

THE NEW YORK STATE NSP3 SUBSTANTIAL AMENDMENT

EXECUTIVE SUMMARY / BACKGROUND

This document is a substantial amendment to the New York State Action Plan for Program Year 2010 submitted by the State of New York (the “Amendment”). Included herein is a description of the criteria that will be used for New York State’s direct allocation of funds (the “Direct NSP Allocation”) received through the third round of the U.S. Department of Housing and Urban Development’s (“HUD”) Neighborhood Stabilization Program (“NSP3”). On October 19, 2010, HUD released the NSP3 Notice (“Notice”), which may be downloaded at <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/5447-N-01NSP3Notice100810.pdf>, with the requirements for the new allocation of NSP funds that were authorized in the Dodd-Frank Wall Street Reform and Consumer Protection Act. NSP3 is a component of the Community Development Block Grant (“CDBG”) Program. The Neighborhood Stabilization Program was originally established under the Housing and Economic Recovery Act of 2008. Through NSP3, HUD will award grants to 270 states and selected local governments to mitigate the negative impact of the nation’s economic decline and housing market collapse and to stabilize and revitalize communities and areas hit the hardest.

NSP3 funds, which total \$970 million nationally, were allocated by a formula based on the number of foreclosures and vacancies in the 20 percent of U.S. neighborhoods (Census Tracts) with the highest rates of homes financed by a subprime mortgage, are delinquent, or are in foreclosure. The minimum grant amount was \$1 million for non-state grantees and the basic allocation was adjusted to ensure that every state received a minimum of \$5 million. The net result is that these funds are highly targeted to communities with the most severe neighborhood problems associated with the foreclosure crisis.

In total, New York State received allocations of \$19,834,940, of which \$5 million was allocated directly to the State. The New York State Program will be administered by New York State Homes & Community Renewal. Of the \$5 million awarded directly to New York State, \$4.5 million will be awarded through a Request for Proposals (“RFP”) process. The remaining \$500,000 will be used by the State for administrative costs eligible under 24 CFR 570.205 and 206. The New York State allocations not allocated directly to the State will be distributed by HUD directly to New York City, Nassau County, Suffolk County, and the Town of Islip. Information on the NSP3 Formula Methodology and a spreadsheet detailing the NSP3 allocations throughout New York State and across the country may be found at: <http://www.huduser.org/portal/datasets/NSP.html>.

COMPETITIVE APPLICATION PROCESS

New York State is aware that the demand for NSP3 funds is strong across the State and that requests for NSP funding will likely exceed the amount available. Given the requirement to expend at least 50% of the State's Direct NSP Allocation within two years and 100% within three years of the date funds become available to the State, it is important that the State select projects that can meet all requirements and expend NSP3 funds and be completed in advance of these deadlines.

To accomplish this, the State will use an RFP process to award its allocation of NSP3 funds, soliciting proposals for specific projects.

Eligible Applicants

Any of the following entities may apply for the State's Direct NSP Allocation:

- Local governments;
- Nonprofits; and
- For profit entities.

As an initial indication that applicants have the ability to expend an NSP3 grant within the statutory deadlines, they must demonstrate that they have successfully carried out and completed NSP3-eligible activities involving at least 25 units of homeownership housing or 75 units of rental housing (such as acquisition/disposition of housing or rehabilitation of housing as part of a neighborhood stabilization, land banking, or community development program) within the 36-month period immediately preceding the date of the release of the RFP. The State will only consider applicants that achieve this threshold by demonstrating sufficient organizational capacity relevant to each NSP3-eligible activity they propose to carry out.

Eligible Uses of NSP Funds

NSP3 funds must be used to assist households whose income is at or below 120% of Area Median Income ("AMI"). At least 25% of the State's Direct NSP Allocation (\$1,250,000) must assist households whose income is at or below 50% of AMI.

New York State will allow the State's Direct NSP Allocation to be used for the following categories permitted under NSP3:

NSP-Eligible Uses	Correlated Eligible Activities From the CDBG Entitlement Regulations
(A) Establish financing mechanisms for purchase and redevelopment of <i>foreclosed upon homes and residential properties</i> , including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers	<ul style="list-style-type: none"> • As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. • Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate <i>homes and residential properties that have been abandoned or foreclosed upon</i> , in order to sell, rent, or redevelop such homes and properties	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation , and (n) Direct homeownership assistance (as modified below); • 24 CFR 570.202 eligible rehabilitation and preservation activities for homes and other residential properties. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost
(C) Establish and operate land banks for <i>homes and residential properties that have been foreclosed upon</i>	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition and (b) Disposition. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost
(D) Demolish <i>blighted structures</i>	<ul style="list-style-type: none"> • 24 CFR 570.201(d) Clearance for blighted structures only.
(E) Redevelop <i>demolished or vacant properties as housing</i>	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition, (b) Disposition, (c) Public facilities and improvements, (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties, (i) Relocation, and (n) Direct homeownership assistance (as modified below). • 24 CFR 570.202 Eligible rehabilitation and preservation activities for demolished or vacant properties. • 24 CFR 570.204 Community based development organizations. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost

