



Neighborhood Stabilization Program (NSP) 2 *Affordable Homes Strengthening Communities*

Delaware State Housing Authority (DSHA) State NSP2 Policy and Procedure Manual Revised: January 2011



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Delaware State Housing Authority (DSHA) Policies & Procedures

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Neighborhood Stabilization Program (NSP) Overview

Neighborhood Stabilization Program 1 (NSP1), was created as a part of the Housing and Economic Recovery Act (HERA), law on July 30, 2008. NSP2 was created under the American Reinvestment and Recovery Act of 2009 (Public Law 111-005)(Recovery Act) for additional activities under Division B, Title III of the Housing and Economic Recovery Act of 2008 (Public Law 110-289)(HERA), as amended.

The Delaware State Housing Authority (DSHA) was designated to receive **\$10,007,109** in Neighborhood Stabilization funding for NSP2 by the U.S. Department of Housing and Urban Development (HUD) if the plan amendment was approved.

The primary purpose of the NSP funding is to assist communities that have been, or are likely to be most affected by foreclosure, by stimulating re-use of the properties. The funds cannot be used to prevent foreclosure.

Congress directed that funds be used in areas of greatest need. HUD developed data showing areas of greatest need.

NSP funds can only be used for eligible activities; all eligible activities must be used to move foreclosed properties back into productive use as private homes or for a purpose that enhances a neighborhood where foreclosure is a problem. The five eligible activities are:

1. Establish financing mechanisms
2. Purchase and rehabilitate
3. Establish land banks
4. Demolition
5. Redevelopment

All NSP funds must be used to create affordable rental and homeownership opportunities for households at or below 120% of Area Median Income (AMI).

25% of the funds must be targeted to provide homeownership or rental housing to households with incomes 50% or less of AMI.

**Delaware NSP List of Awards
NSP2**

Jurisdiction	DE NSP Award
New Castle County	\$ 4,351,958.00
Kent County	\$ 767,017.00
Sussex County	\$ 939,204.00
City of Wilmington	\$ 3,496,222.00
DSHA Administration and Marketing	\$ 452,708.00
TOTALS	\$ 10,007,109.00

Delaware NSP Grantee Contact Information**New Castle County (NCC)**

NCC Division of Community Development and Housing
77 Reads Way
New Castle, DE 19720
(302) 396-5600 Fax: (302) 395-5591
Agency Contact: Carrie Casey

Kent County

Kent County Levy Court
555 Bay Road
Dover, DE 19901
(302) 744-2480 Fax: (302) 736-2128
Agency Contact: Albert Biddle & Mary Ellen Gray

Sussex County

Sussex County Housing Department
22215 DuPont Blvd, P.O. Box 589
Georgetown, DE 19947
(302) 855-7779 Fax: (302) 854-5397
Agency Contact: Brandy Bennett

City of Wilmington

Department of Real Estate and Housing
800 N. French Street 7th Floor
Wilmington, DE 19801
(302) 576-3000 Fax: (302) 573-5588
Agency Contact: Susana Casado

Delaware State Housing Authority

Planning and Community Development
18 The Green
Dover, DE 19901
(302) 739-4263 Fax: (302) 739-2416
Agency Contact: Amber Cooper

DELAWARE NSP Start-Up Tasks Checklist

Grant Number: _____

Grant Name: _____

Start Date:

End Date:

<p>I. Grant Agreement</p> <p>Execution of DE NSP Grant Agreement</p> <p>Execution of Grant Agreements with Subrecipients</p> <p>Execution of MOUs with Developers</p>	<p>Date Completed</p>
<p>II. Financial Management</p> <p>Return of Authorized Signatures For Request For Payment (DSHA-5)</p> <p>Determine Payment Type – Advance or Reimbursement</p> <p>Subrecipients establish a NSP depository non-interest bearing bank account.</p>	<p>Date Completed</p>
<p>III. Environmental Review Standards</p> <p>Completed Environmental Review Record letters and checklist</p> <p>Date of Published Notice (if applicable)</p> <p>Date of ERR sent to Environmental Officer</p> <p>Date of Release of Funds</p>	<p>Date Completed</p>
<p>IV Procurement</p> <p>Keep in files previously approved procurement of contractors for NSP activities.</p> <p>Hiring or Contracting</p> <p>Who: _____</p> <p>Who: _____</p> <p>Who: _____</p> <p>Who: _____</p>	<p>Date Completed</p> <p>When: _____</p> <p>When: _____</p> <p>When: _____</p> <p>When: _____</p>
<p>V. Recordkeeping</p> <p>Establish recordkeeping and filing system for this grant</p> <p>Update Citizen Participation Plan (if necessary)</p> <p>Update Anti-Displacement Plan (if necessary)</p> <p>Quarterly Reports</p>	<p>Date Completed</p>

(Appendix X – Time Chart)

NSP Definitions

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

Blighted Structure: The structure exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

Current Market Appraisal: The appraisals are made in conformity with the appraisal requirements of the Uniform Act (URA) at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property by a grantee, subrecipient, developer, or individual homebuyer.

Foreclosed: A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceedings.

Grantee: Public agency recipient of NSP funds from HUD. For NSP, DSHA is the grantee.

Developer: Nonprofit or for-profit organization that arranges and completes deals.

Land Bank: For the purposes of the NSP, a land bank will operate in a specific, defined, geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and dispose of the land-banked properties. If the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the services or places a lien on the property for the full cost of the services.

MOU: Memorandum of Understanding. Describes a bilateral or multilateral agreement between parties, similar to a contract for services.

NCST: National Community Stabilization Trust. For NSP, they provide “first look” opportunities for Real Estate Owned Properties (REO) properties.

