



HUD'S NEIGHBORHOOD STABILIZATION PROGRAM

Housing Assistance Council

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The Housing and Economic Recovery Act of 2008 created a new Neighborhood Stabilization Program (NSP), making \$3.92 billion available through the Community Development Block Grant (CDBG) program to help state and local governments purchase, renovate, and resell foreclosed properties. The U.S. Department of Housing and Urban Development has identified about 300 states and CDBG entitlement communities that can apply by December 1 for allocations of NSP funds. Rural governments and nonprofits should have opportunities to influence the use of these funds, and/or to be designated subrecipients, through states and some metropolitan area governments.

Program History

The Housing and Economic Recovery Act of 2008 (HERA), signed into law on July 30, provided \$3.92 billion to HUD's CDBG program to help state and local governments purchase, renovate, and resell foreclosed properties.

On September 26 HUD announced its decisions about allocating the funds for what it has named the Neighborhood Stabilization Program (NSP). The following week it released a notice that includes regulations for NSP, published in the *Federal Register* on October 6.

The following summary highlights provisions of the NSP regulations that may be particularly relevant for rural places.

Allocations to States and Entitlement Communities

Of the total \$3.92 billion available, HUD has allocated at least \$19.6 million to each state. Some states are eligible for greater amounts. Some CDBG entitlement communities are eligible for direct allocations. The allocations are based on formula factors specified in the statute:

- △ the number and percentage of foreclosures;
- △ the number and percentage of subprime mortgages; and

- △ the number and percentage of homes in default or delinquency.¹

States and entitlement communities do not automatically receive the funds allocated to them. They must apply to HUD by December 1, 2008. If a local government does not apply, or applies for less than its full allocation, the funds will be reallocated to the state. If a state does not apply, or applies for less than its full allocation, the funds will be reallocated to the ten highest-need states based on HUD's original rankings of need.

Jurisdictions may work together to apply jointly for NSP funds and implement a joint program, even if they do not administer other CDBG funds jointly. Jurisdictions that do have joint agreements for FY 2008 CDBG funds must handle their NSP funds under the terms of those agreements.

A jurisdiction may also create a subrecipient agreement with another government jurisdiction or a nonprofit to administer its NSP grant.

Under the State and Small Cities CDBG program, each state distributes all of its CDBG funds to non-entitlement jurisdictions within the state. This provision is entirely changed for NSP. First, states are not required to redistribute their NSP funds; instead, a state may choose to carry out NSP activities directly or through contractors or public nonprofit subrecipients such as regional or local planning or development authorities and public housing authorities.

If a state does choose to redistribute some or all of its NSP funds, it can pass some or all of the money to entitlement jurisdictions that are also getting funds directly from HUD. Each grantee's plan must identify areas of greatest need within the jurisdiction. The determination must include three factors, and may include others as well. The required factors – similar but not identical to those used by HUD in allocating the funds to grantees – are:

- △ the percentage of foreclosures;
- △ the percentage of subprime mortgages; and

¹ HUD's notice provides more details about how it applied these factors, and the data it used are available at <http://www.huduser.org/publications/commdevl/nsp.html>. HAC is analyzing the data and HUD's formula to see what areas may be deemed to have the greatest needs, and will release its analysis as soon as possible.

- △ identified by the jurisdiction as likely to face a significant rise in the rate of foreclosures.

HUD's regulations could be read as requiring each state to use its funds in the areas of greatest need within the state: "the state is required to distribute funds without regard to a local government[']s status under any other CDBG program and must use funds in entitlement jurisdictions if they are identified as areas of greatest need." HUD does not define greatest need. States and localities could make different determinations, based on the factors they choose to use and the available data.

Relationship to CDBG Program and Its Objectives

NSP is governed by CDBG regulations unless otherwise specified. Similarly, legal requirements imposed on CDBG by other statutes remain in effect. These include the Uniform Relocation Act, fair housing laws, and the like.

The three national objectives of the CDBG program do not apply in the same way to NSP funds. The statute requires all NSP funds (not 70 percent, as in the usual CDBG program) to benefit individuals and families with incomes up to 120 percent of area median income (not 80 percent of area median, as in the usual CDBG program). Two of CDBG's usual national objectives – "prevent or eliminate slums and blight" and "address urgent community development needs" – do not apply at all.

