



Agenda

Greenville City Council

January 26, 2009
6:00 PM
City Council Chambers
200 West Fifth Street

Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

I. Call Meeting To Order

II. Invocation - Mayor Dunn

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

VI. New Business

Public Hearings

1. Authorization to submit grant application for Neighborhood Stabilization Program to North Carolina Department of Commerce's Division of Community Assistance

VII. Adjournment



City of Greenville, North Carolina

Meeting Date: 1/26/2009
Time: 6:00 PM

Title of Item: Authorization to submit grant application for Neighborhood Stabilization Program to North Carolina Department of Commerce's Division of Community Assistance

Explanation: This is a request to submit a grant application for the Neighborhood Stabilization Program (NSP). Nationally, NSP funds were appropriated by Congress to provide emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. NSP provides grants to every state and certain local communities to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes. The program is authorized under Title III of the Housing and Economic Recovery Act of 2008 (HERA) as an adjunct to the Community Development Block Grant (CDBG) Program.

In North Carolina, the Department of Commerce's Division of Community Assistance (DCA) will administer the distribution of NSP funds. As authorized through HERA, the purpose of NSP funding is to address those areas hardest hit and negatively impacted by the recent housing crisis. These funds will be used to purchase foreclosed homes at a discount and to rehabilitate or redevelop them in order to respond to rising foreclosures and falling homes values. To determine North Carolina's greatest areas of need, an initial analysis of the 100 counties was conducted using the three HUD elements: 1) foreclosures, 2) subprime related mortgages, and 3) delinquencies. Twenty-three (23) counties were identified, which included the Pitt County area. The grant application guidelines, foreclosure summaries, and maps are attached for your review.

Grant awards will range from \$2 million to \$5 million. Staff proposes requesting \$3,265,000 for the City of Greenville, which includes 5% for administrative costs. Please see the attached proposed budget. No match is required.

Additionally, this grant will address one of the City Council 2008-2009 Goals:

- Goal #3 Promote Sustainability and Livability of Both Old and New Neighborhoods
Objective C - Enhance citizens' understanding of predatory lending
- Action Item #1: Maintain awareness of pending legislation on the issue of predatory lending and the foreclosure crisis facing the nation and make recommendations to the City Council as needed

Fiscal Note: No City funds required.

Recommendation: Conduct a public hearing to receive citizen comments and suggestions in regard to the application for Neighborhood Stabilization Program funds, authorize staff to submit application to the North Carolina Division of Community Assistance, and authorize the City Manager to sign all required application submission documents.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

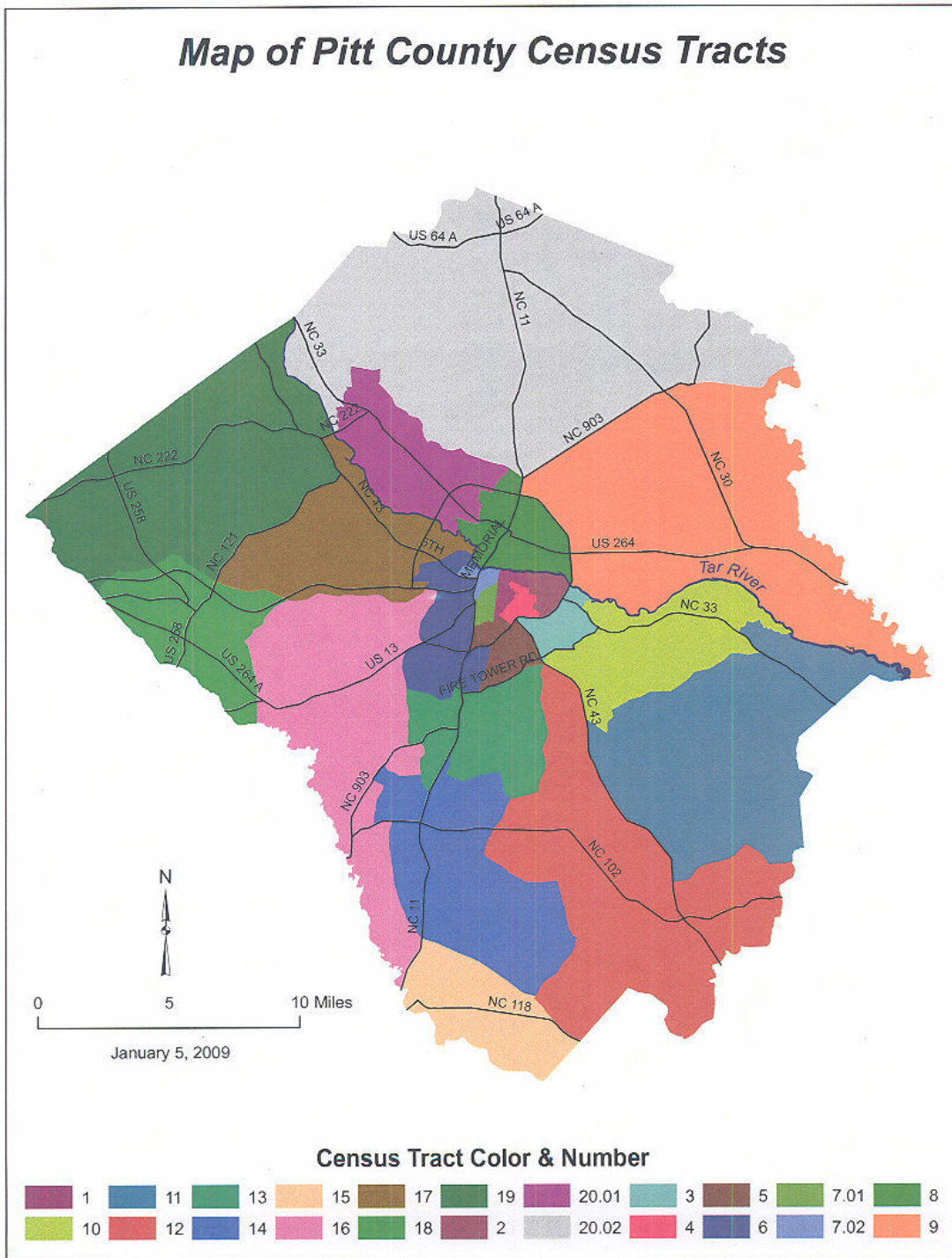
Attachments / click to download

- [NSP Program Guide](#)
 - [Pitt County Census Tract Map](#)
 - [proposed_NSP_budget_804233](#)
 - [Map_of_Pitt_County_Census_806746](#)
 - [Temp_NSP_Grant_By_Census_Tract_806741](#)
 - [Foreclosure_Summary_806750](#)
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Proposed Budget
Neighborhood Stabilization Program

Acquisition		\$	1,000,000.00
Relocation		\$	10,000.00
Demolition		\$	50,000.00
Housing Rehabilitation		\$	750,000.00
Housing Counseling		\$	50,000.00
Property Security		\$	50,000.00
New Construction		\$	600,000.00
Purchase Assistance		\$	600,000.00
	Subtotal	\$	3,110,000.00
Administrative Costs	5%	\$	155,500.00
	Total	\$	3,265,500.00

Map of Pitt County Census Tracts



Preliminary					
Summary Bank Foreclosure Information					
City Council District	Greenville Census Tracts	# of Fore.	% of Total Fore.	Ranking*	
3	1	6	5.66%	6	
4	2	4	3.77%	7	
4	3	8	7.55%	4	
4	4	2	1.89%	9	
2	5	12	11.32%	2	
2 & 5	6	28	26.42%	1	
2	7.01	7	6.60%	5	
1	7.02	11	10.38%	3	
1	8	2	1.89%	9	
1	9	2	1.89%	9	
3	10	12	11.32%	2	
5	13	6	5.66%	6	
5	16	1	0.94%	10	
1	17	2	1.89%	9	
N/A	20.01	3	2.83%	8	
Total		106			
<i>* 1 = highest rate and 10 = lowest foreclosure rate</i>					
1		17			
2		19		Excludes parcels located in census tract 6	
3		13			
4		14			
5		6		Excludes parcels located in census tract 6	
2 or 5		28		Mostly district 5	
ETJ		9			
		106			
City Name	Pop.	Pop. % of Cnty	# of Fore.	% of Fore. In Cnty	
Ayden	4,923	3.24%	19	9.05%	
Bethel	1,798	1.18%	1	0.48%	
Falkland	117	0.08%	0	0.00%	
Farmville	4,656	3.06%	17	8.10%	
Fountain	571	0.38%	1	0.48%	
Greenville	76,222	50.16%	106	50.48%	
Grifton(Part)	2,155	1.42%	10	4.76%	
Grimesland	449	0.30%	8	3.81%	
Simpson	487	0.32%	0	0.00%	
Winterville	8,586	5.65%	14	6.67%	
Unincorporated Pitt	52,006	34.22%	34	16.19%	
Pitt	151,970		210		