Areas of Greatest Need

The neighborhood or neighborhoods identified by the applicant as being the areas of greatest need must have an individual score for the target geography that is not less than 16 as identified by the HUD NSP3 Mapping Tool for Preparing Action Plan website at <http://www.huduser.org/NSP/NSP3.html>. Counties within New York State that contain census tracts with NSP3 Need Scores of 16 and higher include Bronx, Dutchess, Erie, Kings, Monroe, Nassau, New York, Orange, Otsego, Queens, Richmond, Rockland, Schenectady, Suffolk, Ulster, and Westchester. A complete list of these census tracts may be found at the HUD Foreclosure Need website at: (<http://www.huduser.org/portal/datasets/NSP.html>).

Project Selection Criteria

Projects will be evaluated and ranked based on meeting the following criteria:

- Projects that provide sufficient market analysis supporting the proposed activities in the identified target area. At a minimum, applicants must demonstrate this through market data provided by the HUD NSP3 Mapping Tool for Preparing Action Plan website at <http://www.huduser.org/NSP/NSP3.html>. Applicants will be encouraged to submit additional data from sources such as market studies, Policy Map, etc.
- Projects that result in the greatest impact in the identified target area(s) as defined by the percentage of REO properties available within the past year that are intended to be acquired. In order to demonstrate meaningful impact, applicants must intend to acquire at least 20% of the REO available within the past year within each identified target area, as supported by data generated from the HUD NSP3 Mapping Tool. If the target area does not include REO's of significant magnitude, then other metrics demonstrating similar impact (e.g. number of vacant properties in an area) must be provided.
- Projects by applicants with demonstrated capacity to implement their proposed projects and expend funds in advance of the statutory time frame. Applicants must meet the minimum threshold of demonstrating that they have successfully carried out and completed NSP3-eligible activities involving at least 25 units of homeownership housing or 75 units of rental housing within the 36-month period immediately preceding the date of the release of the RFP.
- Projects with a focused strategy for effective neighborhood stabilization, including addressing the factors that make the area vulnerable to future foreclosures.
- Projects that provide sustained affordability by incorporating green and sustainable development practices. At a minimum, projects must meet the rehabilitation standards described in the Notice. Preference will be given to projects that exceed the minimum requirements by providing as many of the NSP recommended energy efficient and environmentally-friendly green elements listed in Attachment C of the Notice, and/or commit to achieving an

established environmental or energy efficient standard such as Green Communities, LEED certification, etc.

- Projects that develop affordable rental housing.
- Projects that detail how high quality pre-purchase counseling will be provided to new homebuyers.
- Projects that leverage the largest portions of additional funding sources.
- Projects by applicants with direct knowledge and experience in the implementation of activities funded through the CDBG and HOME Programs, and in compliance with federal statutory requirements that govern NSP3 (e.g. NEPA, Section 3, EEO, etc.).
- Projects that serve the lowest possible incomes in a sustainable way, especially ones that serve households at or below 50% of AMI.
- Projects that achieve the longest possible affordability period.
- Projects that minimize displacement.
- Projects that use the least amount of subsidy per unit.

The State will require applicants to demonstrate readiness and ability to proceed with implementation quickly. The State will also underwrite the projects for market, borrower and project feasibility, and will reserve the right to reject any application on this basis.

TIMELINE

New York State Homes and Community Renewal will adhere to the following timeline for the NSP3 selection process such that the State will submit a second amendment to HUD with the final needs and target area mapping data and project selections by June 30, 2011:

Public Comment Period for 1 st Substantial Amendment Begins.....	February 7, 2011
Public Comment Period for 1 st Substantial Amendment Ends.....	February 21, 2011
1 st Substantial Amendment Submitted to HUD.....	March 1, 2011
RFP Released.....	on or about March 7, 2011
RFP Responses Due.....	on or about April 18, 2011
NSP3 Awards Determined.....	on or about May 23, 2011
Public Comment Period for 2 nd Substantial Amendment Begins...on or about	June 6, 2011
Public Comment Period for 2 nd Substantial Amendment Ends...on or about	June 20, 2011
2 nd Substantial Amendment Submitted to HUD.....	June 30, 2011

PUBLIC COMMENTS

New York State followed the usual methods for publishing this Amendment, including posting in the State Register and on the New York State Homes and Community Renewal (HCR) website at www.nyshcr.org. The 15- day public comment period began on Monday, February 7, 2011 and extended through the close of business on Monday, February 21, 2011. A copy of the notice posted in the State Register is attached hereto as Exhibit A.

