirements. The substantial amendment to the state's action plan will include any participating entitlement community.

6. Effect of existing cooperation agreements governing joint programs and urban counties. Any cooperation agreement between a unit of general local government and a county, concerning either a joint program or participation in an urban county under

24 CFR 570.307 or 570.308, and governing CDBG funds appropriated for federal FY 2008, will be considered to incorporate and apply to NSP funding. Any such cooperation agreements will continue to apply to the use of NSP funds until the NSP funds are expended and the NSP grant is closed out. Grantees should note that certain provisions in existing cooperation agreements that govern FY2008 CDBG funding may be inconsistent with parts of HERA and this notice. For instance, set minimum and/or maximum allocation amounts may conflict with priority distributions to areas of greatest need identified in the grantee's action plan substantial amendment. Conforming amendments should be made to existing cooperation agreements, as necessary, to comply with HERA and this notice.

C. Reimbursement for Pre-Award Costs

Background

NSP allocatees will need to move forward rapidly to prepare the NSP substantial amendment and to undertake other administrative actions, including environmental reviews, as soon as allocations are known. Therefore, HUD is granting permission to states and entitlement jurisdictions receiving a direct allocation of NSP funds (see Attachment A) to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds.

Requirement

24 CFR 570.200(h) is waived to the extent necessary to grant permission to entitlement jurisdictions receiving a direct NSP allocation under this notice to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. Similarly, in accordance with OMB Circular A–87, Attachment B, paragraph 31, HUD is allowing states to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. As a new grantee, an NSP allocatee will be allowed to incur costs necessary to develop the NSP substantial action plan amendment and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in the final plan, provided that the other conditions of 24 CFR 570.200(h) are met. (For units of general local government (including entitlements not receiving a direct NSP allocation under this notice) applying to the state, 24 CFR 570.489(b) applies unmodified.)

D. Grant Conditions

For NSP grantees that HUD determines are high risk in accordance with 24 CFR 85.12(a), HUD will apply additional grant conditions in accordance with 24 CFR 85.12(b).

E. Income Eligibility Requirement Changes

Background

The NSP program includes two low- and moderate-income requirements at section 2301(f)(3)(A) that supersede existing CDBG income qualification requirements. Under the heading ''Low and Moderate Income Requirement,'' HERA states that: ''All of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income.''

This provision does two main things. First, for the purposes of the NSP, it effectively supersedes the overall benefit provisions of the HCD Act and the CDBG regulations, which allow up to 30 percent of a grant to be used for activities that meet a national objective other than the low- and moderate-income one. Thus, NSP allows the use of only the low- and moderate-income national objective. Activities may not qualify under NSP using the ''prevent or eliminate slums and blight'' or ''address urgent community development needs'' objectives.

Second, this provision also redefines and supersedes the definition of ''low- and moderate-income,'' effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of area median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program. To prevent confusion, HUD will refer to this new income group as ''middle income,'' and keep the regular CDBG definitions of ''low-income'' and ''moderate income'' in use. Further, HUD will characterize aggregated households whose incomes do not exceed 120 percent of median income as ''low-, moderate-, and middle-income households,'' abbreviated as LMMH. For the purposes of NSP CDBG only, an activity may meet the HERA low- and moderate-income national objective if the assisted activity:

- Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);
- Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA);
- Creates or retains jobs for persons whose household incomes are at or below 120 percent of median income (LMMJ); or
- Serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

HUD will use the parenthetical terms above to refer to NSP national objectives in program implementation, to avoid confusion with the regular HCD Act definitions.

Land banks are not allowed in the regular CDBG program because of the very high risk that the delay between acquiring property and meeting a national objective can be excessively long, attenuating the intended CDBG program benefits by delaying benefit far beyond the annual or even the 5-year consolidated plan cycles. In the regular CDBG program (and in the NSP other than in an eligible land-bank use), a property acquisition activity is dependent on the national objective met by the subsequent reuse of the property in order to demonstrate program compliance. Given this, the HERA direction that assistance to land banks is an eligible use of NSP funds requires an alternative requirement and policy clarification.

For grantees choosing to assist land banks or demolition of structures with NSP funds, the change to the income qualification level for low-, moderate-, and middle-income areas will likely include most of the neighborhoods where property stabilization is required. If an assisted land bank is not merely acquiring properties, but is also carrying out other activities intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA) prior to final disposition of the banked property. HUD notes that the grantee must determine the actual service area benefiting from a land bank's activities, in accordance with the regulations.

However, HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods or that this is the best use of limited NSP funds absent a re-use plan. Therefore, HUD is requiring that a land bank may not hold a property for more than 10 years without obligating the property for a specific, eligible

redevelopment of that property in accordance with NSP requirements.

Note that if a state provides funds to an entitlement community, the entitlement community must apply the area median income levels applicable to its regular CDBG program geography and not the ''balance of state'' levels.

Other than the change in the applicable low- and moderate-income qualification level from 80 percent to 120 percent, the area benefit, housing, jobs, and limited clientele benefit requirements at 570.208(a) and 570.483(b) remain unchanged, as does the required documentation.

The other NSP low- and moderate-income related provision states that: ''not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.''

HUD advises grantees to take note of this new threshold as they design NSP activities. This provision does not have a parallel in the regular CDBG program. Grantees must document that an amount equal to at least 25 percent of a grantee's NSP grant (initial allocation plus any reallocations) has been budgeted in the initial approved action plan substantial amendment for activities that will provide housing for income-qualified individuals or families. Prior to and at grant closeout, HUD will review grantees for compliance with this provision by determining whether at least 25 percent of grant funds have been expended for housing for individual households whose incomes do not exceed 50 percent of area median income.

Requirements

1. Overall benefit supersession and alternative requirement. The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.484 (for states), and 24 CFR 570.200(a)(3) that 70 percent of funds are for activities that benefit low- and moderate-income persons are superseded and replaced by section 2301(f)(3)(A) of HERA. One hundred percent of NSP funds must be used to benefit individuals and households whose income does not exceed 120 percent of area median income. NSP shall refer to such households as ''low-, moderate-, and middle-income.''

2. National objectives supersession and alternative requirements. The requirements at 42 U.S.C 5301(c) are superseded and 24 CFR 570.208(a) and 570.483 are waived to the extent necessary to allow the following alternative requirements:

a. For purposes of NSP only, the term ''low- and moderate-income person'' as it appears throughout the CDBG regulations at 24 CFR part 570 shall be defined as a member of a low-, moderate-, and middle-income household, and the term ''low- and moderate-income household'' as it appears throughout the CDBG regulations shall be defined as a household having an income equal to or less than 120 percent of area median income, measured as 2.4 times the current Section 8 income limit for households below 50 percent of median income, adjusted for family size. A state choosing to carry out an activity directly must apply the requirements of 24 CFR 570.208(a) to determine whether the activity has met the low-, moderate-, and middle-income (LMMI) national objective and must maintain the documentation required at 24 CFR 570.506 to demonstrate compliance to HUD.

b. The national objectives related to prevention and elimination of slums and blight and addressing urgent community development needs (24 CFR 570.208(b) and (c) and 570.483(c) and (d)) are not applicable to NSP-assisted activities.

c. Each grantee whose plan includes assisting rental housing shall develop and make public its definition of affordable rents for NSP-assisted rental projects.

d. An NSP-assisted property may not be held in a land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

F. State Distribution to Entitlement Communities and Indian Tribes

Background

This notice includes an alternative requirement to the HCD Act and a regulatory waiver allowing distribution of funds by a state to CDBG regular entitlement communities and Tribes. This is consistent with the provision of HERA that specifically sets distribution priorities for areas with the greatest need, including ''metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas * * *'' Therefore, states receiving allocations under this notice may distribute funds to or within any jurisdiction within the state that is among those with the greatest need, even if the jurisdiction is among those receiving a direct formula allocation of funds from HUD under the regular CDBG program or this notice.