Real Estate Owned Properties (REO): A class of property owned by a lender, typically a bank, after an unsuccessful sale at a foreclosure auction. A bank will typically set the opening bid at a foreclosure auction for at least the outstanding loan amount. If there are no bidders that are interested, then the bank will legally repossess the property. As soon as the bank repossesses the property, it is listed on their books as REO – Real Estate Owned – and is categorized as an asset (non-performing).

Rehabilitation Standard: At a minimum, any rehabilitation done using NSP funds will meet current CDBG or HOME rehabilitation standards, which require houses to meet the livability standards and code for the county or city where activity is taking place. Additionally, grantee

must comply with federal and state lead-based paint regulations and conduct a termite inspection for each house.

Recommendation: NSP homes are encouraged to use energy efficient appliances and other applicable green technologies for both rehabilitation and new construction.

Subrecipient: Public agency or nonprofit that administers program for grantee. Must follow NSP regulations and policies established by Congress and grantee. For NSP, this is the jurisdictions.

Vacant: Unoccupied structures or vacant land that was once developed.

Delaware NSP Regulations and Requirements

Low Income Targeting

HUD requires grantees to identify the estimated amount of funds appropriated or otherwise made available under NSP to be used to purchase and redevelop abandoned and foreclosed upon homes or residential properties for housing individuals or families whose incomes do not exceed 50% of AMI. New for NSP2, activities under eligible USE E, do count toward the 25% set-aside.

DSHA requires the subrecipient to follow their approved budget and work plans, submitted by the subrecipient to DSHA, in assisting households earning less than 50% of AMI.

DSHA requires a minimum of 25% of subrecipient funds to be obligated to projects that assist low-income households. *DSHA reserves the right to assign percentages that grantee must meet to assist the state with meeting this requirement.*

Timing

HUD has mandated a strict timeframe regarding the obligation of initiation of project activities. NSP2 does NOT require that funds be obligated within 18 months of HUD's execution of the grant agreement with the state (NSP1 requirement only). Grantees and their subrecipients must expend at least 50% of each grant within 2 years and 100% within 3 years of grant award date.

All subrecipients are required to submit quarterly status reports [DSHA-13] and the NSP document of itemization of obligated funds spreadsheet, due to DSHA 5 days after the end of each quarter.

Grantee's progress is evaluated on a quarterly basis using quarterly report information to analyze progress on performance goals and financial assessment.

Monitoring visits will occur on a semi-annual schedule unless DSHA feels necessary to schedule a site visit earlier than the six months based on data from the quarterly report.

DSHA also reserves the right to require grantees to use the additional funds toward meeting the low-income targeting requirement.

Affordable Rents

For any NSP-funded rental activity, affordable rents are defined as 30 percent of the household's monthly gross income, less utility allowances. Total monthly costs (rent plus tenant-paid utilities) cannot exceed 30 percent of the HUD AMI for the appropriate County, household size, bedroom size, and target income group. DSHA annually prepares and updates Utility Allowance Charts for Kent and Sussex Counties that show the applicable utility allowance for each tenant-provided utility. New Castle County prepares a similar chart for New Castle County utility allowances.

Affordable Periods

In the NSP, HUD requires that states ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental or redevelopment of abandoned and foreclosed-upon homes and residential properties remain affordable to individuals or families whose incomes does not exceed 120% of AMI. Additionally, for units originally assisted with funds to meet the requirements, HUD requires that 25% of the funds be used to assist households with incomes at or below 50% of AMI, and that these units remain affordable to households with incomes at or below 50% of AMI. As a floor, HUD has set the minimum affordability restrictions used in the HOME Program as minimum restrictions for the NSP as well.

The statewide NSP standard will be the HOME Program minimums (see chart below). We strongly encourage all the jurisdictions to use mechanisms that will not only recapture subsidies, but actually preserve affordability for as long as possible. Subrecipients will be held to their long-term affordability plan, attachment C, in the grant agreement. DSHA NSP staff will undertake long-term affordability monitoring.

NSP Minimum Recapture Periods

1. Deferred Second Mortgage Loans for Downpayment and Closing Costs
 - A. The prorated amount of NSP funds in the form of second mortgage loans used for downpayment and closing costs are subject to recapture when the initially-assisted homebuyer sells, rents or refinances the NSP-assisted property within the recapture period set forth in the following chart:

Amount of Funds	Recapture Period
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
Over \$40,000	15 years

NSP mortgage loans shall be forgiven after expiration of the loan recapture period and/or period of affordability. If the NSP-assisted property is sold, rented or refinanced during the recapture period, the amount of the repayment required should be prorated by the number of full years the original NSP-assisted owner occupied the property. For example, a NSP deferred second mortgage in the amount of \$20,000 would have a recapture period of 10 years. If the property was sold 3 years and six months after the recapture period started, then 30% (3 full years/10 year recapture period) of the original \$20,000 NSP loan would be forgiven making the repayment amount due \$14,000.

- B. Where the net proceeds (the sales price less mortgage loan repayment and closing costs) is greater than the prorated balance due under the NSP mortgage loan, the balance of the NSP prorated mortgage loan shall be repaid to DSHA. However, where the net proceeds are less than the NSP mortgage loan, the amount of the net proceeds shall be repaid to DSHA. All repaid NSP mortgage funds shall be used to support other NSP-eligible activities.
- C. These recapture provisions shall be included in the note and mortgage evidencing and securing the NSP-funded second mortgage loan.

Acquisition Discount

NSP regulations require a minimum of 1% discount for the acquisition of foreclosed upon properties. This discount is from a current market appraised value, which is determined by an appraisal that is prepared within 60 days of the offer on the property.

