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Neighborhood Stabilization Program 1 Reports: A Checklist for Housing Advocates

The Housing and Economic Recovery Act of 2008 allocated \$3.92 billion in Neighborhood Stabilization Program (NSP1) funds to states and Community Development Block Grant (CDBG) entitlement jurisdictions. Among other uses, state and local governments may use these funds to purchase or rehabilitate foreclosed or abandoned properties. Communities must allocate at least 25% of these funds to house families whose incomes do not exceed 50% of area median income. Congress treats the NSP1 funds as CDBG funds. Therefore, the funds are subject to the obligation to affirmatively further fair housing, as well as Section 3 employment requirements. Grantees must submit Quarterly Performance Reports (QPRs) and post them on their websites, enabling advocates to continue to monitor the use of NSP1 funds and ensure that they are being used to help preserve and create affordable housing.

This document provides an overview of the NSP1 reporting requirements. It also provides a detailed description of the QPR form and the types of information that it contains. Advocates should note that there is a possibility that the Department of Housing and Urban Development (HUD) will revise the QPR form. NHLP will apprise advocates of any changes to the QPR form. Perhaps most important, this document provides a checklist of issues that advocates should consider as they review their jurisdictions' QPRs. This document is limited to the NSP1 program and does not discuss reporting obligations for the Neighborhood Stabilization Program under the American Recovery and Reinvestment Act (NSP2).

The Reporting Requirements for NSP1 Grantees

Each NSP1 grantee must submit a quarterly performance report (QPR) no later than 30 days following the end of each quarter.¹ Grantees' reporting obligations began 30 days after the completion of the first full calendar quarter after they executed their grant agreements. As an example, some grantees executed their grant agreements in March 2009, so their first QPRs were due June 30, 2009. Their second QPRs were due September 30, 2009, and their third QPRs will be due December 31, 2009. Grantees must continue submitting QPRs until the end of the 15th month after they initially received their grant funds.

Each QPR includes information about the uses of funds, including the project name, activity, location, funds budgeted and expended, the funding source and total amount of any non-NSP

¹ Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008, 73 Fed. Reg. 58,330 (Oct. 6, 2008).

funds, numbers of properties and housing units, beginning and ending dates of activities, and numbers of low- and moderate-income persons or households benefiting. QPRs are submitted using HUD's online Disaster Recovery Grant Reporting (DRGR) system. At the time of submission, reports must be posted prominently on the grantee's official website.² Unfortunately, most grantees have not posted their QPRs online. To obtain a copy of the QPR, advocates should contact the entity responsible for administering NSP1 funds, which is typically the jurisdiction's department of housing, community planning or economic development. A sample letter requesting the QPR is attached to this checklist.

The Quarterly Performance Report (QPR) Form

Jurisdictions complete their QPRs by entering information into an electronic form. The June 30, 2009 QPRs for Chandler, AZ, Coral Springs, FL, and Evansville, IN, are attached to this checklist to familiarize advocates with the QPR form. Below we provide a description of the current QPR form and the types of information that it contains. The QPR form is subject to revision by HUD, and NHELP will notify advocates of any changes.

The top of the QPR form contains a field where jurisdictions can enter a narrative regarding their "Plan Description." Most jurisdictions use this field to describe the neighborhoods and census tracts that have been most impacted by the foreclosure crisis. The form next contains a field where jurisdictions can enter a narrative regarding their "Recovery Needs." Most jurisdictions use this field to provide a general overview of their planned uses for the NSP funds. The top of the form also displays the jurisdiction's total NSP budget, the amount of NSP funds the jurisdiction has drawn down, the amount of NSP funds the jurisdiction has obligated, and the amount of NSP funds the jurisdiction has expended. The form also contains a field where jurisdictions can enter a narrative regarding "Overall Progress." HUD has stated that this narrative "is especially helpful to report on status for activities before expenditures start such as [number] of contracts awarded/agreements signed, pending environmental review or procurement, etc. This can help to communicate why it doesn't look like progress is being made."³ This field can also be used to report "special accomplishments," such as community outreach.

