

EMERGENCY ASSISTANCE FOR REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT NEIGHBORHOOD STABILIZATION PROGRAM SUMMARY OF PROGRAM RULES

Background

The Housing and Economic Recovery Act (HERA) authorized the use of \$3.92 billion dollars to help communities deal with foreclosures. The law sets forth specific requirements for use of the funds, including income eligibility and permitted activities. Where not specified, waived or altered by HUD, the rules and regulations that apply to the Community Development Block Grant (CDBG) program apply to the funds. Accordingly, the Neighborhood Stabilization Program (NSP) is being treated as a one-time supplement to FY 2008 Community Development Block Grant (CDBG) funding.

HUD has the authority to waive certain regulations and to offer alternatives in order to expedite the distribution of NSP funds. States and units of local governments (grantees) are responsible for implementing a program that is in compliance with the Notice of Allocations, Application Procedures, Regulatory Waivers and Alternative Requirements, which was posted to HUD's web site on September 30, 2008. Grantees must submit an application to HUD for the funds, amend the Action Plan of their Consolidated Plan, and provide a short public comment period on their plans before receiving any money. The application must be submitted by December 1, 2008; otherwise, HUD will cancel all or part of the jurisdiction's allocation and reallocate it to other jurisdictions. The NSP funds must be obligated within 18 months and be spent within four years.

The following is a summary of the major elements of the program. Not all details are included. Expect variations in the types of programs that are ultimately implemented by the grantees.

Distribution of Funds

- HUD is distributing funds to states and local governments based on a formula, using factors established in HERA. (This formula is not the same as the CDBG formula.)
- States and local governments, in distributing the funds, must give priority emphasis to metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas of greatest need, even if those areas are also entitlement communities and are receiving their own funds.
- Unlike CDBG, where states are not permitted to use CDBG funds directly, HERA permits states to use the NSP funds directly. Therefore, a state may choose to carry out some or all of its NSP activities directly.
- States and local governments may distribute funds to non-profits or for-profit entities or organizations.

Definitions

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 owner for at least 90 days, and the property has been vacant for at least 90 days.

Blighted structure: The structure exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety and public welfare.

Current market appraisal: the value of a foreclosed-upon home or residential property established by an appraisal made in conformity with the requirements of the Uniform Relocation Act and completed within 60 days prior to an offer made for the property by a grantee, subrecipient, developer or individual homeowner.

Foreclosed: A property has been “foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. The title for the property has to have 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 that assembles, temporarily manages, and disposes of vacant land for the purpose of stabilizing neighborhoods and encouraging the re-use or redevelopment of urban property. The land bank will operate in a specific, defined geographic area.

Use: For purposes of the NSP, funds are “used” when they are obligated by a state, local government or any subrecipient, for a specific NSP activity. Funds are obligated when orders are placed, contracts are awarded, services are received, etc.

Continued affordability: HUD will allow grantees to define “continued affordability,” but will consider the adoption of the HOME program standards to be in minimal compliance with a “continued affordability” standard. Grantees may choose to require longer periods than required by the HOME program.

Affordable rents: HUD will allow grantees to define “affordable rents.” This definition must be included in the grantee’s amendment to its Action Plan.

Income Definitions

Low-income: No change from CDBG definition – households with incomes at or below 50 percent of area median income (AMI).

Moderate-income: No change from CDBG definition – households between 50 and 80 percent of AMI.

Middle-income: New definition – households between 80 and 120 percent of AMI.

Aggregated group of households with incomes up to 120 percent of AMI: HUD will refer to this group as low-, moderate-, and middle-income households, abbreviated as LMMH.

Income Eligibility Requirements

- One hundred percent of NSP funds must be used to benefit individuals whose income does not exceed 120 percent of AMI.
- Not less than 25 percent of NSP funds must be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties for households with incomes up to 50 percent of AMI.

Eligible Uses

- Financing mechanisms for purchase and redevelopment of foreclosed-upon homes and residential properties, including soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
- Purchase and rehab of homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent or redevelop such homes and properties.
- Land banks for homes that have been foreclosed upon; an NSP-assisted property cannot be held in the land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property.
- Demolition of blighted structures.
- Redevelopment of demolished or vacant properties; new construction is permitted if part of a redevelopment activity, and acquired vacant properties may be redeveloped into non-residential uses, such as public parks, commercial use, or mixed residential and commercial use.

(Note: Reasonable developer fees are permitted costs in connection with new construction and rehabilitation activities.)

Ineligible Uses

- Foreclosure prevention activities.
- Demolition of structures that are not blighted.
- Purchase of homes or residential structures that have not been abandoned or foreclosed upon.

