



pennsylvania
DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT

Consolidated Plan Amendment 2004 - 2008

Action Plan for the Neighborhood Stabilization Program

November 2008

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Commonwealth of Pennsylvania
Edward G. Rendell, Governor
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Department of Community
& Economic Development
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NSP SUBSTANTIAL AMENDMENT DRAFT FOR PUBLIC COMMENT

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This document is a substantial amendment to the Action Plan for FFY 2008 submitted by the Commonwealth of Pennsylvania. The Action Plan is the annual update to the Consolidated Plan for FFY 2004 through 2008. This amendment outlines the expected distribution and use of \$59,631,318 through the newly-authorized Neighborhood Stabilization Program (NSP), which the U.S. Department of Housing and Urban Development (HUD) is providing to the Commonwealth. The NSP funds were authorized by the Housing and Economic Recovery Act of 2008 (HERA) as an adjunct to the Community Development Block Grant (CDBG) Program.

The Department of Community and Economic Development (DCED) will implement NSP funds, and will work in cooperation with the Pennsylvania Housing Finance Agency (PHFA) in order to expeditiously deliver and effectively administer these funds. PHFA provides access to a network of lending institutions and housing counseling agencies that will assist in fulfilling the requirements of NSP.

The purpose of the NSP funds is to address the effects of the housing crisis that occurred over the past five years due to subprime mortgage lending which, nationally, resulted in significant numbers of homeowners entering into foreclosure and entire neighborhoods becoming vacant and abandoned. Pennsylvania, while above the national average in numbers of subprime mortgage loans, has not experienced the same level of housing foreclosures. The Commonwealth's less than average foreclosure problems could be attributed to the proactive approach taken by PHFA and the state Department of Banking to address mortgage lending abuses in the northeast region of the Commonwealth during 2005, and because of the effectiveness of state programs such as PHFA's Homeowner's Emergency Mortgage Assistance Program (HEMAP) and other refinancing programs. PHFA launched its refinancing programs, REfinance to an Affordable Loan Program (REAL) and Homeowners' Equity Recovery Opportunity Loan Program (HERO), in 2007 to address the initial wave of problem loans.

While the foreclosure problems may not match the relative size of the subprime lending that occurred, Pennsylvania still has significant needs and housing problems due to the subprime lending crisis. Pennsylvania has approximately 213,000 sub-prime loans of which 16.69 percent are delinquent. Of the 213,000 subprime loans, 136,000 are fixed-rate of which 13.20 percent are delinquent, and 77,000 adjustable rate mortgages (ARMs) of which 22.52 percent are delinquent. Further, the level of

foreclosures resulting from these problematic mortgages has placed an increased burden on housing agencies and programs as they seek to assist families and individuals caught in this national tragedy.

DCED will use the NSP funds for the purposes intended – to promote neighborhood stabilization where subprime lending, foreclosure and housing vacancies have negatively affected the housing market. Accordingly, DCED will give priority to those applicants that can effectively target NSP resources to neighborhood stabilization projects that will address these problems in areas with the greatest needs. The Commonwealth defined such geographic areas using the best data available to support its definition of areas of greatest need. DCED also encourages model targeting strategies to effectively utilize the NSP funds as outlined in **Stabilizing Neighborhoods by Addressing Foreclosed and Abandoned Properties**, which is found at: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/download.aspx?id=745>.

A. AREAS OF GREATEST NEED

The Commonwealth will use the following two sources of data to identify its Areas of Greatest Need:

1. HUD Risk Score – Measures the estimated foreclosure and abandonment risk of every Census block group in the Commonwealth. This score includes data to assess areas with the greatest percentage of home foreclosures, the highest percentage of homes financed by subprime mortgage-related loans and those identified as likely to face a significant rise in the rate of home foreclosures. The HUD Risk Score also addresses all of the statutorily required needs factors. This score is scaled from 0 to 10, with 10 being the highest or greatest risk. A complete listing of the risk score and data for each Census block group is available at the following website:

http://www.huduser.org/publications/commdevl/excel/PA120_LM.xls.

2. Home Mortgage Disclosure Act data – Statistics on the percentage of subprime mortgages issued, by county, from 2004 through 2006 compared to the total number of mortgages issued during the same time period. The percentages ranged from 10.69 percent to 33.59 percent. A complete listing of the data is available at the following website: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/download.aspx?id=743>.

The Commonwealth will recognize two categories of Areas of Greatest Need:

- **Qualified Need Areas:** Any applicant for NSP funds must have within its geographic jurisdiction a Census block group with a HUD Risk Score of six (6) or higher, or be located in a county with subprime mortgages totaling at least 23.99 percent or higher of total mortgages issued. All applicants must show that their jurisdictions meet the “Qualified Need Area” level of need, which constitutes the threshold of eligibility for NSP funds.
- **Priority Need Areas:** Jurisdictions with a HUD Risk Score of eight (8) or higher will be deemed Priority Need Areas. Applicants from Priority Need Areas will receive priority consideration in the funding distribution and award process. These applicants do not have to restrict their activities to only the Priority Need Census block groups, but must demonstrate how the activities they undertake will address the problems faced in those areas and population groups located there.

These areas of the Commonwealth are displayed in the map found at: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/download.aspx?id=744>.