Requirement

Alternative requirement for distribution to CDBG metropolitan cities, urban counties, and Tribes. In accordance with the direction of HERA that grantees distribute funds to the areas of greatest need, HUD is providing an alternative requirement to 42 U.S.C. 5302(a)(7) (definition of ''nonentitlement area'') and waiving provisions of 24 CFR part 570, including 24 CFR 570.480(a), that would prohibit states electing to receive CDBG funds from distributing such funds to units of general local government in entitlement communities or to Tribes. The appropriations law supersedes the statutory distribution prohibition at 42 U.S.C. 5306(d)(1) and (2)(A). Alternatively, the state is required to distribute funds without regard to a local government status under any other CDBG program and must use funds in entitlement jurisdictions if they are identified as areas of greatest need, regardless of whether the entitlement receives its own NSP allocation.

G. State's Direct Action

Background

In the State CDBG program, states receiving CDBG funds may not directly use the funds for activities, but must distribute them to units of general local government, which then use the funds for program activities. States may still use this ''method of distribution'' program model under NSP, but HUD reminds the states of the 18-month ''use'' requirement. HUD also notes the language of section 2301(c) that says, in part, that:

> Any State * * * that receives amounts pursuant to this section shall * * * use such amounts to purchase and redevelop * * *.

This clearly speaks to the states using funds directly for projects and supersedes the HCD Act direction for states to only distribute funds to nonentitlement areas. Direct use of funds by a state may also result in more expeditious use of NSP funds. Therefore, a state receiving NSP funds may carry out NSP activities directly for some or all of its assisted grant activities, just as CDBG entitlement communities do under 24 CFR 570.200(f), including, but not limited to, carrying out activities using its own employees, procuring contractors, private developers, and providing loans and grants through nonprofit subrecipients (including local governments and other public

nonprofits such as regional or local planning or development authorities and public housing authorities).

For those activities a state chooses to carry out directly, HUD strongly advises the state to adopt the recordkeeping required for an entitlement community at 570.506 and the subrecipient agreement provisions at 570.503. Also, in such cases, as an alternative requirement to 42 U.S.C. 5304(i), the state may retain and re-use program income as if it were an entitlement community.

HUD is granting regulatory waivers of State CDBG regulations to conform the applicable management, real property change of use, and recordkeeping rules when a state chooses to carry out activities as if it were an entitlement community.

Requirements

1. Responsibility for state review and handling of noncompliance. This change conforms NSP requirements with the waiver allowing the state to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2), as amended, as modified by this notice. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any designated public agencies or units of general local governments and for its subrecipients.

2. Change of use of real property for state grantees acting directly. This waiver conforms the change of use of real property rule to the waiver allowing a state to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), ''unit of general local government'' shall be read as ''unit of general local government or state.''

3. Recordkeeping for a state grantee acting directly. Recognizing that the state may carry out activities directly, 24 CFR 570.490(b) is waived in such a case and the following alternative provision shall apply: State records. The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of NSP funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other federal requirements, the content of records maintained by the state shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly by the state; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

4. State compliance with certifications for state grantees acting directly. This is a conforming change related to the waiver to allow a state to act directly. Because a state grantee under this appropriation may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining whether the state has failed to carry out its certifications, so that such basis shall be that the state has failed to carry out its certifications in compliance with applicable program requirements.

5. Clarifying note on the process for environmental release of funds when a State carries out activities directly. Usually, a state distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. For this grant, HUD will allow a state grantee to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a state carries out activities directly, the state must submit the certification and request for release of funds to HUD for approval.

H. Eligibility and Allowable Costs

Background

Most of the activities eligible under NSP represent a subset of the eligible activities under 42 U.S.C. 5305(a). Due to limitations in the reporting system, DRGR, the NSP-eligible uses must be correlated with CDBG-eligible activities. The alternative to this approach, using a paper-based action plan and reporting process using NSP-eligible uses only would be much slower to implement. This correlation also reduces implementation risks, because it will ensure that the NSP grants are administered largely in accordance with long-established CDBG rules and controls. The table in the requirements paragraph below shows the eligible uses under NSP and the corresponding eligible activities from the regulations for the regular CDBG entitlement program that HUD has determined best correspond to those uses. If a grantee creates a program design that includes a CDBG-eligible activity that is not shown in the table to support an NSP-eligible use, the Department is providing an alternative requirement to 42 U.S.C. 5305(a) that HUD may allow a grantee an additional eligible-activity category if HUD finds the activity to be in compliance with the NSP statute. As under the regular CDBG program, grantees may fund costs, such as reasonable developer's fees, related to NSP-assisted housing rehabilitation or construction activities. NSP funds may be used to redevelop acquired property for nonresidential uses, such as a public park, commercial use, or mixed residential and commercial use.

The annual entitlement CDBG program allows up to 20 percent of any grant amount plus program income may be used for general administration and planning costs. The State CDBG program is also subject to the 20 percent limitation, but within that cap up to 3 percent may be used by the state for state administrative cost and technical assistance to potential local government program grant recipients, with the remainder available to be granted to local government recipients for their administrative costs. Because some of the costs usually allocated under these caps are not applicable to NSP grants (for example, the costs of completing the entire consolidated plan process), these amounts seem excessive to HUD in the context of the NSP program. On the other hand, HUD wants to encourage and support expeditious, appropriate, and compliant use of grant funds, and to prevent fraud, waste, and abuse of funds. Therefore, HUD is providing an alternative requirement that an amount of up to 10 percent of an NSP grant provided to a jurisdiction and of up to 10 percent of program income earned may be used for general administration and planning activities as those are defined at 24 CFR 570.205 and 206. For all grantees, including states, the 10 percent limitation applies to the grant as a whole.

The regulatory and statutory requirements for state match for program administration at 24 CFR 570.489 (a)(i) are superseded by the statutory direction at section 2301(e)(2) that no matching funds shall be required for a state or unit of general local government to receive a grant.

Requirements

1. Use of grant funds must constitute an eligible use under HERA.

2. In addition to being an eligible NSP use of funds, each activity funded under this notice must also be CDBG-eligible under 42 U.S.C. 5305(a) and meet a CDBG national objective.

3.a. Certain CDBG-eligible activities correlate to specific NSP-eligible uses and vice versa. 42 U.S.C. 5305(a) and 24 CFR 570.201–207 and 482(a) through (d) are superseded to the extent necessary to allow the eligible uses described under section 2301(c)(3) of HERA in accordance with this paragraph (including the table and subparagraphs below) or with permission granted, in writing, by HUD upon a written request by the grantee that demonstrates that the proposed activity constitutes an eligible use under NSP. All NSP grantees, including states, will use the NSP categories and CDBG entitlement regulations listed below.

NSP-eligible uses	Correlated eligible activities from the CDBG entitlement regulations
(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.	• As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. • Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.	• 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance (as modified below); • 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).
(C) Establish land banks for homes that have been foreclosed upon	24 CFR 570.201(a) Acquisition and (b) Disposition.
(D) Demolish blighted structures	• 24 CFR 570.201(d) Clearance for blighted structures only.
(E) Redevelop demolished or vacant properties	• 24 CFR 570.201(a) Acquisition, (b) Disposition, (c) Public facilities and improvements, (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties, (i) Relocation, and (n) Direct homeownership assistance (as modified below). • 204 Community based development organizations.

b. HUD will not consider requests to allow foreclosure prevention activities, or to allow demolition of structures that are not blighted, or to allow purchase of residential properties and homes that have not been abandoned or foreclosed upon as provided in HERA and defined in this notice. HUD does not have the authority to permit uses or activities not authorized by HERA.

c. New construction of housing is eligible as part of eligible-use (E) to redevelop demolished or vacant properties.

d. 24 CFR 570.201(n) is waived and an alternative requirement provided for 42 U.S.C. 5305(a) to the extent necessary to allow provision of NSP-assisted homeownership assistance to persons whose income does not exceed 120 percent of median income.

4. Alternative requirement for the limitation on planning and administrative costs. 24 CFR 570.200(g) and 570.489(a)(3) are waived to the extent necessary to allow each grantee under this notice to expend no more than 10 percent of its grant amount, plus 10 percent of the amount of program income received by the grantee, for activities eligible under 24 CFR 570.205 or 206. The requirements at 24 CFR 570.489 are waived to the extent that they require a state match for general administrative costs. (States may use NSP funds under this 10 percent limitation to provide technical assistance to local governments and nonprofit program participants.)

