

REQUIREMENTS FOR ACTION PLAN SUBSTANTIAL AMENDMENT

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.