B. DISTRIBUTION AND USES OF FUNDS

Distribution Process

DCED will competitively award NSP funds based upon applications from eligible applicants postmarked by January 9, 2009. Applications must be submitted using the DCED electronic Single Application for Assistance as further outlined in the DCED Neighborhood Stabilization Program Guidelines and Application Kit, found at: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/index.aspx?progId=182>.

The applications will be reviewed according to the process outlined in this Action Plan, and DCED anticipates making award decisions by January 31, 2009. DCED, as it currently administers the HOME Program in partnership with PHFA, will also review these applications jointly with staff from that agency.

The application due date and target award date are subject to change based upon HUD's approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. DCED urges potential grantees to be on alert for such changes, which will be posted on the DCED website with other NSP publications and materials. That website is: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/index.aspx?progId=182>.

Administrative Funds

The Commonwealth will share the 10 percent of the NSP funds available for administrative uses as follows: 4 percent shall be retained by the Commonwealth for administrative and monitoring requirements of the program (including potential use for specific tasks performed by PHFA), and six percent shall be available to grantees receiving the funds. This distribution is consistent with the Commonwealth's use of administrative funds for the federal HOME Program.

Eligible Applicants

NSP funding is available to any unit of local government in the Commonwealth meeting the definition of an Area of Greatest Need that also currently receives an annual allocation of CDBG funding either through the State's Act 179 distribution formula or that qualifies as a direct federal entitlement jurisdiction under the CDBG program. In addition, nonprofits, housing authorities or redevelopment authorities in Areas of Greatest Need may also apply directly for these funds. Eligible entities must submit evidence that they have in place at the time of application the following plans and certifications:

- Fair Housing Plan

- Section 3 Plan

- Minority Business Enterprises/Women-Owned Business Enterprises Plan

- Certification of Consistency with either:

- Local Consolidated Plan (for federal CDBG entitlement areas)

- Local 3-Year Community Development Plan (for all other areas)

- Identify a Responsible Entity for conducting the Environmental Review

For the five jurisdictions receiving direct federal allocations of NSP funds (Philadelphia, Pittsburgh, Allegheny County, Allentown and York County), DCED will only contract with the local governments administering those funds. DCED will not accept applications from any other eligible applicant within those jurisdictions except direct federal entitlement jurisdictions within Allegheny County and York County that receive annual federal allocations of CDBG funds.

The Commonwealth is incorporating the local action plans and needs of the five jurisdictions receiving a direct allocation of NSP funds by reference and providing the links below. We will adhere to the local NSP Action Plans that are submitted to and approved by HUD for those five jurisdictions. The Commonwealth's award of any of its NSP funds to these counties or cities will conform to those local action plans, which the Commonwealth adopts by reference below:

City of Philadelphia: <http://www.phila.gov/ohcd/nsp.htm>
City of Pittsburgh: http://www.city.pittsburgh.pa.us/cp/html/community_development.html
City of Allentown: <http://www.allentownpa.gov/tabid/296/Default.aspx>
Allegheny County: http://www.economic.alleghenycounty.us/resources/one_year.aspx
York County: http://www.ycpc.org/community_development_docs/Neighborhood_Stabilization_Program_York_County.pdf

Eligible Activities

DCED will make NSP funds available for the following statutorily eligible activities. Activities that are eligible under HERA include the following:

- a. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
- b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.
- c. Establish land banks for homes that have been foreclosed upon.
- d. Demolish blighted structures.
- e. Redevelop demolished or vacant properties.

HUD has established restrictions on these activities in its Notice on the allocation and application process for NSP funds. In particular, several of these activities are only eligible if the use of funds will address a foreclosed property. HUD has also waived the one-for-one replacement, but requires documentation on the number of units that will be produced. DCED will administer NSP funds with the maximum authorized flexibility while adhering to HUD-mandated restrictions. DCED will also advise and provide technical assistance to all of its applicants regarding these requirements.

The eligible activities outlined in this Action Plan for NSP funds are subject to change based upon HUD's approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. DCED urges potential grantees to be on alert for such changes, which will be posted on the DCED website with other NSP publications and materials. That website is: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/index.aspx?progId=182>.

Grant Amounts

DCED anticipates that the amount of funds that can be applied for and approved will vary with population and need of the area. As guidance for potential applicants, DCED recommends that applicants apply for funding amounts commensurate with:

- Cost of the project
- Consideration of other applications submitted for NSP funding

- Need of the jurisdiction (HUD Risk Score and subprime lending activities)
- Capacity to carry out the proposed activities in a timely manner

DCED also reserves the right to adjust requested application amounts based on the information provided by the applicant to justify the needs of the jurisdiction and the capacity to carry out the proposed activities in a timely manner. Additionally, DCED reserves the right to adjust contracted amounts based upon actual performance and progress toward full utilization of funds within the initial 18 months of the program.