I. Rehabilitation Standards

Background

HERA provides that any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. This imposes a requirement that does not exist in the CDBG program. This means that each grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation. HUD will monitor to ensure the standards are implemented.

HERA defines rehabilitation to include improvements to increase the energy efficiency or conservation of such homes and properties or to provide a renewable energy source or sources for such homes and properties. Such improvements are also eligible under the regular CDBG program. HUD strongly encourages grantees to use NSP funds not only to stabilize neighborhoods in the short-term, but to strategically incorporate modern, green building and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.

J. Sale of Homes

Background

Section 2301(d)(2) of HERA directs that, if an abandoned or foreclosed-upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition. (Sales and closing costs are eligible NSP redevelopment or rehabilitation costs.) Note that the maximum sales price for a property is determined by aggregating all costs of acquisition, rehabilitation, and redevelopment (including related activity delivery costs, which generally may include, among other items, costs related to the sale of the property).

Requirements

1. In its records, each grantee must maintain sufficient documentation

about the purchase and sale amounts of each property and the sources and uses of funds for each activity so that HUD can determine whether the grantee is in compliance with this requirement. A grantee will be expected to provide this documentation individually for each activity.

2. In determining the sales price limitation, HUD will not consider the costs of boarding up, lawn mowing, simply maintaining the property in a static condition, or, in the absence of NSP-assisted rehabilitation or redevelopment of the property, the costs of completing a sales transaction or other disposition to be redevelopment or rehabilitation costs. These costs may not be included by the grantee in the determination of the sales price for an NSP-assisted property.

3. For reporting purposes only, for a housing program involving multiple single-family structures under the management of a single entity, HUD will permit reporting the aggregation of activity delivery costs across the total portfolio of projects until completion of the program or closeout of the grant with HUD, whichever comes earlier.

K. Acquisition and Relocation

Background

Acquisition of Foreclosed-Upon Properties. HUD notes that section 2301(d)(1) of HERA conflicts with section 301(3) of the URA (42 U.S.C. 4651) and related regulatory requirements at 49 CFR 24.102(d). As discussed further, section 2301(d)(1) of HERA requires that any acquisition of a foreclosed-upon home or residential property under NSP be at a discount from the current market-appraised value of the home or property and that such discount shall ensure that purchasers are paying below-market value for the home or property. Section 301(3) of the URA, as implemented at 49 CFR 24.102(d), provides that an offer of just compensation shall not be less than the agency's approved appraisal of the fair market value of such property. These URA acquisition policies apply to any acquisition of real property for a federally funded project, except for acquisitions described in 49 CFR 24.101(b)(1) through (5) (commonly referred to as ''voluntary acquisitions''). As the more recent and specific statutory provision, section 2301(d)(1) of HERA prevails over section 301 of the URA for purposes of NSP-assisted acquisitions of foreclosed-upon homes or residential properties.

NSP Appraisal Requirements. As noted above, section 301 of the URA does not apply to voluntary acquisitions. While the URA and its regulations do not require appraisals for such acquisitions, the URA acquisition policies do not prohibit acquiring agencies from obtaining appraisals. Appendix A, 49 CFR 24.101(b)(2) acknowledges that acquiring agencies may still obtain an appraisal to support their determination of fair market value. Section 2301(d)(1) of HERA requires an appraisal for purposes of determining the statutory purchase discount. This appraisal requirement applies to any NSP-assisted acquisition of a foreclosed-upon home or residential property (including voluntary acquisitions).

One-for-One Replacement. HUD is providing an alternative requirement to the one-for-one replacement requirements set forth in 42 U.S.C. 5304(d)(2), as implemented at 24 CFR 42.375. The Department anticipates a large number of requests from grantees for whom the requirements will be onerous given the pressing rush to implement NSP, and several of the major housing markets affected by the foreclosure crisis have a surplus of abandoned and foreclosed-upon residential properties. The additional workload of reviewing requests under 42 U.S.C. 5304(d)(3) and 24 CFR 42.375(d) could cause a substantial backlog at HUD and delay NSP program operations. Therefore, the alternative requirement is that an NSP grantee will not be required to meet the requirements of 42 U.S.C. 5304(d), as implemented at 24 CFR 42.375, to provide one-for-one replacement of low- and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP funds. Alternatively, each grantee must submit the information described below relating to its demolition and conversion activities in its action plan substantial amendment. The grantee will report to HUD and citizens (via prominent posting of the DRGR reports on the grantee's official Internet site) on progress related to these measures until the closeout of its grant with HUD.

As noted earlier, HUD does not have the authority to waive or specify alternative requirements to the URA's acquisition policies or relocation provisions. Those requirements that do not conflict with HERA continue to apply. HUD is *not* specifying alternative requirements to the relocation assistance provisions at 42 U.S.C. 5304(d). Guidance on meeting these requirements is available on the HUD Web site and through local HUD field offices. HUD urges grantees to consider URA requirements in designing their programs and to remember that there are URA obligations related to voluntary and involuntary property acquisition activities, even for vacant and abandoned property. HUD reminds grantees to be aware of the requirement to have and follow a residential antidisplacement and relocation plan for the CDBG and HOME programs. This requirement is not waived for those programs and continues to apply to activities assisted with regular CDBG and HOME funds.

Requirements

1. The one-for-one replacement requirements at 24 CFR 570.488, 570.606(c), and 42.375 are waived for low- and moderate-income dwelling units demolished or converted in connection with an activity assisted with NSP funds. As an alternative requirement to 42 U.S.C. 5304(d)(2)(A)(i) and (ii), each grantee planning to demolish or convert any low- and moderate-income dwelling units as a result of NSP-assisted activities must identify all of the following information in its NSP substantial amendment:

(a) The number of low- and moderate-income dwelling units reasonably expected to be demolished or converted as a direct result of NSP-assisted activities;

(b) The number of NSP affordable housing units (made available to low-, moderate-, and middle-income households) reasonably expected to be produced, by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion); and

(c) The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

The grantee must also report on actual performance for demolitions and production, as required elsewhere in this notice.

L. Note on Eminent Domain

Although section 2303 of HERA appears to allow some use of eminent domain for public purposes, HUD cautions grantees that section 2301(d)(1) may effectively ensure that all NSP-assisted property acquisitions must be voluntary acquisitions as the term is defined by the URA and its implementing regulations. Section 2301(d)(1) directs that any purchase of a foreclosed-upon home or residential property under NSP be at a discount from the current market appraised value of the home or property and that such discount shall ensure that purchasers are paying below-market value for the home or property. However, the Fifth Amendment to the U.S. Constitution provides that private property shall not be taken for public use without just

compensation. The Supreme Court has ruled that a jurisdiction must pay fair market value for the purchase of property through eminent domain. A grantee contemplating using NSP funds to assist an acquisition involving an eminent domain action is advised to consult appropriate legal counsel before taking action.

M. Timeliness of Use and Expenditure of NSP Funds

Background

One of the most critical NSP provisions is the HERA requirement at section 2301(c)(1) that any grantee receiving a grant:

> * * * shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.

HUD has defined the term ''use'' in this notice to include obligation of funds.

A further complication is that HERA clearly expects grantees to earn program income under this grant program. As provided under 24 CFR 85.21 for entitlements, grantees and subrecipients shall disburse program income before requesting additional cash withdrawals from the U.S. Treasury. States are governed similarly by 24 CFR 489(e)(3) and 31 CFR part 205. This requirement is reflected in the regulations governing use of program income by States and units of general local government under the CDBG program. This means that a grantee that successfully and quickly deploys its program and generates program income may obligate, draw down, and expend an amount equal to its NSP allocation amount, and still have funds remaining in its line of credit, possibly subject to recapture at the 18-month deadline.

On consideration, the Department chose to implement the use test based on whether the state or unit of general local government has expended or obligated the NSP grant funds and program income in an aggregate amount at least equal to the NSP allocation.

