

**COUNCIL AGENDA REPORT**

December 1, 2009

**TO:** City Council

**FROM:** City Manager

Prepared By: Acting Director of Administrative Services

**SUBJECT: A PUBLIC HEARING TO RECEIVE PUBLIC COMMENTS AND CONSIDER THE APPROVAL OF A PROGRAM INCOME REUSE PLAN FOR THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP) AUTHORIZED BY THE HOUSING AND ECONOMIC RECOVERY ACT (HERA) OF 2008**

**RECOMMENDATION:**

That the City Council conduct a public hearing to receive public comments and approve a Program Income Reuse Plan for the Neighborhood Stabilization Program and at the close of the hearing, adopt a resolution approving the plan and authorizing the City Manager and any designee(s) to submit the approved plan to the State of California Housing and Community Development Department.

**BACKGROUND:**

The Neighborhood Stabilization Program (NSP) was authorized under the Housing and Economic Recovery Act (HERA) of 2008 that was approved by Congress in July 2008. This program is administered by the U. S. Department of Housing and Urban Development (HUD) at the Federal level and the Department of Housing and Community Development (HCD) at the State level. The program targets those areas experiencing particularly high foreclosure and property abandonment problems. Initially, the City of Santa Maria did not qualify as a direct grantee to HUD or as a direct grantee to the State for a portion of their funding. However, earlier this year the State changed their methodology for calculating the allocations and the City became eligible as a direct grantee to the State for \$1,258,602.

**DISCUSSION:**

On June 2<sup>nd</sup> the City Council conducted a public hearing and authorized staff to submit a NSP grant application to the State. The City submitted the grant application on June 15<sup>th</sup> in response to a Notice of Funding Availability (NOFA) issued by the State. On August 27<sup>th</sup> the State notified the City that its grant application had been approved for grant funding in the amount of \$1,258,602. The approval was conditioned on compliance with the requirements of all applicable statutes, regulations, and guidelines

of the NSP. The State has not yet issued the grant agreement. However, at a NSP workshop that staff attended on October 29<sup>th</sup> State HCD staff advised grantees that a number of special conditions must be met prior to the State giving authorization to incur costs for NSP grant activities. Those special conditions include adoption and approval of a Program Income Reuse Plan. The purpose of this plan is to establish policies and procedures for the administration and utilization of program income received as a result of activities funded under the NSP. Federal statutes and regulations pertaining to program income permit grantees to retain and utilize program income generated by eligible NSP activities pursuant to HERA with certain limitations. Some examples of NSP program income include:

- payments of principal and interest on loans made with NSP funds for the purchase of homes;
- interest earned on program income pending its disposition;
- net proceeds from the disposition of real property purchased or improved with NSP funds; and
- income from the use or rental of real property that has been acquired, constructed or improved with NSP funds.

The proposed Program Income Reuse Plan is attached (Attachment A). The plan is based on sample language and requirements provided by the State.


Fiscal Considerations:

The proposed action may have a positive fiscal impact if program income is received as a result of activities funded under the NSP in addition to the grant amount of \$1,258,602. The City may use up to five percent of NSP program income received and expended during the fiscal year for administrative costs that will help defray General Fund operating costs of the Special Projects Division.

Impact to the Community:

The proposed action will have a positive impact on the community by potentially providing additional funding for revitalizing those neighborhoods experiencing instability, blight, vandalism, code violations, and declining property values due to high percentages of foreclosed and abandoned properties.

  
CELESTE COELHO-HUDSON  
Community Programs Manager

  
MARY HARVEY  
Acting Director of Administrative Services

ATTACHMENTS

Attachment A – Program Income Reuse Plan



*City of Santa Maria*

*Department of Administrative Services  
Special Projects Division*

# **Neighborhood Stabilization Program (NSP)**

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## **Program Income Reuse Plan**

**DRAFT 11/16/09**



*City of Santa Maria*  
*Special Projects Division*  
*Neighborhood Stabilization Program*  
**Program Income Reuse Plan**

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Adopted Date \_\_\_\_\_

Grantee Name: City of Santa Maria  
Grantee Address: 110 East Cook Street, Room 2, Santa Maria, CA 93454  
Grantee Telephone #: 805-925-0951 x 118  
Grantee E-mail: cocoelho-hudson@ci.santa-maria.ca.us

The purpose of this plan is to establish guidelines on the policies and procedures for the administration and utilization of program income received as a result of activities funded under the Neighborhood Stabilization Program (NSP).