Selection Criteria and Priorities

The Commonwealth of Pennsylvania has established the priorities and scoring described below that will be used in the application review process. While each criterion is important to demonstrate a successful proposal, the scoring structure was designed to assure that the Commonwealth complies with the HUD Notice, meets applicable CDBG regulations, and effectively spends the funds:

- **Neighborhood Stabilization (20 Points):** The Commonwealth will give priority to those proposals that demonstrate a strong connection to neighborhood stabilization activities, consistent with Commonwealth's existing housing priorities for Targeting, Leverage, and Impact in its Consolidated Plan. The Commonwealth will draw a distinction in awarding priority points to give more points to those applications that connect NSP-funded activities to housing foreclosure and abandonment problems caused by problematic mortgage lending activities. Priority will also be given to proposals that will support other neighborhood stabilization activities consistent with Targeting Leverage, and Impact as defined in the Commonwealth's Consolidated Plan. These priorities are listed on pages 9 through 11 of the 2008 Action Plan at: <http://newpa.com/strengthen-your-community/technical-assistance/download.aspx?id=155>. Applicants should also give consideration to the strategies suggested in **Stabilizing Neighborhoods by Addressing Foreclosed and Abandoned Properties**, which is found at: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/download.aspx?id=745>.
- **Capacity of Applicant and Program Administrators (20 Points):** The Commonwealth will give priority to applications that exhibit strong capacity to administer NSP in two manners.
 - Knowledge, implementation, and compliance of activities funded through the CDBG Program. DCED will also assess any prior significant monitoring findings or program weaknesses that have not been addressed, as well as performance on prior DCED contract closeout requirements. (15 Points)
 - Experience administering and delivering the specific activities for which the NSP funds would be used. If significant administrative responsibilities will be assigned to another entity via subcontract, the experience of that entity will be considered as well. (5 Points)
- **Assistance to Low-Income Households At or Below 50 percent AMI (20 Points):** In order to meet the requirement that at least 25 percent of all NSP funds assist households at or below 50 percent of the area median income (AMI), the Commonwealth will give priority to proposals that will serve persons in this income category. Proposal scores will be prorated according to the percentage of funds that will benefit households at or below 50 percent AMI. **NOTE:** DCED will impose the assistance to low-income households proposed in applications as contract conditions with required performance levels in order to receive NSP grant payments.

- **Priority Need Areas (15 Points):** While all applicants must serve Areas of Greatest Need to be eligible for NSP funding, the Commonwealth will give priority to proposals that address the Priority Need Areas as defined in this Action Plan. To qualify for this criterion, an applicant is not required to use all NSP funds in the geographic location(s) defined as Priority Need Areas, however, the applicant must clearly contain Priority Need Area(s) within its jurisdiction and must detail how NSP or other funding will address the housing problems in these Priority Need Area(s).
- **Multi-Municipal Proposals (10 Points):** The Commonwealth will give priority to those applications that will serve multiple municipalities and demonstrate effective inter-governmental cooperation in addressing needs in multiple locations. This priority will include proposals submitted by county governments and regional efforts to manage efficiently NSP funds. The applicant must demonstrate a strong management role in the program delivery, not just conduit funding for multiple locations.
- **Green Building (10 Points):** The Commonwealth will give priority to proposals that utilize Green Building components and techniques. The highest priority will be given to those proposals that assure construction activities will meet a national standard for Green Building, such as Leadership in Energy and Environmental Design (LEED) or the National Association of Home Builders (NAHB) Green Building Program. Proposals that demonstrate use of energy-efficient design and materials will also be given priority.
- **Land Banks (5 Points):** The Commonwealth will give priority to proposals that will establish land banks as a means of addressing the problems encountered due to foreclosed properties.

High Performing Grantees

The Commonwealth reserves the right to delay funding a portion of its allocation of NSP funds in order to award additional funding to high performing grantees at a later date. The amount for deferred approval will be determined based on the quality of applications received and capacity of applicants to utilize the funds awarded initially.

C. DEFINITIONS AND DESCRIPTIONS

The following section describes the Commonwealth's definitions of significant terms and program requirements for which HUD is mandating a response. **NOTE:** The first four definitions are HUD-required and the remaining ones are list alphabetically.

1. Blighted Structure

The definition of "blighted structure" is outlined in two state laws, the Eminent Domain Law and Urban Redevelopment Law. Given that NSP funds essentially cannot be used for Eminent Domain, Pennsylvania's Urban Redevelopment Law defines "blighted property" and can be found at 35 P.S. § 1712.1(c). Per that definition, blighted property shall include:

- a. Any premises which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire and related codes.

- b. Any premises which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures.
- c. Any dwelling which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the municipality, has been designated by the department responsible for enforcement of the code as unfit for human habitation.
- d. Any structure which is a fire hazard, or otherwise dangerous to the safety of person or property.
- e. Any structure from which utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that property is unfit for its intended use.
- f. Any vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood, which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin.
- g. Any unoccupied property which has been tax delinquent for a period of two years prior to the effective date of the act (P.L. 991, 1945), and those in the future having a two year tax delinquency.
- h. Any property which is vacant but not tax delinquent, which has not been rehabilitated within one year of receipt of notice to rehabilitate from the appropriate code enforcement agency.

2. Definition of Affordable Rents

NSP-assisted units will carry rent and occupancy restriction requirements. The rents will be set in order that individuals pay no more than 30 percent of their gross income for rent, including utilities or the applicable fair market rents for the area less any utility costs paid by the tenants, whichever is lower.

3. Continued Affordability

HUD requires that states ensure, to the maximum extent practicable and for the longest feasible term, the continued affordability of housing units assisted with NSP funds, including homes sold, rented, rehabilitated/improved, or redeveloped. These housing units must remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income (AMI).

