

FINAL NSP SUBSTANTIAL AMENDMENT

PY 2008 ACTION PLAN: 11/26/08

<p>Jurisdiction(s): <u>City of Birmingham, Alabama</u> <i>(identify lead entity in case of joint agreements)</i> N/A</p> <p>Jurisdiction Web Address: www.birminghamal.gov <i>(URL where NSP Substantial Amendment materials are posted)</i></p>	<p>NSP Contact Person: James F. Fenstermaker Address: 710 North 20th Street; 10th Floor City Hall Birmingham, Al. 35203 Telephone: 205-254-2483 Fax: 205-254-2282 Email: jim.fenstermaker@birminghamal.gov</p>
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OVERVIEW/SUMMARY OF MORTGAGE AND NEIGHBORHOOD STABILIZATION ISSUES AND STRATEGIES IN BIRMINGHAM

The April 2008 issue of *Governing* featured an article titled “*The Two Faces of Foreclosure*”. In significant detail, this article describes the fact that there are two different faces/natures of the current crisis—one as it applies to the Las Vegases of America and a second as it applies to the Daytons (and Birmingham) of America. While in many more prosperous communities the mortgage crisis is of recent origin, in communities like Birmingham, the mortgage crisis is just one more rock thrown into the pond. While the mortgage crisis is a significant problem for Birmingham, the response and the anticipated outcomes are greatly different from the response and anticipated outcomes in more prosperous communities. Accordingly, success will look different in Birmingham and Dayton than it does in Las Vegas.

Leading up to the mortgage foreclosure crisis, the City of Birmingham has experienced more than 4 solid decades of population loss. Our 1960 population was 340,000 and our current population is estimated at 225,000---each decade has seen losses of from 10,000 to 25,000 people. This sustained and significant population loss has triggered major disruptions in our housing market. For the past four decades, vacancy rates in the City have consistently and continuously hovered at an average of 15% as properties were systematically abandoned over time as patterns of disinvestment took root. We estimate that there are over 10,000 vacant and abandoned lots in the City. Over the past 17 years alone, City building permit records document some 11,900 residential demolitions. Poverty rates in the City hover at 25% and it some 29% of our population reports one form of disability or another. School enrollments have dropped dramatically. Approximately three-fourths of all City census tracts meet HUD’s definition of predominantly low-moderate income. According to HUD data, many of our census tracts report the percentage of high-risk loans at 60 -70 %, suggesting that for a significant period of time, the only investments and lending going on have been non-conventional in nature as bank lending has been scarce. So when the foreclosure bubble burst, these already-vulnerable neighborhoods were significantly adversely hit. As our attached map indicates, the problems are deep and widespread, covering at least two-thirds of the City.

In the face of these overwhelming problems, the City understands that our \$2.5 million NSP funds will not answer all of these challenges. Our goal with NSP funds will be to strategically direct the use of these funds both geographically and programmatically in two key ways:

- 1) Geographically, we will seek to identify, within our areas of greatest need, pockets of opportunity that will allow us to acquire, rehab and re-occupy clusters of abandoned and foreclosed properties so as to stabilize and/or reverse declines in those geographic areas. While we may not impact the full geographic 'area of greatest need' in the City, we hope to stabilize several smaller clusters via this method and positively impact physical conditions and prevent further declines in valuation.
- 2) Programmatically, a key goal of ours will be to work with non-profit organizations within the City in order to create additional opportunities for permanent supportive housing for persons with disabilities. Many of our residents (reportedly as high as 29%) report having disabilities, and many of these same residents are also very low income (at or below 50% of AMI) Our goal will be to cooperatively develop new models in the City of Birmingham for the provision of permanent supportive housing for very low income persons.

A. AREAS OF GREATEST NEED

Provide summary needs data identifying the geographic areas of greatest need in the grantee's jurisdiction.

Note: An NSP substantial amendment must include the needs of the entire jurisdiction(s) covered by the program; states must include the needs of communities receiving their own NSP allocation. To include the needs of an entitlement community, the State may either incorporate an entitlement jurisdiction's consolidated plan and NSP needs by reference and hyperlink on the Internet, or state the needs for that jurisdiction in the State's own plan. The lead entity for a joint program may likewise incorporate the consolidated plan and needs of other participating entitlement jurisdictions' consolidated plans by reference and hyperlink or state the needs for each jurisdiction in the lead entity's own plan.

HUD has developed a foreclosure and abandonment risk score to assist grantees in targeting the areas of greatest need within their jurisdictions. The City has consulted this data in developing this section of the Substantial Amendment and it is available at the referenced links herein.

Response:

A review of the City of Birmingham's (hereinafter referred to as "the City") overall situation indicates that for the purposes of this grant application, a large portion of the City exceeds the NSP program requirements for eligibility. The City will work within these areas where feasible but will not reject other areas of foreclosure concentration not shown under the Priority Areas of Greatest Need. The foreclosure data presented was gathered from multiple sources but, due to time constraints, should not be considered all inclusive. Foreclosure data is not static and may change rapidly with market conditions.

For the purpose of this application, the summary needs data identifying geographic areas of greatest need in the City are listed in this section. Greatest needs within the City's were defined through the use of available data including the:

- (a) Greatest percentage of home foreclosures;
- (b) Highest percentage of homes financed by sub-prime mortgage related loan; and
- (c) Identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

The areas shown below have been selected as Priority Areas of Greatest Need for the use of NSP funds within the City. First you will see the Priority Areas of Greatest Needs which show most, though not all the factors which were included in the analysis. Among factors considered where the Current Rate of Foreclosure, the Estimated Foreclosure Abandonment Risk Score, Income eligibility, High Cost Loan Rate, 18 Month Problem Foreclosure Rate and USPS Residential Vacancy Rate among others.

In Attachment C, the City has attached a table and map setting forth the "Areas of Greatest Need" in the City of Birmingham for the expenditure of CDBG-NSP Funds. Criteria for inclusion in this identified 'target' area are that, based on our analysis of HUD data, our "Areas of Greatest Need" are those Census Block Groups in which: 1) the Estimated Foreclosure Risk Score is 9 or higher; 2) the High Cost (Sub prime) Loan Rate exceeds 40%; and 3) the Predicted 18 month problem foreclosure rate exceeds 6.0%.

