

**PROPOSED PY 2008  
ACTION PLAN SUBSTANTIAL AMENDMENT**

**COMMUNITY DEVELOPMENT  
BLOCK GRANT PROGRAM**

**STATE OF ALABAMA**

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# THE NSP SUBSTANTIAL AMENDMENT

## State of Alabama

<http://www.adeca.alabama.gov/C2/NSP/default.aspx>

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### ***BACKGROUND***

The State of Alabama has been awarded \$37,033,031 from the U.S. Department of Housing and Urban Development (HUD) in Neighborhood Stabilization Program (NSP) funds. This program was authorized under Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA) (Public Law 110-289, approved July 30, 2008), Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes and will additionally follow the alternative requirements of the Notice published in the Federal Register Vol. 73, No. 194, October 6, 2008. The NSP funds will be administered by the Alabama Department of Economic and Community Affairs (ADECA) through its Community Development Block Grant Program (CDBG), thus requiring a Substantial Amendment to the State's 2008 Consolidated Plan and CDBG Action Plan.

## *A. AREAS OF GREATEST NEED*

Section 2301(c)(2) of HERA requires NSP funds be distributed to the areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures. ADECA utilized the HUD-supplied data (listed in the footnote below) which identified areas of greatest need and developed a methodology to further delineate these areas into “priority”, “qualifying” and “balance of state” areas of need at the local level. To determine the “priority”, “qualifying”, and “balance of state” areas of need, ADECA conducted the following analysis:

1. A risk factor was calculated for each of the 4 primary data sets supplied by HUD. The percentage rate for each community was divided by the highest percentage rate in the universe (excluding one or two rates in each range which would tend to skew the data due to their distance from frequently appearing groupings).
  - (a) estimated foreclosure rate – high rate 8.6
  - (b) residential vacancy local hi cost rate – high rate 12.9
  - (c) estimated total hi cost HMDA loans 2004-2006 rate – high rate 58.1
  - (d) unemployment rate - high rate 10.6

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1. Approximate number of foreclosure starts for all of 2007 and the first six months of 2008 from the Mortgage Bankers Association National Delinquency Survey;
  2. Estimated foreclosure rate calculated as a function of Federal Reserve Home Mortgage Disclosure Act (HMDA) data on high cost loans, and Bureau of Labor statistics data on place and county unemployment rates (Data from the Office of Federal Housing Enterprise Oversight (OFHEO) relating to decline in home values was not relevant to the estimated foreclosure rate as no block groups experienced a decline in home values as of June 2008 compared to peak home values in June of any previous year between 2000 and 2008.);
  3. U.S. Postal Service data at the census tract level on residential addresses identified as being vacant for 90 days or longer as of June 2008;
  4. Federal Reserve Home Mortgage Disclosure Act (HMDA) data at the census tract level on number of loans made between 2004 and 2006 and the number of those loans that are high cost (where the rate spread is 3 percentage points above the Treasury security of comparable maturity); and
  5. Bureau of Labor statistics on place and county unemployment rates as of June 2008.

2. The 4 risk factors for each community were added to create a weighted risk factor.

$$\begin{aligned} & \text{estimated foreclosure rate risk factor} \\ + & \text{residential vacancy local hi cost rate risk factor} \\ + & \text{estimated total hi cost HMDA loans rate risk factor} \\ + & \text{unemployment rate risk factor} \\ = & \text{weighted risk factor} \end{aligned}$$

3. The weighted risk factor for each community was multiplied by the total estimated number of foreclosures plus the total number of HMDA loans and then divided by 4 to arrive at the weighted risk score.

4. The weighted risk score for all communities was totaled to 56,530 and divided into \$33,329,728 (the State's NSP allocation of \$37,033,031 less 10% administration) to arrive at a per unit score of 590. (The term "unit" is used here for comparison purposes only and has no relation to a housing unit or actual cost related to a housing unit.)