DCED will require that all grantees adhere to the HOME Program affordability requirements and standards. Any rental units assisted or developed with NSP funds fulfilling the requirements to create housing for households with incomes no greater than 50 percent AMI must remain available to households within that income limit for the duration of HOME Program affordability period.

Current HUD regulations state that all rental income above that needed for operations, maintenance and reserves is considered program income and must be returned to HUD. This provision does not provide for a sliding scale or shared return of those funds. Therefore, DCED encourages applicants to consider the long term feasibility of rental housing using these funds.

Rent, occupancy, and affordability requirements for homebuyer and rental units will be enforced with covenants, mortgages, or deed restrictions running with the property.

The definition of "Continued Affordability" in this Action Plan for NSP funds is subject to change based upon HUD's approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. DCED urges potential grantees to be on alert for such changes, which will be posted on the DCED website with other

NSP publications and materials. That website is: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/index.aspx?progId=182>.

4. Housing Rehabilitation Standards

The Uniform Construction Code (UCC) was adopted on April 9, 2004 for the state of Pennsylvania and is applicable to the construction, alteration, repair, movement, equipment, removal, demolition, maintenance, occupancy or change of occupancy of every building or structure which occurs on or after April 9, 2004.

DCED's Housing Rehabilitation Guide explains the applicability of the UCC, as well as local code requirements. Where no codes are in place, the housing rehabilitation standards in the guidebook will be the minimum acceptable housing rehabilitation standards. The guidebook can be found at DCED's website: <http://newpa.com/strengthen-your-community/technical-assistance/download.aspx?id=164>.

5. Abandoned Property

A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

6. Foreclosed Property

A property "has been foreclosed upon" at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

7. Greatest Need Areas (including Qualified Need Areas and Priority Need Areas)

The Commonwealth's definition of Areas of Greatest Need, as well Qualified Need Areas and Priority Need Areas, are found in Section A., Areas of Greatest Need of this Action Plan.

8. Vacant Property

The Commonwealth's definition of vacant property will include any property that meets one of the following criteria taken from the Urban Redevelopment Law and can be found at 35 P.S. § 1712.1(c):

- Any unoccupied property which has been tax delinquent for a period of two years prior to the effective date of the Act (P.L. 991, 1945), and those in the future having a two-year tax delinquency;
- any property that is vacant, but not tax delinquent and has not been rehabilitated within one year of receipt of notice to rehabilitate from the appropriate code enforcement agency; or
- any property that is vacant, but not tax delinquent and has not been occupied for a period of at least three years.

D. LOW-INCOME TARGETING

The Commonwealth's estimated amount of funds appropriated or otherwise made available under the NSP to be used to purchase and redevelop abandoned or foreclosed upon homes or residential properties

for housing individuals or families whose incomes do not exceed 50 percent of area median income (AMI) will be at least \$14,907,830.

All applicants will be encouraged to respond to the housing needs of households that do not exceed 50 percent AMI through the scoring system for applications. That scoring system will provide additional points for any proposal that serves this low-income population category.

Note: If the Commonwealth does not receive proposals totaling at least 25 percent of the NSP funds (\$14,907,830) for this population group as required by statute, DCED will withhold awarding other grants until additional eligible proposals/activities are identified to meet this requirement. DCED may choose to solicit additional applications, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent AMI requirement.

E. ACQUISITIONS AND RELOCATION

While HUD waived the “one-for-one” requirement to replace all housing units for low and moderate-income households that are lost due to demolition or modification of housing, the HUD Notice on NSP requires information about how such losses will be mitigated. The Commonwealth anticipates demolishing and converting buildings that would result in the loss of low and moderate-income housing units with NSP funds. This section of the Action Plan offers a planning estimate on the use of the funds for demolition and number of units to be lost. This section also notes the efforts to mitigate the loss of such housing units using NSP and other funding sources.

- Pennsylvania will demolish or convert properties that will result in the loss of 1,000 housing units for low and moderate-income households, not to exceed 80 percent AMI.
- Pennsylvania expects to make available 770 affordable housing units for low, moderate and middle-income households, not to exceed 120 percent AMI.
- Within that total number of housing units, 210 units will be made available for low-income households, not to exceed 50 percent AMI.

Time Schedule

The Commonwealth’s proposed time schedule anticipates that acquisition and construction work on these units will begin as of April 2009, and the majority of these units will be completed by May 2010.

F. PUBLIC COMMENT

The Commonwealth of Pennsylvania provided an opportunity for public comment on this Action Plan for Neighborhood Stabilization from November 1 to November 17, 2008. The draft Action Plan was placed on DCED’s website and was announced through publication in the *PA Bulletin* via email notifications to all federal entitlement and state CDBG and HOME grantees, as well as an interested persons mailing list that was established in early October 2008. DCED also posted a translated Spanish version of the draft Action Plan on its website.

During the public comment period, DCED also made its staff available in several venues to meet in person with stakeholders and discuss their comments. DCED staff met with the Homeless Steering Committee, the lead agency for the four “balance of state” Continuums of Care that serve smaller cities and rural areas, and coordinate with Continuums of Care serving federal entitlement jurisdictions. DCED

also met and discussed the draft plan and potential models to use NSP funds with the Community Development and Housing Practitioners Advisory Committee.

