DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5321-C-02]

Notice of Fund Availability (NOFA) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction

AGENCY: Office of the Assistant Secretary for Community Development and Planning, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009 (NSP2); correction.

SUMMARY: On May 4, 2009, HUD posted its NSP2 NOFA at www.hud.gov/nsp. This document makes corrections to the NSP2 NOFA in order to: (1) allow NSP2 applicants to use a combined index score to determine whether they meet the geographic targeting threshold requirement; (2) make a technical correction to the eligible activities table to activity (C) in accordance with the American Recovery and Reinvestment Act of 2009, Public Law 111-005, enacted February 17, 2009 (Recovery Act); (3) rescind the aggregate 5 percent purchase discount while leaving the 1 percent discount on individual purchases intact; and (4) make corrections for omitted items in the Application Checklist at Appendix 3 of the NSP2 NOFA.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. FAX inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On May 4, 2009, HUD posted the NSP2 NOFA

(Docket No. FR-5321-N-01) on its website at www.hud.gov/nsp. The NSP2 NOFA announced the availability of up to $1.93 billion for HUD's FY2009 NSP2 Program. The purpose of the program is to stabilize communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties. NSP2 is authorized by the Housing and Economic Recovery Act, Public Law 110-289 (HERA), as amended by Title XII of Division A of the Recovery Act.

SUMMARY OF CORRECTIONS

A. Geographic Need Threshold Requirement

Background

The NSP2 NOFA requires NSP2 applicants to choose between one of two geographic need indices for their entire program to determine threshold eligibility. On consideration, HUD determined that requiring applicants to choose between the scores unnecessarily hinders flexibility in the design of programs that may operate in diverse geographies that face different challenges. Therefore, HUD will develop and provide on the foreclosure need map website a combined index score that weighs the higher of the two indices for each census tract in the program geography to determine an applicant's overall score. In addition, HUD is clarifying its intent not to bias scoring in any way related to the geographic scope—whether national, regional, or local—of an application.

Correction

Section II.B.8.a at page 14 of the NSP2 NOFA is revised to reflect the following:

> "a. HUD is providing two foreclosure related needs scores at the Census Tract level, one that is based on the estimated number and percentage of foreclosures and another that combines estimated foreclosure rate with vacancy rate. Both scores rank need from 1 to

20, with 20 being census tracts with the HUD-estimated greatest need. For each census tract, the higher of the two index scores will be used to compute an average combined index score."

Section II.B.8.b at pages 14-15 of the NSP2 NOFA is revised to reflect the following:

"b. For applicants proposing to carry out NSP2 activities, the neighborhoods identified must have an average combined index score for the identified target geography of 18 or greater, as indicated by the index."

In Section II.B.8.c on page 15 of the NSP2 NOFA, the following is sentence is added to the end of the paragraph:

"HUD will score applicants proposing to work in target geographies of different scopes (such as national, statewide, or single neighborhood) in a manner than does not inherently advantage or disadvantage one scope over another."

B. Eligible Use Table

Background

The Recovery Act amended section 2301(c)(3)(C) (land banks) of HERA. HUD inadvertently omitted the amended statutory language in its table describing eligible use by not including the words "and operate."

Correction

The third row under "NSP-Eligible Uses" in the first column of the table on pages 57-58 of the NSP2 NOFA is amended to read as follows:

"(C) Establish and operate land banks for homes and residential properties that have been foreclosed upon"

C. Purchase Discount

Background

In the first round of NSP, HUD initially set a requirement of a minimum 5 percent discount on individual purchases and 15 percent on aggregate purchases to comply with the statutory requirement that NSP-funded acquisitions be purchased at a discount. In response to feedback from grantees and other interested parties concerned with the inflexibility of the requirement and possible negative effects on neighborhood home values, HUD lowered the requirement for NSP2 to a minimum one percent individual purchase discount and a five percent aggregate discount for NSP2-funded properties.

