



August 26, 2010
Community Planning and Development

NSP Policy Alert!

Guidance on the NSP1 Recapture and Reallocation Notice

What is the effect of this Notice?

This Notice amends the recapture provisions in the Oct. 6, 2008 NSP Notice, which required NSP funds not obligated (not under contract) by the 18 month deadline to be recaptured and returned to the Disaster Fund.

What is the purpose of this Notice?

The Department has been gratified by the effort of NSP1 grantees to obligate funds by the 18 month deadline. HUD's goal is to help distressed grantees deal with the effects of the foreclosure crisis. This Notice creates a new procedure to allow recaptured funds to be reallocated to other communities with high needs. The only funds currently targeted for recapture are the \$19.6 million minimum state allocation, which was awarded regardless of need.

The Notice also permits HUD to use other corrective actions, such as grant conditions, to ensure that the NSP funds are spent by the original grantees. The Department will assess all city and county grantees that have not obligated 100% of their grant amounts by the deadline and make a determination on necessary corrective actions. Every community with unobligated funds will be locked out of making further obligations in DRGR, until HUD Field Offices complete a review of the program. Even grantees with 100% obligations may have their obligations frozen for a few days while HUD conducts a spot check of a small number of transactions to verify accuracy. These reviews will include a sample of obligation documentation, open audit or monitoring findings, and the dollar amount of unobligated funds. Grantees may continue to spend previously obligated funding and Program Income.

For many grantees, the Department will impose grant conditions and for high need, low capacity grantees, the Department may require technical assistance to make certain that unobligated funds will quickly be placed under contract. Failure to carry out the conditions, accept technical assistance and achieve that goal could lead to recapture of unobligated funds. HUD's corrective actions, based the entitlement and State CDBG regulations, will match the action to the level of the deficiency. Grantees with small unobligated balances (under \$250,000) and no findings will receive a warning and 60 days to complete obligations. Grantees with large balances and/or audit and monitoring findings will receive progressively more stringent corrective actions. These actions might include: required obligation schedules, required technical assistance, contracting with an experienced subrecipient or development partner, cancellation of lagging activities, and similar steps.

The only funds subject to immediate recapture are the portion of state grants that were not allocated based on need. Congress initially allocated minimum grants to all states; 0.5% of the appropriation of \$3.92 billion went to each state. Therefore, up to \$19.6 million in unobligated funds per state will be recaptured and reallocated to high-need communities. Unobligated state balances above that level will be treated the same as city and county grants, with technical assistance and grant conditions to ensure performance. As of August 23, states had about \$300 million in unobligated balances under \$19.6 million.

The following chart summarizes these procedures graphically:

| Grantee Category | Corrective Action |
|---|---|
| All grantees with 100% of funds obligated and 25% obligated for set-aside | No corrective action. |
| Cities or counties under 100% obligated | Limited corrective actions, based on unobligated amount, including grant conditions and deadlines for 100% obligation. Grantee may continue to expend previously obligated funds and use Program Income. Progressively more serious corrective actions as noncompliant amount increases, such as required schedules for obligations, technical assistance, etc. |
| States with unobligated balances over \$19.6M | HUD will recapture all balances up to \$19.6M and reallocate to communities with high need. States will retain funds in excess of \$19.6 M, subject to conditions, technical assistance, etc. |
| States with unobligated balances under \$19.6M | HUD will recapture all balances and reallocate to high need communities. States may continue to expend previously obligated funds and use Program Income. |

How will reallocation work?

Obligation deadlines for almost all NSP1 grantees will have passed by October 1. Each grantee will have thirty days to correct its obligation figures before a final assessment. At that time, HUD will know how much funding will be recaptured. HUD will inform communities that are eligible to receive recaptured funds approximately how much funding they may receive. It is likely that most of the communities receiving recaptured NSP1 funds will also be eligible for NSP3 grants. Thus, the NSP3 and recaptured NSP1 funds can be planned in coordination, but must be applied for in two Substantial Amendments.

Eligible grantees will be required to prepare separate Amendments for recaptured NSP1 funds and NSP3 funds because the sources of funds are different. NSP3 funds will probably become available for award sooner than the recaptured NSP1 funds, but both the application processes and program operations will complement each other and minimize duplication to the extent possible.

What is the timeline for recaptured/reallocated NSP1 funding?

The following chart indicates the best current estimate of the NSP1 reallocation funding process.

| | |
|----------------|---|
| October 1: | Most NSP1 grantees reach 18 month obligation deadline |
| November 1: | Grantees complete 30 day period to verify obligations |
| November 15: | HUD announces tentative grant awards from recaptured funds and begins OMB process |
| December 1: | NSP1 grantees expecting recaptured funds start planning process (in conjunction with NSP3 in dual funded locations) |
| After Jan. 1: | HUD receives reallocated funds from OMB and starts accepting applications |
| After March 1: | HUD begins to make grant awards |

At this time, HUD anticipates that NSP3 funds may be available 2 to 3 months before NSP1 recaptured funds. Reallocated NSP1 funds will have a new 18 month obligation deadline.