

**Grantee: Birmingham, AL**

**Grant: B-08-MN-01-0001**

**July 1, 2009 thru September 30, 2009 Performance Report**

**Grant Number:**

B-08-MN-01-0001

**Obligation Date:****Grantee Name:**

Birmingham, AL

**Award Date:****Grant Amount:**

\$2,580,214.00

**Contract End Date:****Grant Status:**

Active

**Review by HUD:**

Reviewed and Approved

**Submitted By:**

No Submitter Found

**Disasters:****Declaration Number**

NSP

**Plan Description:****Recovery Needs:****A. AREAS OF GREATEST NEED**

Provide summary needs data identifying the geographic areas of greatest need in the grantees jurisdiction.

Note: An NSP substantial amendment must include the needs of the entire jurisdiction(s) covered by the program; states must include the needs of communities receiving their own NSP allocation. To include the needs of an entitlement community, the State may either incorporate an entitlement jurisdictions consolidated plan and NSP needs by reference and hyperlink on the Internet, or state the needs for that jurisdiction in the States own plan. The lead entity for a joint program may likewise incorporate the consolidated plan and needs of other participating entitlement jurisdictions consolidated plans by reference and hyperlink or state the needs for each jurisdiction in the lead entitys own plan.

HUD has developed a foreclosure and abandonment risk score to assist grantees in targeting the areas of greatest need within their jurisdictions. The City has consulted this data in developing this section of the Substantial Amendment and it is available at the referenced links herein.

Response:

A review of the City of Birmingham (hereinafter referred to as the City) overall situation indicates that for the purposes of this grant application, a large portion of the City exceeds the NSP program requirements for eligibility. The City will work within these areas where feasible but will not reject other areas of foreclosure concentration not shown under the Priority Areas of Greatest Need. The foreclosure data presented was gathered from multiple sources but, due to time constraints, should not be considered all inclusive. Foreclosure data is not static and may change rapidly with market conditions.

For the purpose of this application, the summary needs data identifying geographic areas of greatest need in the City are listed in this section. Greatest needs within the City were defined through the use of available data including the:

- (a) Greatest percentage of home foreclosures;
- (b) Highest percentage of homes financed by sub-prime mortgage related loan; and
- (c) Identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

The areas shown below have been selected as Priority Areas of Greatest Need for the use of NSP funds within the City. First you will see the Priority Areas of Greatest Needs which show most, though not all the factors which were included in the analysis. Among factors considered were the Current Rate of Foreclosure, the Estimated Foreclosure Abandonment Risk Score, Income eligibility, High Cost Loan Rate, 18 Month Problem Foreclosure Rate and USPS Residential Vacancy Rate among others.

In Attachment C, the City has attached a table and map setting forth the Areas of Greatest Need in the City of Birmingham for the expenditure of CDBG-NSP Funds. Criteria for inclusion in this identified target area are that, based on our analysis of HUD data, our Areas of Greatest Need are those Census Block Groups in which: 1) the Estimated Foreclosure Risk Score is 9 or higher; 2) the High Cost (Sub prime) Loan Rate exceeds 40%; and 3) the Predicted 18 month problem foreclosure rate exceeds 6.0%.

Comparing this map to other similar programmatic maps we have used in Community Development, the geographic area identified by these criteria compares almost identically with previously defined areas of low-moderate income housing needs, including housing rehabilitation.

## B. DISTRIBUTION AND USES OF FUNDS

Provide a narrative describing how the distribution and uses of the grantees NSP funds will meet the requirements of Section 2301(c) (2) of HERA that 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 sub prime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures. Note: The grantees narrative must address these three stipulated need categories in the NSP statute, but the grantee may also consider other need categories.

Response:

In Attachment C, we have attached a table and map setting forth the Areas of Greatest Need in the City of Birmingham for the expenditure of CDBG-NSP Funds. Criteria for inclusion in this identified target area are that, based on our analysis of HUD data, our Areas of Greatest Need are those Census Block Groups in which: 1) the Estimated Foreclosure Risk Score is 9 or higher; 2) and the High Cost (Sub prime) Loan Rate exceeds 40%; and 3) the Predicted 18 month problem foreclosure rate exceeds 6.0%.