DCED staff also presented information about the draft plan in a conference call, co-sponsored by the Housing Alliance of Pennsylvania, which was open to anyone in the state to discuss and comment on the draft document. A total of 67 people participated on that call. Following the call, DCED placed a copy of the PowerPoint presentation and a link to the recording of the call on DCED's NSP website: <http://newpa.com/find-and-apply-for-funding/funding-and-program-finder/funding-detail/index.aspx?progId=182>.

By the end of the public comment period, 15 organizations or individuals submitted written responses to DCED regarding the draft Action Plan. While DCED received many comments of support, it also received suggestions for changes or modifications. This section of the Action Plan summarizes those comments, as well as outlines the changes made or justification for not making the suggested changes.

Comments from Community Development and Housing Practitioners Advisory Committee

During the meeting of this Advisory Committee with DCED staff, the Advisory Committee pointed out that the eligible applicants included nonprofit organizations, excluding redevelopment or housing authorities. The committee members pointed out that providing the authorities with the same eligibility would permit prompt responses from local communities that want to apply and address this housing crisis. DCED acknowledged this oversight and revised the Plan to include redevelopment and housing authorities as eligible applicants.

City of Philadelphia

Staff from the City of Philadelphia made comments during the open conference call and in writing during the public comment period. The City provided the only request for a change or modification to the Action Plan during the conference call. This change regarding the term of affordability restriction was also raised in its written comments.

The City, as a recipient of a direct allocation of NSP funds, was concerned that the Action Plan could require the City to develop two programs or sets of procedures for use of NSP funds due to requirements imposed in its local Action Plan that might be different from the Commonwealth's Action Plan. The specific examples given were related to the standards established for the term of affordability and use of the City's building code. The City indicated that it plans to use the HOME standards for affordability, while DCED proposed to use a different standard.

The Commonwealth agrees with this concern in two ways – on the specifics of the affordability standard and on the broader policy level.

DCED prepared its Action Plan with the understanding that the HUD Notice on NSP required a more stringent standard on affordability than the HOME Program. During a conference call sponsored by the National Governors Association (NGA) on November 12, 2008, HUD staff verbally clarified that the HOME standards are acceptable. Consequently, DCED revised the Action Plan to state that the HOME standards will define the term of affordability for NSP funds.

The Commonwealth acknowledges that even after making this change on the term of affordability, other issues or points could be in conflict between its Action Plan and local Action Plans. Consequently, DCED will adhere to any local NSP Action Plan and allow the use of the Commonwealth's NSP funds to

conform to that local Action Plan. DCED modified its Action Plan to incorporate those local plans in its description of eligible applicants.

Philadelphia indicated another concern that the time frame for submitting local proposals may impede obtaining the local government approvals necessary for a complete application. DCED acknowledges that it will accept and consider preliminary proposals ahead of the local government approval. A change in the Action Plan is not necessary to permit this process.

Finally, the City disagreed with assigning points in the review process for multi-municipal applications and proposals that undertake land bank activities. The Commonwealth disagrees with the concerns about providing points for both criteria. Regarding multi-municipal applications, DCED seeks to reward proposals that can demonstrate local government efficiencies and regional strategies to address community development problems. DCED also provided only a minimal number of points for land bank activities as an encouragement for communities to attempt such activities in Pennsylvania. The evidence and information available nationally suggest that land banks are a successful approach to revitalizing communities. Consequently, the Commonwealth did not change its scoring criteria.

Pennrose Service Company

Pennrose submitted comments on several points. Many of the points offered suggestions on how to use the NSP funds or specific activities that could be undertaken. While instructive, this information did not warrant any changes to the draft Action Plan.

Pennrose proposed the following changes, summarized along with the Commonwealth's response to each change:

- Create a funding process similar to a construction loan that allows for a local advance of funds and incremental draws as work is completed.

DCED must abide by the federal cash management regulations that preclude advance draws of funds. Consequently, this funding structure is not workable for NSP dollars.

- Set a fair developer's fee.

The Commonwealth did not specify any restriction on developer's fees in order to maintain flexibility. During the review process, the Commonwealth will seek to fund the best proposals and applicants should prepare competitive applications that attempt to use the requested funds most effectively.

- Establish a rehabilitation/construction standard that is more stringent than the statewide building code.

The Commonwealth does not want to impose anything more restrictive than the statutory construction standards. Locally, applicants can impose a more stringent approach in their application proposal, such as one of the national Green Building standards. Such proposals will receive added scoring points to acknowledge the desirability of that higher quality approach.

- Use NSP funds to create an ongoing operating subsidy to support rental housing for households at or below 50 percent of AMI to provide support that functions similar to a rental payment subsidy.

The Commonwealth is seeking clarification regarding a restriction in the HUD Notice that prohibits such an internal operating subsidy. DCED intends to work with others to seek a change to the HUD Notice, the federal statute, or both, to authorize such a use of the funds. Until that change occurs, DCED recommends that applicants partner with public housing authorities, Supportive Housing Programs, and Housing for Persons with AIDS/HIV (HOPWA) programs, which can provide ongoing rental assistance for tenants of rental properties that received NSP funds.