**Need for Plan Governing Reuse of NSP Program Income**

NSP is authorized under Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA) and under the heading of the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes. HERA provides under a rule of construction that, unless it is otherwise stated, grants made under the NSP are considered to be Community Development Block Grant (CDBG) funds.

This plan is intended to satisfy the requirements specified in Federal statute and regulation at Section 104(j) of the Housing and Community Development Act ("the Act"), as amended in 1992 and 24 Code of Federal Regulations (CFR) 570.489 (e)(3) and of Title III of Division B of HERA.

These statutory and regulatory sections permit the Grantee to retain NSP Program Income generated by eligible NSP activities pursuant to HERA. The eligible NSP activities shall principally benefit low-, moderate-, and middle-income (LMMI) individuals and families, and limited to only those activities as described in the Grantee's Application and Exhibit B of the NSP Standard Agreement. Such activities may include:

- A. 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 rehabilitation of homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.
- C. Land banks for homes that have been foreclosed upon.
- D. Demolition of blighted structures.
- E. Redevelopment of demolished or vacant properties.

### **Acceptance of the NSP Program Income Reuse Plan**

The NSP Program Income Reuse Plan must detail the proposed uses of NSP program income and confirm the jurisdiction's required compliance with State and Federal regulations.

The NSP Program Income Reuse Plan must be adopted by the local governing board only after compliance with the Grantee's citizen participation process as specified in Federal Regulations at 24 CFR 570.486, Local Government Requirements.

The Grantee shall obtain the Department of Housing and Community Development's (Department) written acceptance before taking any site specific prohibitive choice limiting actions with any NSP program income funded activity.

### **Program Income Defined**

NSP Program Income is defined in Federal Regulation at 24 CFR 570.500(a) which specifies that the NSP program income is the gross income received by the Grantee that has been directly generated from the use of CDBG/NSP funds. There are limitations and requirements based on the NSP activity that generated the program income and on the date the income is received. Examples of program income include:

- payments of principal and interest on housing rehabilitation or business loans made using CDBG/NSP funds;
  - interest earned on program income pending its disposition, net proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG/NSP funds; and
  - income (net of costs that are incidental to the generation of the income) from the use or rental of real property that has been acquired, constructed or improved with CDBG/NSP funds and that is owned (in whole or in part) by the participating jurisdiction or subrecipient.
1. Program income generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E).
    - a. Program income received before July 30, 2013, may be retained by the Grantee if it is treated as additional CDBG/NSP funds and used in accordance with the requirements of Section 2301.
    - b. Program income received on or after July 30, 2013, must be returned to the Department.

*Any program income received by the Grantee on or after July 30, 2013, that is generated by activities carried out pursuant to Section*

2301(c)(3)(B) and (E) (e.g., proceeds from the sale) and is not authorized to be retained as described below must be remitted to the Department.

Any program income received by a NSP grantee on or after July 30, 2013, that is generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) and that is in excess of the cost to acquire and redevelop or rehabilitate an abandoned or foreclosed-upon home or residential property may be retained if the Department accepts a request to use the funds for other NSP purposes.

Profit cannot be earned on the sale of an abandoned or foreclosed-upon home or residential property to an individual as a primary residence. As provided under Section 2301(c)(3), the sale must be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate the home or property up to a decent, safe, and habitable condition.

c. Revenue received by a private individual or other entity that is not a subrecipient.

i. Any revenue generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed-upon home or residential property must be provided to the State or unit of general local government and treated as program income. The disposition of the program income by the State or unit of general local government is governed by a. and b. above.

ii. Any revenue generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) and is received on or after July 30, 2013, shall be provided to the State and treated as program income. The disposition of the program income by the State is governed by b. above.

2. Agreements with subrecipients and other entities. States and units of general local governments must incorporate in subrecipient agreements such provisions as are necessary to ensure compliance with the requirements of this paragraph, including the requirement that program income be remitted to the Department. States, units of general local government, and subrecipients must incorporate in agreements with private individuals and other entities that are not subrecipients such provisions as are necessary to ensure compliance with the requirements governing disposition of revenue generated by activities carried out pursuant to Section 2301(c).

