

**NEIGHBORHOOD STABILIZATION PROGRAM
GUIDANCE ON PROGRAM INCOME & REVENUE
REQUIREMENTS**

INTRODUCTION

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*.

Part A provides guidance on how to determine whether revenue received by a state, unit of general local government, or subrecipient is program income and, thus, subject to the NSP requirements. Part B provides guidance on revenue received by individuals or other entities that are not subrecipients. Part C provides guidance on how states and units of general local government must use program income (including revenue returned to them by individuals or other entities that are not subrecipients).

PART A: IS IT PROGRAM INCOME?

STEP ONE: DID THE STATE, UNIT OF GENERAL LOCAL GOVERNMENT, OR SUBRECIPIENT RECEIVE REVENUE THAT WAS DIRECTLY GENERATED FROM THE USE OF NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS AND DOES THIS REVENUE FALL WITHIN THE DEFINITION OF PROGRAM INCOME AT 24 CFR 570.500(a)(1)?

EXAMPLES OF NSP PROGRAM INCOME:

- Proceeds from the sale or lease of property acquired/redeveloped/rehabilitated with NSP funds
 - Principal and interest payments on loans made from NSP funds
 - Revenue returned by individuals or other entities that are not subrecipients (see examples in Part B)
 - Recaptures on sales of homes pursuant to enforcement of NSP affordability requirements
 - (See §570.500(a)(1) for more examples of amounts that are treated as program income.)
- YES, Go to Step Two.
- NO, Stop here. This revenue IS NOT program income.

STEP TWO: IS THIS TYPE OF REVENUE LISTED IN THE PROGRAM INCOME EXCLUSIONS AT §570.500(a)(2), (a)(4), and (a)(5)?

EXAMPLES:

- Interest earned on advances of NSP grants from the U.S. Treasury
 - Interest earned on loans of NSP funds that finance activities that are either ineligible or fail to meet a HUD national objective
 - Funds collected through special assessments used to recover the non-NSP portion of the cost of a public improvement
- ❑ YES, Stop here. This revenue IS NOT program income; however, the interest earned on grant advances or ineligible loans must be remitted to HUD.
 - ❑ NO, Go to Step Three.

STEP THREE: WAS THE ACTIVITY THAT DIRECTLY GENERATED THE REVENUE FINANCED IN WHOLE WITH NSP FUNDS?

- ❑ YES. All revenue must be used in accordance with Part C.
- ❑ NO. A portion of the revenue must be used in accordance with Part C based on the NSP participation in the funding of the activity generating the revenue (e.g., if 25% of the costs of the activity was paid with NSP funds, then 25% of the revenue must be returned to the State or Unit of General Local Government).

PART B: IS IT REVENUE RECEIVED BY PRIVATE INDIVIDUALS/ENTITIES THAT ARE NOT SUBRECIPIENTS?

STEP ONE: DID THE PRIVATE INDIVIDUAL/ENTITY RECEIVE REVENUE THAT WAS DIRECTLY GENERATED FROM THE USE OF NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS AND DOES THIS REVENUE FALL WITHIN THE DEFINITION OF PROGRAM INCOME AT 24 CFR 570.500(a)(1)?

EXAMPLES OF NSP REVENUE:

- Proceeds from the sale or lease of property acquired/redeveloped/rehabilitated with NSP funds
 - Principal and interest payments on loans made from NSP funds (e.g., payments on purchase money mortgage loans)
 - Net operating income from operation of rental properties acquired and/or rehabilitated with NSP funds
 - (See §570.500(a)(1) for more examples of amounts that are treated as NSP revenue)
- ❑ YES, Go to Step Two.
 - ❑ NO, Stop here. This revenue IS NOT subject to NSP requirements.

STEP TWO: WAS THE ACTIVITY THAT DIRECTLY GENERATED THE REVENUE FINANCED BY A LOAN MADE PURSUANT TO ELIGIBLE USE CATEGORY (A) OF SECTION 2301(c)(3) AND IS THE AMOUNT RECEIVED GREATER THAN THE AMOUNT OWED ON THE LOAN?

- ❑ YES, Stop here. The portion of the revenue that is in excess of the amount owed on the loan does not have to be returned to the State or Unit of General Local Government.
- ❑ NO. Go to Step Three

STEP THREE: WAS THE ACTIVITY THAT DIRECTLY GENERATED THE REVENUE FINANCED IN WHOLE WITH NSP FUNDS?

- ❑ YES. All revenue must be returned to the State or Unit of General Local Government and used in accordance with Part C.
- ❑ NO. A portion of the revenue must be returned to the State or Unit of General Local Government based on the NSP participation in the funding of the activity generating the revenue (e.g., if 50% of the costs of the activity was paid with NSP funds, then 50% of the revenue must be returned to the State or Unit of General Local Government).

EXAMPLE: A grantee uses NSP funds to make a loan to a private individual to finance the purchase of a foreclosed-upon residential property for use as his/her primary residence. The private individual purchased the property for \$100,000 with a privately financed first mortgage of \$80,000 and a NSP “soft” second mortgage of \$20,000. The terms of the NSP

loan provide for forgiveness of the homebuyer's repayment obligation, based on the length of time the homebuyer remains in the property. After ten years, the individual sells the property to an income eligible homebuyer for \$100,000. The unpaid balance on the private mortgage is \$67,000 and the balance on the NSP loan is \$13,000. The maximum NSP revenue is equal to 20% of the sales proceeds (i.e., \$20,000); however, since a portion of the NSP loan repayment obligation has been forgiven, the amount of the revenue that must be returned to the grantee is \$13,000.