Area	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	YTD Nov 2008
PASQUOTANK 76	86	99	96	92	128	109	119	114	162	238	
PEPPER 89	113	165	234	267	315	287	224	208	239	304	
PERQUIMANS 18	26	33	20	39	38	36	26	30	35	38	
PERSON 56	72	92	113	152	173	229	222	199	236	206	
PITT 276	274	302	343	496	571	545	545	640	674	686	
POLK 14	33	35	33	42	54	57	54	56	61	71	
RANDOLPH 181	206	237	304	459	520	559	597	647	664	629	
RICHMOND 130	133	127	129	163	178	142	159	199	159	120	
ROBESON 213	259	291	405	463	554	534	461	530	438	418	
ROCKINGHAM 189	202	224	305	397	430	475	508	528	569	563	
ROWAN 255	248	300	439	598	814	751	758	723	788	746	
RUTHERFORD 108	172	165	203	286	292	349	316	276	353	328	
SAMPSON 82	118	148	164	255	274	264	268	281	271	238	
SCOTLAND 62	106	130	112	132	176	177	156	188	157	138	
STANLY 96	122	160	189	206	282	226	203	247	225	232	
STOKES 53	75	94	114	156	206	197	227	215	227	197	
SURRY 110	73	108	142	206	278	259	237	257	268	237	
SWAIN 7	6	8	10	10	12	26	27	33	31	36	
TRANSYLVANIA 32	33	45	53	89	85	59	67	72	86	113	
TYRRELL 6	6	5	6	4	5	10	6	8	12	16	
UNION 258	246	332	454	713	961	923	940	1033	1085	1147	
VANCE 73	95	163	199	300	392	332	280	273	272	209	
WAKE 987	1161	1370	1890	2612	3416	3331	3478	3711	4461	4454	
WARREN 26	44	39	50	68	86	87	87	101	80	73	
WASHINGTON 22	30	31	25	37	59	33	51	45	45	46	
WATAUGA 121	48	43	85	85	107	94	95	107	184	221	
WAYNE 268	303	284	344	439	528	491	529	525	492	499	
WILKES 82	92	94	133	178	205	155	217	222	236	243	
WILSON 159	136	168	193	314	322	339	366	384	398	375	
YADKIN 49	46	66	84	99	139	139	118	125	117	131	
YANCEY 21	37	23	21	42	34	47	35	41	48	56	



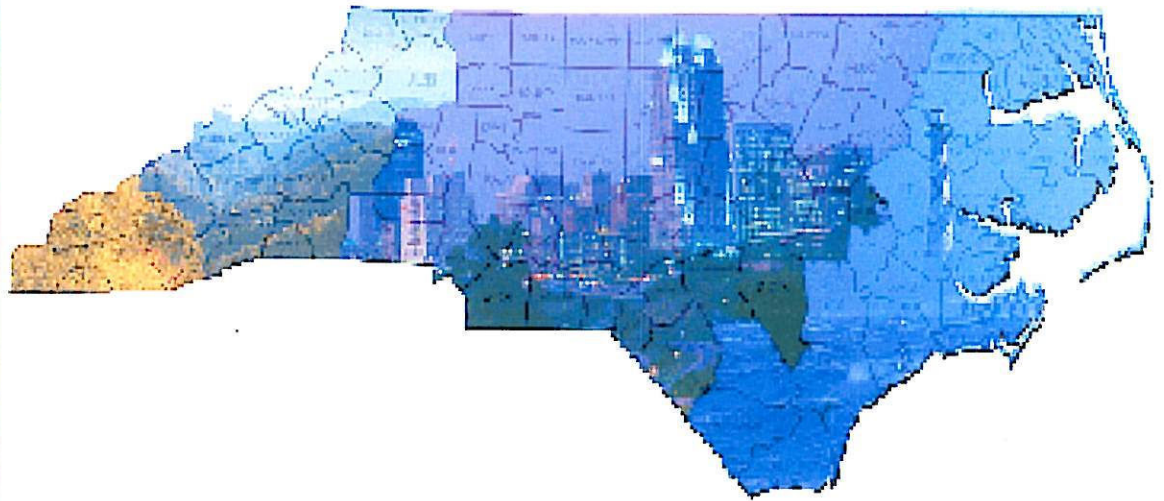
12/31/2008

<http://www.ncforeclosurehelp.org/NCForeclosures.aspx?refresh=1>

Neighborhood Stabilization Program



PROGRAM GUIDELINES 2009



NC Department of Commerce Division of Community Assistance

Mailing Address: 4313 Mail Service Center, Raleigh, NC 27699-4313
Street Address: 1307 Glenwood Avenue, Ste. 250, Raleigh, NC 27605

Phone: (919) 733-2850

Fax: (919) 733-5262

www.nccommerce.com\insp

Item # 1

Neighborhood Stabilization Program

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Neighborhood Stabilization Program

I. PROGRAM OVERVIEW

INTRODUCTION

These program guidelines outline the program requirements and expectations to distribute and use the \$52,303,004 through the newly-authorized Neighborhood Stabilization Program (NSP), which the U.S. Department of Housing and Urban Development (HUD) is providing to North Carolina. More specifically these program guidelines are for the NSP Neighborhood Revitalization for Local Governments, Neighborhood Revitalization for Non-Profits, and Community Development Finance Institution/Housing Finance Agency Set-Aside Program Applications.

PROGRAM PURPOSE FROM A NATIONAL PERSPECTIVE

Nationally, NSP will provide emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. NSP provides grants to every state and certain local communities to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes. The program is authorized under Title III of the Housing and Economic Recovery Act of 2008 (HERA) as an adjunct to the Community Development Block Grant (CDBG) Program.

PROGRAM PURPOSE FROM THE STATE'S PERSPECTIVE

In North Carolina, the Department of Commerce's Division of Community Assistance (DCA) will implement NSP funds. As authorized through HERA, the purpose of NSP funding is to address those areas hardest hit and negatively impacted by the recent housing crisis. These targeted funds will be used to purchase foreclosed homes at a discount and to rehabilitate or redevelop them in order to respond to rising foreclosures and falling home values.

As a result, DCA will use the NSP funds for the purposes intended – to promote neighborhood stabilization where foreclosure, subprime lending, and housing vacancies have negatively affected the housing market and will give priority to those applicants that can effectively target NSP resources to neighborhood stabilization projects that will address these problems in areas with the greatest needs.

PRIORITY FOR AREAS OF GREATEST NEEDS IN NORTH CAROLINA

The requirements for NSP funds from HUD are that funds serve areas of greatest need. These areas are determined through application of three statutory elements: (1) foreclosures (2) subprime related mortgages and (3) delinquencies. Based on the HUD requirements, DCA has defined geographic areas using the best data available to support its definition of greatest need. To determine North Carolina's greatest need, an initial analysis of the 100 counties was conducted using the three HUD elements. As a result, the 23 counties including their entitlement areas seen on the map in Attachment A were identified as the areas of greatest need. Below is an alphabetical list of areas.

PRIORITY FOR AREAS OF GREATEST NEEDS IN NORTH CAROLINA, continued

Alamance	Durham (City of Durham)	New Hanover (Wilmington)
Brunswick	Edgecombe	Pitt
Buncombe	Forsyth (Winston-Salem)	Randolph
Cabarrus	Gaston (Gastonia)	Rowan
Catawba	Guilford (Greensboro/High Point)	Union
Cumberland (Fayetteville)	Iredell	Vance
Dare	Johnston	Wake (Raleigh)
Davidson	Mecklenburg (Charlotte)	

II. DISTRIBUTION AND USE OF FUNDS

The State will distribute NSP funds to areas of greatest need for specific projects that demonstrate program readiness and feasibility (also known as "ready to go"). NSP funds will be allocated through three (3) programs. They include:

Neighborhood Revitalization Program for Local Governments

The purpose of this program is to provide NSP funds to eligible local governments in the identified highest need areas. The State will award NSP funds based upon complete applications from eligible recipients received at DCA prior to 5:00 p.m. on February 3, 2009. Grants will range from \$2 million to \$5 million. Grantees must use at least 30% of funds to assist households whose incomes do not exceed 50% of the applicable area median income. The remaining 70% of grant funds may be used to serve households up to 120% of the applicable area median income.