HUD is also imposing a deadline for expending NSP grant funds because the intent of these grants clearly is to quickly address an emergency situation in areas of the greatest need.

Requirements

1. Timely use of NSP funds. At the end of the statutory 18-month use period, which begins when the NSP grantee receives its funds from HUD, the state or unit of general local government NSP grantee's accounting records and DRGR information must reflect outlays (expenditures) and unliquidated obligations for approved activities that, in the aggregate, are at least equal to the NSP allocation. (The DRGR system collects information on expenditures and obligations.)

2. Timely expenditure of NSP funds. The timely distribution or expenditure requirements of sections 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: All NSP grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended.

N. Alternative Requirement for Program Income (Revenue) Generated by Activities Assisted With Grant Funds

Requirement

Revenue received by a state, unit of general local government, or subrecipient (as defined at 24 CFR 570.500(c)) that is directly generated from the use of CDBG funds (which term includes NSP grant funds) constitutes CDBG program income. To ensure consistency of treatment of such revenue, the definition of program income at 24 CFR 570.500(a) shall be applied to amounts received by states, units of general local government, and subrecipients. However, Section 2301(d)(4) imposes certain limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by activities carried out pursuant to Section 2301(c). The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received. In addition, Section 2301(d)(4) requires any revenue from the sale, rental, redevelopment, rehabilitation or any other eligible use of NSP funds to be provided to and used by the state or unit of local general government. This includes revenue received by a private individual or other entity that is not a subrecipient.

1. Program income generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E).

a. Program income received before July 30, 2013, may be retained by the state or unit of general local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301.

b. Program income received on or after July 30, 2013—Return to the Treasury.

Any program income received by a state, unit of general local government, or subrecipient on or after July 30, 2013, that is generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) (e.g., proceeds from the sale of rental housing by a state, unit of general local government, or subrecipient) and is not authorized to be retained as described below must be remitted to HUD for deposit in the Treasury. Any program income received by a state, unit of general local government, or subrecipient on or after July 30, 2013, that is generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) and that is in excess of the cost to acquire and redevelop or rehabilitate an abandoned or foreclosed-upon home or residential property may be retained if HUD approves a request to use the funds for other NSP purposes. Note that no profit can be earned on the sale of an abandoned or foreclosed-upon home or residential property to an individual as a primary residence; as provided under Section 2301(c)(3), the sale must be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate the home or property up to a decent, safe, and habitable condition.

> *Example:* A unit of general local government acquires a foreclosed-upon multi-family residential property for $100,000, spends $100,000 to redevelop the property, and sells the property for $225,000. If the sale occurs on or after July 30, 2013, the amount to be remitted to HUD by the state or unit of general government is $200,000 if HUD authorizes the profit of $25,000 to be used for other NSP purposes, or $225,000 if HUD does not authorize such use.

c. Revenue received by a private individual or other entity that is not a subrecipient.

i. Any revenue generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed-upon home or residential property must be provided to the state or unit of general local government and treated as program income. The disposition of the program income by the state or unit of general local government is governed by a. and b. above.

ii. Any revenue that is generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) and is received on or after July 30, 2013, shall be provided to the State or unit of general local government and treated as program income. The disposition of the program income by the state or unit of general local government is governed by b. above.

Example: A unit of general local government uses NSP funds to make a loan (or grant) to a developer to finance the acquisition and rehabilitation of a foreclosed-upon multi-family residential property. The developer uses $200,000 in NSP funds (loan or grant) from the unit of general local government to pay the total costs of acquisition and rehabilitation (including reasonable development fees) and subsequently sells the property for $225,000. The developer is required to provide $225,000 to the unit of general local government. (If the NSP funding was a loan, the sale proceeds would be used to repay the NSP loan.) If the sale occurs on or after July 30, 2013, the unit of general local government must remit $225,000 to HUD for deposit in the United States Treasury, unless HUD approves a request to use $25,000 of that amount for other NSP purposes. If in this same example, the developer received $100,000 of NSP funding and used $100,000 of its own funds for eligible costs, the revenue to be provided to the local government would be $125,000.

2. Program income generated by activities carried out pursuant to Section 2301(c)(3)(A), (C) and (E). Program income received may be retained by the State or unit of general local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301. Revenue received by a private individual or other entity that is not a subrecipient must be returned to the State or unit of general local government.

3. Cash management. Substantially all program income must be disbursed for eligible NSP activities before additional cash withdrawals are made from the U.S. Treasury.

4. Agreements with subrecipients and other entities. States and units of general local governments must incorporate in subrecipient agreements such provisions as are necessary to ensure compliance with the requirements of this paragraph, including the requirement that program income described in N.1.(b) be remitted to HUD for deposit in the Treasury. States, units of general local government, and subrecipients must incorporate in agreements with private individuals and other entities that are not subrecipients such provisions as are necessary to ensure compliance with the requirements governing disposition of revenue generated by activities carried out pursuant to Section 2301(c).

O. Reporting

Background

HUD is requiring regular reporting on each NSP grant in the DRGR system to ensure the Department gets sufficient management information to follow-up promptly if a grantee lags in implementation and risks recapture of its grant funds. For NSP only, HUD is waiving the annual reporting requirements of the consolidated plan to allow HUD to collect more regular information on various aspects of the uses of funds and of the activities funded with these grants. HUD will use the reports to exercise oversight for compliance with the requirements of this notice and for prevention of fraud, waste, and abuse of funds.

The regular CDBG performance measurement requirements will not apply to the NSP funds. To the extent feasible, HUD will configure DRGR performance measures to fit the NSP activities and will provide additional guidance on NSP performance measures.

To collect these data elements and to meet its reporting requirements, HUD is requiring each grantee to report on its NSP funds to HUD using the online DRGR system, which uses a streamlined, Internet-based format. HUD will use grantee reports to monitor for anomalies or performance problems that suggest fraud, waste, and abuse of funds; to reconcile budgets, obligations, fund draws, and expenditures; to calculate applicable administrative and public service limitations and the overall percent of benefit to LMMI persons; and as a basis for risk analysis in determining a monitoring plan.

The grantee must post the NSP report on a Web site for its citizens when it submits the report to HUD (DRGR generates a version of the report that the grantee can download, save, and post).

Requirements

1. Performance report alternative requirement. The Secretary may specify the form and timing of reports provided by the grantee under both 42 U.S.C. 5304(e) (the HCD Act) and 42 U.S.C. 12708 (NAHA). Therefore, the consolidated plan regulation at 24 CFR 91.520 is waived and the alternative reporting form and timing for the NSP funds is that:

a. Each grantee must enter its NSP Action Plan amendment into HUD's web-based DRGR system in sufficient detail to meet the NSP action plan content requirements of this notice and to serve as the basis for acceptable performance reports. (Because DRGR was not specifically redesigned for the NSP, HUD field staff will provide grantees with specific technical assistance on where in DRGR the required NSP narrative and data elements must be placed.)

b.i. Each grantee must submit a quarterly performance report, as HUD prescribes, no later than 30 days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award and continuing until the end of the 15th month after initial receipt of grant funds. In addition to this quarterly performance reporting, each grantee will report monthly on its NSP obligations and expenditures beginning 30 days after the end of the 15th month following receipt of funds, and continuing until reported total obligations are equal to or greater than the total NSP grant. After HUD has accepted a report from a grantee showing such obligation of funds, the monthly reporting requirement will end and quarterly reports will continue until all NSP funds (including program income) have been expended and those expenditures are included in a report to HUD, or until HUD issues other instructions pursuant to paragraph b.ii. below. Each report will include information about the uses of funds, including, but not limited to, the project name, activity, location, national objective, funds budgeted and expended, the funding source and total amount of any non-NSP funds, numbers of properties and housing units, beginning and ending dates of activities, and numbers of low- and moderate-income persons or households benefiting. Reports must be submitted using HUD's web-based DRGR system and, at the time of submission, be posted prominently on the grantee's official Web site.

ii. During the winter of 2008–2009, HUD is undertaking a major enhancement of DRGR, initiated as part of a series of improvements designed to prevent fraud, waste, and abuse of funds in the Gulf Coast CDBG disaster recovery programs, whose grantees are reporting on the uses of more than $19 billion of CDBG disaster recovery funds through DRGR. Prior to roll-out of the enhancement, NSP grantees will use the Voice Response System (VRS) to access the line of credit and will prepare and submit action plans and performance reports through DRGR. After this enhancement is complete, grantees also will be able to access their lines of credit through DRGR. At that time, HUD will issue updated guidance on all DRGR reporting and require most activity data to be updated on a transactional basis.

