

II. GENERAL ADMINISTRATIVE REQUIREMENTS

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A. BACKGROUND

Acceptance of NSP funds obligates Grantees to ensure that NSP monies are used in accordance with all applicable requirements. This chapter will discuss eligible administrative costs, activity-related hard and soft costs, expenses allowable in sales price, and use of Program Income.

Use of funds: NSP funds are obligated by a Grantee for a specific NSP activity (for example, acquisition of a specific property) when an Activity Set-up is approved. Funds may be obligated for an activity for a sub-recipient when orders are placed, when offer to purchase is accepted and signed by both buyer and seller, construction contracts are awarded (sub-recipient requirement), services are received, and similar transactions have occurred that require payment by the State or Grantee during the same or a future period. In order to obligate rehab and redevelopment funds, those entities that are classified as developers will have documentation on file at the time of submitting the Activity Set-up for the scope of work, development/rehab budget and timetable for work to be done, signed by the individual in their organization authorized to sign contracts. All NSP funds must be obligated by August 15, 2010. NOTE: funds are not obligated for an activity when contracts are signed between Department of Commerce, Division of Housing and Community Development (DHCD) and Grantees (e.g., grants to units of local government or grantees). Grantees have up to four years to expend NSP funds on eligible housing activities from DHCD by submitting the Request for Payment form. As indicated in the NSP contract, all final requests for payment are due on March 15, 2013.

B. PROGRAM ADMINISTRATIVE COSTS

The NSP allocation received by DHCD includes funds that may be used for reasonable administrative costs. The use of those funds is governed by the CDBG program rules.

Program administrative costs are those that are for general categories of work that are not related to a specific property. Payment of reasonable administrative costs for general management, oversight and coordination includes salaries, wages, and related costs of the Grantee's staff or other staff engaged in program administration. In charging costs to administration, the Grantee may use only one of the following methods during the grant:

- a. The entire salary, wages, and related costs allocable to the NSP program of each person whose primary responsibilities with regard to the program involve program administration assignments; or
- b. The pro rata share of the salary, wages, and related costs of each person whose job includes any program administration assignments.

Program administration includes the following types of assignments:

- Providing local officials and citizens with information about the program;
- Preparing program budgets and schedules;
- Developing systems for assuring compliance with program requirements;
- Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;
- Monitoring program activities for progress and compliance with program requirements;
- Preparing reports and other documents related to the program for submission to DHCD;
- Travel costs incurred for official business in carrying out the program;
- Administrative services performed under third party contracts of agreements, including such services as general legal services, accounting services, and audit services; and
- Other costs for goods and services required for administration of the program including rental or purchase of equipment, utilities, office supplies, and rental of office space; public information; fair housing activities; and special outreach activities.

C. ACTIVITY-RELATED HARD AND SOFT COSTS

Activity-Related Hard Costs

Hard costs are associated with acquisition for resale (including direct down payment assistance), rental or landbanking, rehabilitation, redevelopment or new construction, demolition.

Activity-Related Soft Costs

Activity-related soft costs are those costs considered eligible which are not hard costs and are directly related to the activity or redevelopment at a specific address, such as:

- Architectural, engineering or related professional services required to prepare plans, drawings, or specifications of an activity;
- Appraisals (unless appraiser on staff paid with administrative funds);
- Housing inspection fees, including: Housing Quality Standards (HQS), code compliance, and Lead Risk Assessment and Clearance;
- Costs to finance an activity such as private lender origination fees, credit reports, fees for title evidence, recording fees and filing of legal documents, building permits, attorneys fees;
- Delivery costs, such as: marketing, advertisements, real estate brokers (if required beyond selecting from agency's income eligible households from homebuyer pool);
- Property maintenance between acquisition and final disposition, such as: property taxes, insurance, snow/lawn care, utilities, etc.;
- Construction loan origination fees & interest as well as construction management costs if by a consultant. If a staff person manages construction, costs must be specific to a particular property with all hours documented;
- Tenant relocation payments, including: replacement housing payments and moving expenses; payments for the reimbursement of reasonable out-of-pocket expenses incurred in connection with temporary relocation; and
- Reasonable developer's fees (10-15%), related to NSP-assisted housing construction or redevelopment activities.