5. The weighted risk score for each community was then multiplied by the per unit score of 590.

6. Based on the results, the following communities scored at least 500,000 and are considered "priority" communities who will receive priority funding subject to compliance with application criteria:

- Bessemer
- Birmingham
- Huntsville
- Jefferson County
- Mobile
- Mobile County
- Montgomery

7. Based on the results, the following communities have a weighted risk score in the top 20% of all communities (excluding the “priority” communities above) and are considered “qualifying” communities who may apply individually or jointly with other communities or partners:

**Qualifying Cities**

Alabaster	Decatur	Lanette	Scottsboro
Albertville	Dothan	Millbrook	Selma
Alexander City	Enterprise	Moody	Sheffield
Andalusia	Eufaula	Muscle Shoals	Southside
Anniston	Florence	Northport	Sylacauga
Athens	Gadsden	Opelika	Talladega
Atmore	Greenville	Oxford	Thomasville
Attalla	Hartselle	Ozark	Tuscaloosa
Calera	Helena	Pelham	Tuscumbia
Clanton	Hoover	Phenix City	Tuskegee
Cullman	Jackson	Prattville	Valley
Daphne	Jasper	Russellville	

**Qualifying Balance of County (Rural Areas)**

Autauga	Colbert	Lauderdale	Pickens
Baldwin	Cullman	Lawrence	Russell
Bibb	Dallas	Lee	Shelby
Blount	DeKalb	Limestone	St. Clair
Butler	Elmore	Lowndes	Talladega
Calhoun	Escambia	Madison	Tallapoosa
Chambers	Etowah	Marion	Tuscaloosa
Cherokee	Franklin	Marshall	Walker
Chilton	Geneva	Monroe	Washington
Choctaw	Houston	Montgomery	Winston
Clarke	Jackson	Morgan	

8. Based on the results, any community who is not listed above as a “priority” or “qualifying” community is considered a “balance of state” community and may qualify to receive benefit under a program administered by a nonprofit or others.

In an attempt to enhance HUD-supplied data, the State researched multiple sources of foreclosure-related data such as the Local Initiative Support Corporation (LISC), The Reinvestment Fund PolicyMap, RealtyTrac, DataPlace Beta, and the Center for Business and Economic Research at the University of Alabama. The State also collected detailed information on foreclosed upon properties from FHA, Fannie Mae, Freddie Mac, and over 30 lending institutions. Differences in some numbers and percentages appeared depending on the source, but these differences most likely can be attributed to factors such as sample size, the Census level at which data was collected, and timeliness of the data. However, while there may not have been a distinct correlation among absolute numbers, the general demographic data distribution and emerging trends appear to parallel the State's determination of areas of greatest need.

***B. DISTRIBUTION AND USES OF FUNDS***

The methodology described in ***A. AREAS OF GREATEST NEED*** above captures data provided by HUD showing areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures. The State's method of distribution described in the following paragraphs incorporates targeting of funds to "Priority" and "Qualifying" Communities listed under ***A. AREAS OF GREATEST NEED*** above. In addition, the State program has established a set of objectives to ensure NSP activities will be cost-effective, will have measurable impact and will be implemented in a timely manner.

## State Objectives

1. To the extent feasible, an NSP activity must have a direct relationship to addressing redevelopment of abandoned and foreclosed upon homes.
2. Activity must have significant impact towards addressing needs related to abandoned and foreclosed upon homes.
3. Activity must be cost-effective for each unit assisted with NSP funds.
4. NSP funds, as much as possible, should be targeted towards hard costs, financing costs, or costs absolutely necessary to implement an activity. Soft-costs related to grant administration and service delivery should be kept to a minimum.
5. Applicant should demonstrate capacity either as a result of in-house experience or partnerships and alliances to successfully carry-out the project.
6. The emergency nature of the program as well as the regulatory timeline on expenditure of funds dictates extreme importance of project readiness and timely completion in the project funding decision.
7. Give additional consideration to returning servicemen/women and Hurricane Katrina victims.
8. Encourage use of FHA foreclosed upon properties and assist victims of foreclosed upon properties in returning to their previously occupied homes.

### Eligible Applicants

Eligible applicants for the NSP funds will be as follows:

1. Entitlement communities identified as “priority” communities.
2. Cities and balance of counties identified as “qualifying” communities.
3. State, regional or local nonprofits with an IRS 501(c)(3) status such as community action agencies, Habitat for Humanity, public housing authorities, etc. Nonprofits will be able to carry out programs in all areas of the state including “priority” communities, “qualifying” communities and “balance of the state” irrespective of these jurisdictions receiving direct funding from the State.
4. Joint applications among and between “priority” communities, “qualifying” communities, and nonprofits.