Comparing this map to other similar programmatic maps we have used in Community Development, the geographic area identified by these criteria compares almost identically with previously defined areas of low-moderate income housing needs, including housing rehabilitation.

B. DISTRIBUTION AND USES OF FUNDS

Provide a narrative describing how the distribution and uses of the grantee's NSP funds will meet the requirements of Section 2301(c) (2) of HERA that funds be distributed to the areas of greatest need, including those with the greatest percentage of home

foreclosures, with the highest percentage of homes financed by a sub prime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures. *Note:* The grantee’s narrative must address these three stipulated need categories in the NSP statute, but the grantee may also consider other need categories.

Response:

In Attachment C, we have attached a table and map setting forth the “Areas of Greatest Need” in the City of Birmingham for the expenditure of CDBG-NSP Funds. Criteria for inclusion in this identified ‘target’ area are that, based on our analysis of HUD data, our “Areas of Greatest Need” are those Census Block Groups in which: 1) the Estimated Foreclosure Risk Score is 9 or higher; 2) and the High Cost (Sub prime) Loan Rate exceeds 40%; and 3) the Predicted 18 month problem foreclosure rate exceeds 6.0%.

Comparing this map to other similar programmatic maps we have used in Community Development, the geographic area identified by these criteria compares almost identically with previously defined areas of low-moderate income housing needs, including housing rehabilitation.

C. DEFINITIONS AND DESCRIPTIONS

(1) Definition of “blighted structure” in context of state or local law.

Response:

Blight – Standards for blight in the State of Alabama and the City of Birmingham are found in two places:

1) Chapter 2, Title 24, Code of Alabama, 1975. In Section 24-2-2-c “blighted property” is defined to include:

“property that contains any of the following factors: ...structures, buildings or improvements which, because of dilapidation, deterioration or unsanitary or unsafe conditions... are unfit for human habitation... structures from which utilities, plumbing, heating, sewerage or other facilities have been destroyed, removed or rendered ineffective...the presence of...overgrown...noxious weeds...trash and debris, a haven for mosquitoes, rodents or other vermin...”

2) Code of the City of Birmingham – Housing Ordinance – Section 7. In Section 7-1-172, the following standard for blight is set forth:

Any dwelling or dwelling unit or place of employment which shall be found to have any of the following defects shall be condemned as unfit for human habitation or as a place of employment and shall be so designated and placarded by the director of buildings and inspections:

- (1) One which is so damaged, decayed, dilapidated, unsanitary, and unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.**
- (2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.**
- (3) One which because of its general condition or location is unsanitary, or otherwise dangerous, to the health or safety of the occupants or of the public.**

(2) Definition of “affordable rents.” *Note:* Grantees may use the definition they have adopted for their CDBG program but should review their existing definition to ensure compliance with NSP program –specific requirements such as continued affordability.

Response:

HOME program rents will be used by the City for projects funded by NSP. These are updated annually by the U.S. Department of Housing and Urban Development. HOME Program rent limits are available at www.hud.gov.

(3) Describe how the grantee will ensure continued affordability for NSP assisted housing.

Response:

CONTINUED AFFORDABILITY;

The City has adopted the HOME Program affordability standards found at 24 CFR 92.252 (a), (c), (e), and (f), and 24 CFR 92.254 to meet the continued affordability standards of the Neighborhood Stabilization Program. Utilizing these standards, the City will ensure that all NSP assisted housing remains affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of section 2301 (f) (3) (A) (ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

Enforcement Mechanisms

HOME rules require that assisted properties remain affordable for a specific period of time (5, 10, 15 or 20 years), depending on the activity and the level of funds invested. Participating Jurisdictions are required to place certain restrictions on assisted properties in order to preserve affordable housing in their communities. Restrictions involving the period of affordability will be incorporated in a deed restriction and/or mortgage documents or other appropriate and binding documents (Note: covenants on land may be used in lieu of deed restrictions).

Qualification as Affordable Housing: Rental Housing

- (a) *24 CFR 92.252 (a)* Rent limitation. HUD provides the following maximum HOME rent limits. The maximum HOME rents (High HOME Rents) are the lesser of:
 - (1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111; or
 - (2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.
- (b) *24 CFR 92.252 (c)* Initial rent schedule and utility allowances. The participating jurisdiction shall establish maximum monthly allowances for utilities and services (excluding telephone). The participating jurisdiction shall review and approve rents proposed by the owner for units subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction shall ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.
- (c) *24 CFR 92.252 (e)* Periods of Affordability. The NSP-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They shall be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in

lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former has or had family or business ties, obtains an ownership interest in the project or property.

Rental housing activity	Minimum period of affordability in years
Rehabilitation or acquisition of existing housing per unit amount of NSP funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15
New construction or acquisition of newly constructed housing	20

- (d) 24 CFR 92.252 (f) Subsequent rents during the affordability period.
- (1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.
 - (2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (d) (1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of NSP-assisted units to demonstrate compliance with this section.
 - (3) Any increase in rents for NSP-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

92.254 Qualification as Affordable Housing: Homeownership

Acquisition with or without rehabilitation. Housing that is for acquisition by a family must meet the affordability requirements of this paragraph (a).

1. The housing must be single-family housing.
2. The housing must be modest housing as follows:

The City will use the Single Family Mortgage Limits under Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) (which may be obtained from the HUD Field Office) for projects/properties assisted with NSP funds.

3. The housing must be acquired by a homebuyer whose family qualifies as a low, moderate, and middle income, (LMMI) family and the housing must be the principal residence of the family throughout the period described in paragraph (a)(4) of this section.
4. *Periods of affordability.* The NSP-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of NSP funds and the affordability period that they trigger are described more fully below.

Homeownership assistance NSP amount per-unit	Minimum period of affordability in years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

5. Continued Affordability

The Recapture Requirements [92.254(a) (5)]

The City will use the Recapture option for NSP funding. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the NSP assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability.