Neighborhood Revitalization Program for Non-profits

The purpose of this program is to distribute NSP funds to areas of greatest need through non-profit organizations. The State will award NSP funds based upon complete applications from eligible applicants received at DCA prior to 5:00 p.m. on February 3, 2009. The grant-size is \$2 million. Eligible applicants include housing non-profits, community development corporations, public housing authorities, councils of governments and community development finance institutions. Grantees must use at least 30% of funds to assist households whose incomes do not exceed 50% of the applicable area median income. The remaining 70% of grant funds may be used to serve households up to 120% of the applicable area median income.

Community Development Finance Institutions/Housing Finance Agency Set-aside

The purpose of this set-aside is to provide funding through contract with Community Development Finance Institutions (CDFI), state-wide intermediaries, and/or state housing finance agencies in order to assist areas designated as greatest need that may not have capacity to carry out eligible NSP activities. The State will award NSP funds based upon complete applications received at DCA prior to 5:00 p.m. on February 3, 2009. Grants will range from \$2 million to \$5 million. Grantees must use at least 30% of funds to assist households whose incomes do not exceed 50% of the applicable area median income. The remaining 70% of grant funds may be used to serve households up to 120% of the applicable area median income.

ADMINISTRATIVE FUNDS

North Carolina will share the 10 percent of the NSP funds available for administrative uses. Up to five (5) percent shall be available to units of local governments and other sub-recipients receiving the funds. **Applicants must state the amount of the administration fees separate from the grant amount.** For example, if an applicant is requesting a \$2 million grant, the applicant may ask for an additional \$100,000 for administrative funds. This results in a total grant request of \$2.1 million.

Project Service Delivery fees are an allowable cost. The fees must be reasonable and appropriate as determined by federal requirements. Fees may include performance-based lump sum payments and allowable costs incurred in the direct delivery of contracted products and services. Examples include paying taxes, insurances, marketing, and other carrying costs associated with holding properties. Eligible service delivery costs will be paid from approved NSP project funds.

PRE-AWARD COSTS FOR GRANT RECIPIENTS

If an applicant is awarded NSP funds, DCA will allow reimbursement of pre-award costs necessary to develop the NSP Application and undertake other administrative actions necessary to receive the NSP grant from December 17, 2008 to February 3, 2009 subject to following proper procurement regulations at 24 CFR 85. The maximum amount cannot exceed \$10,000 and will come from administration funds.

MATCH REQUIREMENTS

A match is **NOT** required for this program; however, sub-recipients are strongly encouraged to leverage funds to employ meaningful strategies in stabilizing their neighborhoods.

PROGRAM INCOME

Applicants who anticipate receiving program income using NSP funds must include the source of the income and plan for use with the NSP application. Program income resulting from the NSP program activities may be retained at the local level if the amount does not exceed \$25,000 per year; however, two percent of such proceeds must be returned to DCA. Generally, program income will result from loan repayments or the sale of assets purchased with NSP funds, though a more complete definition and additional obligations are provided at 4 N.C.A.C. 19L.0907; 24 C.F.R. 570.500(a) and 24 C.F.R. 570.504. Prior to expenditure of program income, the applicant must have a plan for reuse of program income approved by DCA. If the program income exceeds the \$25,000, the entire amount must be remitted to DCA; unless the grantee requests and submits a plan regarding the use of NSP Program Income on NSP-eligible activities as required. If the Program Income Plan is approved by DCA, two percent of the program income must be returned to the State. More information can be found at www.HUD.gov.

Grantees must have a system in place to track **ALL** program income generated as a result of NSP funds.

PROJECT COMPLETION

DCA and grantees must use funds for NSP projects within 18 months from the date of the Grant Agreement signed by DCA and HUD or such failure will result in the automatic recapture and re-allocation of funds by DCA. In addition, DCA and grantees must expend all NSP within 48 months (which includes the 18 month use period plus 30 months for implementation). In any event, failure to actually use and expend all NSP funds in 48 months will result in the automatic recapture and re-allocation of funds by DCA. **NOTE: Contract date for NSP funds is based on date U.S. Department of Housing and Urban Development signs contract with State.**

STATE'S RIGHT TO ADJUST AWARD AMOUNTS

The State reserves the right to adjust contracted amounts based upon actual performance and progress to use funds within the initial 18 months of the program as mandated by HUD. Also, activities are subject to change based on data that further demonstrates areas of greatest need and capacity in North Carolina.

III. APPLICATION PROCESS

SUBMISSION AND AWARD DATES

DCA will review the applications received prior to 5:00 p.m. on February 3, 2009 and anticipates making award decisions by February 16, 2009. The application review process will commence as soon as the applications are received. The application due date and target award date are subject to change based upon HUD's approval of the Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>.

In addition, other terms in these program guidelines are likewise subject to change for the same reasons and others and DCA urges potential grantees to be on alert for such changes that will be posted on the State website with other NSP publications and materials. That website is [www.nccommerce.com\nsp](http://www.nccommerce.com/nsp).

APPLICATION WORKSHOP

In mid January 2009, DCA will hold an application workshop to review application submission and program requirements. The date, time, and location will be announced on the website. All interested applicants are encouraged to attend.

APPLICATION SUBMISSION REQUIREMENTS

Applications that are submitted in person or by overnight delivery must physically be received by DCA prior to 5:00 p.m. on February 3, 2009. **Two complete copies that have original signatures of the chief official or officer and that are bound and tabbed in a three-ring binder are required as described in the NSP application section below.**

If using the U.S. Postal Service, mail to: Ms. Gloria Nance-Sims, Director Division of Community Assistance 4313 Mail Service Center Raleigh, NC 27699-4313	If using overnight or in-person delivery, deliver to: Division of Community Assistance Methodist Building 1307 Glenwood Avenue, Suite 250 Raleigh, NC 27605
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IV. ELIGIBILITY REQUIREMENTS

ELIGIBLE APPLICANTS

The NSP funding is available to any unit of local government in North Carolina located in the designated areas of greatest need. Nonprofits, public housing authorities, Councils of Government, Community Development Finance Institutions, or housing finance agencies serving the areas of greatest need as identified may also apply directly for these funds.

DCA strongly encourages partnerships. All partnerships must be identified in the application with a memorandum of understanding for each one. Each eligible grantee may submit its own application or with others. Joint applications or partnerships are especially recommended for contiguous jurisdictions such as counties, small towns, and cities. Non-profits are also encouraged to partner with local governments.

AN END-USER FOCUS TO MEET THE NATIONAL OBJECTIVE

The NSP national objective is to use 100 percent of NSP funds to benefit individuals and households whose income does not exceed 120 percent of area median income. NSP refers to this beneficiary group as low-, moderate-, and middle-income (LMMI). Of that total, at least 25 percent of NSP funds must target households at or below 50% of the applicable area median income. In response to persuasive citizen comment, DCA is mandating that 30 percent of the NSP funds target households at or below 50% of the applicable area median income. DCA will focus on the end-user for all NSP activities. This includes the demolition and redevelopment activities. All activities resulting in vacant land must result in the development of property that will house and/or provide jobs for LMMI individuals and households. A plan for the reuse of land must be submitted with the application.

ELIGIBLE ACTIVITIES

The State will make NSP funds available for the following statutorily eligible activities. NSP funds are eligible to:

- **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;
- **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. **NOTE: An NSP 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 the necessary and reasonable costs related to the appraisal and transfer of title.**
 - **Purchase Discounts** are required for NSP. Each foreclosed-upon home or residential property shall be purchased at a discount of at least 15 percent from the current market-appraised value of the home or property.
 - **Housing Counseling** by a HUD approved housing counseling agency is required for all purchasers of acquired or rehabilitated homes. A minimum of eight hours of counseling is required for each potential homebuyer of NSP properties. Program funds can be used for this activity. Housing counseling includes meeting with each participant so that the participant understands the rights and responsibilities of homeownership and to help ensure that the home being purchased meets affordability principles. Additionally, sessions must include, but are not limited to, the home buying process, understanding interest rates and mortgages, insurance, taxes, and basic home maintenance.
 - **Federal Housing Administration (FHA) Foreclosed Properties** are eligible for NSP acquisition and redevelopment. HUD and DCA encourage applicants to include FHA properties because the characteristics are compatible with the NSP eligible uses, areas of greatest needs, and income eligibility requirements.
 - **Home Inspections** are required prior to the acquisition/purchase of abandoned or foreclosed properties by a licensed North Carolina Home Inspector (G.S. Chapter 143, Article 9 F).
 - **Property security during rehabilitation and disposition** are eligible for NSP funds. Reasonable costs for preserving the condition of eligible properties and its security from theft of vandalism are allowed.