#### **General Administration (GA) Cost Limitation**

The Grantee will be allowed general administration costs of up to five percent (5%) of all NSP Program Income expended during each fiscal year.

**Activity Delivery (AD) Cost Limitation**

The Grantee will be allowed activity delivery costs up to the percentage of the total activity expenditure amount. The maximum activity delivery percentage for each activity is:

Financing Mechanisms	up to 8 percent
Housing Acquisition	up to 8 percent
Housing Rehabilitation	up to 19 percent
Disposition (Rental, Sale)	up to 8 percent
Landbanking	up to 8 percent
Demolition	up to 8 percent
Redevelopment (public facilities, public improvements)*	up to 8 percent
*if complex labor standards are justified	up to 12 percent

**Reuses of NSP Program Income**

The Grantee will be allowed to use the earned NSP program income for eligible NSP activities in the areas of greatest need listed in the Grantee's application and in Exhibit B of the NSP Standard Agreement.

Any NSP program income funds that are not shown to be obligated on the Grantee's next Quarterly NSP Program Income Report must be returned to the Department.

Program income received on or after July 30, 2013, must be returned to the Department.

All program income generated by activities funded by NSP grants must be placed in a separate NSP program income account. ***(NSP program income funds may not be commingled with CDBG program income funds.)***

**Reporting**

The Grantee shall comply with all NSP reporting requirements, including, but not limited to:

<b>Report:</b>	<b>Due:</b>
Section 3 Report	By July 31 of each year
Wage Compliance Report (during construction period)	October 31 and April 30
Final Wage Compliance Report	30 days after construction is completed
Funds Request Form	As funds are needed
Quarterly Performance and Expenditure Report	Due 15 days after the end of each quarter
Quarterly NSP Program Income Report	Due 15 days after the end of each quarter

*City of Santa Maria*  
*Neighborhood Stabilization Program (NSP)*  
*Program Income Reuse Plan*

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The Quarterly NSP Program Income Report will detail all obligated program income receipts, expenditure amounts, and specific activity detail for all expenditures.

NOTE: Any NSP program income funds that are not shown to be obligated on the Grantee's next Quarterly NSP Program Income Report must be returned to the Department.

**Federal Overlay Compliance**

The Grantee shall ensure that the use of NSP program income under this NSP Program Income Reuse Plan complies with all federal overlay requirements, including, but not limited to:

- citizen participation
- environmental review
- equal opportunity
- Section 3 employment
- lead-based paint
- labor standards
- acquisition and relocation
- procurement
- property management
- maintenance of adequate accounting and recordkeeping systems

**Revising This Plan**

The Grantee has the authority to amend this document with a properly noticed Council/Board public hearing, board resolution, and acceptance by the Department.

RESOLUTION NO. 2009-176

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING A PROGRAM INCOME REUSE PLAN FOR THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP) AND AUTHORIZING THE CITY MANAGER AND ANY DESIGNEE(S) TO SUBMIT THE APPROVED PLAN TO THE STATE OF CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

**WHEREAS**, the City of Santa Maria is a direct grantee to the State of California for Federal funding in the amount of \$1,258,602 under the Neighborhood Stabilization Program (NSP) authorized by the Housing and Economic Recovery Act (HERA) of 2008; and

**WHEREAS**, the special conditions of the State's grant agreement require that the City develop, adopt and submit a Program Income Reuse Plan that outlines how the City will collect, disburse and manage NSP program income; and

**WHEREAS**, the City Council conducted a public hearing as required on the 1<sup>st</sup> day of December, 2009, for the purpose of receiving comments from the public concerning the NSP Program Income Reuse Plan; and

**WHEREAS**, a notice of the public hearing was duly published in accordance with Federal and State regulations;

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Santa Maria, California, that the NSP Program Income Reuse Plan is hereby approved and the City Manager and any designee(s) is/are hereby authorized to submit the approved plan to the State of California Department of Housing and Community Development.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Santa Maria held this 1<sup>st</sup> day of December, 2009.

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Mayor

ATTEST:

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Chief Deputy City Clerk

CONTENTS:

By: Mary Hawley  
Department Head

By: TJL  
City Manager

APPROVED AS TO FORM:

By: [Signature]  
City Attorney