Comparing this map to other similar programmatic maps we have used in Community Development, the geographic area identified by these criteria compares almost identically with previously defined areas of low-moderate income housing needs, including housing rehabilitation.

## C. DEFINITIONS AND DESCRIPTIONS

(1) Definition of blighted structure in context of state or local law.

Response:

Blight Standards for blight in the State of Alabama and the City of Birmingham are found in two places:

1) Chapter 2, Title 24, Code of Alabama, 1975. In Section 24-2-2-c blighted property is defined to include:

property that contains any of the following factors: structures, buildings or improvements which, because of dilapidation, deterioration or unsanitary or unsafe conditions are unfit for human habitation structures from which utilities, plumbing, heating, sewerage or other facilities have been destroyed, removed or rendered ineffective the presence of overgrown noxious weedstrash and debris, a haven for mosquitoes, rodents or other vermin

2) Code of the City of Birmingham Housing Ordinance Section 7. In Section 7-1-172, the following standard for blight is set forth:

Any dwelling or dwelling unit or place of employment which shall be found to have any of the following defects shall be condemned as unfit for human habitation or as a place of employment and shall be so designated and placarded by the director of buildings and inspections:

(1) One which is so damaged, decayed, dilapidated, unsanitary, and unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the

occupants or of the public.

(3) One which because of its general condition or location is unsanitary, or otherwise dangerous, to the health or safety of the occupants or of the public.

(2) Definition of affordable rents. Note: Grantees may use the definition they have adopted for their CDBG program but should review their existing definition to ensure compliance with NSP program specific requirements such as continue affordability.

Response:

HOME program rents will be used by the City for projects funded by NSP. These are updated annually by the U.S. Department of Housing and Urban Development. HOME Program rent limits are available at [www.hud.gov](http://www.hud.gov).

(3) Describe how the grantee will ensure continued affordability for NSP assisted housing.

Response:

CONTINUED AFFORDABILITY;

The City has adopted the HOME Program affordability standards found at 24 CFR 92.252 (a), (c), (e), and (f), and 24 CFR 92.254 to meet the continued affordability standards of the Neighborhood Stabilization Program. Utilizing these standards, the City will ensure that all NSP assisted housing remains 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.

Enforcement Mechanisms

HOME rules require that assisted properties remain affordable for a specific period of time (5, 10, 15 or 20 years), depending on the activity and the level of funds invested. Participating Jurisdictions are required to place certain restrictions on assisted properties in order to preserve affordable housing in their communities. Restrictions involving the period of affordability will be incorporated in a deed restriction and/or mortgage documents or other appropriate and binding documents (Note: covenants on land may be used in lieu of deed restrictions).

Qualification as Affordable Housing: Rental Housing

(a) 24 CFR 92.252 (a) Rent limitation. HUD provides the following maximum HOME rent limits. The maximum HOME rents (High HOME Rents) are the lesser of:

(1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111; or

(2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

(b) 24 CFR 92.252 (c) Initial rent schedule and utility allowances. The participating jurisdiction shall establish maximum monthly allowances for utilities and services (excluding telephone). The participating jurisdiction shall review and approve rents proposed by the owner for units subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction shall ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

(c) 24 CFR 92.252 (e) Periods of Affordability. The NSP-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They shall be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The

participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former has or had family or business ties, obtains an ownership interest in the project or property.

Rental housing activity	Minimum period of affordability in years
Rehabilitation or acquisition of existing housing per unit amount of NSP funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15
New construction or acquisition of newly constructed housing	20

(d) 24 CFR 92.252 (f) Subsequent rents during the affordability period.

(1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

(2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (d) (1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of NSP-assisted units to demonstrate compliance with this section.

(3) Any increase in rents for NSP-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

92.254 Qualification as Affordable Housing: Homeownership

Acquisition with or without rehabilitation. Housing that is for acquisition by a family must meet the affordability requirements of this paragraph (a).