- **Demolish blighted structures in areas targeted for stabilization.** Any demolished structure must be replaced by a residential or mixed-use structure that either provides housing and/or jobs for LMMI individuals or households;
- **Redevelop demolished or vacant properties.** This may result in the construction of mixed-use development and/or the creation of jobs. Of the jobs created through NSP, at least 70% must be for LMMI persons. A plan for the reuse of land must be submitted and approved by DCA; and
- **Establish land banks for homes that have been foreclosed upon.** Prior review with DCA is required for this activity.

RESTRICTIONS AND WAIVERS

HUD has established restrictions on NSP activities via its Notice on the allocation and application process for NSP funds. In particular, several of these activities are only eligible if the use of funds will address a foreclosed property. HUD has also waived the one-for-one replacement, but requires documentation on the number of units that will be produced, specific to each income level and each "Eligible Activity" described above. DCA will seek to provide NSP funds with the maximum authorized flexibility while adhering to HUD-mandated restrictions. DCA will also advise and provide technical assistance to all applicants regarding these requirements.

SAFE HARBOR

In the cases where HERA does not specify, applicable CDBG Rules and Regulations will apply, and selected applicants will follow these regulations.

V. SELECTION CRITERIA

Applications will be reviewed against the criteria which are designed to award NSP grants. The following selection criteria is designed to assure that the grantee complies with HERA and the HUD Notice, meets applicable CDBG regulations, and effectively spends NSP funds:

THRESHOLD REQUIREMENTS

Timing of Application: DCA will only review applications received at the DCA office prior to 5:00 pm on February 3, 2009.

Completeness of Application: **TWO COMPLETE COPIES OF THE APPLICATION PLACED IN A THREE-RING BINDER WITH TABS ARE REQUIRED.** Both copies will be reviewed for completeness and accuracy. All required information must be submitted at the time of application and contained within the application. DCA will not accept faxes, electronic documents, or hand-deliveries to add to an application.

Signatures of the Organization's Authorized Chief Official: Applications must be signed, not stamped, by the organization's chief official or officer. Units of local government are required to have the Chief Elected Official's signature.

Grant Amount Requested Does Not Exceed Designated Amount for Program Type: The minimum grant request is \$2 million.

Citizen Participation Requirements: Discussed in pp 12-13 below in "Public Hearings to Ensure Citizen Participation."

Program Readiness and Feasibility: DCA will evaluate all applications to ensure that the program is feasible and “ready to go.” This requirement is to ensure that DCA meets its obligation to expend all funds within the 18 month program period. Factors for this category include:

Administrative and Organizational Capacity: Grantees are expected to have sufficient, CDBG experienced staff and established programs such as homeownership, housing counseling, and rehabilitation already in place at the time of application or an executed agreement to partner with an entity that will provide the service.

List of Potential Homebuyers: Grantees undertaking homeownership activities will also be asked to submit a list of qualified potential homebuyers. An applicant selection plan is also required with the application.

List of Potential Properties: Grantees are requested to submit a list and tax cards of potential properties that will be treated in the identified area of need or a market analysis.

Lender’s Compliance with Regulators’ Guidance for Non-Traditional Mortgages: Grantees planning to acquire mortgage loans from a lender **must also have an agreement or verification** that the lender agrees to comply with the bank regulators’ guidance for non-traditional mortgages. (See Statement on Subprime Mortgage Lending available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>)

EVALUATION CRITERIA

Applications will be evaluated on a 100-point system using the following criteria:

Severity of Need (50 points): The State will give priority to those proposals that can demonstrate a strong connection to neighborhood stabilization activities. The State will draw a distinction in awarding priority points to give greater points to those applicants that can connect their NSP-funded activities to housing foreclosure, subprime and abandonment problems emblematic of the housing crisis.

Treatment of Need (20 points): The State will give priority to those proposals that can demonstrate a strong connection between the need as identified and to the proposed activities needed to stabilize neighborhoods. Also, proposals that target income levels below 50% of applicable area median income will be prioritized.

Capacity of Applicant and Program Administrators (20 points): The State will give priority to eligible applicants that exhibit strong capacity to administer NSP in the following ways:

- Knowledge, implementation, and compliance of activities funded through the CDBG Program. DCA will also assess any significant monitoring findings or program weaknesses that are not addressed, as well as performance on State or other contract closeout requirements.
- Experience administering and delivering the specific activities for which the NSP funds would be used. If significant administrative responsibilities will be assigned to another entity through a subcontract, the experience of that entity will be considered as well.

Mitigation of Fraud, Waste and Abuse of NSP Funds (5 points): NSP funds have been identified as high risk by the U.S. Office of Inspector General. Priority will be given to proposals that identify strategies, policies and practices that substantially minimize the possibility of misuse of NSP funds.

Green Building (1 point): DCA will give priority to proposals that utilize Green Building components and techniques. The highest priority will be given to those proposals that assure construction activities will meet a national standard for Green Building, such as Leadership in Energy and Environmental Design (LEED) or National Association of Home Builders (NAHB) Green Building Program. Proposals that demonstrate use of energy-efficient design and materials will also be given priority.

Socio-Economic Factors (4 points): DCA will give priority to proposals that identify other factors that impact neighborhood stabilization such as unemployment rates, and crime rates.

PROGRAM CONTACTS

The NSP program contacts are available by phone at (919) 733-2850 or by fax at (919) 733-5262 as follows:

Purpose	Contact
Policy and General Information	Robert Reives Vickie L. Miller
Rehabilitation Information	Jim Liles
Environmental and Compliance Information	Brandee Roberts

VI. REPORTING, MONITORING, REQUISITIONING AND COMPLIANCE REQUIREMENTS

The U. S. Office of Inspector General has designated the Neighborhood Stabilization Program (NSP) as high risk. For this reason, the reporting, monitoring, and compliance requirements are more rigorous than the CDBG program. Each applicant is required to submit proposals that identify strategies, policies and practices that substantially minimize the possibility of misuse of NSP funds.

REPORTING

Grantees will need to submit **monthly** reports to DCA. HUD and DCA are requiring regular reporting on each NSP grant to ensure sufficient management information and to follow-up promptly if a grantee is not effective and timely in the implementation and risks recapture of NSP grant funds. The data collected will be prescribed by DCA and may change due to ongoing HUD requirements. Monthly reports will be submitted to DCA 10 days after the completed month.

MONITORING AND RISK ASSESSMENT

All grantees will be monitored during the grant period. At a minimum, the grantee will receive a start-up technical assistance visit and a closeout monitoring visit. In addition to these, DCA will make reviews and audits including on-site reviews of all grantees, designated public agencies, and units of local government as may be necessary or appropriate to meet the requirements of NSP.

REQUISITIONING OF NSP FUNDS

Grantees must select at time of application the method it will use to request NSP funds from the State. The two methods of payment are advance payment or reimbursement. In any case, all requests for payment are based on completed, invoiced work resulting from properly procured and executed contract. NSP funds can be requested from DCA on a weekly basis (according to published schedule) subject to filing a complete, accurate and approved requisition form along with appropriate back-up documentation. NSP funds will be electronically transferred to designated bank account by the North Carolina Treasury (Comptroller's Office).

CONSEQUENCES OF PROGRAM NON-COMPLIANCE

In the case of noncompliance, DCA will take expedient action to prevent a continuance including recapturing full or unused NSP grant funds.

TECHNICAL ASSISTANCE

DCA will provide regular follow-up with grantees. Contact will be made on-site, via telephone, email, and fax. Also, DCA will hold quarterly meetings.

APPEALS

DCA encourages all program participants to notify Ms. Gloria Nance-Sims, Director of DCA in writing regarding all concerns. If concerns are not resolved in a satisfactory manner, program participants may contest actions by DCA with the Secretary of the Department of Commerce who will make the final decision.

PROGRAM REQUIREMENTS AND CERTIFICATIONS

All applicants must comply with state and federal regulations and certify that, if funded, they will comply with all applicable laws and requirements for the NSP grant. **Local governments are required to develop compliance plans, hold public hearings, and address all federal regulations as outlined below.** Direct grantees of the State (i.e., participants in the Neighborhood Revitalization Program for Non-profits), will receive assistance from DCA to fulfill these requirements.