P. Note That FHA Properties Are Eligible for NSP Acquisition and Redevelopment

The Department notes that it is an eligible use of CDBG grant funds to acquire and redevelop FHA foreclosed

properties. The Department strongly urges every community to consider and include such properties under their NSP programs because the nature and location of many of these homes will make them very compatible with the eligible uses of grant funds, the areas of greatest need, and the income eligibility thresholds and limits. Furthermore, in many areas, FHA foreclosed properties will be available for purchase at below-market value to meet HERA requirements. FHA provides quick access to location, condition, and sales price information; FHA may also offer expedited closing time frames. These factors may help expedite NSP fund use.

HUD will provide technical assistance on its Web site regarding how these programs can effectively interact. Grantees may also contact their local HUD FHA field office for further information.

Q. Purchase Discount

Background

Section 2301(d)(1) limits the purchase price of a foreclosed home, as follows:

> Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

To ensure that uncertainty over the meaning of this section does not delay program implementation, HUD is defining ''current market appraised value'' in this notice. For mortgagee foreclosed properties, HUD is requiring that grantees seek to obtain the ''maximum reasonable discount'' from the mortgagee, taking into consideration likely ''carrying costs'' of the mortgagee if it were to not sell the property to the grantee or subrecipient. These likely carrying costs are different from market to market, and the ''maximum reasonable discount'' is likely to be higher in markets where homes are taking many months to more than a year to sell as compared to markets with shorter average time to sell a property. In recognition of the need for flexibility in administering the purchase discount requirement, HUD has adopted an approach that requires a minimum discount of 5 percent for each residential property purchased with NSP funds and a minimum average discount for all properties acquired with NSP funds over the 18-month HERA use period. The minimum average discount for the ''portfolio'' of properties acquired with NSP funds depends upon how the purchase discount for an individual property is determined. If the state, unit of general local government, or subrecipient determines the discount through use of a methodology that incorporates the factors discussed above (keeping in mind that the discount must be at least 5 percent), then the minimum average discount for the NSP portfolio is 10 percent. If not, the minimum average discount is 15 percent. Recipients and subrecipients are cautioned that a purchase discount negotiated with the seller on an individual property that is below the minimum average discount requirement must be offset by a purchase discount that is above the minimum average discount.

Requirements

1.a. Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least 5 percent from the current market-appraised value of the home or property.

b. Purchase transactions in the aggregate. Except as set forth below, the average purchase discount for all properties purchased with NSP funds during the 18-month use period shall be at least 15 percent. The average purchase discount shall be at least 10 percent if the state, unit of general local government, or subrecipient determines the maximum reasonable discount for each purchase transaction through use of a methodology that results in a discount equivalent to the total carrying costs that would be incurred by the seller if the property were not purchased with NSP funds (provided the discount is at least 5 percent). Such methodology shall provide for an analysis of the estimated holding period for the property and the nature and amount of the carrying costs of holding the property for this period. Such carrying costs shall include, but not be limited to: Taxes, insurance, maintenance, marketing, overhead, and interest. The procedures to implement such methodology shall be in writing and applied consistently to all purchases. The analysis for each purchase transaction shall be documented in the grantee's program records.

2. An NSP recipient may not provide NSP funds to another party to finance an acquisition of tax foreclosed (or any other) properties from itself, other than to pay necessary and reasonable costs related to the appraisal and transfer of title. A property conveyed in this manner to a subrecipient, homebuyer, developer, or jurisdiction will be NSP-assisted and subject to all program requirements, such as requirements for NSP-eligible use and benefit to income-qualified persons.

3. The address, appraised value, purchase offer amount, and discount amount of each property purchase must be documented in the grantee's program records.

R. Removal of Annual Requirements

Requirement

Throughout 24 CFR parts 91 and 570, all references to ''annual'' requirements such as submission of plans and reports are waived to the extent necessary to allow the provisions of this notice to apply to NSP funds, with no recurring annual requirements other than those related to civil rights and fair housing certifications and requirements.

S. Affirmatively Furthering Fair Housing

Nothing in this notice may be construed as affecting each grantee's responsibility to carry out its certification to affirmatively further fair housing. HUD encourages each grantee to review its analysis of impediments to fair housing choice to determine whether an update is necessary because of current market conditions or other factors.

T. Certifications

Background

HUD is substituting alternative certifications. The alternative certifications are tailored to NSP grants and remove certifications and references that are appropriate only to the annual CDBG formula program.

Requirements

Certifications for states and for entitlement communities, alternative requirement. Although the NSP is being implemented as a substantial amendment to the current annual action plan, HUD is requiring submission of this alternative set of certifications as a conforming change, reflecting alternative requirements and waivers under this notice. Each jurisdiction will submit the following certifications:

1. Affirmatively furthering fair housing. The jurisdiction certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

2. Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87,

together with disclosure forms, if required by that part.

3. Authority of jurisdiction. The jurisdiction certifies that the consolidated plan is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.

4. Consistency with plan. The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan.

5. Acquisition and relocation. The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.

6. Section 3. The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

7. Citizen participation. The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.

8. Following a plan. The jurisdiction certifies it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

9. Use of funds. The jurisdiction certifies that it will comply with Title III of Division B of the Housing and Economic Recovery Act of 2008 by using all of its grant funds within 18 months of receipt of the grant.

10. The jurisdiction certifies:

a. that all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income; and

b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

11. Excessive force. The jurisdiction certifies that it has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

12. Compliance with anti-discrimination laws. The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

13. Compliance with lead-based paint procedures. The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

14. Compliance with laws. The jurisdiction certifies that it will comply with applicable laws.

U. Note on Statutory Limitation on Distribution of Funds

Section 2304 of HERA states that none of the funds made available under this Title or title IV shall be distributed to an organization that has been indicted for a violation under federal law relating to an election for federal office; or an organization that employs applicable individuals. Section 2304 defines applicable individuals.

V. Information Collection Approval Note

HUD has approval from the Office of Management and Budget (OMB) for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). OMB approval is under OMB control number 2506–0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

W. Duration of Funding

The appropriation accounting provisions in 31 U.S.C. 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP grants direct that these funds be available until expended. However, the Department is imposing a shorter deadline on the expenditure of NSP funds in this notice.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for grants made under NSP are as follows: 14.218; 14.225; and 14.228.

Finding of No Significant Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)(2)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Establishment of Formula

I hereby establish the funding formula set out in Attachment A to this notice.

Dated: September 29, 2008.

Steven C. Preston,

Secretary.

Attachment A

HERA calls for allocating funds ''to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) The number and percentage of home foreclosures in each State or unit of general local government;

(B) The number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and

(C) The number and percentage of homes in default or delinquency in each

State or unit of general local government.''

