

CITY OF YUBA CITY
STAFF REPORT

Date: September 15, 2009
To: Honorable Mayor & Members of the City Council
From: Community Development Department
Presentation By: Aaron M. Busch, Community Development Director

Summary

Subject: Consideration of a Neighborhood Stabilization Program (NSP) Program Income Reuse Plan that establishes guidelines on the policies and procedures for the administration and utilization of program income received as a result of the activities funded under the Federal Neighborhood Stabilization Program (NSP).

Recommendation: That the City Council conduct a public hearing and adopt the attached Resolution (Exhibit A) approving the Neighborhood Stabilization Program (NSP) Program Income Reuse Plan.

Fiscal Impact: None.

Discussion:

On June 2, 2009 the City Council approved a Joint Application Agreement between Yuba City, Sutter County, and Live Oak, allowing the agencies to jointly receive \$1,794,005 from the Federal Neighborhood Stabilization Program (NSP) program. Additionally, the Council also approved a Joint Partnership Agreement (JPA) and a Memorandum of Understanding (MOU) between all three agencies for purposes of administering the program in compliance with NSP guidelines. As part of the MOU, Yuba City was identified as the Lead Entity who is responsible for the required annual reporting and handling of program income.

NSP Program Income is defined in federal regulation at 24 CFR 570.500(a) which specifies that the NSP Program Income is the gross income received by the Grantee (City of Yuba City) that has been directly generated from the use of CDBG/NSP funds. There are limitations and requirements based on NSP activity that generated the program income and on the date the income is received. Examples of program income include:

- Payments of principal and interest on housing rehabilitation or business loans made using CDBG/NSP funds.
- Interest earned on program income pending its disposition, net proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG/NSP funds.

- Income (net of costs that are incidental to the generation of the income) from the use or rental of real property that has been acquired, constructed or improved with CDBG/NSP funds and that is owned (in whole or in part) by the participating jurisdiction or sub-recipient.

Since the Council's approval on June 2nd, the other participating agencies made similar approvals, and the Joint Application Agreement for NSP funds was submitted to HCD for final review. On August 27th, the City received word from HCD that they have approved the JPA's application for funding. The next steps for this process involve the execution of the Standard Agreement with HCD, completion of the required environmental documentation, and the adoption of the Program Income Reuse Plan.

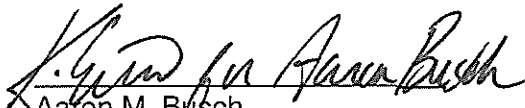
Fiscal Impact:

None.


Recommendation:

Staff recommends that the City Council conduct a public hearing and adopt the attached Resolution (Exhibit A) approving the Neighborhood Stabilization Program (NSP) Program Income Reuse Plan.

Prepared By:


 Aaron M. Busch
 Community Development Director

Submitted By:



 Steven R. Jepsen
 City Manager

Reviewed By:

Finance

City Attorney

Other: (Name, Title)



Exhibits

- A. Resolution
- B. NSP Program Income Reuse Plan

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
APPROVING THE PROGRAM INCOME REUSE PLAN FOR THE
NEIGHBORHOOD STABILIZATION PROGRAM**

WHEREAS, the American Recovery and Reinvestment Act (Recovery Act) was signed into law by President Obama on February 17, 2009; and

WHEREAS, the jurisdictions in Sutter County received an allocation of \$1,794,005 through the Neighborhood Stabilization Program, (NSP) which is administered by the California Department of Housing and Community Development (HCD); and

WHEREAS, the NSP provides funds to local governments to purchase and rehabilitate foreclosed homes to be re-occupied by qualified households; and

WHEREAS, on June 2, 2009, the City of Yuba City entered into a Memorandum of Agreement (MOA) with Sutter County and the City of Live Oak to receive Neighborhood Stabilization funds through HCD; and

WHEREAS, the MOA designates the City of Yuba City as the lead agency responsible for implementation of the NSP program in accordance with the regulations set forth by HCD; and

WHEREAS, use of the NSP funds is anticipated to generate Program Income, for which a Program Income Reuse Plan is required by HCD; and

WHEREAS, the City Council conducted a public hearing on September 15, 2009, to receive public comments on the proposed Program Income Reuse Plan

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Yuba City does hereby approve the NSP Program Income Reuse Plan, as contained in Exhibit "A".