EXAMPLE: A grantee uses NSP funds to make a loan (or a grant) to a private individual/entity to finance the acquisition and rehabilitation of a foreclosed-upon multi-family residential property. The private individual/entity uses \$200,000 in NSP funds (loan or grant) from the grantee to pay the total costs of acquisition and rehabilitation (including reasonable development fees) and then sells the property for \$225,000. The private individual/entity must provide \$225,000 to the grantee. (If the NSP funding was a loan, the sales proceeds would be used to repay the NSP loan.) If in this same example, the private individual/entity received \$100,000 in NSP funds, and used \$100,000 of its own funds, the program income to be provided to the grantee would be \$112,500.

EXAMPLE: A grantee uses \$250,000 in NSP funds to make a loan (or a grant) to a private individual/entity to finance the acquisition and rehabilitation of a foreclosed-upon multi-family residential property. The private individual/entity utilizes \$500,000 of its own resources in conjunction with the \$250,000 in NSP funds, for a total development cost of \$750,000. The private individual/entity must return to the grantee a portion of the "net operating income" generated by the project, as calculated below. This percentage will be based on the percentage of the total development cost of the project.

Rental Income

Gross Annual Rental Income	120,000
Less (-) 5% Vacancy	(6,000)
Plus (+) Other Income	-

Total Effective Gross Income:

114,000

Operating Expenses

Management Fee	12,000
Utilities	24,000
Maintenance	15,000
Grounds and Landscaping	10,000
Insurance	4,200
Real Estate Tax	4,800
Replacement Reserves	10,000
Pest Control	3,000
Other Expenses	1,000

Total Operating Expenses:

84,000

Net Operating Income (NOI):

30,000

In this example, NSP funds were used to pay one-third of the total development cost. Consequently, since the Net Operating Income was \$30,000, the private individual/entity must return \$10,000 (i.e., one-third) to the grantee.

PART C: USE OF PROGRAM INCOME RECEIVED BY STATE OR UNIT OF GENERAL LOCAL GOVERNMENT

NOTE: The NSP Notice published in the *Federal Register* on October 6, 2008, imposes certain limitations and requirements with respect to NSP program income that are based on the eligible use category of Section 2301(c)(3) and the date the income is received. Before proceeding with this Part C, the reader should determine the eligible use category under which the activity generating the program income was carried out and whether the income was received before July 30, 2013. Eligible use categories of Section 2301(c)(3) are listed below.

- (A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
- (B) 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.
- (C) Establish land banks for homes that have been foreclosed upon.
- (D) Demolish blighted structures.
- (E) Redevelop demolished or vacant properties.

STEP ONE: WAS THE PROGRAM INCOME GENERATED BY ACTIVITIES CARRIED OUT PURSUANT TO ELIGIBLE USE CATEGORY (A), (C), OR (D), AS DESCRIBED ABOVE?

- YES, Stop here. The State or Unit of General Local Government may retain this program income if it is treated as additional CDBG funds and used in accordance with Section 2301.
- NO, The program income was generated by activities carried out pursuant to eligible use category (B) or (E) of Section 2301(c)(3). Go to Step Two.

STEP TWO: WAS THE PROGRAM INCOME RECEIVED PRIOR TO JULY 30, 2013?

- YES, Stop here. The State or Unit of General Local Government may retain this program income if it is treated as additional CDBG funds and used in accordance with Section 2301.
- NO, Go to Step Three.

STEP THREE: DID THE STATE OR UNIT OF GENERAL LOCAL GOVERNMENT RECEIVE REVENUE ON OR AFTER JULY 30, 2013 (INCLUDING REVENUE RETURNED BY AN INDIVIDUAL OR OTHER ENTITY THAT IS NOT A SUBRECIPIENT), THAT IS IN EXCESS OF THE COST TO ACQUIRE AND REDEVELOP OR REHABILITATE AN ABANDONED OR FORECLOSED-UPON HOME OR RESIDENTIAL PROPERTY?

- YES, Stop here. The State or Unit of General Local Government may retain and utilize such revenues for other NSP purposes, upon written approval from HUD.

- ❑ NO, Go to Step Four.

STEP FOUR: WAS PROGRAM INCOME, OTHER THAN THE PROGRAM INCOME DESCRIBED IN STEP THREE, RECEIVED ON OR AFTER JULY 30, 2013?

- ❑ YES, Stop here. The State or Unit of General Local Government must remit all such program income to HUD
- ❑ NO, Stop here.

EXAMPLE: A grantee acquires a foreclosed-upon property for \$100,000, spends \$100,000 to redevelop the property, and sells the property for \$225,000. (The buyer is NOT an individual that will use the property as a primary residence.) If the sale occurs on or after July 30, 2013, the amount to be remitted to HUD by the grantee is \$200,000 if HUD authorizes the profit of \$25,000 to be used for other NSP purposes, or \$225,000, if HUD does not authorize such use.