Neighborhood Stabilization Program Guidance (NSP1 and NSP3) State of Minnesota

Overview

Minnesota Housing is the grantee for the State of Minnesota of $38.8 million in funds allocated under the federal legislation called the Housing and Economic Recovery Act of 2008 (HERA). Under Title III of HERA, the Neighborhood Stabilization Program (NSP) provides emergency assistance to states and local governments for the redevelopment of Abandoned and Foreclosed Homes and Residential Properties. This original allocation is referred to as NSP1.

An additional $5 million was authorized to Minnesota Housing under the Wall Street Reform and Consumer Protection Act of 2010, also known as the Dodd-Frank Act(NSP3).

Subrecipients are expected to be knowledgeable about and adhere to the laws and regulations governing the CDBG program as well as the Neighborhood Stabilization Program. Subrecipients must commit and expend funding in accordance with NSP1 and NSP3 funding guidelines and the targeting requirements described in the corresponding Action Plans.

Program Goals

Minnesota Housing has established three goals under the NSPprogram:

- To maximize the revitalization and stabilization impact on neighborhoods;
- To preserve affordable housing opportunities in the targeted neighborhoods;
- To complement and coordinate with other federal, state and local investment in the targeted neighborhoods.

Neighborhood Stabilization

Success in the use of NSP1 and NSP 3 funds is viewed not merely in the numbers of houses bought, demolished or rehabilitated, but in the extent to which neighborhoods or blocks have been restored or stabilized, meeting the criteria of a functional market (competitive, sustainable, and integrated in healthy living including access to transit, affordable housing, employers, and services). Activities for which NSP funds will be used will contribute to the stabilization of targeted neighborhoods or blocks, develop new housing opportunities in targeted neighborhoods or blocks and preserve land for future redevelopment.

High Need Areas

NSP1 Target Area Selection

HERA requires that grantees that receive NSP funding give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low and moderate – income, and other areas with the greatest need including those

- Areas with the greatest percentage of foreclosures,
- Areas with the highest percentage of homes financed by subprime mortgage related loans, and
- Areas identified as likely to face a significant rise in the rate of home foreclosures.

Minnesota Housing analyzed foreclosure, real-estate-owned (REO), subprime, and delinquency data on a zip code basis and sheriff's sale data on a county basis.

NSP3Target Area Selection

Minnesota Housing used the methodology outlined below to identify areas of greatest need and to assign initial funding distributions around the state.

- **Previous recipient of NSP-1 funds** (City or County).
- **Significant foreclosure impact**.
  - o HUD provides a foreclosure need score for each census tract in the state and considers a score of 17 and above to be a high need area. Each census tract is ranked on a scale of 1 to 20, with 20 being the highest. All target areas have a foreclosure score of 17 or higher.
  - o LPS Applied Analytics foreclosure data (one of the country's primary sources of loan performance data) OR areas that were previously targeted areas in NSP1.
- **Access to transit OR Access to jobs.** Census tracts within close proximity to jobs or transit were selected.
- **Moderate to high rates of rental.** Census tracts with rental rates at the 25th percentile or above for their region, were targeted.
- **Marketability.** To assess the general market conditions of an area, month's supply of home sale inventory was evaluated. A market with more than ten months of inventory is very slow. This information was used to assist in program design and further target area refinement.

(For maps and further methodology information, please see the Action Plans for NSP1 and NSP3 posted on Minnesota Housing's website)

Awardees

NSP1 Award Announcements
NSP3 Award Announcements

Eligible Fund Uses

Eligible NSP fund uses (activities) are described below:

- Financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties
- Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon in order to sell, rent or redevelop.
- Establish and operate land banks for homes and residential properties that have been foreclosed upon.
- Demolish blighted structures- (limited to 10 percent of total grant funds under NSP3).
- Redevelop demolished or vacant properties as housing.

Ineligible Fund Uses

- Generally, if an activity is ineligible under CDBG, it is ineligible under NSP
- Foreclosure prevention
- Demolition of non-blighted structures
- Purchase of properties not abandoned or foreclosed upon
- Redevelopment for commercial purposes

Program Design

NSP1 Action Plan
NSP3 Action Plan

Partnerships

Awardees identified collaborating partners to complement and supplement their expertise and approach in neighborhood stabilization and/or improve their capacity in meeting the goals of their stabilization plans.