Under the “recapture” option, the recipient repays some or all of the NSP subsidy to the Participating Jurisdiction and is able to sell his/her home to any buyer at whatever price the market will bear. The City will require full repayment of outstanding NSP funds at

the time of resale or, if the net proceeds are less than the full amount of the NSP subsidy, recapture of the net proceeds. The net proceeds of a sale are the sales price minus any non-NSP loan repayments and closing costs. The City may at its option reduce the NSP investment amount to be recaptured on a pro-rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period. In those cases where the real estate does not appreciate sufficiently to allow a full recapture, the City will reduce the repayment of the NSP subsidy to allow the original purchaser to resell the unit without incurring a loss. The period of affordability is based upon the total amount of NSP funds subject to recapture described in paragraph (4) of this section.

6. *Lease-purchase.* NSP funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If NSP funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the NSP affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion. Lease purchase agreements shall be for a period of one year and renew annually. A portion of the monthly lease payment may be set aside to help the homebuyer accumulate funds for a down-payment and/or closing costs. Approvals of homebuyers for lease purchase are on a case-by-case basis and are at the sole discretion of the City.
7. *Contract to purchase.* If NSP funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a LMMI family at the time the contract is signed.
8. *Preserving affordability.*

If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the City will revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

(i) Notwithstanding § 92.214 (a) (6), to preserve the affordability of housing that was previously assisted with NSP funds and subject to the requirements of § 92.254(a), a participating jurisdiction may use additional NSP funds to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or to acquire the housing at the foreclosure sale, to undertake any necessary rehabilitation, and to provide assistance to another homebuyer. The housing must be sold to a new eligible homebuyer in accordance with the requirements of § 92.254(a). Additional NSP funds may not be used if the mortgage in default was funded with NSP funds.

(ii) The total amount of original and additional NSP assistance may not exceed the maximum per-unit subsidy amount established under § 92.250.

(4) Describe housing rehabilitation standards that will apply to NSP assisted activities.

Response:

Any work performed with NSP funds will comply with the 2003 International Building Code and the 2003 International Residential Building Codes as published by the International Code Council except those specifically altered by “The Special Provisions” promulgated by the City.

D. LOW INCOME TARGETING

Identify the 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: At least \$650,000.00.

Note: At least 25% of funds must be used for housing individuals and families whose incomes do not exceed 50 percent of area median income.

Response:

The City of Birmingham anticipates receiving an amount of \$2,580,214 under the NSP Program. We anticipate spending at least \$650,000 (25.2%) of this amount to benefit individuals or families whose incomes do not exceed 50% of area median income (AMI). The 2008 AMI for the Birmingham – Hoover, AL Metro FMR Area is \$59,100.

The City of Birmingham’s poverty rate is 24.8%; some 29% of our residents report some sort of disability. In light of the significant housing challenges of special needs populations in our City, we will make every effort to partner with non-profit service providers to provide affordable housing opportunities for these special needs families and individuals with NSP funds. Most of these special needs populations have incomes well below 50% of AMI, and we will make it a priority to work cooperatively to develop functional permanent supportive housing models to meet the needs of these families and individuals.

E. ACQUISITIONS & RELOCATION

Indicate whether grantee intends to demolish or convert any low- and moderate-income dwelling units (i.e., $\leq 80\%$ of area median income).

If so, include:

- The number of low- and moderate-income dwelling units—i.e., $\leq 80\%$ of area median income—reasonably expected to be demolished or converted as a direct result of NSP-assisted activities.
- The number of NSP affordable housing units made available to low-, moderate-, and middle-income households—i.e., $\leq 120\%$ of area median income—reasonably expected to be produced by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion).
- The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

Response:

Grantee does not intend to demolish or convert any low-and-moderate income dwelling units. The City does, however, intend on offering modest compensation to foreclosed property owners in return for their forfeiture of their right of redemption under Alabama State law. This will have the effect of expediting the acquisition of foreclosed homes.

F. PUBLIC COMMENT

Provide a summary of public comments received to the proposed NSP Substantial Amendment.

Response:

Comment period began Thursday, November 6, 2008 and ended Monday, November 24, 2008 at 5:00 p.m. Comments and responses were available December 1, 2008. NSP Program Summary Publication is included as Attachment A and a Summary of Citizen Comments received is included in Attachment D.

G. NSP INFORMATION BY ACTIVITY (COMPLETE FOR EACH ACTIVITY)

(1) Activity Name:

Purchase and Rehabilitation Program for Sale, Rent or Redevelopment.

(2) Activity Type: (include NSP eligible use & CDBG eligible activity)

NSP Eligible Use:

NSP Eligible Use: 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.

CDBG Eligible Use:

- As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.
- 25CFR 570.201 (a) acquisition, (b) dispositions, (i) Relocation, and (n) Direct homeownership assistance (as modified below):
- 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).
.24 CFR 570.201 (a) Acquisition and (b) Disposition.

(3) National Objective: (Must be a national objective benefiting low, moderate and middle income persons, as defined in the NSP Notice—i.e., \leq 120% of area median income).

This activity meets the national objective by providing or improving permanent residential structures that will benefit low, moderate and middle income persons, as defined in the NSP Notice---i.e., $<$ 120% of area median income.

(4) Projected Start Date:

March 1, 2009.

(5) Projected End Date:

February 28, 2013

- (6) **Responsible Organization:** (Describe the responsible organization that will implement the NSP activity, including its name, location, and administrator contact information)

City of Birmingham, Alabama
Housing Division
Department of Community Development
710 North 20th Street; 7th Floor City Hall
Birmingham, Alabama 35203

Administrator Contact: James F. Fenstermaker

Phone: 205-254-2483

Fax: 205-254-2282

E-mail: jim.fenstermaker@birminghamal.gov

The City may, at its discretion, determine to utilize a non-profit or for-profit developer(s) for all or a portion of the activities proposed. Entities chosen for this purpose will be selected through competitive proposals with an emphasis on experience and capacity in order to facilitate the highest and best use of the funds within the allocated time frame.

- (7) **Location Description:** (Description may include specific addresses, blocks or neighborhoods to the extent known.)

A review of the City's overall situation indicates that for the purposes of this grant application, a large portion of the City exceeds the NSP program requirements for eligibility.