- Establish a capital reserve account to assist homeownership project households at or below 50 percent of AMI.

DCED is seeking clarification from HUD to determine whether such an activity is an eligible activity for NSP funds. DCED is also requesting HUD's approval relative to the 18-month limit to allow the use of NSP funds for this purpose beyond that time period. DCED will request that HUD deem the deposit into such a capital reserve account for homeownership during the 18 months an action "that uses" the funds upon that deposit. If authorized by HUD, the Commonwealth would allow such activities and amend its Action Plan as necessary.

HIV/AIDS Comment

A person representing persons with HIV/AIDS requested that NSP funds be made available for supportive services for this population group. While it would be desirable to provide these supportive services in connection to housing, the list of eligible activities in the statute does not authorize the Commonwealth to use NSP funds in this manner. Consequently, the Commonwealth did not change its Action Plan.

10,000 Friends of Pennsylvania

The comments from 10,000 Friends commended the approach taken in the draft Action Plan and offered several principles to attain the maximum impact for the NSP funds. Those principle are:

- Know your markets and be strategic.
- Target resources.
- Work with existing partners and programs at the local level.
- Government agencies need to coordinate at the state levels.

The Commonwealth also supports these principles and believes that its selection criteria will achieve the first three principles through its review process. The Commonwealth has pursued the fourth principle through the efforts of the Community Action Team (CAT) to coordinate the provision of state and federal resources for community revitalization projects.

Village Homes & Properties, LLC

These comments recommended two changes to the draft Action Plan. First, this organization urged the Commonwealth to broaden the definition of Areas of Greatest Need by changing the definition to include block groups with a HUD Risk Score of five instead of six. The Commonwealth did not receive comments from any other organization or individual indicating the need to broaden the definition of Areas of Greatest Need. The proposed definition in the Action Plan appears to be sufficiently broad to identify areas across the Commonwealth without opening up too many areas that would dilute the

targeting approach that the HUD Notice compels and which the Commonwealth seeks to implement. Consequently, the Action Plan was not changed.

Second, this organization recommended that the Commonwealth modify the Action Plan to define as an eligible property instances in which a single-foreclosed mortgage covers multiple properties located in multiple block groups with most properties located in Qualified Need Areas, but a lesser number located outside of Qualified Need Areas. The Commonwealth did not modify its Action Plan for this unusual circumstance, but instead acknowledges that DCED would be willing to consider a prorated approach to provide assistance to those properties located within the Qualified Need Areas provided other aspects of the proposal rank highly.

University of Pittsburgh & Carnegie Mellon University

A joint set of comments from the University of Pittsburgh and Carnegie Mellon University recommended several steps to utilize data in the decision-making process to select applicants strategically where markets can recover and to evaluate the use of NSP funds afterward. Their comments specifically recommended that additional data be gathered to improve both processes of the program. The Commonwealth will gather such additional data to be identified in the program guidelines and instructions issued by DCED to potential grantees. DCED will also be interested in the support universities and research organizations can provide for this program; however, no change to the Action Plan was required for these comments.

Greater Philadelphia Urban Affairs Coalition

The Greater Philadelphia Urban Affairs Coalition offered two recommendations to change the Action Plan that could support the organization's efforts to address the foreclosure crisis in the Philadelphia area. The Coalition urged the Commonwealth to establish scoring points for proposals that use community development corporations to implement the proposed activities. The Commonwealth disagrees with this approach because the selection criteria are designed to identify the strongest proposals regardless of applicant. There are factors in the criteria that assess the strategy and capacity of an organization to undertake use of the funds. Strong organizations will receive consideration through this approach, and the Commonwealth will not provide scoring points simply due to the incorporation status or organizational structure of the applicant.

The second recommendation from the Coalition urged that the selection criteria give points for proposals able to arrange acquisitions of real estate-owned (REO) properties from major lenders. The Commonwealth's selection criterion for neighborhood stabilization specifically indicates that the Commonwealth will make a distinction in awarding priority points to give more points to those applications that connect NSP-funded activities to housing foreclosure and abandonment problems. Consequently, the Action Plan does not require a change to address this point.

Habitat for Humanity of Lebanon County

The Commonwealth received separate comments from eight people associated with the Habitat affiliate in Lebanon County. All of them offered the same or similar recommendation that the Action Plan reserve a portion of the state's allocation for Habitat for Humanity projects. The Commonwealth disagrees with this approach because the selection criteria are designed to identify the strongest proposals regardless of applicant. There are factors in the criteria that assess the capacity of an organization to undertake use of the funds. Strong organizations and those proposals that will serve low-income households will receive consideration through this approach, and the Commonwealth will not provide scoring points simply due to the incorporation status or organizational structure of the applicant.

Informal Comments

Several individuals provided informal recommendations when attending the meetings to discuss the Action Plan during the public comment period. The only significant issue raised at these meetings was to request a broader definition of “vacancy.” As a result, DCED added a point to include properties that are vacant for at least three years.

Stylistic and Clarifying Edits

During the public comment period and prior to submitting the final Action Plan to HUD, DCED made some minor stylistic and clarifying edits to the document. These changes did not change the intent or substance of the document.