It further directs that ''each State shall receive not less than 0.5 percent of funds''. The allocation formula operates as follows. In this formula, the primary data on foreclosure rates, subprime loan rates, and rates of loans delinquent or in default come from the Mortgage Bankers Association National Delinquency Survey (MBA–NDS). Because the MBA–NDS may have uneven coverage from state-to-state in respect to the total number of mortgages reported, the total count of mortgages is calculated as the number of owner-occupied mortgages from the 2006 American Community Survey increased with data from the Home Mortgage Disclosure Act to capture the proportion of total mortgages made within a state made to investors between 2004 and 2006. The first step of the allocation is to make a ''statewide'' allocation using the following formula:

$$\text{Statewide Allocation} = \$3.92\ \text{billion}^*$$

$$\{[0.70^* \frac{(\text{State's number of foreclosure starts in last 6 quarters})^*}{\text{National number of foreclosure starts in last 6 quarters}} \frac{(\text{Percent of all loans in state to enter foreclosure last 6 quarters})}{\text{Percent of all loans in nation to enter foreclosure last 6 quarters}} +$$

$$0.15^* \frac{(\text{State's number of subprime loans})^*}{\text{National number of subprime loans}} \frac{(\text{Percent of all loans in state subprime})}{\text{Percent of all loans in nation subprime}} +$$

$$0.10^* \frac{(\text{State's number of loans in default (90+ days delinquent)})^*}{\text{National number of loans in default}} \frac{(\text{Percent of all loans in state in default})}{\text{Percent of all loans in nation in default}} +$$

$$0.05^* \frac{(\text{State's number of loans 60 to 89 days delinquent})^*}{\text{National number of loans 60 to 89 days delinquent}} \frac{(\text{Percent of all loans in state 60 to 89 days delinquent})]^*}{\text{National percent of all loans 60 to 89 days delinquent}}$$

$$\frac{(\text{Pct of all addresses in state vacant in Census Tracts where more than 40\% of the 2004 to 2006 loans were high costs})\}}{\text{Pct of all addresses in nation vacant in Census Tracts where more than 40\% of the 2004 to 2006 loans were high cost}}$$

This formula allocates 70 percent of the funds based on the number and percent of foreclosures, 15 percent for subprime loans, 10 percent for loans in default (delinquent 90 days or longer), and 5 percent for loans delinquent 60 to 90 days. The higher weight on foreclosures is based on the emphasis the statute places on targeting foreclosed homes. The percentage adjustments, the rate of a problem in a state relative to the national rate of a problem, are restricted such that a state's allocation based on its proportional share of a problem cannot be increased or decreased by more than 30 percent.

Because HERA specifically indicates that the funds are needed for the ''redevelopment of abandoned and foreclosed upon homes and residential properties'', HUD has included a variable to proxy where abandonment of homes due to foreclosure is more likely, specifically each state's rate of vacant residential addresses in neighborhoods with a high proportion (more than 40 percent) of loans in 2004 to 2006 that were high cost. Information on vacant addresses is based on United States Postal Service data as of June 30, 2008 aggregated by HUD to the Census Tract level. The residential vacancy adjustment factor reflects a state's vacancy rate relative to the national average and cannot increase or decrease a state's proportional share of the allocation based on foreclosures, subprime loans, and delinquencies and defaults by more than 10 percent.

Finally, if a statewide allocation is less than $19.6 million, the statewide grant is increased to $19.6 million. Because this approach will result in a total allocation in excess of appropriation, all grant amounts above $19.6 million are reduced pro-rata to make the total allocation equal to the total appropriation.

From each statewide allocation, a substate allocation is made as follows:

- Each state government is allocated $19.6 million.
- If the statewide allocation is more than $19.6 million, the remaining funds are allocated to FY 2008 CDBG entitlement cities, urban counties, and non-entitlement balance of state proportional to relative need.
- If a local government receives less than $2 million under this sub-allocation, their grant is rolled up into the state government grant.

Note that HUD has determined that HERA's direction that a minimum of $19.6 million be allocated to the state means that a minimum grant must be provided to each state government of $19.6 million. As a result, this approach provides state governments with proportionally more funding than their estimated need. As such, state governments should use their best judgment to serve both those areas not receiving a direct grant and those areas that do receive a direct grant, making sure that the total of all funds in the state are going proportionally more to those places (as prescribed by HERA):

- ''With the greatest percentage of home foreclosures;
- With the highest percentage of homes financed by a subprime mortgage related loan; and
- Identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.''

For the amount of funds above each state's $19.6 million, the remaining funds are allocated among the entitlement communities and non-

entitlement balances using the following formula:

$$\text{Local Allocation} = (\text{Statewide allocation} - \$19{,}600{,}000)^* \frac{[(\text{Local estimate number of foreclosure starts in last 6 quarters})^*}{\text{State total number of foreclosure starts in last 6 quarters}} \frac{(\text{Local vacancy rate in Census Tracts with more than 40\% of the loans High-cost})]}{\text{State vacancy rate in Census Tracts with more than 40\% of the loans High-cost}}$$

Where the residential vacancy rate adjustment cannot increase or reduced a local jurisdiction's allocation by more than 30 percent and the estimated number of foreclosures is calculated based on a predicted foreclosure rate times the estimated number of mortgages in a community. HUD analysis shows that 75 percent of the variance between states on foreclosure rates can be explained by three variables available from public data:

- Office of Federal Housing Enterprise Oversight (OFHEO) data on change in home values as of June 2008 compared to peak home value since 2000.
- Percent of all loans made between 2004 and 2006 that are high cost as reported in the Home Mortgage Disclosure Act (HMDA).
- Unemployment rate as of June 2008 (from Bureau of Labor Statistics).

Because these three variables are publicly available for all CDBG eligible communities and they are good predictors of foreclosure risk, they are used in a model to calculate the estimated number of foreclosures in each jurisdiction within a state. The formula used is as follows:

Predicted Foreclosure Rate = −2.211
−(0.131* Percent change in MSA OFHEO current price relative to the maximum in past 8 years)
+(0.152* Percent of total loans made between 2004 and 2006 that are high cost)
+(0.392*Percent unemployed in the place our county in June 2008).

This predicted foreclosure rate is then multiplied times the estimated number of mortgages within a jurisdiction (number of HMDA loans made between 2004 and 2006 times the ratio of ACS 2006 data on total mortgages in state / HMDA loans in state). This ''estimated number of mortgages in the jurisdiction'' is further adjusted such that the estimated number of foreclosures from the model will equal the total foreclosure starts in the state from the Mortgage Bankers Association National Delinquency Survey.

As noted above, for entitlement cities and urban counties that would receive an NSP allocation of less than $2 million, the funds are allocated to the state grantee. The District of Columbia and the four Insular Areas receive direct allocations and are not subject to the minimum grant threshold.

Because this funding is one-time funding and the eligible activities under the program are different enough from the regular program, HUD believes that a grantee must receive a minimum amount of $2 million to have adequate staffing to properly administer the program effectively. In addition, fewer grants will allow HUD staff to more effectively monitor grantees to ensure proper implementation of the program and reduce the risk for fraud, waste, and abuse.

State	Grantee name	NSP grant amount
AK	ALASKA STATE PROGRAM	$19,600,000
AL	ALABAMA STATE PROGRAM	37,033,031
AL	BIRMINGHAM	2,580,214
AL	JEFFERSON COUNTY	2,237,876
AR	ARKANSAS STATE PROGRAM	19,600,000
AZ	PHOENIX	39,478,096
AZ	ARIZONA STATE PROGRAM	38,370,206
AZ	MARICOPA COUNTY	9,974,267
AZ	MESA	9,659,665
AZ	TUCSON	7,286,911
AZ	GLENDALE	6,184,112
AZ	PIMA COUNTY	3,086,867
AZ	AVONDALE CITY	2,466,039
AZ	CHANDLER	2,415,100
AZ	SURPRISE TOWN	2,197,786
CA	CALIFORNIA STATE PROGRAM	145,071,506
CA	RIVERSIDE COUNTY	48,567,786
CA	LOS ANGELES	32,860,870
CA	SAN BERNARDINO COUNTY	22,758,188
CA	SACRAMENTO COUNTY	18,605,460
CA	LOS ANGELES COUNTY	16,847,672
CA	SACRAMENTO	13,264,829
CA	STOCKTON	12,146,038
CA	MORENO VALLEY	11,390,116
CA	KERN COUNTY	11,211,385
CA	FRESNO	10,969,169