The City will prioritize the expenditure of NSP funds in its identified Areas of Greatest Need, described in Attachment C, and we will place emphasis on identifying projects in these identified Census Block Groups. Our goal will be to expend all NSP dollars within these identified areas. Within these identified areas, we will seek to identify 'clusters of opportunity' in which a targeted investment of NSP funds in a grouping of foreclosed, abandoned or blighted properties can become the catalyst for reversal of neighborhood decline. We would hope to identify as many as 3-5 such clusters within our Areas of Greatest Need.

The City will work within these areas were feasible but will not reject other areas of foreclosure concentration not shown under the Priority Areas of Greatest Need. Foreclosure data is not static and may change rapidly with market conditions.

(8) **Activity Description:**

Include a narrative describing the area of greatest need that the activity addresses; the expected benefit to income-qualified persons; and whether funds used for this activity will be used to meet the low income housing requirement for those below 50% of area median income.

Funds utilized under this activity will be distributed to the areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a sub prime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures.

In Attachment C, we have attached a table and map setting forth the “Areas of Greatest Need” in the City of Birmingham for the expenditure of CDBG-NSP Funds. Criteria for inclusion in this identified ‘target’ area are that, based on our analysis of HUD data, our “Areas of Greatest Need” are those Census Block Groups in which: 1) the Estimated Foreclosure Risk Score is 9 or higher; 2) and the High Cost (Sub prime) Loan Rate exceeds 40%; and 3) the Predicted 18 month problem foreclosure rate exceeds 6.0%.

The expected benefit to income qualified persons will be to provide or improve permanent residential structures for low, moderate and middle income persons, as defined in the NSP Notice---i.e., < 120% of area median income. This activity will be used to meet the low income housing requirement for those below 50% of area median income. Units purchased, rehabilitated or redeveloped under this Program **may be gifted** at no cost to qualified 501(c) (3) organizations that demonstrate the ability to maintain and manage the units over time or to other eligible program participants.

The expected benefit to income-qualified persons will be as follows:

Income Group	Projected # Beneficiaries
0-50%	10
51-120%	15

For housing related activities, include:

- **Tenure of beneficiaries--rental or homeownership;**

Tenure of beneficiaries under this activity may be rental or homeownership. It is anticipated that those toward the lower end of the income spectrum will be rental and those toward the higher end will be homeownership. Each NSP assisted

homebuyer will be required to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. Homebuyers must obtain a mortgage loan from a lender who agrees to comply with the bank regulator's guidance for non-traditional mortgages (see, Statement on Sub prime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>).

Duration or term of assistance;

The minimum term of assistance for rental projects will be 5, 10, 15 or 20 years as described in the table below: 24 CFR 92.252 Qualification as Affordable Housing: Rental Housing. The minimum term of term of assistance for homeownership will be 5, 10 or 15 years as described in the table below: 24 CFR 92.254 Qualifications as Affordable Housing: Homeownership.

Description of how the design of the activity will ensure continued affordability;

The City has adopted the HOME Program affordability standards found at 24 CFR 92.252 (a), (c), (e), and (f), and 24 CFR 92.254 to meet the continued affordability standards of the Neighborhood Stabilization Program. Utilizing these standards, the City will ensure that all NSP assisted housing remains affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of section 2301 (f) (3) (A) (ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

Enforcement Mechanisms

HOME rules require that assisted properties remain affordable for a specific period of time (5, 10, 15 or 20 years), depending on the activity and the level of funds invested. Participating Jurisdictions are required to place certain restrictions on assisted properties in order to preserve affordable housing in their communities. Restrictions involving the period of affordability will be incorporated in a deed restriction and/or mortgage documents or other appropriate and binding documents (Note: covenants on land may be used in lieu of deed restrictions).

Qualification as Affordable Housing: Rental Housing

Continued Affordability

- (a) *24 CFR 92.252 (a)* Rent limitation. HUD provides the following maximum HOME rent limits. The maximum HOME rents (High HOME Rents) are the lesser of:
- (1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111; or
 - (2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.
- (b) *24 CFR 92.252 (c)* Initial rent schedule and utility allowances. The participating jurisdiction shall establish maximum monthly allowances for utilities and services (excluding telephone). The participating jurisdiction shall review and approve rents proposed by the owner for units subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction shall ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.
- (c) *24 CFR 92.252 (e)* Periods of Affordability. The NSP-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They shall be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former has or had family or business ties, obtains an ownership interest in the project or property.

Rental housing activity	Minimum period of affordability in years
Rehabilitation or acquisition of existing housing per unit amount of NSP funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15
New construction or acquisition of newly constructed housing	20

(d) *24 CFR 92.252 (f)* Subsequent rents during the affordability period.

- (1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.
- (2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (d) (1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of NSP-assisted units to demonstrate compliance with this section.
- (3) Any increase in rents for NSP-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

92.254 Qualification as Affordable Housing: Homeownership

Acquisition with or without rehabilitation. Housing that is for acquisition by a family must meet the affordability requirements referenced in this of this section.

1. The housing must be single-family housing.
2. The housing must be modest housing as follows:

The City will use the Single Family Mortgage Limits under Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) (which may be obtained from the HUD Field Office) for projects/properties assisted with NSP funds.

3. The housing must be acquired by a homebuyer whose family qualifies as a low, moderate, and middle income, (LMMI) family and the housing must be the principal residence of the family throughout the period described in paragraph (4) of this section.
4. *Periods of affordability.* The NSP-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of NSP funds and the affordability period that they trigger are described more fully below.

Homeownership assistance NSP amount per-unit	Minimum period of affordability in years
Under \$15,000	5
\$15,000 to \$40,000	10
T Over \$40,000	15

5. *Continued Affordability*

The Recapture Requirements [92.254(a) (5)]

The City will use the Recapture option for NSP funding. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the NSP assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability.