1. The housing must be single-family housing.

2. The housing must be modest housing as follows:

The City will use the Single Family Mortgage Limits under Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) (which may be obtained from the HUD Field Office) for projects/properties assisted with NSP funds.

3. The housing must be acquired by a homebuyer whose family qualifies as a low, moderate, and middle income, (LMMI) family and the housing must be the principal residence of the family throughout the period described in paragraph (a)(4) of this section.

4. Periods of affordability. The NSP-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of NSP funds and the affordability period that they trigger are described more fully below.

Homeownership assistance	
NSP amount per-unit	Minimum period of
affordability in years	
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

## 5. Continued Affordability

### The Recapture Requirements [92.254(a) (5)]

The City will use the Recapture option for NSP funding. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the NSP assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability.

Under the recapture option, the recipient repays some or all of the NSP subsidy to the Participating Jurisdiction and is able to sell his/her home to any buyer at whatever price the market will bear. The City will require full repayment of outstanding NSP funds at the time of resale or, if the net proceeds are less than the full amount of the NSP subsidy, recapture of the net proceeds. The net proceeds of a sale are the sales price minus any non-NSP loan repayments and closing costs. The City may at its option reduce the NSP investment amount to be recaptured on a pro-rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period. In those cases where the real estate does not appreciate sufficiently to allow a full recapture, the City will reduce the repayment of the NSP subsidy to allow the original purchaser to resell the unit without incurring a loss. The period of affordability is based upon the total amount of NSP funds subject to recapture described in paragraph (4) of this section.

6. Lease-purchase. NSP funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If NSP funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the NSP affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion. Lease purchase agreements shall be for a period of one year and renew annually. A portion of the monthly lease payment may be set aside to help the homebuyer accumulate funds for a down-payment and/or closing costs. Approvals of homebuyers for lease purchase are on a case-by-case basis and are at the sole discretion of the City.

7. Contract to purchase. If NSP funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a LMMI family at the time the contract is signed.

## 8. Preserving affordability.

If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the City will revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

(i) Notwithstanding § 92.214 (a) (6), to preserve the affordability of housing that was previously assisted with NSP funds and subject to the requirements of § 92.254(a), a participating jurisdiction may use additional NSP funds to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or to acquire the housing at the foreclosure sale, to undertake any necessary rehabilitation, and to provide assistance to another homebuyer. The housing must be sold to a new eligible homebuyer in accordance with the requirements of § 92.254(a). Additional NSP funds may not be used if the mortgage in default was funded with NSP funds.

(ii) The total amount of original and additional NSP assistance may not exceed the maximum per-unit subsidy amount established under § 92.250.

(4) Describe housing rehabilitation standards that will apply to NSP assisted activities.

Response:

Any work performed with NSP funds will comply with the 2003 International Building Code and the 2003 International Residential Building Codes as published by the International Code Council except those specifically altered by The Special Provisions promulgated by the City.

#### D. LOW INCOME TARGETING

Identify the estimated amount of funds appropriated or otherwise made available under the NSP to be used to purchase and redevelop abandoned or foreclosed upon homes or residential properties for housing individuals or families whose incomes do not exceed 50 percent of area median income: At least \$650,000.00.

Note: At least 25% of funds must be used for housing individuals and families whose incomes do not exceed 50 percent of area median income.

Response:

The City of Birmingham anticipates receiving an amount of \$2,580,214 under the NSP Program. We anticipate spending at least \$650,000 (25.2%) of this amount to benefit individuals or families whose incomes do not exceed 50% of area median income (AMI). The 2008 AMI for the Birmingham Hoover, AL Metro FMR Area is \$59,100.

The City of Birmingham's poverty rate is 24.8%; some 29% of our residents report some sort of disability. In light of the significant housing challenges of special needs populations in our City, we will make every effort to partner with non-profit service providers to provide affordable housing opportunities for these special needs families and individuals with NSP funds. Most of these special needs populations have incomes well below 50% of AMI, and we will make it a priority to work cooperatively to develop functional permanent supportive housing models to meet the needs of these families and individuals.