In addition, depending on the necessity to accomplish NSA objectives, the State will retain the option to directly or through contracts carry-out activities in specific areas of the state. The State may also consider applications from Indian Tribes to the extent their identified need meets the requirements of HERA.

### Grant Ceilings

1. After taking into account HUD’s direct allocations of \$2,580,214 to the City of Birmingham and \$2,237,876 to Jefferson County, the seven “priority” communities will have a grant ceiling of \$2 million with a minimum grant request of \$500,000. To the extent “priority communities” meet the State Objectives and

are in compliance with CDBG NSP rules, they will qualify to receive NSP grant awards from the State.

2. The grant ceiling for “qualifying” communities and local nonprofits will be \$5 million with a minimum of \$500,000 and will be subject to competition as described below. “Priority” communities may choose to apply for a higher ceiling by applying as a “qualifying” community.
3. Joint applications and state and regional nonprofits will not be subject to ceilings; however, these proposals will undergo the same review as that of “qualifying” communities.

For activities carried out directly or through contracts by the State, no ceiling will apply. Further, depending on the number of acceptable proposals received by the State, the State will retain full option to adjust grant size including exceeding grant ceilings, awarding grants to any non-applicant jurisdictions, or awarding grants to any non-applicant nonprofit to carry-out projects in specific parts of the state in compliance with CDBG NSP rules.

#### Competitive Project Reviews

The State will require all “priority” and “qualifying” communities and nonprofits to submit preliminary proposals to provide specific information about local projects to allow the State to complete reviews based on the State Objectives listed above. Proposals from the “priority” communities that meet State Objectives will receive approval to file a final application. If the request for funds from the “qualifying” communities and nonprofits is

greater than the balance available after awards to “priority” communities, the State will assess these proposals to determine the list of final applicants. The assessment may involve qualitative and quantitative assessment to determine the extent to which the activity will assist areas of greatest need, applicant's capacity and readiness, and grant impact and cost-effectiveness. Project reviews will include the following criteria:

- project readiness for quick implementation and completion
- project impact/extent to which proposed activity will serve need
- cost reasonableness (# units, reasonable soft costs/developer fees)
- capacity for operations/maintenance/sustainability/property management
- partnerships/Memorandums of Understanding in place
- specific properties identified
- beneficiary pool identified
- continued affordability standards and enforcement mechanism
- specific CDBG project implementation experience
- consideration given to returning servicemen/women and Hurricane Katrina victims
- assisting victims of foreclosure to return to their previously occupied homes
- using FHA foreclosed upon properties

Upon completion of reviews of preliminary proposals, the State will invite select communities and nonprofits to submit final applications. The State will allow final applicants to incur pre-agreement costs subject to the applicant receiving a final grant award.

If final awards do not total the available allocation for distribution, or if during the course of implementation, a sub-recipient does not have satisfactory obligation or expenditure rates, the State will de-obligate appropriate balances and will carry-out activities directly using all available means including using its own employees, procuring contractors, private developers, and providing loans and grants to or through local governments and nonprofits, or reward high performers receiving NSP grants with additional funds.

To the extent possible, sub-recipients will be encouraged to carry out their NSP activities in the context of a comprehensive plan for the community's vision of how it can make its neighborhoods not only more stable, but also more sustainable, competitive, and integrated into the overall metropolitan fabric, including access to transit, affordable housing, employers, and services.

Sub-recipients will be required to ensure that program information is available in the appropriate languages for the geographic area to be served with NSP funds.

### ***C. DEFINITIONS AND DESCRIPTIONS***

- (1) Title 24 Housing, Section 24-2-2 (c) of The Code of Alabama 1975 defines “blighted property” as “property that contains any of the following factors:
  - The presence of structures, buildings, or improvements, which, because of dilapidation, deterioration, or unsanitary or unsafe conditions, vacancy or abandonment, neglect or lack of maintenance, inadequate provision for

ventilation, light, air, sanitation, vermin infestation, or lack of necessary facilities and equipment, are unfit for human habitation or occupancy.