The foregoing Resolution was duly and regularly introduced, passed and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on September 15, 2009, by the following vote:

AYES:

NOES:

ABSENT:

MAYOR

ATTEST:

CITY CLERK

NEIGHBORHOOD STABILIZATION PROGRAM
PROGRAM INCOME REUSE PLAN

Revision / Adopted Date _____

Grantee Name City of Yuba City

Grantee Address 1201 Civic Center Blvd. Yuba City, CA 95993

Grantee Telephone (530) 822-5135 Grantee E-mail abusch@yubacity.net

The purpose of this plan is to establish guidelines on the policies and procedures for the administration and utilization of program income received as a result of activities funded under the Neighborhood Stabilization Program (NSP).

Need for Plan Governing Reuse of NSP Program Income

NSP is authorized under Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA) and under the heading of the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes. HERA provides under a rule of construction that, unless it is otherwise stated, grants made under the NSP are considered to be Community Development Block Grant (CDBG) funds.

This Reuse Plan is intended to satisfy the requirements specified in federal statute and regulation at Section 104(j) of the Housing and Community Development Act ("the Act") as amended in 1992 and 24 Code of Federal Regulations (CFR) 570.489 (e)(3) and of Title III of Division B of HERA.

These statutory and regulatory sections permit the Grantee to retain NSP Program Income generated by eligible NSP activities pursuant to HERA. The eligible NSP activities shall principally benefit low-, moderate-, and middle-income (LMMI) individuals and families, and limited to only those activities as described in the Grantee's Application and Exhibit B of the NSP Standard Agreement. Such activities may include:

- A. 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.
- 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.

Acceptance of the NSP Program Income Reuse Plan

The NSP Program Income Reuse Plan must detail the proposed uses of NSP Program Income and confirm the jurisdiction's required compliance with state and federal

regulations.

Program Income Defined

NSP Program Income is defined in federal regulation at 24 CFR 570.500(a) which specifies that the NSP Program Income is the gross income received by the Grantee that has been directly generated from the use of CDBG/NSP funds. There are limitations and requirements based on NSP activity that generated the program income and on the date the income is received. Examples of program income include:

- Payments of principal and interest on housing rehabilitation or business loans made using CDBG/NSP funds.
- Interest earned on program income pending its disposition, net proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG/NSP funds
- Income (net of costs that are incidental to the generation of the income) from the use or rental of real property that has been acquired, constructed or improved with CDBG/NSP funds and that is owned (in whole or in part) by the participating jurisdiction or sub-recipient.

1) Program Income generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E).

a. Program income received before July 30, 2013, may be retained by the Grantee if it is treated as additional CDBG/NSP funds and used in accordance with the requirements of Section 2301.

b. Program income received on or after July 30, 2013, must be returned to the Department.

Any program income received by the Grantee on or after July 30, 2013, that is generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) (e.g., proceeds from the sale) and is not authorized to be retained as described below must be remitted to the Department.

Any program income received by a NSP grantee on or after July 30, 2013, that is generated by activities carried out pursuant to Section 2301(c)(3)(B) and (E) and that is in excess of the cost to acquire and redevelop or rehabilitate an abandoned or foreclosed-upon home or residential property may be retained if the Department accepts a request to use the funds for other NSP purposes.

Note that no profit can be earned on the sale of an abandoned or foreclosed-upon home or residential property to an individual as a primary residence; as provided under Section 2301(c)(3), the sale must be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate the home or property up to a decent, safe, and habitable condition.

c. Revenue received by a private individual or other entity that is not a subrecipient.