Upon further consideration, HUD is removing the aggregate purchase discount requirement and leaving in place the minimum one percent individual purchase discount. The aggregate discount requirement was originally designed so that recipients would have the flexibility to make purchases at a lesser discount as long as they set it off in the aggregate. In practice, HUD recognizes that incentivizing these set offs may distort program priorities and flexibility and may exacerbate problems as expressed above related to the mandatory minimum discount. Therefore, to maintain statutory compliance while providing for maximum flexibility, HUD will require only a minimum individual purchase discount of one percent. At the same time, HUD reminds applicants that they are to seek the maximum feasible discount in the case of mortgagee foreclosed properties taking into account the carrying cost that the mortgagee would otherwise bear.

Requirement

Section Q on pages 72-73 of the NSP2 NOFA is amended to read as follows:

"Background

Section 2301(d)(1) limits the purchase price of a foreclosed home, as follows:

> "Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property."

To ensure that uncertainty over the meaning of this section does not delay program implementation, HUD is defining "current market appraised value" in this notice. For mortgagee foreclosed properties, HUD is requiring that recipients seek to obtain the "maximum reasonable discount" from the mortgagee, taking into consideration likely "carrying costs" of the mortgagee if it were to not sell the property to the recipient or subrecipient. HUD has adopted an approach that requires a minimum discount of one percent for each foreclosed upon home or residential property purchased with NSP funds.

Requirements

1. Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least one percent from the current market-appraised value of the home or property.

2. An NSP2 recipient may not provide NSP funds to another party to finance an acquisition of tax foreclosed (or any other) properties from itself, other than to pay necessary and reasonable costs related to the appraisal and transfer of title. If NSP2 funds are used to pay such costs when property owned by the recipient is conveyed to a subrecipient, homebuyer, developer, or other jurisdiction, the property is NSP-assisted and subject to all program requirements, such as requirements for NSP-eligible use and benefit to income-qualified persons.

3. The address, appraised value, purchase offer amount, and discount amount of each

property purchase must be documented in the recipient's program records. The address of each acquired property must be recorded in DRGR."

D. Code of Conduct Appendix

Background

In accordance with regulations at 24 CFR 84.42 and 85.36(b)(3), applicants are required to develop and maintain a written code of conduct. HUD included a reference to the code of conduct as a required component of a complete NSP2 in Appendix 3 of the NSP2 NOFA application, but did provide applicants with any reference to the requirement. This correction refers applicants to the relevant guidance in the Notice of HUD's FY2009 Notice of Funding Availability, Policy Requirements and General Section (73 FR 79548) (Dec. 29, 2008) (General Section). Except where stated otherwise in the NSP2 NOFA, the provisions of the General Section apply to all NSP2 applicants.

Correction

In Appendix 3, d. ("Appendices") on page 85 of the NSP2 NOFA, include the following after "A copy of your code of conduct":

"(see Section III.C.2.d. of the General Section)"

E. Firm Commitment Appendix

Background

The NSP2 NOFA requires applicants that apply partnership with for-profits to provide a "firm commitment executed and dated by each for-profit partner with your application." *See* NSP2 NOFA, Sec. II.A.5. However, the requirement was not included in the Application Checklist at Appendix 3. Applicants with for-profit partners must provide firm commitment documentation as appendices to their applications.

Correction

In Appendix 3, d. ("Appendices") on page 85 of the NSP2 NOFA add a line to include the following:

"_____ Documentation of firm commitment executed and dated by each for-profit partner"

F. Definitions Appendix

Background

Section II.B.6 on page 13 of the NSP2 NOFA requires applicants to include the definitions of "blighted structure" and "affordable rents," as well as a description of housing rehabilitation standards, as appendices to their applications. This requirement was inadvertently omitted from the checklist in Appendix 3.

Correction

In Appendix 3, d. ("Appendices") on page 85 of the NSP2 NOFA add a line to include the following:

"_____ Definitions of "blighted structure" and "affordable rents" and description of housing rehabilitation standards. (See Section II.B.6.)"

Dated: JUN 11 2009

Nelson R. Bregón, General Deputy Assistant Secretary for Community Planning and Development

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