HUD's notice states that NSP activities meet the program's objective if they serve households with incomes at or below 120 percent of area median income (AMI) or areas in which at least 51 percent of residents have incomes at or below 120 percent of AMI.

Within the overall income targeting requirement, at least 25 percent of NSP funds must be used to purchase and redevelop homes for people with incomes not greater than 50 percent of AMI. HUD requires that at least 25 percent of each grantee's funding must meet this requirement. The regular CDBG program does not include this provision, either overall or for individual jurisdictions.

Section 8 income limits, adjusted for family size, are used to identify the 50 percent of AMI threshold. The 120 percent level is defined as 2.4 times the 50 percent limit.

NSP Plans

HERA requires states and localities to develop plans for using NSP funds. HUD requires each jurisdiction's plan to be developed as a substantial amendment to its current Consolidated Plan and Annual Action Plan. To apply for its NSP funds, each jurisdiction receiving an NSP allocation must submit a Con Plan/Action Plan substantial amendment to HUD by December 1, 2008, and post it online at the same time.

Citizen participation requirements are reduced for NSP planning. Each jurisdiction must publish its amendment for public comment, using its usual methods and the Internet, for 15 calendar days (rather than 30, as usual in CDBG).

Each state's plan must include the needs of all places within the state, not just non-entitlement places.

Each jurisdiction must determine its own definitions of "blighted structures" and "affordable rents," how it will ensure long-term affordability, and what rehabilitation standards it will apply. Long-term affordability standards and enforcement mechanisms must be at least those used in the HOME program.

Permissible Activities

The NSP is not intended to prevent foreclosures, and HUD's notice makes clear that foreclosure prevention activities are not eligible for NSP funding.

HUD's notice lists eligible uses as:

- △ 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;
- △ 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;
- △ establish land banks for up to ten years (land banking is not usually an eligible CDBG activity);
- △ demolish blighted structures; and
- △ redevelop demolished or vacant properties (this may include new construction).

A grantee can request HUD's permission for an activity not on this list by writing to HUD explaining how the proposed activity is eligible under the statute.

HUD encourages grantees to use green building and energy-efficiency improvements in all NSP activities.

NSP funds are not limited to housing uses. HUD's notice explains that these funds may be used to redevelop acquired property for nonresidential uses, such as a public park, commercial use, or mixed residential and commercial use.

HERA limits the sale prices of properties that are sold to individuals: sales prices must be equal to or less than the cost to acquire and redevelop or rehabilitate the property to a decent, safe, and habitable condition.

Grantees are not required to provide one-for-one replacement of units demolished under NSP.

FHA foreclosed properties are eligible for CDBG/NSP, and HUD “strongly encourages” grantees to include these properties in their NSP activities.

Time Limits and Deadlines

NSP grantees must develop their Consolidated Plan amendments and submit applications to HUD by December 1, 2008. The 15-day public comment period must occur before that date.

Each state or entitlement jurisdiction must use its NSP funds within 18 months after HUD signs its NSP grant agreement. HUD’s regulations say that funds are “used” when they are obligated for a specific NSP activity such as for acquisition of a specific property. Committing funds to a subrecipient such as a nonprofit is not enough.

Acquisition Price Issues

HERA, the statute that created NSP, requires that jurisdictions implementing NSP must purchase properties at prices below their appraised market values. HUD notes that this requirement may effectively preclude use of eminent domain to acquire properties, because the Supreme Court has ruled that a government entity must pay fair market value for property it takes through eminent domain.

HUD requires the price of each property purchased with NSP funds to be at least 5 percent below appraised market value. HUD’s notice defines “current market appraised value,” and gives NSP grantees the option of defining the “maximum reasonable discount” in each home’s market, taking carrying costs into account. If the grantee uses carrying costs in determining the maximum reasonable discount, then it must achieve an average discount for its NSP portfolio of 10 percent. If it does not establish a “maximum reasonable discount,” then its portfolio’s overall average discount must be 15 percent.

This policy brief was prepared by the Housing Assistance Council (HAC). A national nonprofit corporation headquartered in Washington, DC, and founded in 1971, HAC helps local organizations build affordable homes in rural America by providing below-market financing, technical assistance, research, training, and information services to the organizations. HAC’s programs focus on local solutions, empowerment of the poor, reduced dependency, and self-help strategies. HAC is an equal opportunity lender.

More information about the Neighborhood Stabilization Program is available on HAC’s website at http://www.ruralhome.org/infoAnnouncements_2008NSP.

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