NSP Acquisition Team

External Team of Professional Service Providers

NSP subrecipients must adhere to the regulations and requirements in their NSP Grant Agreement and their procurement processes outlined in their NSP manual for the following NSP Partners:

- Appraisers
- Title Companies
- Lead-Based Paint & Environmental Risk Assessors
- Developers/Rehabbers/General Contractors
- Procurement Process (Developer partners do not have to adhere unless otherwise notified in agreement with the NSP subrecipient; subrecipient partner must adhere to all NSP regulations as it relates to their activities.)
- Lenders
- Realtors
- Housing Counselors *(refer to NSP Housing Counseling)

***Delaware NSP Housing Counseling**

Each household wishing to purchase a home through the NSP must successfully complete HUD-certified housing counseling sessions to ensure that they are mortgage ready and understand the risks, responsibilities, and rewards of homeownership. All NSP funds must be used to create affordable rental and homeownership opportunities for households at or below 120% of AMI. These households must have incomes equal to or less than the HUD income limits for their county and household size.

Delaware has eight housing counseling agencies serving statewide; the eight counseling agencies are HUD-approved. Based on the need for statewide housing counseling for DE NSP, a MOU was executed between the subrecipients and DSHA as contractors for DE NSP required housing counseling.

NSP counseling funds will be paid upon closing of a NSP home at a rate of \$1,250.00 per closing. The rate of \$1,250.00 was determined by a cost analysis conducted by the Federation of Housing Counseling, representing each agency, and voted upon by the Board of the Federation. DSHA and subrecipients agreed upon this fee demonstrated by the executed MOU. Housing counseling agencies must submit a copy of the HUD-1 for reimbursement for NSP clients.

NSP clients will be reimbursed at closing by the jurisdiction for the \$100 housing counseling fee charged for all clients who acquire housing counseling services. This \$100 is not exclusive of NSP housing counseling.

All jurisdictions have been provided with housing counseling forms. Replacement copies are available upon request.

External Statewide Partnerships

National Community Stabilization Trust (NCST): NCST description of agency and services can be found in the EXHIBIT section of the manual. Subrecipients must adhere to the rules and agreements outlined in the MOU between subrecipient and DSHA. As the Community Coordinator, DSHA has a MOU with NCST. DSHA must adhere to rules and agreements outlined in the MOU between DSHA and NCST.

Reporting & Recordkeeping

Reporting

The grantee and subrecipients will be expected to collect and report information about the uses of funds, including, but not limited to:

- Project name
- Identify partner for activity
- Activity
- Itemization of funds for activity
- Location
- National objective
- Funds budgeted and expended
- Funding source and total amount of any non-funds
- Numbers of properties and housing units
- Beginning and ending dates of activities
- Numbers of low- and moderate-income persons or households benefiting
- Purchase amount for each property
- Appraisal amount for each property
- Sales amount for each property
- Discount amount
- Data needed to support performance measures
- Subsidy Amount
- Section 3 data

Quarterly Reporting

DSHA is responsible to report to HUD on a quarterly basis using HUD's online Disaster Recovery Grants Reporting (DRGR) database system. HUD requires quarterly reporting in DRGR for every activity awarded Federal NSP funds.

DSHA has provided DSHA-13 quarterly report templates to the subrecipients. In addition to DSHA-13, subrecipients must provide updates of their itemization of obligated and expended funds per project. DSHA has provided a spreadsheet template to use, or they may use their own, however it must detail all costs associated with each activity.

Reporting Due Dates - Reports must be received by DSHA on or before due dates:

- January 1 – March 31 report
 - **Due by April 5**
- April 1 – June 30 report
 - **Due by July 5**
- July 1 – September 30 report
 - **Due by October 5**

- October 1 – December 31 report
 - **Due by January 5**

Timely and accurate reports are important. DSHA must submit Quarterly Report in DRGR for HUD review and approval before the 10th of the due date month.

DSHA will hold payment requests until delinquent reports are received.

Recordkeeping

The address, appraised value, purchase offer amount, and discount amount of each property purchase must be documented in the subrecipient's program records.

General Requirements

1. File memoranda on meetings, site visits and other NSP related activities.
2. Time and attendance records on all NSP personnel.
3. Submission of Status Report [DSHA-13] & Itemization of Funds Report to DSHA.
4. Mileage and travel expense records, salary information and such other data as is required to substantiate the expenses.
5. Procurement documentation as outlined in the subrecipient's NSP manual.
6. All such other records as may be required elsewhere in this Manual or that may be subsequently prescribed by DSHA.
7. All agreements with NSP partners must be kept on file and if violation of agreement occurs, notify DSHA, document the violation and resolution in your files and also submit copy to DSHA.

Civil Rights

1. Documentation of the action(s) the recipient has carried out (or is carrying out) to affirmatively further fair housing, including records on funds provided, if any, for such actions.
2. For direct benefit activities, data on the extent to which persons have participated in or benefited from any program or activity funded in whole or in part with NSP funds. Records must be kept by race, ethnicity, handicapped status and gender of heads of households. For area wide activities, documentation on the area, the services being provided to the area, and the race and ethnicity of the service area.