Activity-related soft costs should be kept to less than or equal to ten percent (10%) of total housing activities.

D. EXPENSES ALLOWABLE IN SALES PRICE

While there are a number of expenses that may be reimbursed to the grantee with NSP funds for maintenance of a property prior to resale or rental, such as grass cutting, snow removal, insurance, etc., these expenses may not be passed onto the buyer in the sales price. Only those costs that are directly related to the acquisition and redevelopment/rehabilitation of the home, including sales and closing costs are eligible to be included into the sales price.

All activity-related hard costs (acquisition, rehab costs, demolition) are allowable expenses in the sale price of the house as well as any delivery costs that would be found on a HUD-1 Settlement Statement, such as appraisal, inspection, title, etc.

E. PROGRAM INCOME

Program Income is defined as revenue that was directly generated from the use of NSP funds. Examples of NSP Program Income include:

- Proceeds from the sale or lease of property acquired/redeveloped/rehabilitated with NSP funds;
- Principal and interest payments on loans made from NSP funds;
- Revenue returned by individuals or other entities that are not grantees; and
- Recaptures on sales of homes pursuant to enforcement of NSP affordability requirements.

The original requirements for reinvestment of revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop or rehabilitate an abandoned or foreclosed upon home or residential property and for return of Program Income after the initial 5-year reinvestment period was repealed in HUD's Technical Correction Notice for NSP. The following use and retention guidelines were clarified in regard to Program Income:

Section 2301(d)(4) of HERA, which established requirements for the disposition of revenue generated by NSP assisted activities was repealed by the Recovery Act. A result of the repeal is that Program Income received after July 30, 2013 is not required to be returned to HUD for deposit in the Treasury. However, the Program Income requirements of the CDBG program are still applicable to income directly generated from the use of NSP funds and received by grantees or subrecipients.

All Grantees must track Program Income received, obligated to new projects and expended. For new set-ups, if the Grantee has NSP Program Income available, it must be obligated before obligating additional contract dollars. When Program Income is received by the sub-grantee (or its partner), it must be deposited into and maintained in a non-interest bearing account.

Using Program Income on the Same or Different NSP Activities

NSP Program Income received may be utilized for any eligible NSP activities listed in the Grantee's contract with DHCD. Where possible, DCHD recommends using Program Income on the activity that generated it in order to simplify tracking and reporting. Having said that, Grantees are required to substantially exhaust Program Income received first before requesting additional funds regardless of the activity on which it was earned. This is sometimes referred to as the First In, First Out (FIFO) rule. DCHD is defining substantially exhausted as not having more than \$5,000 of Program Income on hand.

Example #1: The Grantee earns Program Income on NSP Eligible Use B1. Acquisition/ Rehab/Resale. The Grantee wants to use Program Income for NSP Eligible Use D.

Demolition. If Demolition is already specified in the Grantee's contract with DCHD, no further action must be taken.

Example #2: The Grantee earns Program Income on NSP Eligible Use B1. Acquisition/Rehab/Resale. The Grantee wants to use Program Income for Demolition, an NSP eligible use, but it is not in the Grantee's contract with DCHD. The Grantee will need to request a contract letter amendment from DCHD before obligating these funds to Demolition.

Administrative Funds from Program Income

Grantees will be allowed to request up to 10% of Program Income for eligible administrative expenses once all contract administrative funds have been paid out by DCHD. Please note: Contrary to previous guidance, Grantees should NOT reserve up to 10% of Program Income in a separate account for Administrative expenses. See Financial Management Ch. III., pg. 6 for a more detailed explanation of the process of requesting funds.

Program Income and Revolving Loan Funds

Program Income earned by any activity can be deposited into an RLF (Revolving Loan Fund) that is designated for a specific NSP eligible use (e.g. Acquisition/rehab of residential properties, landbanking, or redevelopment/new construction of residential properties). Please note: Contrary to previous guidance, even if the grantee deposits its Program Income into an RLF, the Grantee is still required to spend Program Income first.