G. NSP INFORMATION BY ACTIVITY

This section contains the Commonwealth's summary of each activity anticipated for NSP funds. There is a separate page for each activity which provides planning estimates. The Commonwealth intends to provide additional details on these activities once local applications are received and approved, including information by Areas of Greatest Need.

1. **Activity Name:** **Financing Mechanisms**
2. **Activity Type:** NSP Activity (A); CDBG Eligible Activity 24 CFR 570.206 Delivery Costs, 24 CFR 570.201 (n) Direct homeownership assistance (as modified)
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income persons, as defined in the NSP Notice (\leq 120 percent of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates a small amount of funds to be directed into this activity for homeownership. The Commonwealth currently has significant resources available to homeowners through the Pennsylvania Housing Finance Agency (PHFA) and its network of lending institutions. PHFA's programs and other lenders can supply the vast majority of need for financing homebuyers that will acquire foreclosed properties. Consequently, the amount budgeted in this category is minimal.

It is anticipated that funds may assist those households at or below 50 percent AMI because they are least able to qualify for homeownership.

All housing activities will be subject to the definitions of affordability outlined in this Action Plan.

The range of interest rates will be determined once local programs are developed, and those programs establish detailed procedures for these financing activities.

1. Activity Name: Acquisition
2. Activity Type: NSP Activity (B); CDBG Eligible Activity 24 CFR 570.201 (a) Acquisition, and (b) Disposition
3. National Objective: Meets national objective benefiting low, moderate and middle-income persons, as defined in the NSP Notice (\leq 120 percent of area median income)
4. Projected Start Date: March 1, 2009
5. Projected End Date: February 28, 2014
6. Responsible Organization: Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. Location Description: To be determined once local applications are approved
8. Activity Description:

The Commonwealth anticipates the largest share of funds to be directed into this activity primarily for homeownership. The properties acquired will be ultimately made available to income-eligible buyers. The Commonwealth currently has significant resources available to homeowners through the Pennsylvania Housing Finance Agency (PHFA) and its network of lending institutions. PHFA's programs and other lenders can supply the vast majority of need for financing homebuyers that will acquire foreclosed properties.

It is anticipated that minimal funds may assist those households at or below 50 percent AMI because they are least able to qualify for homeownership. It is anticipated that these minimal funds may assist households at or below 50 percent AMI in rental housing.

All housing activities will be subject to the definitions of affordability outlined in this Action Plan.

The amount of purchase discount will meet HUD's required fifteen percent discount. While a better estimate of the discount will be available once local applications are approved, the exact discount rate achieved will be determined once acquisitions occur. Since access to foreclosed properties from major lenders and large mortgage servicing firms appears to require a coordinated approach, DCED will work with PHFA to facilitate such acquisitions for local grantees.

1. **Activity Name:** **Rehabilitation**
2. **Activity Type:** NSP Activity (B); CDBG Eligible Activity 24 CFR 570.201 (n)
Direct homeownership assistance (as modified)
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income
persons, as defined in the NSP Notice (\leq 120% of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates a share of funds to be directed into this activity primarily for homeownership, as well as a minimal portion for rental properties. The properties rehabilitated with these funds will be previously foreclosed upon homes.

It is anticipated that the minimal funds made available to households at or below 50 percent AMI will be for rental projects because they are least able to qualify for homeownership.

All housing activities will be subject to the definitions of affordability outlined in this Action Plan.

1. **Activity Name:** Land Banks
2. **Activity Type:** NSP Activity (C); CDBG Eligible Activity 24 CFR 570.201 (a) Acquisition, and (b) Disposition
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income persons, as defined in the NSP Notice (\leq 120 percent of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates a small share of funds to be directed into this activity primarily for homeownership. The properties acquired will be held until local markets and/or projects are ready to make use of these properties. The properties acquired with these funds will be previously foreclosed upon properties.

It is anticipated that minimal funds may assist those households at or below 50 percent AMI because they are least able to qualify for homeownership.

All housing activities will be subject to the definitions of affordability outlined in this Action Plan.

The amount of purchase discount is anticipated to be primarily at the five percent rate since access to foreclosed properties appears to be a more diffuse and scattered pattern in Pennsylvania. The exact discount rate will be determined once local applications are approved.

1. **Activity Name:** Demolition
2. **Activity Type:** NSP Activity (D); CDBG Eligible Activity 24 CFR 570.201 (d)
Clearance for blighted structures only.
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income persons, as defined in the NSP Notice \leq 120 percent of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates a share of funds to be directed into this activity. The properties demolished with these funds will be blighted structures, and some of which will be previously foreclosed upon homes. NSP funds cannot be used to acquire these properties unless the properties are foreclosed.

While these funds will not provide a direct benefit to households at or below 50 percent AMI, the blight removal may provide benefits to locations in which the income for the area is at or below 50 percent AMI.

While not subject to the requirement of one-for-one replacement, the Commonwealth anticipates that 1,000 housing units may be demolished. The Commonwealth also anticipates that 770 housing units will be developed or created that serve low, moderate, and middle-income households using either NSP or other funding sources. Of this amount, the Commonwealth estimates that at least 210 units will be for low-income households, not to exceed 50 percent AMI.