3. Data on employment in each of the local government's operating units carrying out an activity funded in whole or in part with NSP funds. The data must be maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form.
4. Data indicating the race and ethnicity of households, and handicapped status of persons displaced as a result of NSP activities; including the address to which each displaced household was relocated (if applicable). Where activities cause a significant level of displacement of business, data indicating the impact of businesses owned by minorities and women (if applicable).
5. Documentation of actions undertaken to meet the requirements of Section 3 of the Housing and Urban Development Act of 1968.
6. Submission of Minority Business Enterprise data on form DSHA-13 on a quarterly basis, indicating the racial/ethnic character of each business entity that receives a contract or subcontract paid with NSP funds. Data indicating which of those entities are women's business enterprise as defined in Executive Order 12138 and the amount of the contract or subcontract.
7. Documentation of the affirmative actions the local governments have taken to overcome the effects of prior discrimination as determined through a formal compliance previously discriminated against persons on the grounds of race, color, national origin or sex in administering a program or activity funded in whole or in part with NSP funds.

Uniform Real Property Acquisition

The following information shall be maintained for at least three years after each owner of the property has received the final payment to which they are entitled.

1. Identification of property and property owner(s).
2. Evidence owner was informed on a timely basis about acquisition and his or her rights.
3. Copy of each appraisal report, including review of appraiser's report, if applicable, and evidence that owner was invited to accompany each appraiser on appraiser's inspection of the property.
4. Copy of written purchase offer and summary statement of the basis for the determination of just compensation; date of delivery to owner.
5. Copy of the purchase contract and documents conveying property.
6. Copy of settlement statement and evidence that owner received purchase price.
7. Copy of any appeal or complaint filed and response.

Labor Standards (Infrastructure Only)

1. Contract documents, which contain actual wage rates used and were included in the solicitation and award documents.
2. Contracts containing proper and applicable labor standard provisions. File may also include certification from contractor.
3. Evidence that the recipient inquired and was informed that the successful bidder and all subcontractors were not on the list of debarred contractors.
4. Actual payrolls submitted and evidence that payrolls were reviewed in a timely manner.
5. Evidence that worker interviews were conducted.
6. Evidence that an enforcement report was submitted to the state and HUD, where restitution of \$1,000 or more was required.
7. Adherence to Davis-Bacon Laws as outlined in Federal Regulations.

Environmental Review Recordkeeping and Processes

1. For every project, the recipient must maintain an environmental review record (ERR) that includes:
 - a. Description of project and activities;
 - b. All environmental reviews including their findings and documents;
 - c. Public notices;
 - d. Written determinations;
 - e. State's approval of environmental certification and request for release of funds.
2. Project Consisting Solely of Exempt Activities (58.34):

(Note: Project is defined as one or more activities described in Section 105 of the Housing and Community Development Act)

 - a. Written documentation signed by certifying officer that projects meet qualifications for exemption. (58.34) (B). See also 3C below.
3. Project Consisting of Categorical Exclusions (58.35):
 - a. Written documentation signed by certifying officer that project activities meet the requirements for categorical exclusion (58.35)(a) or exemption (58.34) from NEPA requirements (58.35)(a).
 - b. Written documentation of compliance with environmental requirements of other related laws at 58.5 determined to be applicable to the project; documentation showing completion of procedures and actions required under applicable laws and authority (58.35)(b).
 - c. Where designated laws and authorities do not apply to project, a written determination signed by certifying officer that project is exempt (58.34)(a)(12). See 2 above and omit "d" and "e" below.
 - d. Evidence that Notice of Intent to Request Release of Funds (NOI/RROF) was published at least 7 calendar days before submitting RROF to state, using the HUD format or equivalent. Record of comments and how they have been taken into account (58.70).
 - e. Evidence that RROF and environmental certification were submitted to State (58.71)
4. Environmental Assessment for Projects Not Classified as Exempt or Categorically Excluded:
 - a. Consultation with other Agencies

- i. Evidence that early Environmental Assessment (EA) process, recipient initiated, coordinated and consulted with other concerned Federal and State agencies (58.43)
 - ii. Evidence of completion of actions required by other applicable laws and authorities (58.6)
 - b. For projects requiring EA, evidence that EA has been completed using HUD format or equivalent (58.40).
 - c. If Finding of No Significant Impact (FONSI) determination made, evidence that separate FONSI Notice and separate NOI/RROF or combined notice of both, (using HUD format(s) or equivalent(s)) were prepared and sent to:
 - i. EPA headquarters and appropriate regional offices;
 - ii. Interested individuals and groups;
 - iii. Appropriate local, state, federal agencies; and
 - iv. State NSP agency (58.43) – Delaware State Housing Authority (DSHA)
 - d. Evidence that notices were published at least once in local area wide newspaper (for exceptions, see 58.43)
 - e. Evidence that 15-day comment period provided for combined FONSI Notice and NOI/RROF or for separate FONSI Notice. Record of comments received and how they have been taken into account (58.43 & 58.45). Records of any determination extending comment period providing for 30-day FONSI notice instead of the normal 15-day comment period (58.46).
 - f. Where separate notices are issued, evidence that 7 calendar days between publication and the end of the comment period were provided for NOI/RROF before the submitting RROF to state, including a (58.70) record of all (58.70) comments received and how they have taken into account (58.45).
 - g. Evidence that RROF and certifications were submitted to state (58.71).
 - h. If there is a finding of significant impact, copy of the findings signed by the certifying officer and a copy of Notice of Intent not to Prepare an EIS (58.55).
5. Environmental Impact Statement:
 - a. Evidence that NOT/EIS was published and distributed, using HUD format or equivalent (58.55 & 58.40). Where applicable, documentation of a determination to adopt other Federal agency EIS (58.52) or to reuse the prior EIS (58.53).
 - b. Record of the scoping process and determination to hold scoping meeting (NEPA regs 1501.7 & 58.56)