- The existence of high density of population and overcrowding or the existence of structures which are fire hazards or are otherwise dangerous to the safety of persons or property or any combination of the factors.
- The presence of a substantial number of properties having defective or unusual conditions of title which make the free transfer or alienation of the properties unlikely or impossible.
- The presence of structures from which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
- The presence of excessive vacant land on which structures were previously located which, by reason of neglect or lack of maintenance, has become overgrown with noxious weeds, is a place for accumulation of trash and debris, or a haven for mosquitoes, rodents, or other vermin where the owner refuses to remedy the problem after notice by the appropriate governing body.
- The presence of property which, because of physical condition, use, or occupancy, constitutes a public nuisance or attractive nuisance where the owner refuses to remedy the problem after notice by the appropriate governing body.

- The presence of property with code violations affecting health or safety that has not been substantially rehabilitated within the time periods required by the applicable codes.
- The presence of property that has tax delinquencies exceeding the value of the property.
- The presence of property which, by reason of environmental contamination, poses a threat to public health or safety in its present condition.”

(Acts 1949, No. 491, p. 713, §2; Acts 1967, No. 416, p. 1070, §2; Act 2006-584, p. 1544, §1.)

- (2) Rent will be considered affordable if it falls within the Official Individual Area Fair Market Rents (FMR) as published in the Federal Register. These FMRs are utilized by the Alabama Housing Finance Authority which administers the State’s Home Investments Partnership Program (HOME).
- (3) For NSP assisted housing, the State of Alabama will use the HOME program standards at 24 CFR 92.252(a),(c),(e) and (f) and 92.254 to ensure continued affordability.

Under the State’s Neighborhood Stabilization Program, subprime mortgages are discouraged. Sub-recipients must ensure and document compliance that each homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators’ guidance for non-traditional mortgages (see, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the

Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5186.html>).

Further, sub-recipients must require each NSP-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan.

Enforcement requirements will be passed down to sub-recipients to 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 do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of section 2301(f)(3)(A)(ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income. Applicants will be required to identify their continued affordability standards and enforcement mechanisms as part of their application for funding as well as their definition of affordable rents for NSP-assisted rental projects.

- (4) The State of Alabama does not have a uniform, statewide building code for residential properties. Jurisdictions voluntarily adopt varying codes such as:
  - International Building Code (IBC)
  - International Energy Conservation Code (IECC)

- International Existing Building Code (IEBC)
- International Fire Code (IFC)
- International Fuel Gas Code (IFGC)
- International Mechanical Code (IMC)
- International Performance Code (ICCPC)
- International Plumbing Code (IPC)
- International Private Sewage Disposal Code (IPSDC)
- International Property Maintenance Code (IPMC)
- International Residential Code (IRC)

Applicants will be required to identify the relative building code(s) applicable to their activities as part of the application for funding process. At a minimum, the State will accept the Standard (Southern) Building Code (SBCCI) or HUD's Housing Quality Standards (HQS) as identified at Title 24 of the Code of Federal Regulations, Chapter IX, Part 982.401.

Rehabilitation activities shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. The State will encourage rehabilitation which includes improvements to increase the energy efficiency or conservation of such homes and properties or to provide a renewable energy source or sources for such homes and properties. The State will strongly encourage sub-recipients to not only stabilize neighborhoods in the short-term, but to strategically incorporate modern, green building and energy-efficiency improvements to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.

***D. LOW INCOME TARGETING***

The State of Alabama will use its method of distribution, application for funds, and project review and award process to ensure that no less than 25% of its initial NSP award will be used to purchase and redevelop abandoned or foreclosed upon homes or residential properties that will house individuals or families whose incomes do not exceed 50 percent of area median income. Further, the State will encourage each NSP applicant to develop activities whereby at least 25% of their grant amount will be expended on low-income targeted activities. At the present time, the State anticipates targeted activities will consist primarily of activities related to affordable rental housing. Based on an allocation of \$37,033,031, 25% or \$9,258,258 will be expended on low-income targeted activities.