1. **Activity Name:** **New Construction**
2. **Activity Type:** NSP Activity (E); CDBG Eligible Activity Waiver per HUD Notice for NSP
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income persons, as defined in the NSP Notice (\leq 120 percent of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates a significant share of funds to be directed into this activity primarily for rental properties at or below 50 percent AMI. The properties that will be used for new construction activities will be sites on which demolition occurred or vacant properties.

It is anticipated that virtually all of the funds in this activity will be made available to households at or below 50 percent AMI. This activity is anticipated to assure that the Commonwealth meets the requirement that at least 25 percent of the NSP funds will be used for the direct benefit of low-income households.

All housing activities will be subject to the definitions of affordability outlined in this Action Plan.

1. **Activity Name:** **Housing Counseling**
2. **Activity Type:** NSP Activity (E); CDBG Eligible Activity 24 CFR 570.201 (e)
Public Services
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income persons, as defined in the NSP Notice (\leq 120 percent of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates a small share of funds to be directed into this activity primarily for homeownership. The households receiving this housing counseling will include only homeowners purchasing homes that were assisted with NSP funds. These homeowners will receive at least eight hours of counseling and will be delivered primarily by the PHFA network of housing counseling agencies.

It is anticipated that minimal funds may assist those households at or below 50 percent AMI.

All housing activities will be subject to the definitions of affordability outlined in this Action Plan.

1. **Activity Name:** **Administration**
2. **Activity Type:** NSP Activity per HUD Notice; CDBG Eligible Activity 24 CFR 570.206
(a) Administration – General Management and Oversight
3. **National Objective:** Meets national objective benefiting low, moderate and middle-income
persons, as defined in the NSP Notice (\leq 120% of area median income)
4. **Projected Start Date:** March 1, 2009
5. **Projected End Date:** February 28, 2014
6. **Responsible Organization:** Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Ed Geiger, Director, Center for Community Development
7. **Location Description:** To be determined once local applications are approved
8. **Activity Description:**

The Commonwealth anticipates distributing the administrative funds as follows: at least 6 percent will be available for local project administration, and 4 percent will be reserved for state-level administrative activities.

H. TOTAL BUDGET

Below is summary of the Commonwealth's expected budget for the use of NSP funds. These numbers are subject to change once local applications are approved by the Commonwealth.

<u>Activity / Category</u>	<u>Subtotals</u>	<u>Amounts</u>	<u>Percent of Total</u>
Financing Mechanisms			
Project Cost	\$1,537,370		
Local Admin	\$102,491		
		\$1,639,861	2.75%
Acquisition			
Project Cost	\$18,448,439		
Local Admin	\$1,229,896		
		\$19,678,335	33.00%
Rehabilitation			
Project Cost	\$8,385,654		
Local Admin	\$559,044		
		\$8,944,698	15.00%
Land Banks			
Project Cost	\$2,795,218		
Local Admin	\$186,348		
		\$2,981,566	5.00%
Demolition			
Project Cost	\$8,385,654		
Local Admin	\$559,044		
		\$8,944,698	15.00%
Redevelop/ New Construction			
Project Cost	\$13,976,090		
Local Admin	\$931,739		
		\$14,907,829	25.00%
Redevelop/Housing Counseling			
Project Cost	\$139,761		
Local Admin	\$9,317		
		\$149,078	0.25%
State Admin Activities			
State Admin	\$2,385,253		4.00%
		\$2,385,253	
TOTAL		\$59,631,318	100.00%

I. PERFORMANCE MEASURES

Below is a summary of the Commonwealth's expected budget for the use of NSP funds. These numbers are subject to change once local applications are approved by the Commonwealth. DCED can also provide the number of units broken out by income category once those applications are approved. DCED will also provide information on progress of fulfilling these measures as required by the reporting procedures outlined in the HUD Notice.

	Housing Units
Financed	15
Acquisition	175
Rehabilitation	560
Land Bank	25
Demolished	1,000
New Construction	210
	Households Assisted
Housing Counseling	290

Certifications

- (1) **Affirmatively furthering fair housing.** The jurisdiction will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.
- (2) **Anti-lobbying.** The jurisdiction will comply with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.
- (3) **Authority of Jurisdiction.** The jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.
- (4) **Consistency with Plan.** The housing activities to be undertaken with NSP funds are consistent with its consolidated plan, which means that NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted area set forth in the grantee's substantial amendment.
- (5) **Acquisition and relocation.** The jurisdiction will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the Notice for the NSP program published by HUD.
- (6) **Section 3.** The jurisdiction will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.
- (7) **Citizen Participation.** The jurisdiction is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.
- (8) **Following Plan.** The jurisdiction is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.
- (9) **Use of funds in 18 months.** The jurisdiction will comply with Title III of Division B of the Housing and Economic Recovery Act of 2008 by using, as defined in the NSP Notice, all of its grant funds within 18 months of receipt of the grant.
- (10) **Use NSP funds \leq 120 of AML.** The jurisdiction will comply with the requirement that all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income.
- (11) **Assessments.** The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to

the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

(12) **Excessive Force.** The jurisdiction certifies that it has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and (2) a policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(13) **Compliance with anti-discrimination laws.** The NSP grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.

(14) **Compliance with lead-based paint procedures.** The activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

(15) **Compliance with laws.** The jurisdiction will comply with applicable laws.



Signature/Authorized Official

11/25/2008
Date

John P. Blake
Acting Secretary