Under the “recapture” option, the recipient repays some or all of the NSP subsidy to the Participating Jurisdiction and is able to sell his/her home to any buyer at whatever price the market will bear. The City will require full repayment of outstanding NSP funds at the time of resale or, if the net proceeds are less than the full amount of the NSP subsidy, recapture of the net proceeds. The net proceeds of a sale are the sales price minus any non-NSP loan repayments and closing costs. The City may at its option reduce

the NSP investment amount to be recaptured on a pro-rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period. In those cases where the real estate does not appreciate sufficiently to allow a full recapture, The City will reduce the repayment of the NSP subsidy to allow the original purchaser to resell the unit without incurring a loss. The period of affordability is based upon the total amount of NSP funds subject to recapture described in paragraph (4) of this section.

6. *Lease Purchase.* NSP funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If NSP funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the NSP affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion. Lease purchase agreements shall be for a period of one year and renew annually. A portion of the monthly lease payment may be set aside to help the homebuyer accumulate funds for a down-payment and/or closing costs. Approvals of homebuyers for lease purchase are on a case-by-case basis and are at the sole discretion of the City.
7. *Contract to purchase.* If NSP funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a LMMI family at the time the contract is signed.
8. *Preserving affordability.*

If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the City will revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

(i) Notwithstanding § 92.214 (a) (6), to preserve the affordability of housing that was previously assisted with NSP funds and subject to the requirements of § 92.254(a), a participating jurisdiction may use additional NSP funds to acquire the housing through a

purchase option, right of first refusal, or other preemptive right before foreclosure, or to acquire the housing at the foreclosure sale, to undertake any necessary rehabilitation, and to provide assistance to another homebuyer. The housing must be sold to a new eligible homebuyer in accordance with the requirements of § 92.254(a). Additional NSP funds may not be used if the mortgage in default was funded with NSP funds.

(ii) The total amount of original and additional NSP assistance may not exceed the maximum per-unit subsidy amount established under § 92.250.

For acquisition activities, include:

- **discount rate** -
A discount rate of 5% for individual purchases will be applied and 15% for purchases in aggregate. Aggregate purchases for NSP are defined as all properties that an NSP grantee purchases with its entire NSP grant. Arranging to purchase multiple properties in bulk may not have much effect on meeting the individual and aggregate purchase discount requirements. The individual discount requirement still applies to each individual house and an appraisal is required for each house.
- **Voluntary Termination of Right of Redemption** -
The City does, however, intend on offering modest compensation to foreclosed property owners in return for their forfeiture of their right of redemption under Alabama State law. This will have the effect of expediting the acquisition of foreclosed homes.

For financing activities, include:

- **range of interest rates**

0% interest rates.

I. Total Budget: (Include public and private components)

NSP Grant Funds:	\$2,322,193.00
Anticipated NSP Program Income:	<u>\$ 100,000.00</u>
Total:	\$2,422,193.00

J. Performance Measures (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels of households that are 50 percent of area median income and below, 51-80 percent, and 81-120 percent):

Income Group	Projected # Beneficiaries
0-50%	10
51-120%	15

G. NSP INFORMATION BY ACTIVITY (COMPLETE FOR EACH ACTIVITY)

(1) Activity Name: Administration.

(2) Activity Type: (include NSP eligible use & CDBG eligible activity)

NSP Eligible

NSP Eligible Use: 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.

CDBG Eligible Use:

- As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.

(3) National Objective: (Must be a national objective benefiting low, moderate and middle income persons, as defined in the NSP Notice—i.e., \leq 120% of area median income).

This activity meets the national objective by providing or improving permanent residential structures that will benefit low, moderate and middle income persons, as defined in the NSP Notice---i.e., $<$ 120% of area median income.

(4) Projected Start Date: March 1, 2009

(5) Projected End Date: February 28, 2013

(6) Responsible Organization: (Describe the responsible organization that will implement the NSP activity, including its name, location, and administrator contact information)

City of Birmingham, Alabama
Department of Community Development
710 North 20th Street; 10th Floor City Hall
Birmingham, Alabama 35203

Administrator Contact: James F. Fenstermaker, Director

Phone: 205-254-2483

Fax: 205-254-2282

E-mail: jim.fenstermaker@birminghamal.gov

(7) Location Description: (Description may include specific addresses, blocks or neighborhoods to the extent known.)

City of Birmingham, Alabama
Department of Community Development
710 North 20th Street; 10th Floor City Hall
Birmingham, Alabama 35203

(8) Activity Description:

Include a narrative describing the area of greatest need that the activity addresses; the expected benefit to income-qualified persons; and whether funds used for this activity will be used to meet the low income housing requirement for those below 50% of area median income.

Administration of the NSP Program.

I. Total Budget: (Include public and private components)

\$258,021.00

J. Performance Measures (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels of households that are 50 percent of area median income and below, 51-80 percent, and 81-120 percent):

ADMINISTRATIVE EXPENSES RELATED TO THE NSP PROGRAM.

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 AMI.** 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.

Larry P. Langford

11-25-08
Date

Mayor
Title

NSP Substantial Amendment Checklist

For the purposes of expediting review, HUD asks that applicants submit the following checklist along with the NSP Substantial Amendment and SF-424.

Contents of an NSP Action Plan Substantial Amendment

Jurisdiction(s): City of Birmingham, Alabama Lead Agency: N/A Jurisdiction Web Address: www.birminghamal.gov (<i>URL where NSP Substantial Amendment materials are posted</i>)	NSP Contact Person: James F. Fenstermaker, Director; Community Development Department 710 North 20 th Street; 10 th Floor City Hall; Birmingham, Al 35203 Telephone: 205-254-2483 Fax: 205-254-2282 Email: jim.fenstermaker@birminghamal.gov
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The elements in the substantial amendment required for the Neighborhood Stabilization Program are:

A. AREAS OF GREATEST NEED

Does the submission include summary needs data identifying the geographic areas of greatest need in the grantee’s jurisdiction?

Yes X No . Verification found on page 2-3 and Attachment C

B. DISTRIBUTION AND USES OF FUNDS

Does the submission contain a narrative describing how the distribution and uses of the grantee’s NSP funds will meet the requirements of Section 2301(c) (2) of HERA that funds be distributed to the areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a sub prime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures?

Yes X No . Verification found on page 3-4

Note: The grantee’s narrative must address the three stipulated need categories in the NSP statute, but the grantee may also consider other need categories.