State	Grantee name	NSP grant amount
CA	STANISLAUS COUNTY	9,744,482
CA	SAN DIEGO	9,442,370
CA	SAN JOAQUIN COUNTY	9,030,385
CA	BAKERSFIELD	8,982,836
CA	SAN BERNARDINO	8,408,558
CA	OAKLAND	8,250,668
CA	MODESTO	8,109,274
CA	PALMDALE	7,434,301
CA	FRESNO COUNTY	7,037,465
CA	LANCASTER	6,983,533
CA	RIVERSIDE	6,581,916
CA	CONTRA COSTA COUNTY	6,019,051
CA	FONTANA	5,953,309
CA	SANTA ANA	5,795,151
CA	SAN JOSE	5,628,283
CA	RIALTO	5,461,574
CA	VICTORVILLE	5,311,363
CA	SAN DIEGO COUNTY	5,144,152
CA	LONG BEACH	5,070,310
CA	HESPERIA	4,590,719
CA	ANTIOCH	4,049,228
CA	CORONA	3,602,842
CA	POMONA	3,530,825
CA	RICHMOND	3,346,105
CA	ORANGE COUNTY	3,285,926
CA	COMPTON	3,242,817
CA	APPLE VALLEY	3,064,836
CA	HEMET	2,888,473
CA	CHULA VISTA	2,830,072
CA	ONTARIO	2,738,309
CA	VALLEJO	2,657,861
CA	ANAHEIM	2,653,455
CA	ELK GROVE	2,389,651
CA	VISALIA	2,388,331
CA	RANCHO CUCAMONGA	2,133,397
CA	ALAMEDA COUNTY	2,126,927
CO	COLORADO STATE PROGRAM	34,013,566
CO	DENVER	6,060,170
CO	ADAMS COUNTY	4,600,211
CO	AURORA	4,474,097
CO	COLORADO SPRINGS	3,904,989
CT	CONNECTICUT STATE PROG	25,043,385
DC	WASHINGTON	2,836,384
DE	DELAWARE STATE PROGRAM	19,600,000
FL	FLORIDA STATE PROGRAM	91,141,478
FL	MIAMI-DADE COUNTY	62,207,200
FL	ORANGE COUNTY	27,901,773
FL	PALM BEACH COUNTY	27,700,340
FL	JACKSONVILLE-DUVAL	26,175,317
FL	PASCO COUNTY	19,495,805
FL	HILLSBOROUGH COUNTY	19,132,978
FL	LEE COUNTY	18,243,867
FL	BROWARD COUNTY	17,767,589
FL	POLK COUNTY	14,586,258
FL	TAMPA	13,600,915
FL	PORT ST LUCIE	13,523,132
FL	MIAMI	12,063,702
FL	ST PETERSBURG	9,498,962
FL	MIRAMAR	9,312,658
FL	PINELLAS COUNTY	8,063,759
FL	HOLLYWOOD	7,534,603
FL	COLLIER COUNTY	7,306,755
FL	SARASOTA COUNTY	7,140,861
FL	CAPE CORAL	7,065,484
FL	SEMINOLE COUNTY	7,019,514
FL	MIAMI GARDENS CITY	6,866,119
FL	ORLANDO	6,730,263
FL	DELTONA	6,635,909
FL	MARION COUNTY	6,324,055
FL	HIALEAH	5,385,046
FL	MANATEE COUNTY	5,283,122
FL	BREVARD COUNTY	5,269,667
FL	VOLUSIA COUNTY	5,222,831

State	Grantee name	NSP grant amount
FL	PALM BAY	5,208,104
FL	TAMARAC	4,772,218
FL	ESCAMBIA COUNTY	4,565,918
FL	PEMBROKE PINES	4,398,575
FL	POMPANO BEACH	4,366,157
FL	WEST PALM BEACH	4,349,546
FL	LAUDERHILL	4,293,288
FL	FT LAUDERDALE	3,700,096
FL	SUNRISE	3,494,986
FL	CORAL SPRINGS	3,378,142
FL	LAKE COUNTY	3,136,967
FL	BOYNTON BEACH	2,963,311
FL	HOMESTEAD CITY	2,887,010
FL	NORTH MIAMI	2,847,089
FL	KISSIMMEE	2,371,749
FL	FT MYERS	2,297,318
FL	MARGATE	2,106,555
FL	PLANTATION	2,016,309
FL	LAKELAND	2,005,781
FL	DEERFIELD BEACH	2,005,699
GA	GEORGIA STATE PROGRAM	77,085,125
GA	DE KALB COUNTY	18,545,013
GA	ATLANTA	12,316,082
GA	GWINNETT COUNTY	10,507,827
GA	FULTON COUNTY	10,333,410
GA	CLAYTON COUNTY	9,732,126
GA	COBB COUNTY	6,889,134
GA	COLUMBUS-MUSCOGEE	3,117,039
GA	AUGUSTA	2,473,064
GA	SAVANNAH	2,038,631
HI	HAWAII STATE PROGRAM	19,600,000
IA	IOWA STATE PROGRAM	21,607,197
ID	IDAHO STATE PROGRAM	19,600,000
IL	CHICAGO	55,238,017
IL	ILLINOIS STATE PROGRAM	53,113,044
IL	COOK COUNTY	28,156,321
IL	DU PAGE COUNTY	5,176,438
IL	WILL COUNTY	5,160,424
IL	LAKE COUNTY	4,600,800
IL	JOLIET	3,531,810
IL	MCCHENRY COUNTY	3,085,695
IL	AURORA	3,083,568
IL	KANE COUNTY	2,576,369
IL	ROCKFORD	2,287,004
IL	ST CLAIR COUNTY	2,262,015
IL	ELGIN	2,159,623
IL	CICERO	2,078,351
IN	INDIANA STATE PROGRAM	83,757,048
IN	INDIANAPOLIS	29,051,059
IN	FORT WAYNE	7,063,956
IN	LAKE COUNTY	5,738,024
IN	SOUTH BEND	4,098,521
IN	HAMMOND	3,860,473
IN	GARY	3,836,758
IN	EVANSVILLE	3,605,204
IN	HAMILTON COUNTY	2,343,868
IN	ELKHART	2,251,346
IN	KOKOMO	2,181,088
IN	ANDERSON	2,141,795
IN	MUNCIE	2,007,356
KS	KANSAS STATE PROGRAM	20,970,242
KY	KENTUCKY STATE PROGRAM	37,408,788
KY	LOUISVILLE	6,973,721
LA	LOUISIANA STATE PROGRAM	34,183,994
LA	BATON ROUGE	2,308,848
LA	NEW ORLEANS	2,302,208
MA	MASSACHUSETTS STATE PROG	43,466,030
MA	BOSTON	4,230,191
MA	SPRINGFIELD	2,566,272
MA	WORCESTER	2,390,858
MA	BROCKTON	2,152,979
MD	MARYLAND STATE PROGRAM	28,778,469
MD	PRINCE GEORGES COUNTY	10,883,234