Awardees identified funding partners to improve their investment in the targeted areas for revitalization in order to maximize housing and neighborhood outcomes. Applicants are expected to consider all programs available to them, including those available through utility companies for energy efficiency improvements.

Definitions and Descriptions (applicable to NSP1 and NSP3)

Abandoned home/property:

A home or residential property is abandoned if either a) mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or b) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or c) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state or local law or otherwise meets a state definition of an abandoned home or residential property.

Acquisition discount:

The acquisition discount from current market appraised value for foreclosed properties will be a minimum 1% per property. Subrecipients should seek maximum reasonable discount taking into account the condition of the property and likely carrying costs to the seller if the property continues in its portfolio.

Affordable rents:

Minnesota Housing has adopted the definition of affordable rents that is contained in 24 CFR §92.252(a) minus utility allowances where tenants pay utilities. If rent includes the cost of utilities then the owner may charge the maximum rent. If the tenant pays the utilities, the owner may only charge rent that does not exceed the maximum minus the amount of the "utility allowance." This definition is consistent with the continued affordability requirements of the same section that Minnesota will adopt for the NSP program. Under 24 CFR §92.252(a), a rent is affordable that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit; OR is equal to the fair market rent (FMR) determined by HUD and used in the Section 8 Housing Choice Voucher Program.

Blight:

Minnesota Housing defines a blighted structure as one which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light, and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, is detrimental to the safety, health, morals, or welfare of the community.

State subrecipients may use either the local jurisdiction's definition of "blighted structure" or Minnesota Housing's definition, and will designate which definition they will use in their application for funding.

Continued affordability:

State subrecipients will be required to include in their loan documents, as a minimum, the affordability requirements of 24 CFR §92.252(a), (c), (e), and (f), and §92.254 (the HOME program periods of affordability). Affordability requirements for rental properties will be specified in the loan and/or mortgage documents and a deed restriction or covenant similar to the HOME program. Mortgages and deed restrictions or covenants will be recorded against the property and become part of the public record.

Affordability of owner-occupied housing will be enforced by recapture or resale. Each state subrecipient will design its own recapture provisions.

State subrecipients are responsible for ensuring that their activities benefit the intended populations and documenting compliance.

Current market appraised value (CMAV):

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 either: 1) the appraisal requirements of the URA at 49 CFR 24.103, or 2) the Uniform Standards of Professional Appraisal Practice (USPAP), or 3) the appraisal requirements of the Federal Housing Administration (FHA) or a government sponsored enterprise (GSE); and 14 the appraisal must be completed or updated within 60 days of a final offer made for the property by a grantee, subrecipient, developer, or individual homebuyer.

However, if the anticipated value of the proposed acquisition is estimated at $25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the grantee determines is qualified to make the valuation.

Foreclosed home:

A home or residential property has been foreclosed upon if any of the following conditions apply: (a) the property's current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified; (b) the property owner is 90 days or more delinquent on tax payments; (c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed; or (d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, contractor, subrecipient, developer, or end user.

Income limits:

NSP Income Limits at 50% of HUD Area Median Income and 120% of HUD Area Median Income are available at http://www.mnhousing.gov/resources/apply/MHFA_007433.aspx.

Land bank:

A land bank is a governmental or nongovernmental nonprofit entity established, as 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 the property. For the purposes of NSP, a land bank will operate in a specific, defined geographic area. If a 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.

Program income:

Revenue received by a State, local unit of government, or state subrecipient directly generated from the use of NSP funds is CDBG income (also known as proceeds). The revenue may be generated from the sale of property, rental redevelopment, rehab or other eligible uses. Program Income must be provided to and used by the State or unit of general local government for additional NSP activities.

Subrecipient:

A subrecipient is a public or nonprofit agency, authority or organization receiving NSP funds from the recipient to undertake activities eligible for such assistance under HERA. A state subrecipient is one that is has a written agreement with Minnesota Housing for use of NSP funds. A local subrecipient is one that has a written agreement for use of NSP funds with a state subrecipient.

To "use" NSP funds:

HUD has defined "use" to mean "obligate for a specific project". 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 local subrecipient during the same or a future period. Funds are not considered obligated by an agreement that awards funds to a state subrecipient or local subrecipient.

Vacant:
A vacant property is one on which the land and/or buildings are vacant (unoccupied).

Compliance/Requirements

Use of Funds:

NSP1
Timely use of NSP funds is a requirement under HERA. All Minnesota Housing Subrecipients must obligate NSP1 funds within 18 months of March 20, 2009. 100 percent (100%) of NSP1 funds must be expended at the 36 month mark, March 20, 2013.