***E. ACQUISITIONS & RELOCATION***

Demolition or conversion of low- and moderate-income dwelling units is an eligible NSP activity under the State of Alabama's program; however, the State does not anticipate significant activities to involve demolition or conversion of low- and moderate-income dwelling units. Detailed information regarding the number of low- and moderate-income dwelling units (i.e.,  $\leq 80\%$  of area median income) reasonably expected to be demolished or converted, the number of NSP affordable housing units made available to low-, moderate-, and middle-income households (i.e.,  $\leq 120\%$  of area median income) reasonably expected to be produced by activity and income level including a proposed time schedule for commencement and completion and the number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income will be available upon completion of the State's

application, review and award process as outlined in *B. Distribution and Uses of Funds*.

At that time, the requested information will be entered into HUD's web-based Disaster Recovery Grant Reporting System (DRGR).

***F. PUBLIC COMMENT***

During the process of developing its Substantial Amendment, the State of Alabama hosted an input session on October 28, 2008. Attendance was solicited from over 1,000 representatives of HUD entitlement communities, municipal and county governments, public housing authorities, community action agencies, continuums of care, lending institutions, fair housing agencies, credit counseling services, nonprofit agencies including Habitat for Humanity and AIDS Alabama, regional planning and development commissions, grant professionals, rural and urban renewal communities, veterans affairs, Fannie Mae and HUD. English and Spanish translations of the notice for the public input meeting were posted on the State's NSP website; and, in compliance with Alabama's Open Meetings Act, the notice was also posted on the Secretary of State's website. Approximately 115 persons attended this session.

The Notice of Public Hearing and Notice of Availability was published in the state's four major daily newspapers – The Montgomery Advertiser, The Birmingham News, The Huntsville Times, and The Mobile Register on October 30, 2008, as well as published in English and Spanish on the State's NSP web site. In an effort to broaden public participation, notice of the public hearing was mailed to approximately 700 chief elected officials, regional planning and development commissions and private grant professionals

as well as e-mailed to ADECA's e-mail distribution list of interested parties and posted on the Secretary of State's Open Meetings Act website.

Copies of the draft Substantial Amendment were distributed to all persons attending the public hearing and the Substantial Amendment was published on the State's NSP web site. A hard copy was also made available for review at the ADECA office in Montgomery. The hearing was held on November 13, 2008, in Montgomery, with \_\_\_\_\_ persons attending. A comment period was allowed from November 13 to November 28, 2008. Individuals were offered the opportunity to comment verbally at the public hearing or in writing via formal correspondence, fax, or e-mail. ADECA's web site also offered the ability to submit written comments. Comments received at the hearing, as well as the \_\_\_\_\_ written comments received during the comment period, are summarized below:

Comments:

***\*\*\*Comments to be inserted at end of comment period.***

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

An activity will meet the HERA low- and moderate-income national objective if the NSP assisted activity:

- provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (LMMH);
- serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA);

- creates or retains jobs for persons whose household incomes are at or below 120 percent of median income (LMMI); or
- serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

In addition to meeting the low- and moderate-income national objective, each activity funded must be an eligible use of funds as outlined below, be CDBG-eligible under 42.U.S.C. 5305(a), and address an area of greatest need:

- Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.

Correlated eligible activities include:

- financing of an NSP eligible activity, to carry out that activity
- activity delivery cost for an eligible activity.

- Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.

Correlated eligible activities include:

- acquisition
- disposition
- relocation
- direct homeownership assistance
- eligible rehabilitation and preservation activities for homes and other residential properties
- housing counseling for those seeking to take part in the activity.

- Establish land banks for homes that have been foreclosed upon.

Correlated eligible activities include:

- acquisition
- disposition

- Demolish blighted structures.

Correlated eligible activities include:

- clearance, for blighted structures only

- Redevelop demolished or vacant properties.

Correlated eligible activities include:

- acquisition
- disposition
- public facilities and improvements
- housing counseling public services (limited to prospective purchasers or tenants of redeveloped properties)
- relocation

Detailed information by activity will be available upon completion of the State's application, review and award process as outlined in ***B. Distribution and Uses of Funds.*** At that time, information (as outlined in the NSP Grant Submission Template and Checklist) will be entered into HUD's web-based DRGR system.