A. Public Hearings to Ensure Citizen Participation

Public agencies and units of local government must hold at least two public hearings to obtain citizens' comments prior to its submission of the application to DCA. The public hearing notices must be published at least once in the non-legal section of a newspaper having general circulation in the area. The notices must be published at least 10 days but no more than 25 days before the date of each hearing and in such a way as may be understandable to non-English-speaking persons. The notices of public hearing to obtain citizens' views must also contain a description of the proposed activities to be carried out, including the total costs of the activities. The public hearing must be conducted by the governing board of the applicant and accommodations must be made for persons with disabilities. A publisher's affidavit of the notice and minutes of the hearing signed by the town, city or county clerk must be submitted to DCA. Grantees must be in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements. In any event, additional CDBG regulations for citizen participation hearings must be followed, including those found at 4 N.C.A.C. 19L.0407(c); 4 N.C.A.C. 19L.1002; 24 C.F.R. 570.486(a)(5). A copy of these regulations is provided with these program guidelines.

B. Fair Housing

All grantees of NSP will be required to comply with all applicable fair housing and non-discrimination laws and regulations. The grantee will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

C. Conflict of Interest

Applicants must review all relationships for actual or perceived conflict of interest. Except for eligible administrative or personnel costs, the general rule is that no persons described in the following sentence who exercise or have exercised any functions or responsibilities with respect to grant activities assisted under this Agreement or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The conflict of interest provision cited above applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or recipients which are receiving NSP grant funds.

By submission of their application, applicants agree to comply with all applicable conflict of interest provisions, including 4 N.C.A.C. 19 L .0908 and .0914, N.C. Gen. Stat. § 14-234 and 24 CFR 570.489 9 (g) and (h), copies of which are provided herewith and can also be obtained from DOC.

D. Local Economic Benefit (Section 3)

The grantee will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135. The grantee must describe a strategy whereby opportunities in employment and procurement arising out of a NSP-assisted project are identified and made available to low-income residents within the NSP-assisted area to the greatest extent feasible. This strategy must include: (1) identification of training and technical assistance resources to prepare low-income residents for employment and procurement opportunities, (2) attempt to reach the numerical targets for new hires set forth in the Section 3 regulation, which applies to recipients receiving \$200,000 or more in non-administrative line items expended for construction contracts of a least \$100,000 per contract, and (3) education of low-income residents within the NSP assisted area about the components and opportunities of the program.

E. Environmental Review

DCA will assume responsibility for this for direct grantees of the State. However, Local government grantees of NSP funds are required to complete the document entitled "Environmental Review Procedures for North Carolina Community Development Block Grant Program," dated 1992 or later. Copies of this document can be secured from DCA. The portions

of the document constituting the Environmental Review Record (ERR) should be completed, and copies sent to DCA.

- F. **Anti-lobbying:** The jurisdiction will comply with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.
- G. **Authority of Jurisdiction:** Local government grantees must certify that they possess the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.
- H. **Consistency with Plan:** Local government grantees must certify that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan, which means that NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted area set forth in the grantee's substantial amendment.
- I. **Acquisition and Relocation:** The grantee will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the Notice for the NSP program published by HUD. It is strongly encouraged that historical properties not be selected for rehabilitation activities due to the 18-month use requirement.
- J. **Following Plan:** The jurisdiction is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.
- K. **Use of Funds in 18 Months:** DCA must comply with Title III of Division B of the Housing and Economic Recovery Act of 2008 by using, as defined in the NSP Notice, all of its grant funds within 18 months of receipt of the grant. As such grantees must certify to complete all program activities within the contracted period to ensure DCA meets this requirement.
- L. **Use NSP funds \leq 120 of AMI:** The local governments and housing finance agencies will comply with the requirement that 100% of the NSP funds made available will be used with respect to individuals and families whose incomes do not exceed 120% of area median income. Additionally, at least 30% of the NSP funds made available must be used for households at or below 50% of the applicable area median income.
- M. **Assessments:** The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

- N. **Excessive Force:** The jurisdiction certifies that it has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and (2) a policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.
- O. **Compliance with Anti-discrimination Laws:** The NSP grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.
- P. **Compliance with Lead-based Paint Procedures:** The activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.
- Q. **Compliance with Laws:** The jurisdiction will comply with all applicable laws.

Additional Requirements for Local Governments

Local governments must submit evidence that they have in place at the time of application the following plans, certifications and requirements:

- Fair Housing Plan
- Section 3 Plan of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701 u)
- Minority Business Enterprises/Women-Owned Business Enterprises Plan
- Certification of Consistency with Consolidated Plan
- Identify a Responsible Entity for conducting the Environmental Review.
- Citizen Participation Plan

Additional Requirements for Non-State Agencies (Non-Profits)

Non-state agencies (primarily non-profits) must comply with Subchapter 03 M-Uniform Administration of State Grants per G.S. 143 C-6-22 and 143 C-6-23. See **Attachment B**.

Additionally, Non-State Agencies (Non-Profits) must submit the following with their application for consideration by DCA:

- Articles of Incorporation and Bylaws
- Board roster (names, addresses, phone and fax numbers, length of service and expertise that each member brings to the board)
- Resumes of executive director, general manager or other key development staff
- 501(c)3 recognition letter from IRS
- Most recent three years' audited financial statements (e.g., balance sheet, income statement, statement of cash flows, etc.)
- Current agency-wide budget and interim financial statements including balance sheet and cumulative year to date profit and loss statement

CONTINUED AFFORDABILITY PERIOD

At a minimum, all assisted properties of NSP funds will be subject to the HOME requirement of continued affordability as outlined in the regulations for the HOME Investment Partnership Program, Final Rule, 24 CFR part 92. These regulations are available at the following sites:

- HOME affordability periods-Homeownership §92.254 (a)(4)
http://edocket.access.gpo.gov/cfr_2004/aprqrtr/pdf/24cfr92.254.pdf
- HOME affordability rental housing §92.252 (e)
http://edocket.access.gpo.gov/cfr_2004/aprqrtr/pdf/24cfr92.252.pdf

NOTE AND DEED OF TRUST REQUIREMENT

All loans resulting from NSP funding shall be secured by a 1st priority Note and Deed of Trust.

VII. GLOSSARY OF TERMS

Abandoned: A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

Acquisition: The purchase of a foreclosed-upon home or residential property.

Affordable Rents: Households pay no more than 30 percent of household income for rent and utilities. NOTE: For the purposes of NSP only, the percentage of annual median income is increased to 120 percent.

Blighted Structure: A structure, which, by reason of dilapidation, deterioration, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, unsanitary or unsafe conditions, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs the sound growth of the community, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

Current Market Appraised Value: This is the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property by a grantee, sub-recipient, developer, or individual homebuyer.

Foreclosed: A property "has been foreclosed upon" at the point that the mortgage or tax foreclosure is complete (including the expiration of any upset bid period) and title for the property has been transferred from the former owner to a purchaser as a result of either (1) judicial foreclosure proceedings, or (2) foreclosure under power of sale pursuant to Chapter 45 of the North Carolina General Statutes.

Housing Rehabilitation Standards: Housing rehabilitation standards are defined in 4 NCAC 19 L .1009.

Land Bank: This is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land with structure on it for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purpose of the NSP program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and dispose of the land-banked properties. If the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.

Low-, Moderate-, and Middle-Income (LMMI) Households (LMMH): Households with incomes at or below 120 percent of the area median income.

Permanent Housing: This means housing for individuals for 12 months or more. This does not include transitional housing that may house persons up beyond 12 months.