- c. Draft EIS prepared according to HUD format and Section 1502.10 of NEPA regs (58.60).
 - d. Record of any decision to hold public hearings. If hearing held, a record of the proceedings, any comments received, and how these were taken into account (58.59).
 - e. Evidence that DEIS filed with EPA headquarters and regional offices (58.60). Documentation of the distribution of DEIS or summary (58.60).
 - f. Record of preparation of the Final EIS according to 40 CFR 1502, using HUD format or equivalent. Evidence that it was filed with EPA and distributed to HUD and other parties who have commented on DEIS or requested copies (58.60). Record in FEIS any response to comments received during comment period and public hearings if any were held (NEPA regs, Parts 1502 and 1505 58.60).
 - g. Record of Supplemental DEIS and FEIS prepared, if any.
 - h. "Recode of Decision" which includes: lead agency decisions whether to proceed with monitoring and enforcement measures to be undertaken, using HUD format or equivalent (NEPA regs. 1505.25; 58.60).
 - i. Evidence of compliance with related laws and authorities applicable to the project in the DEIS and FEIS (58.5).
 - j. Record of the date that FEIS was filed with EPA and the final list for distribution to agencies and public.
 - k. Evidence that at least 7 calendar days before submitting the RROF and certification to the state, the recipient published and disseminated NOI/RROF in the same manner as a FONSI (Sec. III C-E (58.70 & 58.430)).
6. Release of Funds and Certification Approval:
- a. Date of ROF and certification submitted to state.
 - b. Record of objections received from agencies or public, if any received during the state ROF process, and their disposition (58.76, 58.77 (a)(b)).
 - c. Copy of the state notification of the release of funds and approval of certification.
 - d. Record of the implementation of the environment review decisions.

Financial Management

Financial Management Overview

DSHA is responsible for ensuring that NSP subrecipients are in compliance with applicable federal and state regulations, policies and procedures relevant to the financial management of their grants. The regulations and requirements listed in this section provide the appropriate citations that are the subrecipient’s obligation and responsibility to follow and apply to the day to day operations in managing their NSP program.

The following is a list of the key Federal regulations governing financial management:

- A. 24 CFR Part 570, Community Development Block Grant Program**
 - Subpart I governs the State NSP Program
 - Section 570.489 details program administration requirements
- B. 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments** (also referred to as the Common Rule) – This regulation, which applies to government agencies, sets forth uniform requirements for financial management systems, reports and records, and grant close-out requirements for recipients of federal grant funds. Listed below by category are the specific applicable rules:

<ul style="list-style-type: none"> 85.20 Standards for financial management systems 85.21 Payment 85.22 Allowable Costs 85.23 Period of Availability of Funds 85.24 Matching or Cost Sharing 85.25 Program Income 85.26 Non-federal Audit 85.34 Copyrights 	<ul style="list-style-type: none"> 85.35 Subawards to Debarred and Suspended Parties 85.36 Procurement 85.37 Subgrants 85.40 Monitoring and Reporting Program Performance 85.41 Financial Reporting 85.42 Retention and Access to Records 85.43 Enforcement
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- C. OMB Circular A-87 “Cost Principals for State, Local and Indian Tribal Governments”**
 - applies to governmental entities and establishes principals and standards for determining allowable costs under federal grants.
- D. OMB Circular A-122 “Cost Principals for Non-Profit Organizations”**
 - establishes principals for determining allowable costs for nonprofit organizations
- E. OMB Circular A-133 “Audits of Institutions of States, Local Governments and Nonprofit Institutions”** (revised June 1997)
 - refers to audit procedures and requirements for states, local governments and nonprofit organizations

F. 24 CFR Part 84 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations

(implemented by OMB Circular A-110) This regulation, which applies to non-profit agencies, sets forth uniform requirements for financial management systems, reports and records, and grant close-out requirements for recipients of federal grant funds.

Listed below by category are the specific applicable rules:

Subpart A – General

- 84.1 Purpose
- 84.2 Definitions
- 84.3 Effect on other Issuances
- 84.4 Deviations
- 84.5 Subawards

Subpart B – Pre-Award Requirements

- 84.10 Purpose
- 84.11 Pre-award Policies
- 84.13 Debarment and Suspension; Drug-Free Workplace
- 84.14 Special Award Conditions
- 84.15 Metric System of Measurement
- 84.16 Resource Conservation and Recovery Act

- 84.17 Certifications and Representations

Subpart C – Post-Award Requirements
Financial and Program Management

- 84.20 Purpose of Financial and Program Management
- 84.21 Standards for Financial Management Systems
- 84.22 Payment (recipients shall follow 85.20(b)(7) and 85.21 when making payments)
- 84.24 Program Income (recipients shall follow 570.504)
- 84.26 Non-Federal Audits
- 84.27 Allowable Costs
- 84.28 Period of Availability of Funds

Property Standards

- 84.30 Purpose of Property Standards
- 84.31 Insurance Coverage
- 84.32 Real Property (recipients shall follow 570.505)
- 84.33 Federally-owned and Exempt Property

84.34 Equipment (In lieu of the disposition requirements of 84.34(g) the following apply:

- In all cases in which equipment is sold, the proceeds shall be program income (prorated to reflect the extent to which NSP funds were used to acquire the equipment); and
- Equipment not needed by the recipient for NSP activities shall be transferred to the recipient for the NSP program or shall be retained after compensating the recipient.