C. DEFINITIONS AND DESCRIPTIONS

For the purposes of the NSP, do the narratives include:

- a definition of “blighted structure” in the context of state or local law,
Yes X No . Verification found on page 4.

- a definition of “affordable rents,”
Yes X No . Verification found on page 5.

- a description of how the grantee will ensure continued affordability for NSP assisted housing,
Yes X No . Verification found on page 5-10.
- a description of housing rehabilitation standards that will apply to NSP assisted activities?
Yes X No . Verification found on page 10.

D. INFORMATION BY ACTIVITY

Does the submission contain information by activity describing how the grantee will use the funds, identifying:

- eligible use of funds under NSP,
Yes X No . Verification found on page 12 and 21.
- correlated eligible activity under CDBG,
Yes X No . Verification found on page 12 and 21.
- the areas of greatest need addressed by the activity or activities,
Yes X No . Verification found on page 13.
- expected benefit to income-qualified persons or households or areas,
Yes X No . Verification found on page 14.
- appropriate performance measures for the activity,
Yes X No . Verification found on page 20 and 22.
- amount of funds budgeted for the activity,
Yes X No . Verification found on page 20 and 22.
- the name, location and contact information for the entity that will carry out the activity,
Yes X No . Verification found on page 13 and 21.
- expected start and end dates of the activity?
Yes X No . Verification found on page 12 and 21.

E. SPECIFIC ACTIVITY REQUIREMENTS

Does each activity narrative describe the general terms under which assistance will be provided, including:

If the activity includes acquisition of real property,

- the discount required for acquisition of foreclosed upon properties,
Yes X No . Verification found on page 20.

If the activity provides financing,

- the range of interest rates (if any),
Yes No . Verification found on page 20.

If the activity provides housing,

- duration or term of assistance,
Yes No . Verification found on page 15.
- tenure of beneficiaries (e.g., rental or homeownership),
Yes No . Verification found on page 14-15.
- does it ensure continued affordability?
Yes No . Verification found on page 15-20.
- does the applicant indicate which activities will count toward the statutory requirement that at least 25% of funds must be used to purchase and redevelop abandoned or foreclosed upon homes or residential properties for housing individuals and families whose incomes do not exceed 50% of area median income?
Yes No . Verification found on page 14 and 20.

F. LOW INCOME TARGETING

- Has the grantee described how it will meet the statutory requirement that at least 25% of funds must be used to purchase and redevelop abandoned or foreclosed upon homes or residential properties for housing individuals and families whose incomes do not exceed 50% of area median income?
Yes No . Verification found on page 10.
- Has the grantee identified how the estimated amount of funds appropriated or otherwise made available will 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% of area median income?
Yes No . Verification found on page 10.
Amount budgeted = At least \$650,000.00

G. DEMOLISHMENT OR CONVERSION OF LOW- AND MODERATE-INCOME UNITS

Does grantee plan to demolish or convert any low- and moderate-income dwelling units?

Yes No . (If no, continue to next heading)
Verification found on page 11.

Does the substantial amendment include:

- The number of low- and moderate-income dwelling units—i.e., $\leq 80\%$ of area median income—reasonably expected to be demolished or converted as a direct result of NSP-assisted activities?
Yes No . Verification found on page n/a.

- The number of NSP affordable housing units made available to low-, moderate-, and middle-income households—i.e., ≤ 120% of area median income—reasonably expected to be produced by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion)?

Yes No Verification found on page n/a.

- The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income?

Yes No Verification found on page n/a.

H. PUBLIC COMMENT PERIOD

Was the proposed action plan amendment published via the grantee jurisdiction’s usual methods and on the Internet for no less than 15 calendar days of public comment?

Yes X No Verification found on page 11 and Attachment A.

Is there a summary of citizen comments included in the final amendment?

Yes X No Verification found on page Attachment D.

I. WEBSITE PUBLICATION

The following Documents are available on the grantee’s website:

- SF 424 Yes X No .
- Proposed NSP Substantial Amendment Yes X No .
- Final NSP Substantial Amendment Yes X No .
- Subsequent NSP Amendments Yes N/A No .

Website: www.birminghamal.gov

K. CERTIFICATIONS

The following certifications are complete and accurate:

- | | | |
|--|--------------|-----------------------------|
| (1) Affirmatively furthering fair housing | <u>Yes X</u> | No <input type="checkbox"/> |
| (2) Anti-lobbying | <u>Yes X</u> | No <input type="checkbox"/> |
| (3) Authority of Jurisdiction | <u>Yes X</u> | No <input type="checkbox"/> |
| (4) Consistency with Plan | <u>Yes X</u> | No <input type="checkbox"/> |
| (5) Acquisition and relocation | <u>Yes X</u> | No <input type="checkbox"/> |
| (6) Section 3 | <u>Yes X</u> | No <input type="checkbox"/> |
| (7) Citizen Participation | <u>Yes X</u> | No <input type="checkbox"/> |
| (8) Following Plan | <u>Yes X</u> | No <input type="checkbox"/> |
| (9) Use of funds in 18 months | <u>Yes X</u> | No <input type="checkbox"/> |
| (10) Use NSP funds ≤ 120 of AMI | <u>Yes X</u> | No <input type="checkbox"/> |
| (11) No recovery of capital costs thru special assessments | <u>Yes X</u> | No <input type="checkbox"/> |
| (12) Excessive Force | <u>Yes X</u> | No <input type="checkbox"/> |
| (13) Compliance with anti-discrimination laws | <u>Yes X</u> | No <input type="checkbox"/> |
| (14) Compliance with lead-based paint procedures | <u>Yes X</u> | No <input type="checkbox"/> |
| (15) Compliance with laws. | | |

ATTACHMENT A

PROPOSED SUBSTANTIAL AMENDMENT TO PY 2008 ACTION PLAN-ONE YEAR USE OF FUNDS NEIGHBORHOOD STABILIZATION PROGRAM SUMMARY

CITY OF BIRMINGHAM, ALABAMA

In accordance with 24 CFR Part 91, the City of Birmingham, Alabama (the City) is hereby publishing a summary of a Proposed Substantial Amendment to its Program Year (PY) 2008 (July 1, 2008 thru June 30, 2009) Action Plan One Year Use Of Funds for citizen comment for a period of at least fifteen (15) calendar days from the date of this publication. The Proposed Substantial Amendment is published in order to afford affected citizens an opportunity to examine its contents and to submit comments relating thereto.