#### E. ACQUISITIONS & RELOCATION

Indicate whether grantee intends to demolish or convert any low- and moderate-income dwelling units (i.e., &#8804; 80% of area median income).

If so, include:

The number of low- and moderate-income dwelling units i.e., &#8804; 80% of area median income reasonably expected to be demolished or converted as a direct result of NSP-assisted activities.

The number of NSP affordable housing units made available to low-, moderate-, and middle-income households i.e., &#8804; 120% of area median income reasonably expected to be produced by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion).

The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

esponse:

Grantee does not intend to demolish or convert any low-and-moderate income dwelling units. The City does, however, intend on offering modest compensation to foreclosed property owners in return for their forfeiture of their right of redemption under Alabama State law. This will have the effect of expediting the acquisition of foreclosed homes.

#### F. PUBLIC COMMENT

Provide a summary of public comments received to the proposed NSP Substantial Amendment.

Response:

Comment period began Thursday, November 6, 2008 and ended Monday, November 24, 2008 at 5:00 p.m. Comments and responses were available December 1, 2008. NSP Program Summary Publication is included as Attachment A and a Summary of Citizen Comments received is included in Attachment D.

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

(1) Activity Name:

Purchase and Rehabilitation Program for Sale, Rent or Redevelopment.

(2) Activity Type: (include NSP eligible use & CDBG eligible activity)

NSP Eligible Use:

NSP Eligible Use: 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.

CDBG Eligible Use:

As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.

25CFR 570.201 (a) acquisition, (b) dispositions, (i) Relocation, and (n) Direct homeownership assistance (as modified below):

570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).

.24 CFR 570.201 (a) Acquisition and (b) Disposition.

(3) National Objective: (Must be a national objective benefiting low, moderate and middle income persons, as defined in the NSP Noticei.e., &#8804; 120% of area median income).

This activity meets the national objective by providing or improving permanent residential structures that will benefit low, moderate and middle income persons, as defined in the NSP Notice---i.e., < 120% of area median income.

(4) Projected Start Date:

March 1, 2009.

(5) Projected End Date:

February 28, 2013

(6) Responsible Organization: (Describe the responsible organization that will implement the NSP activity, including its name, location, and administrator contact information)

City of Birmingham, Alabama  
Housing Division  
Department of Community Development  
710 North 20th Street; 7th Floor City Hall  
Birmingham, Alabama 35203

Administrator Contact: James F. Fenstermaker

Phone: 205-254-2483

Fax: 205-254-2282

E-mail: jim.fenstermaker@birminghamal.gov

The City may, at its discretion, determine to utilize a non-profit or for-profit developer(s) for all or a portion of the activities proposed. Entities chosen for this purpose will be selected through competitive proposals with an emphasis on experience and capacity in order to facilitate the highest and best use of the funds within the allocated time frame.

(7) Location Description: (Description may include specific addresses, blocks or neighborhoods to the extent known.)



A review of the City's overall situation indicates that for the purposes of this grant application, a large portion of the City exceeds the NSP program requirements for eligibility.

The City will prioritize the expenditure of NSP funds in its identified Areas of Greatest Need, described in Attachment C, and we will place emphasis on identifying projects in these identified Census Block Groups. Our goal will be to expend all NSP dollars within these identified areas. Within these identified areas, we will seek to identify clusters of opportunity in which a targeted investment of NSP funds in a grouping of foreclosed, abandoned or blighted properties can become the catalyst for reversal of neighborhood decline. We would hope to identify as many as 3-5 such clusters within our Areas of Greatest Need.

The City will work within these areas where feasible but will not reject other areas of foreclosure concentration not shown under the Priority Areas of Greatest Need. Foreclosure data is not static and may change rapidly with market conditions.

#### (8) Activity Description:

Include a narrative describing the area of greatest need that the activity addresses; the expected benefit to income-qualified persons; and whether funds used for this activity will be used to meet the low income housing requirement for those below 50% of area median income.

Funds utilized under this activity will 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 sub prime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures.

