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## **Sample Comment Letter for Neighborhood Stabilization Program (NSP2) Proposals**

The attached letter is a general template for advocates commenting on Neighborhood Stabilization Program (NSP2) proposals. Portions of this template have been excerpted from comments prepared by the Massachusetts Law Reform Institute, the Legal Aid Society of Minneapolis, the Milwaukee Housing Coalition, Legal Aid of North Carolina, Rhode Island Legal Services, Baltimore Regional Housing Campaign, Boston Tenant Coalition, the American Association of Retired Persons, and the Housing Umbrella Group of Florida Legal Services Inc. NHLP wishes to thank these organizations for sharing their advocacy materials.

The comment letter addresses the topics listed below. Note that some of the topics may not apply to a particular jurisdiction's NSP2 proposal.

1. Ensuring a Meaningful Opportunity for Citizen Participation
2. Placing an Emphasis on Rental Housing as Well as Homeownership
3. Providing Affordable Housing
4. Ensuring Long-Term Affordability
5. Maintaining Occupancy in Foreclosed Homes
6. Complying with Federal Tenant Protections
7. Furthering Fair Housing Goals
8. Demolishing or Converting Affordable Housing
9. Complying with Section 3

[Date]

[Applicant's Name, Address, Phone]

Dear [Applicant],

Thank you for the opportunity to comment on your proposed use of NSP 2 funds. [Insert description of your organization here.] As you finalize your proposal, there are several issues we hope you will consider.

### **1. Ensuring a Meaningful Opportunity for Citizen Participation**

The information provided by [state/county/city] fails to provide citizens with a meaningful opportunity to comment on the NSP2 proposal. The NSP2 NOFA repeatedly emphasizes the requirement that applicants foster citizen participation. An applicant must post on its website “a description of your proposed target geography, and proposed uses of NSP2 funds, in sufficient detail for affected citizens to understand how they may be affected.”<sup>1</sup> Further, “[a]pplication materials relating to target geography and proposed uses of funds must be posted on the applicant’s official website as the materials are developed, published, and submitted to HUD.”<sup>2</sup> HUD’s Community Planning and Development website makes clear that “NSP2 applicants must make their plans available to the public for a minimum of 10 calendar days prior to submission to HUD.”<sup>3</sup>

The minimal information provided by [state/county/city] falls far short of the NSP2 citizen participation requirements articulated in the NOFA and on CPD’s website. The information does not provide sufficient detail “for affected citizens to understand how they may be affected.”<sup>4</sup> To satisfy the NSP2 citizen participation requirements, [state/county/city] must immediately make available to the public all of its NSP2 application materials relating to target geography and proposed uses of funds. Further, [state/county/city] should post any forthcoming revisions to these materials on its website.

### **2. Placing an Emphasis on Rental Housing as Well as Homeownership**

While homeownership is an important goal, it should not be overemphasized in [state/county/city]’s proposal. Rental and/or cooperative housing under responsible ownership can be equally or more effective in stabilizing the targeted neighborhoods. Significant numbers of renters have been displaced or threatened with eviction as a result of the foreclosure crisis, and a sizable portion of NSP2 funds should be directed to them.

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<sup>1</sup> NOFA for NSP 2 under the American Recovery and Reinvestment Act 12, 13 (May 4, 2009).

<sup>2</sup> *Id* at 43-44.

<sup>3</sup> HUD Community Planning & Development, Neighborhood Stabilization Program 2, <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/arrafactsheet.cfm>.

<sup>4</sup> NOFA for NSP2 at 12, 13.

### **3. Providing Affordable Housing**

We have several suggestions for implementing NSP2’s requirement that 25% of funds be used for residential properties that will house persons whose incomes do not exceed 50% of area median income (AMI). First, given NSP2’s emphasis on projects that optimize economic activity, [state/county/city] should aim to exceed the federal 25% threshold and devote a higher percentage of NSP2 funds to rental opportunities for persons at or below 50% of AMI. Additionally, part of the funds should be specifically dedicated to providing housing that would serve the neediest households: those at or below 30% of AMI. Furthermore, the proposal should consider mixed-income developments that include units that are affordable to families at or below 50% of AMI. Coordination with other resources, such as Low Income Housing Tax Credits, project-based Section 8 and tenant-based rental subsidies, would maximize benefits to families that need the most help.

Additionally, we suggest that you consider partnerships with public housing agencies that could acquire homes as rental properties, perhaps with an option of resale through the Section 8 home ownership program, or when conditions change, on the private market. We also propose that all rental properties assisted by NSP funds adopt admission policies that ensure that no less than 25% of the units are occupied by persons with Section 8 vouchers. In addition to increasing the number of properties participating in the Section 8 program, this policy would ensure that low-income families benefit from NSP2 funds.