F. MONITORING OF NSP GRANTEES

All NSP Grantees will be monitored at least once per contract period. Many grantees will also receive a technical assistance visit during the contract period.

When Commerce NSP representatives come to monitor the NSP program, Grantees can expect the following:

- Grantee will be notified well in advance of the monitoring visit.
- Grantee will receive a letter and/or email prior to the monitoring visit describing when the reps will arrive and what will be reviewed during the visit.
- Grantee will be asked to provide an area in which at least two people can work comfortably.
- NSP reps have the right to review any NSP file or record.
- NSP reps may request that Grantee arranges site visits to properties and/or with program beneficiaries.
- To the extent that Grantee is able to have the necessary forms and documentation organized and labeled, the monitoring visit will go quickly and smoothly.

To ensure that the general NSP program files are complete, Grantees are asked to complete ATTACHMENT II-1 Program Files Checklist. NSP reps may also request that Grantees complete other checklists to facilitate efficient technical assistance and monitoring visits.

Attachment II – 1

NSP PROGRAM FILES CHECKLIST

GRANTEE _____ CONTRACT NO. _____

REVIEW DATE(S) _____ REVIEWER(S) _____

- _____ A. APPLICATION
 - ___ Application and supporting materials.
 - ___ Correspondence about the application.

COMMENTS

- _____ B. GRANT CONTRACT
 - ___ Date Grantee’s governing body approved NSP acquisition process
 - ___ COMM award letters.
 - ___ Signed grant contract plus any amendments and correspondence about any grant conditions.
 - ___ Signed MOUs with partnering agencies (List partnering agencies & date executed)

COMMENTS

- _____ C. PROCUREMENT FOR SERVICES UNDER \$100,000
 - ___ Grantee maintains file with signed procurement policy.
 - ___ Contractors/consultants/engineers/auditors hired using procurement: _____
 - ___ Price and rate quotations from three (3) qualified sources.
 - ___ Grantee provides a rationale for contractor selection or rejection.
 - ___ DHCD approval for purchase/lease of equipment valued in excess of \$2,000.

COMMENTS

- _____ D. PROCUREMENT FOR SERVICES ≥ \$100,000 (competitive sealed bid or competitive proposals)
 - ___ If using competitive proposal method for construction services document why sealed bid was not considered appropriate for formal Invitation for Bid (IFB) advertising in publications of general circulation
 - ___ Copy of RFP or IFB clearly stating technical requirements for good/services required
 - ___ Documentation of number of sources solicited for RFP or publications IFB was placed in
 - ___ Documentation of criteria used to evaluate proposals/bids
 - ___ Documentation of rationale of successful proposal’s merit over other proposals/bids

COMMENTS

- _____ E. **AUDIT**
 - _____ Single Audit letter submitted per requirements.
 - _____ Previous concerns and findings addressed.

COMMENTS

(N/A until Jan. 2011)

- _____ F. **NSP IMPLEMENTATION MANUAL, POLICIES & PROCEDURES**
 - _____ Current Implementation Manual & Forms.
 - _____ Documentation of up to date local income & rent limits.
 - _____ Approval of local policies by Committee/Board/Council.
 - _____ Housing Committee membership list.
 - _____ Housing Committee meeting minutes or affidavit of publication (Conflict of Interest).
 - _____ Process for indentifying qualified contractors.
 - _____ Program outreach materials & application.
 - _____ Process for application approval, denial and documentation.
 - _____ Record of annual LMMI tenant verification (or established system).
 - _____ HUD-approved Homebuyer Counseling agency.
 - _____ Separate files for each street address assisted.

COMMENTS

- _____ F. **ENVIROMENTAL REVIEW**
 - _____ Tier 1 approval from COMM (if applicable).

COMMENTS

MISCELLANEOUS

- _____ Grantee provided a blank set of forms (application/outreach materials) to Commerce.
- _____ Grantee understands 10-day project fund disbursement guideline.
- _____ Grantee has collected "lobbying" forms from all contractors receiving \geq \$100,000.
- _____ Grantee has Anti-Displacement Policy.
- _____ Grantee maintains timesheets for grantee staff time on NSP Program.

COMMENTS