In Attachment C, we have attached a table and map setting forth the Areas of Greatest Need in the City of Birmingham for the expenditure of CDBG-NSP Funds. Criteria for inclusion in this identified target area are that, based on our analysis of HUD data, our Areas of Greatest Need are those Census Block Groups in which: 1) the Estimated Foreclosure Risk Score is 9 or higher; 2) and the High Cost (Sub prime) Loan Rate exceeds 40%; and 3) the Predicted 18 month problem foreclosure rate exceeds 6.0%.

The expected benefit to income qualified persons will be to provide or improve permanent residential structures for low, moderate and middle income persons, as defined in the NSP Notice---i.e., < 120% of area median income. This activity will be used to meet the low income housing requirement for those below 50% of area median income. Units purchased, rehabilitated or redeveloped under this Program may be gifted at no cost to qualified 501(c) (3) organizations that demonstrate the ability to maintain and manage the units over time or to other eligible program participants.

The expected benefit to income-qualified persons will be as follows:

Income Group    Projected # Beneficiaries

0-50%	10
51-120%	15

For housing related activities, include:

Tenure of beneficiaries--rental or homeownership;

Tenure of beneficiaries under this activity may be rental or homeownership. It is anticipated that those toward the lower end of the income spectrum will be rental and those toward the higher end will be homeownership. Each NSP assisted homebuyer will be required to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. Homebuyers must obtain a mortgage loan from a lender who agrees to comply with the bank regulators guidance for non-traditional mortgages (see, Statement on Sub prime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>).

Duration or term of assistance;

The minimum term of assistance for rental projects will be 5, 10, 15 or 20 years as described in the table below: 24 CFR 92.252 Qualification as Affordable Housing: Rental Housing. The minimum term of term of assistance for homeownership will be 5, 10 or 15 years as described in the table below: 24 CFR 92.254 Qualifications as Affordable Housing: Homeownership.

Description of how the design of the activity will ensure continued affordability;

The City has adopted the HOME Program affordability standards found at 24 CFR 92.252 (a), (c), (e), and (f), and 24 CFR 92.254 to meet the continued affordability standards of the Neighborhood Stabilization Program. Utilizing these standards, the City will ensure that all NSP assisted housing remains 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.

Enforcement Mechanisms

HOME rules require that assisted properties remain affordable for a specific period of time (5, 10, 15 or 20 years), depending on the activity and the level of funds invested. Participating Jurisdictions are required to place certain restrictions on assisted properties in order to preserve affordable housing in their communities. Restrictions involving the period of affordability will be incorporated in a deed restriction and/or mortgage documents or other appropriate and binding documents (Note: covenants on land may be used in lieu of deed restrictions).

Qualification as Affordable Housing: Rental Housing

Continued Affordability

(a) 24 CFR 92.252 (a) Rent limitation. HUD provides the following maximum HOME rent limits. The maximum HOME rents (High HOME Rents) are the lesser of:

(1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111; or

(2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

(b) 24 CFR 92.252 (c) Initial rent schedule and utility allowances. The participating jurisdiction shall establish maximum monthly allowances for utilities and services (excluding telephone). The participating jurisdiction shall review and approve rents proposed by the owner for units subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction shall ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

(c) 24 CFR 92.252 (e) Periods of Affordability. The NSP-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They shall be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the

former has or had family or business ties, obtains an ownership interest in the project or property.

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Rental housing activity	Minimum period of affordability in years
Rehabilitation or acquisition of existing housing per unit amount of NSP funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15
New construction or acquisition of newly constructed housing	20

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(d) 24 CFR 92.252 (f) Subsequent rents during the affordability period.

(1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

(2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (d) (1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of NSP-assisted units to demonstrate compliance with this section.

(3) Any increase in rents for NSP-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

#### 92.254 Qualification as Affordable Housing: Homeownership

Acquisition with or without rehabilitation. Housing that is for acquisition by a family must meet the affordability requirements referenced in this of this section.

1. The housing must be single-family housing.
2. The housing must be modest housing as follows:

The City will use the Single Family Mortgage Limits under Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) (which may be obtained from the HUD Field Office) for projects/properties assisted with NSP funds.