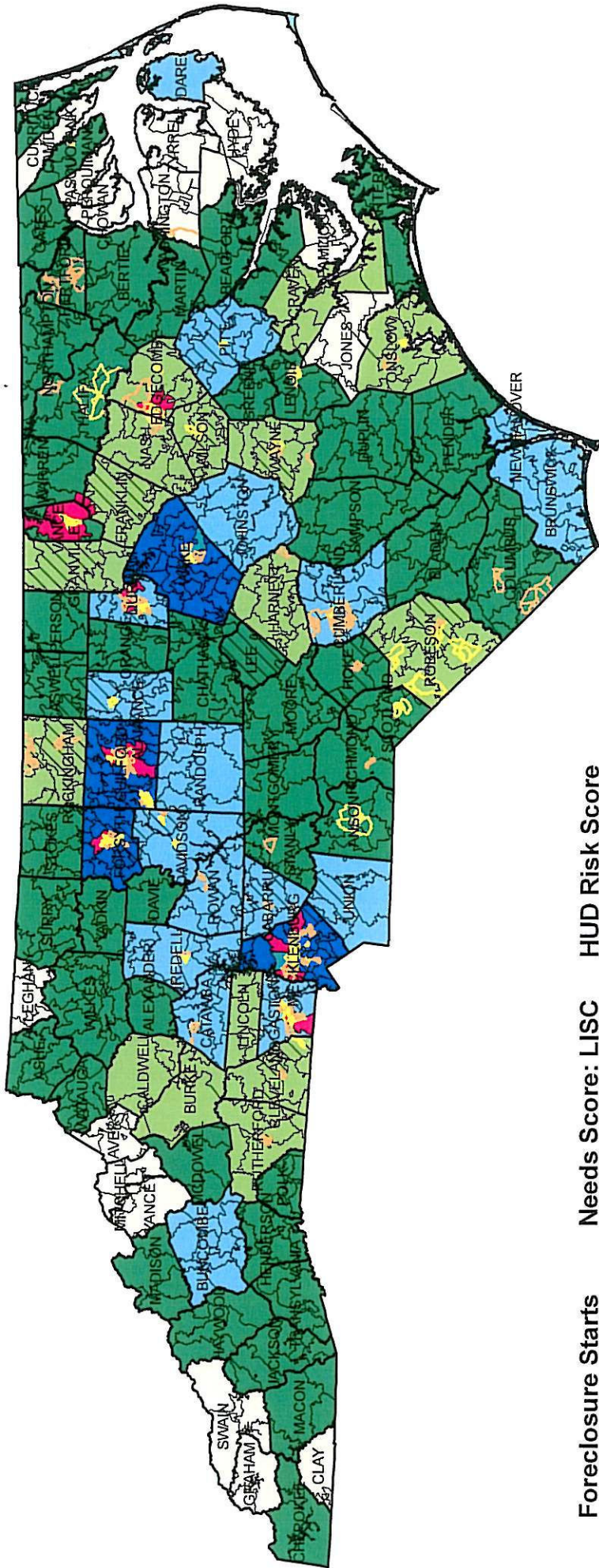
Program Income: Income that will generally result from loan repayments or the sale of assets purchased with NSP funds, though a more complete definition and additional obligations are provided at 4 N.C.A.C. 19L.0907; 24 C.F.R. 570.500(a) and 24 C.F.R. 570.504. Defined on p6, above.

VIII. ATTACHMENTS

ATTACHMENT A: MAP OF GREATEST NEEDS ANALYSIS

Greatest Needs Analysis

Foreclosure Starts, Foreclosure Needs Score & HUD Risk Score



Foreclosure Starts Jan 2007 - June 2008



Item #

Source: Analysis by the Local Initiative Support Corporation provided by the Foreclosure Response project; Geographical Area Zip Code, NC Admin of Courts, NC Commissioner of Banks, HUD, US Census, USPS

**ATTACHMENT B: 24 CFR 91.105; 24 CFR 570.486; 24 CFR 570.486; 4 N.C.A.C. 19L.1002
(Local Government Citizen Participation Plan Guidelines, and Specific Participation
Requirements for CDBG Funding)**

2. The State has authorized HUD to transfer to the unit of general local government a portion of the State's allocation or the State, the unit of general local government, or both, has made available its own resources such that the sum of the amounts transferred or made available are equal to or greater than the difference between the unit of general local government's formula allocation and \$750,000.
- c. In fiscal years in which Congress appropriates less than \$1.5 billion for this part, \$500,000 is substituted for \$750,000 each time it appears in this section.

§ 92.103 Notification of Intent to Participate

- a. Not later than 30 days after receiving notice of its formula allocation amount, a jurisdiction must notify HUD in writing of its intention to become a participating jurisdiction.
- b. A unit of general local government that has a formula allocation of less than \$750,000, or less than \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion for this part, must submit, with its notice, one or more of the following, as appropriate, as evidence that it has met the threshold allocation requirements in § 92.102(b):
 1. Authorization from the State to transfer a portion of its allocation to the unit of general local government;
 2. A letter from the governor or designee indicating that the required funds have been approved and budgeted for the unit of general local government;
 3. A letter from the chief executive officer of the unit of general local government indicating that the required funds have been approved and budgeted.

§ 92.104 Submission of a Consolidated Plan

A jurisdiction that has not submitted a consolidated plan to HUD must submit to HUD, not later than 90 days after providing notification under § 92.103, a consolidated plan in accordance with 24 CFR part 91.

§ 92.105 Designation as a Participating Jurisdiction

When a jurisdiction has complied with the requirements of §§ 92.102 through 92.104 and HUD has approved the jurisdiction's consolidated plan in accordance with 24 CFR part 91, HUD will designate the jurisdiction as a participating jurisdiction.

§ 92.106 Continuous Designation as a Participating Jurisdiction

Once a State or unit of general local government is designated a participating jurisdiction, it remains a participating jurisdiction for subsequent fiscal years and the requirements of §§ 92.102 through 92.105 do not apply, unless HUD revokes the designation in accordance with § 92.107.

made, the funds must be remitted to HUD and reallocated in accordance with § 92.454.

- c. *Recaptures.* HOME funds recaptured in accordance with § 92.254(a)(5)(ii) must be used in accordance with the requirements of this part. Recaptured funds must be deposited in the participating jurisdiction's HOME Investment Trust Fund local account unless the participating jurisdiction permits the State recipient, subrecipient, or community housing development organization to retain the recaptured funds for additional HOME projects pursuant to the written agreement required by § 92.504. If the jurisdiction is not a participating jurisdiction when the recaptured funds are received, the funds must be remitted to HUD and reallocated in accordance with § 92.454.

§ 92.504 Participating Jurisdiction Responsibilities; Written Agreements; On-site Inspection

- a. *Responsibilities.* The participating jurisdiction is responsible for managing the day to day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the participating jurisdiction of this responsibility. The performance of each contractor and subrecipient must be reviewed at least annually.
- b. *Executing a written agreement.* Before disbursing any HOME funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of this part.
- c. *Provisions in written agreements.* The contents of the agreement may vary depending upon the role the entity is asked to assume or the type of project undertaken. This section details basic requirements by role and the minimum provisions that must be included in a written agreement.
 1. *State recipient.* The provisions in the written agreement between the State and a State recipient will depend on the program functions that the State specifies the State recipient will carry out in accordance with § 92.201(b).
 - i. *Use of the HOME funds.* The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the State to effectively monitor performance under the agreement.
 - ii. *Affordability.* The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period.

- iii. *Program income.* The agreement must state if program income is to be remitted to the State or to be retained by the State recipient for additional eligible activities.
- iv. *Uniform administrative requirements.* The agreement must require the State recipient to comply with applicable uniform administrative requirements, as described in § 92.505.
- v. *Project requirement.* The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted.
- vi. *Other program requirements.* The agreement must require the State recipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the State recipient does not assume the State's responsibilities for release of funds under § 92.352 and the intergovernmental review process in § 92.357 does not apply to the State recipient.
- vii. *Affirmative marketing.* The agreement must specify the State recipient's affirmative marketing responsibilities in accordance with § 92.351, if the HOME funds received by the State recipient will be used for housing containing five or more assisted units.
- viii. *Requests for disbursement of funds.* The agreement must specify that the State recipient may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the State recipient requests funds from the State.
- ix. *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the State in meeting its recordkeeping and reporting requirements.
- x. *Enforcement of the agreement.* The agreement must provide for a means of enforcement of affordable housing requirements by the State or the intended beneficiaries, if the State recipient will be the owner at project completion of the affordable housing. The means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in § 92.252 must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the HOME requirements. The agreement must specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the State recipient materially fails to comply with any term of the agreement. The State may permit the agreement to be terminated for convenience in accordance with 24 CFR 85.44.
- xi. If the State recipient provides funds to for-profit owners or developers, nonprofit owners or developers, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors who are

providing services to the State recipient, the State recipient must have a written agreement with such entities which meets the requirements of this section.