The next section of the form contains a Project Summary, which displays the funds that the jurisdiction has spent on six eligible uses: (1) financing mechanisms; (2) acquisition/purchase and rehabilitation of property; (3) land banking; (4) demolition; (5) redevelopment; and (6) planning/administration. If a jurisdiction has not budgeted NSP funds for one or more of these eligible uses, they will not be displayed in the Project Summary. For example, if a jurisdiction does not plan to use its NSP funds for land banking, then land banking will not be displayed in the Project Summary.

Next, the jurisdiction must report the activities it has carried out under the eligible uses. For each activity, the jurisdiction must report the activity's title, the organization responsible for carrying out the activity, its start and end dates, the amount of funds that have been budgeted (from NSP

² *Id.* at 58,341.

³ HUD Community Development Systems, Disaster Recovery Grant Recovery System (DRGR) Frequently Asked Questions (July 1, 2009), http://www.hud.gov/offices/cpd/communitydevelopment/programs/drsi/pdf/drg_r_faqs.pdf.

as well as all other sources), obligated, expended, and drawn down on the activity, the number of properties acquired, rehabilitated, demolished, or built, the number of low-income and moderate-income households benefiting (both for the quarter and cumulatively), and the addresses of the properties acquired, rehabilitated, demolished or constructed.

The jurisdiction also must select which National Objective the activity meets. (For NSP purposes, only “low income benefit” is an option – not CDBG’s other options of “slum and blight” or “urgent need.”) For NSP, there are two “low income national objective” categories. If an activity serves populations below 50% of Area Median Income (AMI), its National Objective will be designated as “NSP Only – LH – 25 Set-Aside.” This enables advocates to identify which activities a jurisdiction is pursuing to meet its NSP income-targeting obligations, which require jurisdictions to allocate at least 25% of their NSP funds to house families whose incomes do not exceed 50% of AMI. The other low income national objective for NSP is “NSP Only LMMI” which means “Low Moderate Middle Income”.

For each activity, there are narrative fields where the jurisdiction can describe in greater detail the planned activity, the location of the activity, and the jurisdiction’s progress in completing the activity. These narrative fields would be good places for advocates to urge their jurisdictions to specify the definition of “affordable” and “length of affordability” for that specific activity, and if a rehab, the rehab standards used.

Issues of Particular Importance to Housing Advocates

To assist housing advocates in reviewing their jurisdictions’ QPRs, we have compiled a checklist of issues that are of particular interest to individuals working with low-income families.

Public Participation

- If the jurisdiction has not posted its QPR online, advocates should remind it that it is required to do so.
- If the jurisdiction has declined to complete the narrative sections of the QPR, such as the Plan Description, Recovery Needs, and Overall Progress sections, advocates should request that the jurisdiction complete these sections and post them online. The QPRs attached to this report contain detailed narrative sections that can be used as examples for other jurisdictions.
- Jurisdictions should hold public meetings for residents of neighborhoods where jurisdictions propose to acquire, rehabilitate, demolish, or construct properties.
- Advocates should urge jurisdictions to hold public meetings in conjunction with the drafting of their QPRs.

Income Targeting

- Has the jurisdiction identified any activities that will meet the NSP income-targeting obligations, which require jurisdictions to allocate at least 25% of their NSP funds to house families whose incomes do not exceed 50% of AMI? If an activity is intended to

serve populations below 50% of AMI, its National Objective will be designated as “NSP Only – LH – 25 Set-Aside.”

- Does it appear that the jurisdiction is on track to meet its obligation to allocate 25% of its NSP funds to families at or below 50% of AMI?
- If feasible, consider urging the jurisdiction to exceed the income targeting requirements by spending more than 25% of its NSP funds to house families at or below 50% of AMI.
- Does the QPR indicate whether the jurisdiction is using NSP funds to develop rental housing that will be affordable to low-income families? If so, is there any information regarding how rents will be set and whether they will in fact be affordable to low-income families?
- Is the jurisdiction working with the local housing authority to develop strategies for making housing affordable to families at or below 50% of AMI, such as using project-based Section 8 vouchers or the Section 8 homeownership program?
- If the jurisdiction proposes to use homeownership assistance to meet its income-targeting requirements, is homeownership feasible in your jurisdiction for families at or below 50% AMI?

Continued Affordability

- For each activity, has the jurisdiction stated how long it will maintain housing as affordable to families at or below 50% of AMI?
- To ensure that the community will remain accessible to low-income residents over the long-term, has the jurisdiction indicated what mechanisms it will use to maintain the affordability of housing developed with NSP funds? How will the jurisdiction monitor affordability over time?