No comments regarding the New York State NSP3 Substantial Amendment to the 2010 Action Plan were received during the public comment period.

The final New York State NSP3 Substantial Amendment to the 2010 Action Plan may be viewed at <http://www.nyhomes.org/Municipalities/NSP/>.

EXHIBIT A: COPY OF NOTICE PUBLISHED IN STATE REGISTER

New York State Consolidated Annual Performance Report and Neighborhood Stabilization Program 3 Public Comment Period Announcement

In accordance with the provisions of the National Affordable Housing Act, the State of New York is making a draft of its Consolidated Annual Performance Report (CAPER) for Program Year 2010 available for public comment. The CAPER analyzes New York State's progress in implementing its HUD-approved Annual Action Plan for 2010. **The public is invited to review the draft New York State CAPER and to offer comments on the document.** The draft 2010 CAPER, as published for public comment, will be available during the public comment period on the New York State Homes and Community Renewal (HCR) website at www.nyshcr.org. In addition, copies can be requested by e-mail at HCRConPln@nyshcr.org or by telephoning 1-866-275-3427. **The public comment period will begin on Monday, February 7, 2011 and end on Monday, February 21, 2011.** Written comments must be postmarked no later than February 21, 2011 and addressed to: Nancy Moreland, NYS HCR, Hampton Plaza, 38-40 State Street, Albany, NY 12207. E-mail comments must be sent by that date and e-mailed to: HCRConPln@nyshcr.org.

In addition, the U.S. Department of Housing and Urban Development (HUD) has been authorized to administer the federal Neighborhood Stabilization Program 3 (NSP3). NSP3 will provide grants to States and local governments to continue to assist in the redevelopment of abandoned and foreclosed homes. The funding is provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010. On September 8, 2010, HUD released the NSP3 allocation amounts for states and other jurisdictions. State and local governments must submit applications for these funds to HUD by March 1, 2011. The applications will be amendments to the jurisdictions' existing, approved Action Plan. The allocation under the NSP3 for the New York State Program is \$5 million and funds will be administered by the Office of Community Renewal. In accordance with HUD guidelines, the NSP3 amendment to the 2010 Action Plan for the New York State Program must be published for no less than 15 calendar days for public comment before it is submitted to HUD by the March 1, 2011 deadline. **The public comment period will begin on Monday, February 7, 2011 and end on Monday, February 21, 2011.** The New York State NSP3 amendment to the 2010 Action Plan will be available during the public comment period on the New York State Homes and Community Renewal (HCR) website at www.nyshcr.org. In addition, copies can be requested by e-mail at HCRConPln@nyshcr.org or by telephoning 1-866-275-3427. Written comments must be postmarked no later than February 21, 2011 and addressed to: Nancy Moreland, NYS HCR, Hampton Plaza, 38-40 State Street, Albany, NY 12207. E-mail comments must be sent by that date and e-mailed to: HCRConPln@nyshcr.org.

CERTIFICATIONS

- (1) **Affirmatively furthering fair housing.** The jurisdiction certifies that it 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-displacement and relocation plan.** The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.
- (3) **Anti-lobbying.** The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.
- (4) **Authority of jurisdiction.** The jurisdiction certifies that the consolidated plan or abbreviated plan, as applicable, is authorized under state and local law (as applicable) and that 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.
- (5) **Consistency with plan.** The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan or abbreviated plan, as applicable.
- (6) **Acquisition and relocation.** The jurisdiction certifies that it 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.
- (7) **Section 3.** The jurisdiction certifies that it 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.
- (8) **Citizen participation.** The jurisdiction certifies that it 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.
- (9) **Following a plan.** The jurisdiction certifies it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.
- (10) **Use of funds.** The jurisdiction certifies that it will comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and Title XII of Division A of the American Recovery and Reinvestment Act of 2009 by spending 50 percent of its grant funds within 2 years, and spending 100 percent within 3 years, of receipt of the grant.

(11) **The jurisdiction certifies:**

- a. 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; and
- b. 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:

- a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
- b. 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 nonviolent civil rights demonstrations within its jurisdiction.

(13) **Compliance with anti-discrimination laws.** The jurisdiction certifies that 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 jurisdiction certifies that its 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 certifies that it will comply with applicable laws.

(16) **Vicinity hiring.** The jurisdiction certifies that it will, to the maximum extent feasible, provide for hiring of employees that reside in the vicinity of NSP3 funded projects or contract with small businesses that are owned and operated by persons residing in the vicinity of NSP3 projects.

(17) **Development of affordable rental housing.** The jurisdiction certifies that it will be abide by the procedures described in its NSP3 Abbreviated Plan to create preferences for the development of affordable rental housing for properties assisted with NSP3 funds.

Brian Legel
Signature/Authorized Official

2/25/11
Date

VP/DIRECTOR,
Title NEIGHBORHOOD STABILIZATION