[Note: Advocates should also examine whether “affordable rents” as defined in the jurisdiction’s NSP2 proposal are in fact affordable to households with incomes at or below 50% of AMI.]

### **4. Ensuring Long-Term Affordability**

NSP2 recipients must ensure, “to the maximum extent practicable and for the longest feasible term,” that NSP2-assisted properties remain affordable to individuals whose incomes do not exceed 120 percent of AMI.<sup>5</sup> Recipients must also ensure, to the extent practicable, that those units housing individuals whose incomes do not exceed 50 percent of AMI remain affordable to those individuals. [State/county/city]’s proposal must identify the mechanisms it will employ to ensure permanent or long-term affordability for NSP 2-funded housing.

### **5. Maintaining Occupancy in Foreclosed Homes**

The proposal should prioritize avoiding abandonment and preserving the homes of tenants and former owners who remain after foreclosure. This would minimize the “musical chairs” detrimental impact on neighborhoods where current, often long-term, residents are forced out by foreclosing lenders, the property is acquired and rehabilitated, and new occupants are sought. Prioritizing occupancy will prevent the trauma of eviction, curb abandonment’s destructive impact on neighborhoods, and reduce the costs associated with providing shelter for displaced families.

We thus urge the [state/county/city] to prioritize housing that allows tenants and former homeowners to remain as renters or purchasers of their homes. Targeting Section 8 assistance

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<sup>5</sup> *Id.* at 45.

along with incentives to landlords to maintain tenancies would be an effective use of NSP 2 funds and the [state/county/city]'s leverage of Section 8 subsidies.

## **6. Complying with Federal Tenant Protections**

The proposal should make clear that in acquiring and rehabilitating foreclosed properties, [state/county/city] will comply with federal protections for tenants living in these properties. If NSP 2 funds are used to acquire housing occupied by Section 8 tenants, the initial successor in interest is subject to the lease and to the housing assistance payments (HAP) contract.<sup>6</sup> A public housing agency that is unable to make payments under the HAP due to the owner's rejection of the payments, the owner's failure to maintain the unit, or the PHA's inability to identify the owner, may use the payments for utilities that are the owner's responsibility, or for the family's moving costs. The proposal should also reiterate the ARRA requirement that NSP2 recipients may not refuse to lease a housing unit benefiting from NSP2 funds to a prospective renter because he or she is a Section 8 participant.

## **7. Furthering Fair Housing Goals**

To comply with fair housing and other civil rights obligations, the proposal should explain how NSP2 funds will be used to further fair housing choice and avoid the perpetuation of segregation and minority concentration in the areas where the funds will be spent. To meet these goals, [state/county/city] should use its NSP2 funds to develop affordable rental housing in higher opportunity areas with desirable jobs, lower crime rates, lower minority concentration, and quality schools. [Note: Advocates should discuss whether expenditure of NSP2 funds in the geographic areas identified in the proposal would further fair housing choice.]

## **8. Demolishing or Converting Affordable Housing**

[State/county/city] proposes to use a portion of its NSP2 funds for demolition. If any of the demolition activities involve low- or moderate-income units, [state/county/city] must identify all of the following in its application: (1) the number of low- and moderate-income units expected to be demolished or converted; (2) the number of affordable units (made available to low-, moderate-, and middle-income households) expected to be produced; and (3) the number of units expected to be made available for households whose income does not exceed 50 percent of area median income. [State/county/city] must also explain why, based on market conditions, it chose demolition of housing units versus preservation of the units. Additionally, [state/county/city] must develop and follow a residential anti-displacement and relocation plan.

## **9. Complying with Section 3**

The purpose of Section 3 is to provide employment and other economic opportunities to low- and very-low income individuals residing in localities where HUD funds are expended, in order to create a multiplier effect (i.e., stabilized neighborhoods, improved homes and increased job

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<sup>6</sup> *Id.* at 65-66.

opportunities) in those communities. NSP-funded projects must comply with Section 3 of the Housing and Urban Development Act of 1968, ensuring “to the greatest extent feasible” that 30% of new hires are Section 3 residents, and that 10% of covered construction contracts and 3% of covered non-construction contracts go to Section 3 business concerns.<sup>7</sup> [State/county/city] must certify that it will comply with Section 3. Failure to comply with Section 3 may result in sanctions that limit a recipient’s future ability to participate in HUD programs.<sup>8</sup>

Thank you for your attention to these concerns. We look forward to being of further assistance in helping develop your proposal.

Sincerely,

[Your name, organization]

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<sup>7</sup> 12 U.S.C. § 1701u; 24 C.F.R. Part 135.

<sup>8</sup> 24 C.F.R. §§ 135.38F, 135.74(d); 73 Fed. Reg. 79,548, 79,552.