- i. Any revenue generated by activities carried out pursuant to Section 2301 (c)(3)(B) and (E) that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed-upon home or residential property must be provided to the state or unit of general local government and treated as program income. The disposition of the program income by the state or unit of general local government is governed by a. and b. above.
 - ii. Any revenue that is generated by activities carried out to pursuant to Section 2301 (c)(3)(B) and (E) is received on or after July 30, 2013, shall be provided to the state and treated as program income. The disposition of the program income by the state is governed by b. above.
- 2) Program income generated by activities carried out pursuant to Section 2301(c)(3)(A), (C) and (E). Program income received may be retained by the state or unit of general local government if it is treated as additional CDBG/NSP funds and used in accordance with the requirements of Section 2301. Revenue received by a private individual or other entity that is not a sub-recipient must be returned to the state.

Cash Management

1. All NSP Program Income must be disbursed for eligible NSP activities before additional NSP funds are made available to the Grantee for an advance or reimbursement.
 - a. All NSP Program Income generated by NSP funded activities must be placed in a separate NSP Program Income account.
 - b. The Grantee will be allowed to use the NSP Program Income to meet the used/obligated milestones. Furthermore, any NSP Program Income funds that are not shown to be used/obligated on the Grantee's next Quarterly NSP Program Income Report must be returned to the Department.
2. Agreements with sub-recipients and other entities. States and units of general local governments must incorporate in sub-recipient agreements such provisions as are necessary to ensure compliance with the requirements of this paragraph, including the requirement that program income be remitted to the Department. States, units of general local government, and sub-recipients must incorporate in agreements with private individuals and other entities that are not sub-recipients such provisions as are necessary to ensure compliance with the requirements governing disposition of revenue generated by activities carried out pursuant to Section 2301(c).

General Administration (GA) Cost Limitation

The Grantee will be allowed general administrative costs of up to five percent (5%) of all NSP Program Income expended during each fiscal year.

Activity Delivery (AD) Cost Limitation

The Grantee will be allowed activity delivery costs up to the percentage (%) of the total activity expenditure amount. The maximum activity delivery percentage (%) for each activity is:

Financing Mechanisms	up to 8 percent (8%)
Housing Acquisition	up to 8 percent (8%)
Housing Rehabilitation	up to 19 percent (19%)
Disposition (Rental, Sale)	up to 8 percent (8%)
Landbanking	up to 8 percent (8%)
Demolition	up to 8 percent (8%)
Redevelopment (public facilities, public improvements)*	up to 8 percent (8%)
*If complex labor standards are justified	up to 12 percent (12%)

Reuses of NSP Program Income

The Grantee will be allowed to use the earned NSP Program Income for eligible NSP activities in the areas of greatest needs listed in the Grantee's Application and in Exhibit B of the NSP Standard Agreement.

Any NSP Program Income funds that are not shown to be obligated on the Grantee's next Quarterly NSP Program Income Report must be returned to the Department.

Program Income received on or after July 30, 2013 must be returned to the Department.

All program income generated by activities funded by NSP grants must be placed in a separate NSP program income account.

Reporting

The Grantee shall comply with all NSP reporting requirements, including, but not limited to:

Section 3 Report	by July 31 of each year
Wage Compliance Report (during construction period)	October 31 and April 30
Final Wage Compliance Report	thirty (30) days after construction is completed
Funds Request Form	as funds are needed
Quarterly Performance and Expenditure Report	due 15 days after the end of each quarter
Quarterly NSP Program Income Report	due 15 days after the end of each quarter

The Quarterly NSP Program Income Report will detail all obligated program income receipts, expenditure amounts, and specific activity detail for all expenditure.

NOTE: Any NSP Program Income funds that are not shown to be obligated on the Grantee's next Quarterly NSP Program Income Report must be returned to the Department.

Federal Overlay Compliance

The Grantee shall ensure that the use of NSP Program Income under this NSP Program Income Reuse Plan complies with all federal overlay requirements, including, but not limited to:

- Citizen participation
- Section 3 employment
- Acquisition and relocation
- Maintenance of adequate accounting record-keeping systems
- Environmental Review
- Lead-based paint
- Procurement
- Equal opportunity
- Labor standards
- Property management

Revising This Plan

The Grantee has the authority to amend this document with a properly noticed Council/Board public hearing, board resolution, and acceptance by the Department.