84.35 Supplies and other Expendable Property

84.36 Intangible Property

84.37 Property Trust Relationship

Procurement Standards

84.40 Purpose of Procurement Standards

84.41 Recipient Responsibilities

84.42 Codes of Conduct

84.43 Competition

84.44 Procurement Procedures

84.45 Cost and Price Analysis

84.46 Procurement Records

84.47 Contract Administration

84.48 Contract Provisions

Reports and Records

84.50 Purpose of Reports and Records

84.51 Monitoring and Reporting Program Performance (84.51(a) only)

84.53 Retention and Access Requirements for Records - 84.53(b) applies with the following exceptions:

- The retention period pertaining to individual NSP activities shall be four (4) years; and
- The retention period starts from the date of

submission of the annual performance and evaluation report as prescribed in 24 CFR 91.520

Termination and Enforcement

84.60 Purpose of Termination and Enforcement

84.61 Termination - In lieu of 84.61, NSP recipients shall comply with 570.503(b) (7)

84.62 Enforcement

Subpart D – After-the-Award

Requirements

84.70 Purpose

84.72 Subsequent Adjustments and Continuing Responsibilities

84.73 Collection of Amounts Due

Summary of Requirements by Entity Type:

Local Governments	Non-Profit Organizations
24 CFR Part 85	24 CFR Part 84
OMB Circular A-87	OMB Circular A-122
OMB Circular A-133	OMB Circular A-133

Standards for Financial Management Systems:

In accordance with 24 CFR parts 85 and 84, subrecipients of NSP funds must have financial management systems in place that comply with the following standards:

- Provide effective control over and accountability for all funds, property and other assets;
- Identify the source and application of funds for federally-sponsored activities, including records and reports that:
 - Verify the “reasonableness, allowability and allocability” of costs; and
 - Verify that funds have not been used in violation of any of the restrictions or prohibitions that apply to the federal assistance (through the use of budget controls and adequate accounting records).
- Permit the accurate, complete and timely disclosure of financial results in accordance with grantee reporting requirements.

Internal Controls:

- Internal controls are the combination of policies, procedures, job responsibilities, personnel and records that together create accountability in an organization’s financial system and safeguard its cash, property and other assets.
- Through its system of internal controls, an organization can ensure that:
 - Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations and policies;
 - Resources are protected against waste, mismanagement or loss; and
 - Information on the source and amount and use of funds are reliable, secured and up-to-date and that this information is disclosed in the appropriate reports and records.
- An accounting policy and procedures manual that includes:
 - Specific approval authority for financial transactions and guidelines for controlling expenditures;
 - A set of written procedures for recording of transactions; and
 - A chart of accounts.
- Adequate separation of duties so that no one individual has authority over a financial transaction from beginning to end. In other words, one person should not have responsibility for *more than one* of the following functions:
 - Authorization to execute a transaction.
 - Recording of the transaction.
 - Custody of the assets involved in the transaction.

- Hiring policies ensuring that staff qualifications are commensurate with job responsibilities.
- Control over assets, blank forms and confidential documents so that these types of documents are limited to authorized personnel only.
- Periodic comparisons of financial records to actual assets and liabilities (i.e., reconciliation). In cases where discrepancies are found, corrective action must be taken to resolve such discrepancies.

Budget Controls:

Subrecipients of NSP funds must have procedures in place to compare and control expenditures against approved budgets for NSP-funded activities. A subrecipient must:

- Maintain in its accounting records (see below) the amounts budgeted for eligible activities;
- Periodically compare actual obligations and expenditures to date against planned obligations and expenditures, and against projected accomplishments for such outlays; and
- Report deviations from budget and program plans, and request approval for budget and program plan revisions.

Accounting Records:

Subrecipients of NSP funds are required to have accounting records that sufficiently identify the source and application of NSP funds provided to them.

- To meet this requirement, an organization's accounting system should include at least the following elements:
 - **Chart of accounts** - This is a list of account names and the numbers assigned to each of the account names. The names provide a description of the type of transactions that will be recorded in each account (e.g., an account titled "cash" denotes that only transactions affecting cash should be recorded in that account). The account number is required by most accounting software programs and is assigned to an account name to group similar types of accounts. For example, all asset accounts will begin with a "#1" and all liability accounts will begin with a "#2". A typical chart of accounts will generally include the following categories: assets, liabilities, net assets/fund balance, revenues and expenses.
 - **Cash receipts journal** - A cash receipts journal documents, in chronological order, when funds were received, in what amounts and from what sources.
 - **Cash disbursements journal** - A cash disbursements journal documents, in chronological order, when an expense was incurred, for what purpose, how much was paid and to whom it was paid.
 - **Payroll journal** - A payroll journal documents payroll and payroll related benefit expenses on salaries and benefits, including distinguishing between categories for regulatory purposes.
 - **General ledger** - A general ledger summarizes, in chronological order, the activity and financial status of all the accounts of an organization. Information is transferred to the general ledger after it is entered into the appropriate journal. Entries transferred to the general ledger should be cross-referenced to the applicable journal to permit the tracing of any financial transaction.

- All journal entries must be properly approved and supported by source documentation. Documentation must show that costs charged against NSP were:
 - Incurred during the effective period of the agreement with the grantee;
 - Actually paid out (or properly accrued);
 - Expended on eligible items; and
 - Approved by the appropriate official(s) within the organization.
- Source documentation must explain the basis of the costs incurred and the actual dates of the expenditure. For example:
 - Source documentation for payroll would include employment letters, authorizations for rates of pay and benefits and time and attendance records.
 - Source documentation on supplies would include purchase orders or purchase requisition forms, invoices from vendors, canceled checks made to vendors, information on where the supplies are stored and the purpose for which they are being used.
- Subrecipients of NSP funds must ensure that their accounting records include reliable, up-to-date information on the sources and uses of NSP funds, including:
 - Amount of federal funds received;
 - Current authorization of funds;
 - Obligations of funds;
 - Unobligated balances;
 - Assets and liabilities;
 - Program income; and
 - Actual expenditures broken down by the grant program and year for which the funds are derived and the activity on which the funds were used.