Target Geography

- Are the activities being carried out in neighborhoods that you agree have the greatest need?
- Has the jurisdiction identified the census tracts or addresses of the properties it will be acquiring, rehabilitating, or demolishing?
- Has the jurisdiction explained why it is spending NSP funds in a particular neighborhood or census tract?
- Are the neighborhoods chosen primarily to complement downtown businesses, university areas, etc. and therefore have the potential of planting the seed of gentrification?

Fair Housing Considerations

- Will the jurisdiction’s decision to create affordable rental housing in a particular area have the effect of perpetuating minority concentrations in the neighborhoods where the NSP funds will be spent?
- Are homeowner activities largely devoted to primarily white neighborhoods?
- Is the jurisdiction using its NSP funds to develop affordable rental housing in areas with lower crime rates, lower minority concentrations, and quality schools?

- In marketing NSP homeownership or rental opportunities, has the jurisdiction made efforts to actively inform persons and groups less likely to participate in the local markets where the NSP funds are being spent?

Demolition

- Are the properties that the jurisdiction proposes to demolish in fact blighted? HUD guidance requires a definition of “blighted” that is consonant with local or state law. Is the jurisdiction complying with this definition?
- Is the demolition of affordable housing units disproportionate to the creation of such units?
- Has the jurisdiction explained why it chose demolition of housing units versus preservation of the units, particularly with regard to affordable housing units?
- Is demolition scattered all about, or is it undertaken in a strategic way that can foster landbanking or larger scale redevelopment?
- Has the jurisdiction indicated whether the properties targeted for demolition are occupied? If so, has the jurisdiction indicated how it will minimize involuntary displacement of residents? Has the jurisdiction indicated how it intends comply with the requirements of the Uniform Relocation Act?

Tenants in Foreclosed Properties

- If the jurisdiction is acquiring tenant-occupied properties, has it indicated how it and/or future owners of the properties will comply with the Protecting Tenants at Foreclosure Act?

Other Considerations

- Does it seem feasible that the jurisdiction will be able to obligate all of its NSP funds by fall 2010, and expend all of its NSP funds by spring 2013? If not, advocates should urge the jurisdiction to seek assistance from an NSP technical assistance provider.
- Does the number of households assisted or properties acquired/rehabilitated seem reasonable in light of the amount of the jurisdiction’s NSP allocation?
- Is there any indication that the jurisdiction is using its NSP funds to employ and contract with low-income residents and businesses in affected communities?
- Is the jurisdiction partnering with non-profits in order to maximize its capacity to serve low-income persons or individuals with special needs?
- Would it be possible for the jurisdiction to limit its administrative expenses in order to make more dollars available for NSP activities?
- Are energy efficiency and conservation included in rehabilitation activities?

To assist other advocates who are working on NSP issues, please contact Meliah Schultzman, mschultzman@nhlp.org, 510-251-9400 x. 3116, if you have strategies, documents, or information to share regarding local NSP advocacy.

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Sample Letter Requesting NSP1 Quarterly Performance Reports

[Date]

[Address]

Dear _____:

I am an [attorney or advocate] with [organization], a non-profit, public interest legal services organization that provides representation and counseling in matters pertaining to housing that is affordable to low-income families.

I am writing regarding [jurisdiction's] Neighborhood Stabilization Program (NSP). Our organization seeks to further the public interest by determining how NSP funds could benefit low-income families in [jurisdiction]. I am requesting the following documents:

1. All quarterly performance reports (QPRs) that [jurisdiction] has submitted to HUD regarding its NSP program as of this date.
2. The most recent version of [jurisdiction's] Action Plan substantial amendment for NSP.

Please forward the requested information by mail to [address], by email to [email address], or by fax at [fax number]. You can reach me by phone at [phone number].

As you are aware, QPRs are submitted using HUD's online Disaster Recovery Grant Reporting (DRGR) system. At the time of submission, QPRs must be posted prominently on the grantee's official website. *See* 73 Fed. Reg. 58,330, 58,341 (Oct. 6, 2008). We therefore request that [jurisdiction] prominently post its QPRs on its official website.

Thank you for your prompt response to this request.

Sincerely,

[Note to advocates: Consider submitting a request under your state's public records statute if necessary.]