INTRODUCTION:

The U.S. Department of Housing and Urban Development (HUD) has announced a new Neighborhood Stabilization Program (NSP) to provide emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. The Neighborhood Stabilization Program provides grants to every state and certain local communities to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes. The program is authorized under Title III of the Housing and Economic Recovery Act of 2008 (HERA).

NSP GRANT AMOUNT:

On September 29, 2008 the Office of the Secretary, HUD provided notice of the allocation formula and allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations granted to grantees under Title III of Division B of the Housing and Economic Recovery Act of 2008, for the purpose of assisting in the redevelopment of abandoned and foreclosed homes under the Neighborhood Stabilization Program. **In the notice, the City of Birmingham, Alabama received an NSP Grant Allocation of \$2,580,214.00. Additionally the City anticipates the receipt of \$100,000.00 in Anticipated NSP Program Income Receipts for a total estimated budget of \$2,680,214.00.**

REQUIRED SUBMISSIONS FOR ELIGIBLE NSP GRANTEES:

Each NSP grantee receiving an allocation of NSP funds must submit to HUD the following by December 1, 2008. (1) Substantial amendment to the City's annual HUD action plan; (2) an SF-424; and (3) signed certifications.

NATURE OF PROGRAM:

HUD awards grants to states and local jurisdictions to stabilize communities hardest hit by foreclosures and delinquencies. The regulations for NSP grantees are noted at 73 FR 58330.

NSP grantees develop their own programs and funding priorities. However, NSP grantees must use at least 25 percent of the funds appropriated for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income. In addition, all activities funded by NSP must benefit low- and moderate-income persons whose income does not exceed 120 percent of area median income. Activities may not qualify under NSP using the “prevent or eliminate slums and blight” or address urgent community development needs” objectives of the Community Development Block Grant program.

ELIGIBLE USES:

The use of grant funds must constitute an eligible use under Title III of Division B of the Housing and Economic Act of 2008 (HERA) for redevelopment of abandoned and foreclosed homes and residential properties and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as the Neighborhood Stabilization Program (NSP).

In addition to being an eligible NSP use of funds, each activity funded must also be CDBG-eligible under 42 U.S.C. 5305(a) and meet a CDBG national objective. NSP funds may be used for activities which include, but are not limited to:

- Establish financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties;
- Purchase and rehabilitate homes and residential properties abandoned or foreclosed;
- Establish land banks for foreclosed homes;
- Demolish blighted structures;
- Redevelop demolished or vacant properties.

THE CITY OF BIRMINGHAM’S PROPOSED USE OF NSP FUNDING:

The City proposes the following eligible uses of its NSP funding allocation as authorized pursuant to the Housing and Economic Recovery Act (HERA) and the Community Development Block Grant (CDBG) program:

I. Purchase and Rehabilitation Program for Sale, Rent or Redevelopment:

(1) **Activity Name:**

Purchase and Rehabilitation Program for Sale, Rent or Redevelopment.

(2) **Activity Type:** (includes NSP eligible use & CDBG eligible activity)

NSP Eligible Use:

NSP Eligible Use: 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.

CDBG Eligible Use:

- As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.
- 25CFR 570.201 (a) acquisition, (b) dispositions, (i) Relocation, and (n) Direct homeownership assistance (as modified below):
- 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).
.24 CFR 570.201 (a) Acquisition and (b) Disposition.

(3) **National Objective:** (Must be a national objective benefiting low, moderate and middle income persons, as defined in the NSP Notice—i.e., $\leq 120\%$ of area median income).

This activity meets the national objective by providing or improving permanent residential structures that will benefit low, moderate and middle income persons, as defined in the NSP Notice---i.e., $< 120\%$ of area median income.

(4) **Total Purchase & Rehabilitation Program Budget:** **\$2,422,193.00**

II. NSP Program Administration:

(1) **Activity Name:** Administration.

(2) **Activity Type:** (includes NSP eligible use & CDBG eligible activity)

NSP Eligible

NSP Eligible Use: 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.

CDBG Eligible Use:

- As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.

(3) National Objective: (Must be a national objective benefiting low, moderate and middle income persons, as defined in the NSP Notice—i.e., \leq 120% of area median income).

This activity meets the national objective by providing or improving permanent residential structures that will benefit low, moderate and middle income persons, as defined in the NSP Notice---i.e., $<$ 120% of area median income.

(4). Total Administration Budget: \$258,021.00

TOTAL NSP GRANT BUDGET: \$2,680,214.00

FIFTEEN DAY CITIZEN COMMENT PERIOD & NOTICE OF PUBLIC HEARING:

The City encourages citizens to participate in the development of the City's Final Substantial Amendments to its Action Plan described herein regarding proposed NSP program activities and the City's Final NSP Submission to HUD and will accept written comments for a period of at least fifteen (15) calendar days.

Complete copies of the City's Proposed NSP Submission are available for inspection in the City's Community Development Department, 710 North 20th Street, Room 1000, Birmingham, Alabama from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Copies are also available for inspection at the Birmingham Public Central Library, 2100 Park Place, Birmingham, Alabama, during regular business hours and a copy is posted on the City's website at www.birminghamal.gov.

The City's Community Development Department will conduct a public hearing on **Thursday, November 20, 2008 at 9:30 a.m. the Birmingham City Council Chamber, 710 North 20th Street, 3rd Floor City Hall; Birmingham, Alabama.** The purpose of the hearing will be to obtain comments regarding the proposed use of NSP Program Funds. Also, citizens will be afforded an opportunity to 1) identify housing and community development needs and priorities; 2) review proposed uses of funds; and 3) comment on and review the City's program performance. All comments and proposals received will be considered in the development of the City's Final NSP Submission to HUD.