Rehabilitation Standards

- HERA requires that any NSP-assisted rehab must bring the home or residential property into compliance with applicable laws, codes, etc., relating to safety, quality and habitability. Each grantee must describe in its amended Action Plan which standards it will use.

- Energy efficiency and conversation improvements qualify as rehabilitation activities.

Sale of Homes

- For abandoned or foreclosed-upon homes or residential property purchased, redeveloped or otherwise sold to an individual as a primary residence, the sales price is equal to or less than the cost to acquire and rehab/redevelop the unit/property to a decent, safe, and habitable condition.
- Sales and closing costs are eligible costs, and the maximum sales price is the aggregation of all costs of acquisition, rehab and redevelopment, including activity delivery costs.
- Ineligible costs include costs of boarding up, lawn mowing, maintaining the property in a static condition, and costs of completing a sales transaction if the property does not have NSP-assisted rehab or redevelopment.

Acquisition and Relocation

Acquisition of Foreclosed-upon Properties: Any acquisition of a foreclosed-upon home or residential property under NSP must be at a discount from the current market-appraised value of the home or property. The discount must ensure that purchasers are paying below-market value for the home or property.

Relocation: Certain requirements of the Uniform Relocation Act (URA) apply. Grantees are expected to design programs that consider such requirements and to follow a residential antidisplacement and relocation plan, similar to that for the CDBG and HOME programs.

Revenue and Program Income

Any revenue from the sale, rental, redevelopment, rehab or any other eligible use of NSP funds must be provided to and used by the state or local government. This includes revenue (profit) received by a private individual or other entity that is not a subrecipient. No profit can be earned on the sale of an abandoned or foreclosed-upon home or property to an individual as a primary residence. Any revenue is considered program income.

Program income generated by (1) the purchase and rehab of foreclosed or abandoned homes in order to sell, rent or redevelopment them and (2) the redevelopment of vacant properties or demolished units:

- If received before July 30, 2013, may be retained by the state or local government, if it is treated as additional CDBG funds and used for purposes of the NSP program.
- If received on or after July 30, 2013, must be returned to the Treasury. However, program income in excess of the cost to acquire and redevelop or rehab an abandoned unit or property or foreclosed-upon unit or property may be retained by the state or local government if HUD approves a request to use the funds for other NSP purposes.

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

- Any revenue generated by the purchase and rehab of homes or residential properties that have been foreclosed-upon or abandoned in order to sell, rent or redevelop them, or from the redevelopment of demolished properties or vacant properties must be provided to the state or local government and be treated as program income.

(Note: Total costs of acquisition and rehab include reasonable development fees.)

Program income generated by activities related to financing mechanisms to purchase and redevelop foreclosed-upon homes and properties, such as soft seconds, loan loss reserves, and shared-equity loans, may be retained by the state or local government if treated as CDBG program income and used for purposes of the NSP. Revenue received by a private individual or other entity that is not a subrecipient must be returned to the state or local government.

(Note: NSP funds may be used to purchase and rehab or redevelop foreclosed FHA-insured properties.)

Purchase Discount

HERA limits the purchase price of a foreclosed home. The price must be at a discount from the current market appraised value of the home or property, taking into account its current condition. The price must ensure that the buyer is paying below-market value for the property.

- Each foreclosed-upon home or property must be purchased at a discount of at least five percent from the current market-appraised value of the property.
- The average purchase discount for all properties purchased with NSP funds shall be at least 15 percent.
- The average purchase discount shall be at least 10 percent if the state or local government or subrecipient determines the maximum reasonable discount for each purchase through the use of a methodology that results in a discount equal to the total carrying costs that would be incurred by the seller if the property were not purchased using NSP funds (but at least five percent).

Complete Program Details and HUD Resources

Visit HUD's web site below for complete program details, rules, regulations and resources, including a link to a NSP training webcast.

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

Opportunities for NAHB Members

The range of opportunities for NAHB members will vary depending on how your local or state government chooses to implement the NSP. Members should contact their local government, county or state to find out how the program will be implemented. Provide your input.

While the law and rules clearly state that no profit may be earned from the sale of a foreclosed-upon or abandoned home that has been rehabilitated or redeveloped, builders can earn development fees. This presents an opportunity for builders to take on rehabilitation work or build new homes on vacant properties or redeveloped lots.

Additionally, the NSP permits energy efficiency and conservation improvements as rehabilitation work, presenting an opportunity for remodelers or builders who specialize in “green” building.

Do not overlook partnering with a nonprofit organization. It is likely that some grantees will contract with nonprofits as subrecipients to administer a program of purchasing foreclosed-upon homes or properties. These nonprofits will need to contract with builders or remodelers to undertake the rehab or redevelopment work, presenting an opportunity for NAHB members.

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