State	Grantee name	NSP grant amount
MD	BALTIMORE	4,112,239
MD	BALTIMORE COUNTY	2,596,880
ME	MAINE STATE PROGRAM	19,600,000
MI	MICHIGAN STATE PROGRAM	98,653,915
MI	DETROIT	47,137,690
MI	WAYNE COUNTY	25,909,153
MI	OAKLAND COUNTY	17,383,776
MI	MACOMB COUNTY	9,765,375
MI	GENESEE COUNTY	7,506,343
MI	GRAND RAPIDS	6,187,686
MI	LANSING	5,992,160
MI	WARREN	5,829,447
MI	FLINT	4,224,621
MI	KENT COUNTY	3,912,796
MI	PONTIAC	3,542,002
MI	SOUTHFIELD	3,241,457
MI	REDFORD	3,041,364
MI	WASHTENAW COUNTY	3,024,719
MI	TAYLOR	2,495,056
MI	STERLING HEIGHTS	2,454,961
MI	DEARBORN	2,436,246
MI	LINCOLN PARK	2,417,688
MI	CANTON TWP	2,182,988
MI	CLINTON TWP	2,147,608
MI	WESTLAND	2,061,722
MI	WATERFORD TOWNSHIP	2,014,489
MN	MINNESOTA STATE PROGRAM	38,849,929
MN	MINNEAPOLIS	5,601,967
MN	ST PAUL	4,302,249
MN	HENNEPIN COUNTY	3,885,729
MN	DAKOTA COUNTY	2,765,991
MN	ANOKA COUNTY	2,377,310
MO	MISSOURI STATE PROGRAM	42,664,187
MO	ST LOUIS COUNTY	9,338,562
MO	KANSAS CITY	7,323,734
MO	ST LOUIS	5,532,792
MS	MISSISSIPPI STATE PROG	43,151,914
MS	JACKSON	3,116,049
MT	MONTANA STATE PROGRAM	19,600,000
NC	NORTH CAROLINA STA PROG	52,303,004
NC	CHARLOTTE	5,431,777
ND	NORTH DAKOTA STATE PROG	19,600,000
NE	NEBRASKA STATE PROGRAM	19,600,000
NH	NEW HAMPSHIRE STATE PROG	19,600,000
NJ	NEW JERSEY STATE PROGRAM	51,470,620
NJ	NEWARK	3,406,849
NJ	UNION COUNTY	2,601,755
NJ	PATERSON	2,266,641
NJ	JERSEY CITY	2,153,431
NJ	BERGEN COUNTY	2,096,194
NM	NEW MEXICO STATE PROGRAM	19,600,000
NV	NEVADA STATE PROGRAM	24,287,240
NV	CLARK COUNTY	22,829,062
NV	LAS VEGAS	14,775,270
NV	NORTH LAS VEGAS	6,837,736
NV	HENDERSON	3,205,044
NY	NEW YORK STATE PROGRAM	54,556,464
NY	NEW YORK CITY	24,257,740
NY	NASSAU COUNTY	7,767,916
NY	SUFFOLK COUNTY	5,681,443
NY	ISLIP TOWN	3,720,392
NY	BABYLON TOWN	2,170,909
NY	ORANGE COUNTY	2,163,744
OH	OHIO STATE PROGRAM	116,859,223
OH	COLUMBUS	22,845,495
OH	CLEVELAND	16,143,120
OH	TOLEDO	12,270,706
OH	CUYAHOGA COUNTY	11,212,447
OH	AKRON	8,583,492
OH	CINCINNATI	8,361,592
OH	HAMILTON COUNTY	7,970,490
OH	MONTGOMERY COUNTY	5,988,000
OH	DAYTON	5,582,902

State	Grantee name	NSP grant amount
OH	FRANKLIN COUNTY	5,439,664
OH	BUTLER COUNTY	4,213,742
OH	STARK COUNTY	4,181,673
OH	SUMMIT COUNTY	3,767,144
OH	CANTON	3,678,562
OH	LAKE COUNTY	3,402,859
OH	LORAIN	3,031,480
OH	YOUNGSTOWN	2,708,206
OH	EUCLID	2,580,464
OH	ELYRIA	2,468,215
OH	HAMILTON CITY	2,385,315
OH	SPRINGFIELD	2,270,009
OH	MIDDLETOWN	2,144,379
OK	OKLAHOMA STATE PROGRAM	29,969,459
OK	OKLAHOMA CITY	2,882,282
OR	OREGON STATE PROGRAM	19,600,000
PA	PENNSYLVANIA STATE PROG	59,631,318
PA	PHILADELPHIA	16,832,873
PA	ALLEGHENY COUNTY	5,524,950
PA	ALLENTOWN	2,113,456
PA	YORK COUNTY	2,017,253
PA	PITTSBURGH	2,002,958
PR	PUERTO RICO STATE PROG	19,600,000
RI	RHODE ISLAND STATE PROG	19,600,000
SC	SOUTH CAROLINA STA PROG	44,673,692
SC	GREENVILLE COUNTY	2,262,856
SC	RICHLAND COUNTY	2,221,859
SD	SOUTH DAKOTA STATE PROG	19,600,000
TN	TENNESSEE STATE PROGRAM	49,360,421
TN	MEMPHIS	11,506,415
TN	NASHVILLE-DAVIDSON	4,051,398
TN	SHELBY COUNTY	2,752,708
TN	KNOXVILLE	2,735,980
TN	CHATTANOOGA	2,113,727
TX	TEXAS STATE PROGRAM	101,996,848
TX	HARRIS COUNTY	14,898,027
TX	HOUSTON	13,542,193
TX	SAN ANTONIO	8,635,899
TX	DALLAS	7,932,555
TX	FORT WORTH	6,307,433
TX	DALLAS COUNTY	4,405,482
TX	TARRANT COUNTY	3,293,388
TX	EL PASO	3,032,465
TX	HIDALGO COUNTY	2,867,057
TX	FORT BEND COUNTY	2,796,177
TX	GRAND PRAIRIE	2,267,290
TX	MESQUITE	2,083,933
TX	ARLINGTON	2,044,254
TX	GARLAND	2,040,196
UT	UTAH STATE PROGRAM	19,600,000
VA	VIRGINIA STATE PROGRAM	38,749,931
VA	PRINCE WILLIAM COUNTY	4,134,612
VA	FAIRFAX COUNTY	2,807,300
VT	VERMONT STATE PROGRAM	19,600,000
WA	WASHINGTON STATE PROGRAM	28,159,293
WI	WISCONSIN STATE PROGRAM	38,779,123
WI	MILWAUKEE	9,197,465
WV	WEST VIRGINIA STATE PROG	19,600,000
WY	WYOMING STATE PROGRAM	19,600,000
XX	INSULAR AREAS	1,144,289

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BILLING CODE 4210–67–P

CITY OF ONTARIO
NEIGHBORHOOD STABILIZATION PROGRAM (NSP)
FORM OF INDEMINIFICATION

1. INDEMNIFICATION

1.1 **Non-liability of City**. Developer acknowledges and agrees that:

(1) the relationship between Developer and City is and shall remain solely that of borrower and lender, and City neither undertakes nor assumes any responsibility to review, inspect, supervise, approve (other than for aesthetics) or inform Developer of any matter in connection with the Property, including matters relating to: (i) the Approved Scope of Work, (ii) architects, contractors, subcontractors and materialmen, or the workmanship of or materials used by any of them, or (iii) the progress of the work and its conformity with the Approved Scope of Work; and Developer shall rely entirely on its own judgment with respect to such matters and acknowledges that any review, inspection, supervision, approval or information supplied to Developer by City in connection with such matters is solely for the protection of City and that neither Developer nor any third party is entitled to rely on it;

(2) notwithstanding any other provision of any project document: (i) City is not a partner, joint venturer, alter-ego, manager, controlling person or other business associate or participant of any kind of Developer and City does not intend to ever assume any such status; (ii) City's activities in connection with the City Loan shall not be "outside the scope of the activities of a lender of money" within the meaning of California Civil Code Section 3434, as modified or remodified from time to time, and City does not intend to ever assume any responsibility to any person for the quality or safety of the Property and/or the Improvements; and (iii) City shall not be deemed responsible for or a participant in any acts, omissions or decisions of Developer;

(3) City shall not be directly or indirectly liable or responsible for any loss or injury of any kind to any person or property resulting from any construction on, or occupancy or use of, the Property, whether arising from: (i) any defect in any building, grading, landscaping or other onsite or offsite improvement; (ii) any act or omission of Developer or any of Developer's agents, employees, independent contractors, licensees, invitees or volunteers; or (iii) any accident on the Property or any fire or other casualty or hazard thereon; and

(4) By accepting or approving anything required to be performed or given to City under the project documents, including any certificate, financial statement, survey, appraisal or insurance policy, City shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by City to anyone.

1.2 **Indemnity**. Developer shall defend (by counsel satisfactory to City), indemnify and save and hold harmless Agency and City and their officers, contractors, agents and employees (collectively, the "indemnitees") from and against all claims, damages, demands, actions, losses, liabilities, costs and expenses (including, without limitation, attorneys' fees and court costs) arising from or relating to (i) this Agreement; (ii) the making of the City Loan; (iii) a claim, demand or cause of action that any person has or asserts against Developer; (iv) any act or omission of Developer, any contractor, subcontractor or material supplier, engineer, architect or other person with respect to the Property; or (vi) the ownership, occupancy or use of the Property. Notwithstanding the foregoing, Developer shall not be obligated to indemnify Agency or City with respect to the consequences of any act of gross negligence or willful misconduct of Agency or City. Developer's obligations under this Section shall survive the cancellation of the City Loan Note, release and reconveyance of the City Loan Deed of Trust, issuance of the Certificate of Completion, and termination of this Agreement.