The hearing location is accessible to persons with disabilities; however, anyone who requires further information or has a disability which might require special materials, services, or assistance should notify the Community Development Department at the referenced address no later than 48 hours prior to the scheduled hearing dates. The City does not discriminate on the basis of disability in admissions to, access to, or operations of its programs, services, or activities. The City does not discriminate on the basis of disability in its hiring or employment practices as mandated by Title 11 of the Americans with Disabilities Act of 1990.

Written comments regarding the City's Proposed NSP Program Submission should be submitted to James F. Fenstermaker, Director; Community Development Department at the address referenced herein. All written comments or proposals must be received at the referenced address **no later than Monday, November 24, 2008 by 5:00 p.m.** to be considered in the development of the City's Final PY 2008 Action Plan One Year Use Of Funds Substantial Amendment and NSP Final Submission. The City's Final NSP submission is due to HUD no later than **Monday, December 1, 2008.**

James F. Fenstermaker, Director
Department of Community Development
710 North 20th Street
10th Floor City Hall
Birmingham, Alabama 35203

November 6, 2008
Date of Publication
Birmingham Times
Web Site Posting: www.birminghamal.gov

November 7, 2008
Date of Publication
Birmingham News

ATTACHMENT B
STANDARD FORM 424

Web Link:

<I:\Common\Form 424.pdf>

ATTACHMENT C

TABLE AND MAP SETTING FORTH THE “AREAS OF GREATEST NEED”

TABLE DATA LINKS:

<I:\2008 Neighborhood Stabilization Progra1.doc>

MAP LINK:

[I:\StabilizationProgram \(3\).pdf](I:\StabilizationProgram (3).pdf)

ATTACHMENT D

SUMMARY OF CITIZEN COMMENTS

As referenced in Attachment A, the City encouraged citizens to participate in the development of the City's Final NSP Substantial Amendment to its Action Plan regarding its proposed NSP program activities. The City posted its Proposed NSP Substantial Amendment on its website at www.birminghamal.gov on Thursday, November 6, 2008 and published a Proposed NSP Program Summary in the Birmingham Times on November 6, 2008 and in the Birmingham News on November 7, 2008. Also, a copy of the Proposed NSP Program Summary was provided to City elected officials on November 6, 2008 and a copy was included in the Community Development Department Citizen Participation mailing on November 7, 2008. Complete hard copies of the City's Proposed NSP Substantial Amendment were also made available for public inspection in the City's Community Development Department and at the Birmingham Public Central Library during the comment period.

The City accepted written comments regarding its Proposed NSP Substantial Amendment for a period of at least fifteen (15) calendar days from November 6, 2008 to November 24, 2008; 5:00 p.m. A summary of timely comments received follows:

Written Letters Received:

During the comment period, letters of interest were received from financial institutions and non-profit organizations who expressed an interest in the NSP program. No objections to the intended use of funds described in the City's Proposed NSP Substantial Amendment were noted in the letters received.

Public Hearing Minutes:

On Thursday, November 20, 2008, a public hearing was conducted in the City Council Chamber at 9:30 a.m. by the Community Development Department staff. The purpose of the hearing was to obtain comments regarding the proposed use of NSP Program Funds. Also, citizens were afforded an opportunity to 1) identify housing and community development needs and priorities; 2) review proposed uses of funds; and 3) comment on and review the City's program performance. It was explained that all comments and proposals received would be considered in the development of the City's Final NSP Substantial Amendment that would be submitted to HUD on or before December 1, 2008.

At approximately 9:30 a.m. the hearing was called to order by Tom Tiffin. Mr. Tiffin gave an overview of the NSP Program and application process. Persons in attendance who made comments are as follows:

Charles Moore, Greater Birmingham Habitat for Humanities, congratulated the City on its Proposed NSP program plan developed under a very tight time frame and expressed Habitat's interest in being a participant in the program to assist with improving

properties in the City. It was noted that Habitat had previously submitted a letter of interest in the program which indicated that Habitat has the capacity to complete 10 or more NSP projects within the City of Birmingham.

Chris Retan, Aletheia House, also commended the City on its proposed NSP plan particularly on the City's proposal to partner with non-profit service providers to develop affordable housing opportunities for special needs families and individuals. Mr. Retan did express some concerns relative to the budgeted amounts for targeted low-income beneficiaries and higher income beneficiaries. Mr. Retan's specific concerns were detailed in a written statement provided at the hearing. In summary, Mr. Retan stated he believed that the budget per house for low-income beneficiaries should be the same as that for higher income beneficiaries and asked that the City consider adjusting its proposed budget and beneficiary figures.

Jim Fenstermaker, Director, Community Development Department, addressed some of the concerns expressed by Mr. Retan. In summary Mr. Fenstermaker indicated the proposed beneficiary figures referred to by Mr. Retan represented conservative planning figures intended to satisfy NSP regulatory requirements regarding the expenditure of at least 25% of NSP funds to benefit persons at or below 50% of area median income. Mr. Fenstermaker indicated that the minimum figure had been utilized to satisfy that requirement with the hope that the City will be able to exceed the minimum goal listed but there was no intent to focus the NSP program on one group of beneficiaries above another.

There were no other persons present desiring to make comments. There followed a brief question and answer period and the persons in attendance were reminded the City would accept written comments on the Proposed NSP Substantial Amendment until Monday, November 24, 2008; 5:00 p.m. The hearing was adjourned at approximately 10:30 a.m.

Listing of Attendees at the hearing:

Community Development Department Staff:

Jim Fenstermaker, Director
Ken Knox, Deputy Director of Housing
Tom Tiffin, Grants Administrator
Sandra Jones, Grants Management Coordinator
Donna Branch, Grants Management Coordinator
Linda Parris, Senior Grants Management Coordinator
Denise Hoover, Senior Grants Management Coordinator

City of Birmingham Residents, Non-Profit Organizations Representatives, Others:

Charles Moore Alice Williams
Chris Retan Rick Jones
Robert Brown
Darryl Westry

Post Comment Period Recommendation:

After considering all comments received, the Community Development Department recommended no adjustments to the City's Proposed NSP Substantial Amendment. Copies of all written comments received and the responses thereto are on file in the City's Community Development Department.

File name: Birmingham NSP Substantial Amendment