- xii. *Duration of the agreement.* The duration of the agreement will depend on which functions the State recipient performs (e.g., whether the State recipient or the State has responsibility for monitoring rental projects for the period of affordability) and which activities are funded under the agreement.
2. *Subrecipient.* A subrecipient is a public agency or nonprofit selected by the participating jurisdiction to administer all or a portion of the participating jurisdiction's HOME Program. The agreement between the participating jurisdiction and the subrecipient must include:
- i. *Use of the HOME funds.* The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the period of the agreement. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction effectively to monitor performance under the agreement.
 - ii. *Program income.* The agreement must state if program income is to be remitted to the participating jurisdiction or to be retained by the subrecipient for additional eligible activities.
 - iii. *Uniform administrative requirements.* The agreement must require the subrecipient to comply with applicable uniform administrative requirements, as described in § 92.505.
 - iv. *Other program requirements.* The agreement must require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under § 92.352 and the intergovernmental review process in § 92.357 does not apply.
 - v. *Affirmative marketing.* The agreement must specify the subrecipient's affirmative marketing responsibilities in accordance with § 92.351, if the HOME funds administered by the subrecipient will be used for housing containing five or more assisted units.
 - vi. *Requests for disbursement of funds.* The agreement must specify that the subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.
 - vii. *Reversion of assets.* The agreement must specify that upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

- viii. *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.
 - ix. *Enforcement of the agreement.* The agreement must specify remedies for breach of the provisions of the agreement. The agreement must specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement. The participating jurisdiction may permit the agreement to be terminated for convenience in accordance with 24 CFR 85.44.
 - x. If the subrecipient provides HOME funds to for-profit owners or developers, nonprofit owners or developers, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement which meets the requirements of this section.
3. *For-profit or nonprofit housing owner, sponsor or developer (other than single-family owner-occupant).*
- i. *Use of the HOME funds.* The agreement between the participating jurisdiction and a for-profit or non-profit housing owner, sponsor or developer must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement.
 - ii. *Affordability.* The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. If the owner or developer is undertaking rental projects, the agreement must establish the initial rents and the procedures for rent increases. If the owner or developer is undertaking homeownership projects for sale to homebuyers in accordance with § 92.254(a), the agreement must set forth the resale or recapture requirements which must be imposed on the housing.
 - iii. *Project requirements.* The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted.
 - iv. *Property standards.* The agreement must require the housing to meet the property standards in § 92.251 and the lead-based paint requirements in part 35, subparts A, B, J, K, M and R of this title, upon project completion. The agreement must also require owners of rental housing assisted with HOME funds to maintain the housing in compliance with § 92.251 for the duration of the affordability period.

- v. *Other program requirements.* The agreement must require the owner, developer or sponsor to carry out each project in compliance with the following requirements of subpart H of this part:
 - A. If the project contains 5 or more HOME-assisted units, the agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with § 92.351.
 - B. The federal requirements and nondiscrimination established in § 92.350.
 - C. Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with § 92.353.
 - D. The labor requirements in § 92.354.
 - E. The conflict of interest provisions prescribed in § 92.356(f).
 - vi. *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.
 - vii. *Enforcement of the agreement.* The agreement must provide for a means of enforcement of the affordable housing requirements by the participating jurisdiction or the intended beneficiaries. This means of enforcement may include liens on real property, deed restrictions or covenants running with the land. The affordability requirements in § 92.252 must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the provisions of the agreement.
 - viii. *Requests for disbursement of funds.* The agreement must specify that the developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.
 - ix. *Duration of the agreement.* The agreement must specify the duration of the agreement. If the housing assisted under this agreement is rental housing, the agreement must be in effect through the affordability period required by the participating jurisdiction under § 92.252. If the housing assisted under this agreement is homeownership housing, the agreement must be in effect at least until completion of the project and ownership by the low-income family.
 - x. *Community housing development organization provisions.* If the nonprofit owner or developer is a community housing development organization and is using set-aside funds under § 92.300, the agreement must include the appropriate provisions under §§ 92.300 and 92.301.
4. *Contractor.* The participating jurisdiction selects a contractor through applicable procurement procedures and requirements. The contractor provides goods or

services in accordance with a written agreement (the contract). For contractors who are administering all or a portion of the HOME program, the contract must include at a minimum the following provisions:

- i. *Use of the HOME funds.* The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the length of the agreement.
 - ii. *Program requirements.* The agreement must provide that the contractor is subject to the requirements in Part 92 that are applicable to the participating jurisdiction, except §§ 92.505 and 92.506 do not apply, and the contractor cannot assume the participating jurisdiction responsibilities for environmental review, decisionmaking, and action under § 92.352. Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering.
 - iii. *Duration of agreement.* The agreement must specify the duration of the contract. Generally, the duration of a contract should not exceed two years.
5. *Homebuyer, homeowner or tenant receiving tenant-based rental or security deposit assistance.* When a participating jurisdiction provides assistance to a homebuyer, homeowner or tenant the written agreement may take many forms depending upon the nature of assistance. As appropriate, it must include as a minimum:
- i. For homebuyers, the agreement must conform to the requirements in § 92.254(a), the value of the property, principal residence, lease-purchase, if applicable, and the resale or recapture provisions. The agreement must specify the amount of HOME funds, the form of assistance, e.g., grant, amortizing loan, deferred payment loan, the use of the funds (e.g., down-payment, closing costs, rehabilitation) and the time by which the housing must be acquired.
 - ii. For homeowners, the agreement must conform to the requirements in § 92.254(b) and specify the amount and form of HOME assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.
 - iii. For tenants, the rental assistance contract or the security deposit contract must conform to §§ 92.209 and 92.253.
- d. *On site inspections.*
1. *HOME assisted rental housing.* During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of § 92.251 and to verify the information submitted by the owners in accordance with the requirements of § 92.252 no less than: every three years for projects containing 1 to 4 units; every two years for projects containing 5 to 25 units; and every year for projects containing 26 or more units. Inspections must be based on a sufficient sample of units.

2. *Tenant-based rental assistance.* The participating jurisdiction must perform annual on-site inspections of rental housing occupied by tenants receiving HOME-assisted TBRA to determine compliance with the property standards of § 92.251.

§ 92.505 Applicability of Uniform Administrative Requirements

- a. *Governmental entities.* The requirements of OMB Circular No. A-87 and the following requirements of 24 CFR part 85 apply to the participating jurisdiction, State recipients, and any governmental subrecipient receiving HOME funds: §§ 85.6, 85.12, 85.20, 85.22, 85.26, 85.32-85.34, 85.36, 85.44, 85.51, and 85.52.
- b. *Non-profit organizations.* The requirements of OMB Circular No. A-122 and the following requirements of 24 CFR part 84 apply to subrecipients receiving HOME funds that are nonprofit organizations that are not governmental subrecipients: §§ 84.2, 84.5, 84.13-84.16, 84.21, 84.22, 84.26-84.28, 84.30, 84.31, 84.34-84.37, 84.40-84.48, 84.51, 84.60-84.62, 84.72, and 84.73.
- c. OMB Circulars referenced in this part may be obtained from: Executive Office of the President, Publication Service, 725 17th Street, N.W., Suite G-2200, Washington, DC 20503; telephone: (202) 395-7332.

§ 92.506 Audit

Audits of the participating jurisdiction, State recipients, and subrecipients must be conducted in accordance with 24 CFR 84.26 and 85.26.

§ 92.507 Closeout

HOME funds will be closed out in accordance with procedures established by HUD.

§ 92.508 Recordkeeping

- a. *General.* Each participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of this part. At a minimum, the following records are needed:
 1. *Records concerning designation as a participating jurisdiction.*
 - i. For a consortium, the consortium agreement among the participating member units of general local government as required by § 92.101.
 - ii. For a unit of general local government receiving a formula allocation of less than \$750,000 (or less than \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion for this part), records demonstrating that funds have been made available (either by the State or the unit of general local government, or both) equal to or greater than the difference between its formula allocation and \$750,000 (or \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion) as required by § 92.102(b).

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count in their entirety towards meeting the 70 percent benefit to persons of low and moderate income requirement.

(4) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under § 570.483(b)(3) shall be counted for this purpose, but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons, except that the amount counted shall not exceed the amount of CDBG funds provided.

§ 570.485 Making of grants.

(a) *Required submissions.* In order to receive its annual CDBG grant under this subpart, a State must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of the consolidated plan, for the process of developing the plan, including citizen participation provisions, for the submission date, for HUD approval, and for the amendment process.

(b) *Failure to make submission.* The state's failure to make the submission required by paragraph (a) of this section within the prescribed deadline constitutes the state's election not to receive and distribute amounts allocated for its nonentitlement areas for the applicable fiscal year. Funds will be either:

(1) Administered by HUD pursuant to subpart F of this part if the state has not administered the program in any previous fiscal year; or

(2) Reallocated to all states in the succeeding fiscal year according to the formula of section 106(d) of the Act, if the state administered the program in any previous year.

(c) *Approval of grant.* HUD will approve a grant if the State's submissions have been made and approved in accordance with 24 CFR part 91, and the certifications required therein are satisfactory to the Secretary. The certifications will be satisfactory to the Secretary for this purpose unless the Secretary has determined pursuant to § 570.493 that the State has not complied with the requirements of this sub-

part, or has determined that there is evidence, not directly involving the State's past performance under this program, that tends to challenge in a substantial manner the State's certification of future performance. If the Secretary makes any such determination, however, the State may be required to submit further assurances as the Secretary may deem warranted or necessary to find the grantee's certification satisfactory.

[57 FR 53397, Nov. 9, 1992, as amended at 60 FR 1916, Jan. 5, 1995; 61 FR 54922, Oct. 22, 1996]

§ 570.486 Local government requirements.