NSP3
NSP3 follows the statutory expenditure deadlines described under the Recovery Act, which provides that grantees shall expend at least 50 percent of allocated funds within 2 years of the date funds become available to the recipient for obligation, and 100 percent of such funds within 3 years of such date.

Low Income Targeting – Income Restrictions:

- Not less than 25.4 for NSP 1 and 26.4% for NSP 3of each state subrecipient's grant and 25% of the program income it receives must be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income.
- These targeting requirements apply to each direct state subrecipient and not to each project or activity; applicant must demonstrate how they will comply. Compliance is based on dollars not number of units. The budget must reflect these targeting requirements.
- The income requirement is based on occupancy of permanent housing (i.e. homeless shelters or transitional housing does not meet the requirement).
- Activities funded with NSP funds must benefit households with incomes at or below 120% of area median income (low, moderate and middle income households).
- For activities that do not benefit individual households, the activity must benefit areas in which at least 51% of the residents have incomes at or below 120% of area median income. Applicants should consult HUD's website at: http://www.huduser.org/publications/commdevl/nsp_target.html for information on block group data on incomes to determine the incomes of the residents of the area in which the activities are to be undertaken.

National Objective by NSP Eligible Uses – Benefiting Low-, Moderate and Middle-Income Persons (LMMI):

- Establish financing mechanisms for the purchase and redevelopment of foreclosed upon homes and residential properties that will be occupied by households with incomes at or below 120 per cent of area median income.
  - Generally, financing provided by state subrecipients to homeowners for acquisition and/or rehabilitation will be without interest, except for circumstances in which the charging of interest or fees are necessary to pay documented costs associated with the financing mechanism. To the extent NSP funds provide a first lien or equivalent primary financing, such financing mechanisms may be priced at an interest rate that is no greater than the interest rate charged on Minnesota Housing mortgage revenue bond programs, currently 5.5%.
  - Financing provided to other entities for acquisition and redevelopment may carry interest rates of 0% to market rates for equivalent types of financing, with terms no longer than 30 years.
- Acquisition and Rehabilitation for Homeownership.
  - To meet the HERA LMMI national objective this acquisition and rehabilitation activity will provide permanent residential structures that will be occupied by households with incomes at or below 120% of area median income.
- Acquisition and Rehabilitation for Rental.
  - To meet the HERA LMMI national objective this acquisition and rehabilitation activity will provide permanent residential structures that will be occupied by households with incomes at or below 120% of area median income.
- Establish Land Banks for homes that have been foreclosed upon.
  - Land bank activity meets the HERA LMMI national objective by serving an area in which at least 51% of the residents have incomes at or below 120% of area median income. State subrecipients must define the area in which they will conduct this activity and document that resident incomes meet the NSP requirement.
- Demolish Blighted Structures.
  - The demolition activity meets the HERA LMMI by serving areas in which at least 51% of the residents have incomes at or below 120% AMI. State subrecipients must define the area in which they will conduct this activity and document that resident incomes meet the NSP requirement.
- Redevelop Demolished or Vacant Properties.
  - This redevelopment activity meets the HERA LMMI national objective when it provides permanent residential structures that will be occupied by households with incomes at or below 120% of AMI or provides a public facility that will benefit an area in which at least 51% of the residents have incomes at or below 120% AMI. If providing a public facility, state subrecipients must define the area in which they will conduct this activity and document that resident incomes meet the NSP requirement.

- Program Administration.
    - General administration of the NSP program. General administration costs incurred since the receipt of the Federal Notice are eligible pre-award costs. Each awardee received an allocation of administration costs included in their grant. An additional 10% of program income may be used for program administration.

Acquisition Discount:

Properties purchased must be residential and identified as foreclosed or abandoned and/or vacant. Any property purchased in whole or part with NSP funds must be purchased at a discount from current market appraised value. A minimum of a 1% discount for each property is required.

The value of a foreclosed upon home or residential property is to be 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 a final offer made for the property by the state subrecipient, developer or individual home buyer.