Audit Requirements

Type/Level of Audit Required:

States, local government and nonprofit organizations are required to comply with **OMB Circular A-133** “Audits of States, Local Governments and Non-profit Organizations”.

- The type/level of audit required by the OMB circulars is based on the amount of federal financial assistance expended by an organization in any given year.
 - NSP subrecipients that expend \$500,000 or more in a year in Federal awards must have an audit conducted in accordance with **OMB Circular A-133** except when they elect to have a program-specific audit conducted
 - A **program audit** is an audit of one federal program (such as NSP). A program specific audit is allowed when subrecipient expends federal awards under only one federal program.
 - A **single audit** is an audit that includes both an entity’s financial statements and its federal awards (from all applicable federal programs).
 - If a subrecipient expends less than \$500,000 a year in federal awards, it is exempt from the audit requirements for that year; however, records must be available for review or audit by appropriate officials of the federal agency, pass-through entity and the Government Accountability Office.

Scope of Audits:

Audits performed for subrecipients of federal funds must be performed by an independent auditor in accordance with Government Auditing Standards and must be conducted in accordance with the OMB circulars.

- Specifically, the audit will cover three areas:
 - Financial statements
 - Internal control; and
 - Compliance with applicable laws and regulations.

Audit Reports:

- Following the completion of the audit, an audit report must be prepared. The audit report must contain at least the following:
 - An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;
 - A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs;
 - A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the subrecipient complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs; and
 - A schedule of findings and questioned costs that includes a summary of the auditor's results, findings relating to the financial statements which are required to be reported in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States, and findings and questioned costs for Federal awards.
- The audit must be completed and report submitted to the Federal clearinghouse designated by OMB within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period. The subrecipient shall make copies available for public inspection.
- Copies of audit reports must be kept on file for a minimum of three years from the date of submission to the Federal clearinghouse designated by OMB.
- The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the subrecipient, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period.
- If there are unresolved audit issues at the end of this three-year period, the subrecipient should notify the auditor in writing to extend the retention period.

Auditor Selection/Procurement:

- In arranging for audit services, subrecipients must follow the procurement standards found in 24 CFR Part 85 or 84, as applicable.
- Whenever possible, subrecipients shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

Audit Costs:

- The costs of audits made in accordance with the applicable regulations are allowable charges to federal assistance programs.
- These charges can be treated as either a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars.
- The cost of any audit under OMB Circular A-133 not conducted in accordance with this part is unallowable. The cost of auditing a non-Federal entity which has Federal awards expended of less than \$500,000 per year and is thereby exempted from having an audit conducted under this part is also not allowable.

Methods for Requesting Payments

The Cost Reimbursement Method of Payment entails the transfer of NSP funds to the subrecipient based on actual expenditures that the subrecipient has already paid or incurred.

Request for Payment:

The following requirements must be met before DSHA can process a subrecipient's Request for Payment:

- The Grant Agreement must be executed and returned to DSHA.
- The Subrecipient's certification of completion of the environmental review is submitted to and approved by DSHA.
- All documentation required prior to requesting draws has been submitted, reviewed, and approved by DSHA.
- The Authorized Signature for Request for Payment form (DSHA-5) is returned to DSHA containing identical typed names of the individuals authorized by the subrecipient to co-sign the Request for Payment. The written and typed names must be identical on each form.
- All grant conditions are removed and a release of funds is issued by DSHA.
- NSP Program Income is subject to NSP Program Income regulations (see Program Income section) and must be expended prior to requesting additional funds from the NSP grant.
- The Request for Drawdown Payment form (DSHA-8) must be accurate and completed in full.
- Any changes to a program or project after the notice of award must be approved by DSHA.

When requesting NSP funds from DSHA for project and administration costs, subrecipients must complete and submit the Request for Drawdown Payment form (DSHA-8). Fax or mail of the Request for Drawdown Payment form is permitted. All Source Documentation to fully support the request for payment must be attached, including: canceled checks, paid bills, invoices, payroll, and/or time and attendance records.

Drawdown Payment System:

- A. Subrecipients must have a financial management and recordkeeping system that adequately accounts for NSP funds and Program Income.
- B. Funds for expenses other than administration may not be expended nor drawn before completion of the required environmental review.
- C. Draws or payment requests must be made using the Request for Drawdown Payment form (DSHA-8). Approximately seven to ten working days will normally be required from receipt of request, to issuance of check, provided the request is properly prepared in compliance with these instructions and other applicable policies. A fax is permitted. A copy is to be retained by the subrecipient for their records.

How to Complete DSHA-8 for Drawdown Requests:

Section I-Request for Payment

- A. **Name & Address of Requester-** Name and address of the NSP Subrecipient.
- B. **Contract Number-** the NSP contract number.
- C. **Federal E.I. Number-** the Subrecipient's federal (Employer Identification number) tax identification number.
- D. **Amount Requested-** Total amount of funds requested.
- E. **Request Number-** Sequential number starting with one that serially identifies this contract draw.

Section II- Itemization of Amount Requested

- A. **Type of Activity-** Identify the contract activity to which the funds will be charged when disbursed by subrecipient (e.g. Use A, Use A <50% AMI, Use B, Use B <50% AMI, Use D, Use E). Then list EACH property address that incurred an expense for this draw under that particular activity type.