3. The housing must be acquired by a homebuyer whose family qualifies as a low, moderate, and middle income, (LMMI) family and the housing must be the principal residence of the family throughout the period described in paragraph (4) of this section.
4. Periods of affordability. The NSP-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of NSP funds and the affordability period that they trigger are described more fully below.

Homeownership assistance	NSP amount per-unit	Minimum period of affordability in years
Under \$15,000		5
\$15,000 to \$40,000		10

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## 5. Continued Affordability

### The Recapture Requirements [92.254(a) (5)]

The City will use the Recapture option for NSP funding. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the NSP assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability.

Under the recapture option, the recipient repays some or all of the NSP subsidy to the Participating Jurisdiction and is able to sell his/her home to any buyer at whatever price the market will bear. The City will require full repayment of outstanding NSP funds at the time of resale or, if the net proceeds are less than the full amount of the NSP subsidy, recapture of the net proceeds. The net proceeds of a sale are the sales price minus any non-NSP loan repayments and closing costs. The City may at its option reduce the NSP investment amount to be recaptured on a pro-rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period. In those cases where the real estate does not appreciate sufficiently to allow a full recapture, The City will reduce the repayment of the NSP subsidy to allow the original purchaser to resell the unit without incurring a loss. The period of affordability is based upon the total amount of NSP funds subject to recapture described in paragraph (4) of this section.

6. Lease Purchase. NSP funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If NSP funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the NSP affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion. Lease purchase agreements shall be for a period of one year and renew annually. A portion of the monthly lease payment may be set aside to help the homebuyer accumulate funds for a down-payment and/or closing costs. Approvals of homebuyers for lease purchase are on a case-by-case basis and are at the sole discretion of the City.

7. Contract to purchase. If NSP funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a LMMI family at the time the contract is signed.

## 8. Preserving affordability.

If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the City will revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

(i) Notwithstanding § 92.214 (a) (6), to preserve the affordability of housing that was previously assisted with NSP funds and subject to the requirements of § 92.254(a), a participating jurisdiction may use additional NSP funds to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or to acquire the housing at the foreclosure sale, to undertake any necessary rehabilitation, and to provide assistance to another homebuyer. The housing must be sold to a new eligible homebuyer in accordance with the requirements of § 92.254(a). Additional NSP funds may not be used if the mortgage in default was funded with NSP funds.

(ii) The total amount of original and additional NSP assistance may not exceed the maximum per-unit subsidy amount established under § 92.250.

For acquisition activities, include:  
discount rate -

A discount rate of 5% for individual purchases will be applied and 15% for purchases in aggregate. Aggregate purchases for NSP are defined as all properties that an NSP grantee purchases with its entire NSP grant. Arranging

to purchase multiple properties in bulk may not have much effect on meeting the individual and aggregate purchase discount requirements. The individual discount requirement still applies to each individual house and an appraisal is required for each house.

#### Voluntary Termination of Right of Redemption -

The City does, however, intend on offering modest compensation to foreclosed property owners in return for their forfeiture of their right of redemption under Alabama State law. This will have the effect of expediting the acquisition of foreclosed homes.

For financing activities, include:

range of interest rates

0% interest rates.

#### I. Total Budget: (Include public and private components)

NSP Grant Funds: \$2,322,193.00

Anticipated NSP Program Income: \$ 100,000.00

Total: \$2,422,193.00

J. Performance Measures (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels of households that are 50 percent of area median income and below, 51-80 percent, and 81-120 percent):

Income Group Projected # Beneficiaries

0-50% 10

51-120% 15

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

(1) Activity Name: Administration.

(2) Activity Type: (include NSP eligible use & CDBG eligible activity)

NSP Eligible

NSP Eligible Use: 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.

CDBG Eligible Use:

As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.

(3) National Objective: (Must be a national objective benefiting low, moderate and middle income persons, as defined in the NSP Notice i.e., < 120% of area median income).

This activity meets the national objective by providing or improving permanent residential structures that will benefit low, moderate and middle income persons, as defined in the NSP Notice---i.e., < 120% of area median income.