Financing Mechanisms:

- Financing mechanisms are to be provided without interest, except for circumstances in which the charging of interest or fees is necessary to pay documented costs association with the mechanism. To the extent that first lien or equivalent primary financing is provided, such financing mechanisms may be priced at an interest rate that is equivalent to the interest rate charged on Minnesota Housing mortgage revenue bond programs.
- Applicants must provide their rationale and extent to which they would provide assistance to individuals who were otherwise eligible for financing from the private sector. Possibilities include contracts for deed or participation in contracts for deed; first or second mortgages, either amortizing or deferred and participation in such mortgages; grants; low-or no-interest construction financing; down payment and closing cost assistance.
- Applicants intending to use NSP funds for homeownership opportunities for low-income households (below 50% of area median income) must describe steps that will be taken to promote successful homeownership, e.g. pre and post purchase counseling and the costs of such services, and the providers and funding for such services.
- State subrecipients will use the HOME recapture requirements as the minimum means to meet the continued affordability requirements of the NSP. The period of continued affordability will be at least as long as the period of affordability described in 24 CFR 92.254(a) (4). Recapture requirements and affordability periods will be defined by the subrecipients.

Lead Requirements:

Lead regulatory requirements apply in conformance with CDBG programs. Requirements are in the Lead Disclosure Rule (24 CFR part 35, subpart A), and the Lead Safe Housing rule's provisions for rehabilitation (subpart J), and for acquisition, leasing, support services, or operation (subpart K), and accompanying procedural requirements in subparts B and R.

Affordability Requirements:

Subrecipients will be required to include in their loan documents, as a minimum, the affordability requirements of 24 CFR §92.252(a), (c), (e) and (f) and §92.254 (the HOME program periods of affordability). Affordability requirements for rental properties will be specified in the loan and/or mortgage documents, with a deed restriction or covenant similar to the HOME program. Mortgages and deed restrictions or covenants will be recorded against the property and become part of the public record.

All applicants' affordability requirements must be enforceable through recorded deed restrictions, covenants running with the land, or other mechanisms to ensure the full period of affordability is fulfilled.

See the definition of affordable rents above. When using NSP funds in conjunction with other affordable housing programs, the most restrictive rents shall apply.

When a project is rental property, NSP funds may also be used to capitalize operating reserves to reduce tenants' rents to more affordable levels. However, state subrecipients must demonstrate that the reserves are required by a lender, that such a requirement is consistent with industry practices and that the dollar amount of the required reserves is consistent with local industry standards.

Demolition:

NSP1 and NSP3 funding through Minnesota Housing may only be used for demolition of blighted residential structures if the structures will be replaced with housing. Redevelopment activities must be for housing. Demolition must be part of a plan for redevelopment of the targeted neighborhoods. For NSP3, no more than 10% of funds may be used for demolition. Subrecipients should re-use cleared sites in accordance with a comprehensive or neighborhood plan. All demolition sites should be planned for re-use within the term of a subrecipient's NSP grant as replacement housing, for use as a community resource, or to provide an environmental function. Examples include community gardens, pocket parks, or floodplain impoundment areas.

Rehabilitation:

Assessment: In addition to property assessment standards already required by local, state, and federal regulations, properties shall also be assessed for the following: (Results of all assessment activities shall be disclosed to the purchaser prior to sale.)

- Any visible mold or water infiltration issues.
- Compliance with smoke detectors, carbon monoxide detection, and GFCI receptacle protection as noted below in Required Rehabilitation Activities.

- Remaining life expectancy of major building components such as roof, siding, windows, mechanical systems and electrical systems, as well as any immediate cosmetic improvements necessary in order to sell or rent the residential property.

Building Codes and Local Housing Standards: NSP-assisted housing that is rehabilitated must be rehabilitated in accordance with the State Building, Electrical, and Plumbing Codes. Upon completion, the housing must be in compliance with local housing standards. If local housing standards do not exist, the housing must meet the minimum housing quality standards (HQS) of 24 CFR 982.401.

Where local housing standards exist, subrecipients must identify the standards that will apply to their projects and provide a copy to Minnesota Housing. As projects are rehabilitated, the subrecipients must document how each project meets the local standard, or HQS if there is no local standard, for Minnesota Housing's monitoring review.

Subrecipients must identify in their program descriptions whether they will permit individuals purchasing homes for their own occupancy to conduct or contract for rehabilitation, the date by which such homebuyer rehabilitation must be completed, how the subrecipient will monitor progress of the rehabilitation, and the remedies the subrecipient will take if rehabilitation is not completed by the deadline.