Example:

Activity Type:	Amount:
<u>Use B</u>	
123 Dover St	\$1,000.00
404 My St	<u>\$1,000.00</u>
Total Use B	\$2,000.00

<u>Use B <50% AMI</u>	
789 Your Way	<u>\$5,000.00</u>
Total Use B <50% AMI	<u>\$5,000.00</u>

- B. **Amount-** Amount of funds requested for each address, broken down by Approved Use.
- C. **Total Program Activity Request-**total amount of funds requested for all uses.
- D. **Less: Program Income-** Subtract any program income received from the required program costs. (Remember: Program Income must be used to reduce the next drawdown submitted after it is received, regardless of use it was earned for. Ten percent of Program Income kept for administration must also be drawn down under the Administrative Costs section.)
- E. **Net Program Request -** Total of all amounts shown in the "**Amount**" column less Program Income.
- F. **Administrative Costs-**total amount of funds requested for administration. If you choose to keep 10% of Program Income, remember this must be used to reduce the next drawdown submitted after it is received. List any program income being used for administrative costs here.
- G. **Total Funds Requested-** Total of "**Net Program Request**" and "**Administrative Costs**". This figure should equal the amount shown in "**Amount Requested**" in Section I.

Section III-Remarks

- A. The remarks section should be used to report program income or make other explanations as required. When reporting program income, be sure to indicate the property address and program activity to which program income was earned.

Schedule of Payments

Complete the "Schedule of Payments," page 2, as specified.

NOTE: An approved change order (DSHA-16) must accompany any Request for Drawdown that indicates transfer of funds not exceeding 5% of the total funds approved for all contracted NSP activities, excluding administration.

When an individual transfer or the cumulative amount of all such transfers will exceed 5% of the total funds approved for all contracted NSP activities, excluding administrative costs, a Contract Amendment reflecting the transfer must be executed prior to the drawdown.

Program Income

Program Income Overview:

This guidance is provided for states, units of general local government, subrecipients, and other entities that receive revenue directly generated by activities carried out with NSP funds. When such revenue is received by a state, unit of general local government, or subrecipient (as defined at 24 CFR 570.500(c)), it is referred to as *Program Income*. When such revenue is received by an individual or other entity (e.g., a developer of a housing project), it is referred to as *Revenue*.

Program income generated by NSP activities will be subjected to NSP Program Income regulations. Ten percent of program income may be used for administration. DE NSP subrecipients may determine the amount of program income that will be required to be returned to subrecipient from their contracted developers and subrecipients. The MOU between the subrecipient and partner (developer or subrecipient) must outline all requirements for policies and procedures between the subrecipient and partner. If the MOU is violated, the subrecipient is required to notify DSHA.

General Guidance on Financial Management of Program Income:

1. Program income means amounts earned by Subrecipients that were generated from the use of NSP funds distributed by the state. Program income includes, but is not limited to the following:
 - a. Payments of principal and interest on loans made using NSP funds;
 - b. Proceeds from the lease or disposition of real property acquired with NSP funds;
 - c. Reimbursements from the demolition of real property;
 - d. Proceeds from anti-speculation mortgages; and
 - e. Proceeds from the sale of NSP homes.
2. Any program income that the State has permitted the unit of general local government to retain and that is realized while the unit of general local government is participating in a community development program is subject to the requirements of the Housing and Community Development Act of 1974 as amended (the Act) and Subpart I of Part 570.
3. NSP Subrecipients may identify the percent of monies their developer partners may keep as total project cost. NSP subrecipients must outline their procedures for program income with their developer partners in their NSP manual and MOU with developer partner.
4. Program Income must be used on the next drawdown, for the next eligible activity. For example, if Program Income is earned for Use B, but the next drawdown is only for Use E, the Program Income must be used for that Use E expense. The 10% that can be kept for administrative costs is an exception to this rule. This portion of Program Income must be used for the next available administrative costs.

5. Program Income received by a subrecipient from an activity for which the subrecipient is not authorized to perform under the present contract will be returned to the state for reallocation in accordance with the current final statement, unless the subrecipient has a reuse plan approved by DSHA.
6. Summary:
 - a. Program Income retained by the subrecipient will:
 1. Be added to funds committed to the project and used to further the same program activity as the income was derived;
 2. Not be used to pay administrative costs (with the exception of the eligible 10% retained to be used for administrative costs); and
 3. Be expended before additional funds are drawn down from DSHA.
 - b. Program Income not authorized for retention and expenditure by the subrecipient will be returned to DSHA with an explanation of the source of income.

Procedures:

1. Program Income authorized for retention and expenditure by the Contractor will be reported in Section III and actually subtracted from program funds requested in Section II of the Request for Drawdown Payment (DSHA-8). The date, property address, and eligible use that Program Income was earned for must be listed in Section III. All Program Income must also be reported on the quarterly report for which it is earned.
2. Subrecipients anticipating Program Income generated from activities in which they do not anticipate carrying out activities under their present contract, may prepare a program reuse plan for approval by DSHA. This plan should contain as a minimum, the following items:
 - a. Estimate of amount of income;
 - b. Source of income;
 - c. Description of the proposed use;
 - d. Description of how funds will be controlled; and
 - e. Description of how expenditures and project status will be reported.

References

1. Uniform Administrative Requirements:
 - a. Attachment E to OMB Circular A-102, Uniform Requirements for Assistance to State and Local Governments (24 CFR Part 85).
 - b. Nonprofits are required to follow OMB Circular A-110 24 CFR Part 84.
2. 24 CFR, Subpart J, paragraph 570.506, Program Income.
3. 24 CFR 570, Subpart I, paragraph 570.494(b), Program Income.
4. Section 104(i) of Title I of the Housing and Community Development Act of 1974 as amended.
5. Cost Principles
 - a. State and local governments are required to follow OMB Circular A-87 (2 CFR Part 225).
 - b. Nonprofits are required to follow OMB Circular A-122 (2 CFR Part 230).
6. Audits
 - a. State, local governments, and nonprofits are required to follow OMB circular A-133.