

Ten Solutions to Improve the Effectiveness of HUD's Neighborhood Stabilization Program

1. Program Income from Rental Housing Operations Assisted by an NSP Loan:

Issue: According to current HUD guidance, a rental property that receives NSP financing is required to repay “revenue” (not defined in the current guidance) as program income. “Revenue” can be taken to mean either all rents received or net income. In either case, treating income from rents as “revenue,” and therefore program income, to be captured will make private financing difficult to obtain, create incentives for owners to adjust their accounting to hide revenues, and impact the stable operations of the property.

Solution: HUD should revise the definition of “revenue” to exclude income from rents – either gross or net – from being treated as program income. Regarding program income, HUD should only be concerned with that portion of project revenue that is obligated to repay the NSP loan. HUD should allow NSP grantees flexibility in shaping financial assistance to rental developers, just as it does with the CDBG and HOME programs. At the discretion of the local or state government, the financing agreement can require paybacks of excess profits.

2. Resale of NSP-Assisted Rental Property by a Grantee or Subrecipient:

Issue: In the NSP Notice, HUD gives an example of a grantee or subrecipient using NSP funds directly to acquire and rehabilitate a rental property, then reselling the property. The example states that all of the invested NSP funds must be returned to HUD, if the sale occurs on or after July 30, 2013. However, the statute requires only that profits be returned to Treasury, unless HUD grants a waiver.

Solution: HUD should make clear that after July 30, 2013 only profits from the transfer of a rental property to a new owner must be returned to Treasury, absent a waiver from HUD. Further, HUD should define how “profit” is to be calculated.

3. Resale by Private Individuals and Developers Receiving NSP Loans or Grants:

Issue: HUD’s guidance states that, upon the resale of a home or rental property assisted with NSP financing, the “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.” “Revenue received” is not defined. These vague requirements have called into question whether a homeowner can gain any profit whatsoever from the resale of a NSP-financed home. This can seriously diminish buyers’ incentives to buy NSP-assisted homes.

Solution: HUD should make clear that the appreciated value, if any, from resale by homeowners or rental property owners of NSP-financed properties may be retained by the sellers, unless a grantee has included profit-sharing requirements in the terms of the loan or grant agreement.

4. Resale by Private Individuals and Developers of Homes that Received NSP Funding:

Issue: HUD’s guidance states that, upon the sale of a home or rental property directly assisted by NSP (i.e. direct NSP funding of acquisition and rehabilitation or redevelopment by an NSP grantee or subrecipient, not via a financing mechanism), profits received are considered to be program income and must be returned to the NSP grantee or Treasury, depending upon whether the sale occurred before or after July 30, 2013. This is consistent with the statutory language, but can seriously diminish buyers’ incentives to buy NSP-assisted homes.

Solution: HUD can provide guidance that this requirement does not apply to resale, or describe an acceptable alternative method that avoids this problem. The suggested alternative method is for the NSP grantee or subrecipient to recapture the NSP direct subsidy at the time of closing the first sale of an NSP-funded home, and simultaneously give the recaptured funds to the homebuyer in the form of a grant or loan. As described under the previous topic, financing mechanisms using NSP funds are not be subject to the profit recapture provisions of the statute. Otherwise, this issue will require corrective legislation either as a technical amendment or rewrite.

5. Use of Funds for Non-Foreclosed Properties:

Issue: HUD has interpreted the statute as allowing nearly all vacant properties—including nonresidential properties—to qualify for acquisition and redevelopment funds from NSP as long as they are in an NSP-targeted zone. While these may be worthwhile community development projects, such efforts will dilute funds specifically authorized for acquisition and redevelopment of foreclosed homes. The issue requires quick and immediate action so that grantees do not proceed with these projects.

Solution: HUD should amend its Notice to clarify that the funds must be used primarily for residential properties, as described in the statute.

6. Requirement for Price Discounts in Acquiring Foreclosed Homes:

Issue: The statute requires a purchase “discount” below market value. HUD’s Notice on NSP implementation requires average discounts below market value of at least 10%. Given that market values are already depressed, this requirement will have the effect of further driving down property values in impacted areas.

Solution: The National Community Stabilization Trust has developed a net-realizable valuation model that preserves as-is values but allows lenders to reduce prices for bulk purchases by taking into account their avoided costs of holding, marketing and selling the homes. HUD should issue guidance endorsing this model.

7. Homeowners’ Equity Appreciation:

Issue: Several aspects of the NSP Notice and written guidance from HUD regarding long-term affordability and program income will undermine or eliminate the ability of buyers of redeveloped homes to get a fair share of equity appreciation upon resale and will likely deter grantees from redeveloping homes.

Solution: HUD should provide clear guidance and model documents for allowable scenarios that encourage the redevelopment of homes for affordable homeownership and rental housing.

8. Lump-Sum Advances to Revolving Loan Funds:

Issue: Advancing NSP funds in lump sums to revolving loan funds is a key mechanism for leveraging private funds, but HUD has not yet issued guidance on whether, or how, HUD will allow this to occur.

Solution: HUD can provide guidance regarding the conditions under which lump-sum draw-downs will be allowed and how revolving loan funds may keep and reinvest program income.

9. Acceptable Forms of Appraisals:

Issue: HUD’s guidance to date does not make it clear whether accepted, streamlined forms of appraisal can be used. This is essential so that bulk purchases of foreclosed homes may occur quickly and with lower appraisal expenses.

Solution: HUD should allow standard industry practices for appraising portfolios of eligible properties for purchases with NSP funds.

10. Time Limits on Acquiring Homes:

Issue: Currently, HUD requires that all eligible homes be identified within 18 months. Grantees are concerned that this is an unrealistic deadline, and that they should be able to identify foreclosed homes as they come on the market, both before and after the 18-month deadline.

Solution: HUD should issue guidance that follows the precedent of the CDBG program which allows funding of so-called single-family “pipeline” programs for which some or all properties have not been identified. If HUD does not approve this approach, corrective legislation should more carefully define “obligation” and “spending” of funds.