Required Rehabilitation Activities: In addition to remediation of any deficiencies resulting from property assessment required by local, state, and federal regulations, rehabilitation activities shall include the following:

- Mold and/or water infiltration mitigation, if mold or water infiltration is observed during the assessment. Any moldy materials that cannot be properly cleaned must be removed.
- Installation of U.L. approved smoke detection in all locations as required for new construction. At least one smoke detector must be hardwired (preferably located near sleeping rooms).
- Installation of GFCI receptacle protection in locations as required for new construction.
- Installation of carbon monoxide detection equipment in accordance with the 2006 state legislation.
- Application of relevant Green Communities Criteria with the Minnesota Overlay to any building component that is modified or altered during a financed activity; including selecting Energy Star qualified products.
- Water efficient toilets, showers, and faucets, such as those with the Water Sense label, must be installed.
- Where relevant, the housing should be improved to mitigate the impact of disasters (e.g., earthquake, hurricane, flooding, and fires).

Rehabilitation or stabilization of hazardous materials such as lead-based paint and asbestos must be in accordance with applicable Federal, State, and Local laws, regulations, and ordinances.

(NSP3 only) Gut Rehabilitation and New Construction: All gut rehabilitation (i.e. general replacement of the interior of a building that may or may not include changes to structural elements such as flooring systems, columns, or load bearing interior or exterior walls) or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes.

(NSP3 only)Multifamily Housing: Gut rehabilitation or new construction of mid or high rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, appendix G plus 20 percent (which is the Energy Star standard for multifamily buildings piloted by the Environmental Protection Agency and the Department of Energy).

Demolition: If a site will not be redeveloped within three months after demolition, the subrecipient must ensure that soil on the site does not pose a health hazard to the community by either verifying that the soil meets lead clearance levels, removing and replacing the soil with soil that meets clearance levels, or covering the soil with sod or some other barrier to prevent the disbursement of lead dust.
Please consult the NSP1 and NSP3 Procedure Manual for more details.

Affirmatively Furthering Fair Housing:
The jurisdiction will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice (AI) 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. State subrecipients that are CDBG entitlement grantees are required to have completed an AI. State subrecipients that are not CDBG entitlement grantees may, depending on their location either inside or outside the 11-county metropolitan area, accept the state or metropolitan area AI.

Environmental Requirements:
State subrecipients will certify compliance with Environmental Requirements. All activities and projects must comply with the 24 CFR Part 58. The level of environmental review required depends upon the program design and project description. The responsible entity should consider the use of the categorical exclusion at §58.35(a)(4).

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA):
All property acquisition is subject to the requirements of the Uniform Relocation Act. This applies to both voluntary and involuntary transactions. State subrecipients will certify compliance with Uniform Relocation Act guidelines, 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 published by HUD, whether the intended use of the property is to house a homeowner or a renter.

Davis Bacon Laws:

State subrecipients will certify compliance with Davis-Bacon laws and other labor standards, such as appropriate worker wages, wage decisions and rates posted at work site, verification of actual wages received, etc.

Limited English Proficiency Standards:
State subrecipients must comply with the "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (published in the January 22, 2007 Federal Register, to ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. State subrecipients will provide their plan for being in compliance.

(NSP3 only) Vicinity Hiring
Subrecipients shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity or contract with small businesses that are owned and operated by persons residing in the vicinity of projects funded with NSP3. Vicinity is defined as each NSP3 target area.

Section 3 of The Housing and Urban Development Act of 1968:
State subrecipients 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. State subrecipients will be required to report on the number and amount of contracts let to women and minority businesses, and their Section 3 results regarding job training, employment, and contract opportunities for low- and very-low income residents in connection with projects.

Resale or Recapture:
The sale of an abandoned or foreclosed upon home or residential property to an individual as a primary residence must 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. The requirement that the property continue to be occupied by NSP-eligible owners will expire with recapture of the NSP investment or expiration of the period of continued affordability, see HOME requirements of 24 CFR 92.254 (a) (5).

Homebuyer Counseling and Education:
All homebuyers assisted with NSP funds are required to receive and complete at least 8 hours of homebuying counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. Minnesota Housing has requested HUD approval for all the Homestretch counseling agencies in the Home Ownership Center's network. Minnesota Housing will update its website when it receives a response from HUD on this matter. It is the intent of the NSP activities to ensure that homebuyers are not allowed to finance the purchase of NSP-assisted housing through the use of subprime mortgage loans. State subrecipients must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulator's guidance for non-traditional mortgages, see Statement on Subprime Mortgage Lending available at http://www.fdic.gov/regulations/laws/rules/5000-5160.html