(4) Projected Start Date: March 1, 2009

(5) Projected End Date: February 28, 2013

(6) Responsible Organization: (Describe the responsible organization that will implement the NSP activity, including its name, location, and administrator contact information)

City of Birmingham, Alabama  
Department of Community Development  
710 North 20th Street; 10th Floor City Hall  
Birmingham, Alabama 35203

Administrator Contact: James F. Fenstermaker, Director

Phone: 205-254-2483

Fax: 205-254-2282

E-mail: jim.fenstermaker@birminghamal.gov

(7) Location Description: (Description may include specific addresses, blocks or neighborhoods to the extent known.)

City of Birmingham, Alabama  
Department of Community Development  
710 North 20th Street; 10th Floor City Hall  
Birmingham, Alabama 35203

(8) Activity Description:

Include a narrative describing the area of greatest need that the activity addresses; the expected benefit to income-qualified persons; and whether funds used for this activity will be used to meet the low income housing requirement for those below 50% of area median income.

Administration of the NSP Program.

I. Total Budget: (Include public and private components)

\$258,021.00

J. Performance Measures (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels of households that are 50 percent of area median income and below, 51-80 percent, and 81-120 percent):

ADMINISTRATIVE EXPENSES RELATED TO THE NSP PROGRAM.

<b>Overall</b>	<b>This Report Period</b>	<b>To Date</b>
<b>Total Projected Budget from All Sources</b>	N/A	\$2,580,214.00
<b>Total CDBG Program Funds Budgeted</b>	N/A	\$2,580,214.00
<b>Program Funds Drawdown</b>	\$0.00	\$0.00
<b>Obligated CDBG DR Funds</b>	\$0.00	\$0.00
<b>Expended CDBG DR Funds</b>	\$0.00	\$0.00
<b>Match Contributed</b>	\$0.00	\$0.00
<b>Program Income Received</b>	\$0.00	\$0.00

Program Income Drawdown	\$0.00	\$0.00
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## Progress Toward Required Numeric Targets

Requirement	Required	To Date
Minimum Overall Benefit Percentage	\$99.99	\$0.00
Minimum Non-Federal Match	\$0.00	\$0.00
Limit on Public Services	\$387,032.10	\$0.00
Limit on Admin/Planning	\$258,021.40	\$0.00
Limit on State Admin	\$0.00	\$0.00

## Progress Toward Activity Type Targets

## Progress Toward National Objective Targets

### Overall Progress Narrative:

During this quarter administrative tools and staff were employed to further set up program implementation offices. Marketing, procurement and training for professional services contractors were completed. Several foreclosed (HUD) properties have been identified and assessed for either gifting or sell, however, only one has been suitable for acquisition. A bid to purchase that property has been accepted and acquisition is in progress through a contracted realtor. One Environmental Assessment has been completed on a property which was presented for gifting to a non profit. Other properties are being sought routinely. Providing Lead test and abatement services as a means of leveraging funds is being considered. Atleast two pre-qualified, potential homebuyers expressed interest in property and are receiving services from our sub recipient. Currently, one new job has been created and 5 have been retained as a result of our NSP agreement with sub recipient. Research and attention to reporting requirements are ongoing. Our sub recipient has some staffing delays which were not anticipated and has hindered some aspects of program implementation and progression. Finding foreclosed or abandoned properties that are in moderate condition for rehab has been a challenge. Also, those of us in Jefferson County could experience some delays getting properties transferred, etc. due to the county's financial and staffing crisis. We are frequently in contact with our sub recipient to clarify goals, provide support and identify resources and procedures that still need to be refined. To increase our ability to acquire good properties, the sub recipient will also review non HUD, foreclosed or abandoned properties for acquisition.

## Project Summary

Project #, Project Title	This Report Period		To Date	
	Project Funds Budgeted	Program Funds Drawdown	Project Funds Budgeted	Program Funds Drawdown
0001, Administrative Cost	\$0.00	\$0.00	\$258,021.00	\$0.00
0002, Purchase & Rehab	\$0.00	\$0.00	\$2,322,193.00	\$0.00
9999, Restricted Balance	\$0.00	\$0.00	\$0.00	\$0.00