(a) *Citizen participation requirements of a unit of general local government.* Each unit of general local government shall meet the following requirements as required by the state at § 91.115(e) of this title.

(1) Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas and areas in which CDBG funds are proposed to be used;

(2) Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to the unit of local government's proposed and actual use of CDBG funds;

(3) Furnish citizens information, including but not limited to:

(i) The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income);

(ii) The range of activities that may be undertaken with the CDBG funds;

(iii) The estimated amount of the CDBG funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons; and

(iv) The proposed CDBG activities likely to result in displacement and the unit of general local government's antidisplacement and relocation plans required under § 570.488.

(4) Provide technical assistance to groups representative of persons of low and moderate income that request assistance in developing proposals in accordance with the procedures developed by the state. Such assistance need

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not include providing funds to such groups;

(5) Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining citizens' views and responding to proposals and questions. Together the hearings must cover community development and housing needs, development of proposed activities and a review of program performance. The public hearings to cover community development and housing needs must be held before submission of an application to the state. There must be reasonable notice of the hearings and they must be held at times and locations convenient to potential or actual beneficiaries, with accommodations for the handicapped. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate;

(6) Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state.

(7) Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

(b) *Activities serving beneficiaries outside the jurisdiction of the unit of general local government.* CDBG-funded activities may serve beneficiaries outside the jurisdiction of the unit of general local government that receives the grant, provided the unit of general local government determines that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act.

[57 FR 53397, Nov. 9, 1992, as amended at 61 FR 54922, Oct. 22, 1996]

§ 570.487 Other applicable laws and related program requirements.

(a) *General.* Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or executive orders that may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental officials, departments or agencies other than HUD. Paragraphs (d) and (c) of this section contain two of the requirements expressly made applicable to CDBG activities by the Act itself.

(b) *Affirmatively furthering fair housing.* The Act requires the state to certify to the satisfaction of HUD that it will affirmatively further fair housing. The act also requires each unit of general local government to certify that it will affirmatively further fair housing. The certification that the State will affirmatively further fair housing shall specifically require the State to assume the responsibility of fair housing planning by:

(1) Conducting an analysis to identify impediments to fair housing choice within the State;

(2) Taking appropriate actions to overcome the effects of any impediments identified through that analysis;

(3) Maintaining records reflecting the analysis and actions in this regard; and

(4) Assuring that units of local government funded by the State comply with their certifications to affirmatively further fair housing.

(c) *Lead-Based Paint Poisoning Prevention Act.* States shall devise, adopt and carry out procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.

(d) States shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities

- performance of federal and federally assisted construction contracts, and that affirmative action will be taken in all aspects of personnel negotiations; and
- (f) Section 3, of the Housing and Urban Development Act of 1968, (P.L. 90-448) as amended, which requires that to the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any federal block grant program be given to lower-income residents of the unit of local government, metropolitan area or nonmetropolitan county in which the project is located and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in, the same metropolitan area or nonmetropolitan county as of the project.
- (2) Recipients shall meet the implementing requirements of:
 - (a) Regulations under Title VI of the Civil Rights Act of 1964, 24 C.F.R., Part 1 and 2;
 - (b) Equal Employment Opportunity under HUD Contracts and HUD Assisted Construction, 24 C.F.R. Part 130;
 - (c) Employment Opportunities for Businesses and Lower Income Persons In Connection With Assisted Projects, 24 C.F.R. 135; and
 - (d) HUD implementing regulations contained in 24 C.F.R. Part 107.
 - (3) Local government recipients shall meet the requirements of Title II of the Americans with Disabilities Act of 1990 (P.L. 101-336) and its implementing regulations (28 CFR Part 35).
 - (4) Recipients shall maintain records and data and document compliance efforts as required by the laws and regulations in this Rule including data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program and shall comply with Rule .0911 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; 24 C.F.R. 570-490; 24 C.F.R. 570.496; 42 U.S.C.A. 1982; 42 U.S.C.A. 2000d et seq.; 42 U.S.C. 5309; Eff. July 1, 1982; Amended Eff. June 1, 1993; March 1, 1984.

04 NCAC 19L .1002 CITIZEN PARTICIPATION

- (a) Each applicant and recipient shall provide citizens with an opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of the program. Each applicant and recipient shall provide information to citizens, hold public hearings, provide for timely responses to citizens' complaints, and certify that it is following a detailed Citizen Participation Plan as in (b) through (h) of this Rule. All public hearings shall be held by the governing board of the applicant or recipient.
- (b) Citizen participation in the application process.
 - (1) Each applicant for CDBG funds shall:
 - (A) Solicit and respond in a timely manner to views and proposals of citizens, particularly low- and moderate-income persons, members of minority groups, and residents of blighted areas where activities are proposed. Applicants shall respond in writing to written citizen comments. Responses shall be made within 10 calendar days of receipt of the citizen comment, when practicable.
 - (B) Provide technical assistance to facilitate citizen participation, where requested. The technical assistance shall be provided to groups representative of persons of low- and moderate-income that request such assistance in developing proposals. The level and type shall be determined by the applicant.
 - (C) Provide notices of public hearings in a timely manner to all citizens and in such a way as to make them understandable to non-English speaking persons. Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodations for persons with disabilities. A notice of the public hearing shall be published at least once in the nonlegal section of a newspaper having general circulation in the area. The notice shall be published not less than ten days nor more than 25 days before the date fixed for the hearing. The notice of

- public hearing to obtain citizens' views after the application has been prepared, but prior to the submission of the application to the Division, shall contain a description of the proposed project(s) including the proposed project location, activities to be carried out, and the total costs of activities. The notice of the public hearing shall also contain the language for submitting objections contained in the Part (b)(2)(A) of this Rule.
- (D) Schedule hearings to obtain citizens' views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low- and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.
 - (E) Conduct one public hearing during the planning process to allow citizens the opportunity to express views and proposals prior to formulation of the application, except that applicants in the Urgent Needs category are exempt from holding this public hearing.
 - (F) Conduct one public hearing after the application has been prepared but prior to submission of the application to the Division.
- (2) Submitting objections to the Division.
- (A) Persons wishing to object to the approval of an application by the Division shall submit to the Division their objections in writing. The Division shall consider objections made only on the following grounds:
 - (i) The applicant's description of the needs and objectives is plainly inconsistent with available facts and data,
 - (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant, and
 - (iii) The application does not comply with the requirements of this Subchapter or other applicable laws.
 - (B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with available facts and data, the objection shall include the facts and data upon which the objection is based.
- (c) Citizen Participation Plan. Recipients shall develop and adopt, by resolution of their governing board, a written citizen participation plan developed in accordance with all provisions of this Rule and which:
- (1) provides for and encourages citizen participation with particular emphasis on participation by persons of low- and moderate-income who are residents of slum and blight areas and of areas in which CDBG funds are proposed to be used;
 - (2) provides citizens with reasonable and timely access to local meetings, information, and records relating to the recipient's proposed and actual use of funds;
 - (3) provides for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in accordance with Part (b)(1)(B) of this Rule;
 - (4) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program in accordance with Paragraphs (b), (f), and (g) of this Rule;
 - (5) provides a procedure for developing written responses to written complaints and grievances within ten calendar days of receipt of the complaint. The procedure shall include all provisions of Paragraph (d) of this Rule; and
 - (6) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
- (d) The recipient shall develop and adopt a written complaint procedure to respond to citizen complaints involving the CDBG program. The complaint procedure shall be applicable through the life of the grant and available to the general public. It shall specify that the recipient will respond in writing to written citizen complaints within 10 calendar days of receipt of the complaint. The procedure shall include a phone number for further information or clarification on the complaint procedure and shall identify any local procedures or appeals process that would normally be used by the recipient to address citizen complaints. The complaint procedure shall also state that if a citizen lodging a complaint is dissatisfied with the local response, then that person may direct the complaint to the North Carolina Division of Community Assistance.
- (e) Citizen participation during program implementation. Citizens shall have the opportunity to comment on the implementation of a Community Development Program throughout the term of the program. Recipients shall solicit and respond to the views and proposals of citizens in the same manner as in Part (b)(1)(A) of this Rule.

- (f) Citizen participation in the program amendment process.
- (1) Recipient procedures.
 - (A) Recipients proposing amendments which require prior Division approval in accordance with Rule .0910 of this Subchapter shall to conduct one public hearing prior to submission of the amendment to the Division in the same manner as in Part (b)(1)(C) of this Rule.
 - (B) Each recipient shall respond to citizen objections and comments in the same manner as in Part (b)(1)(A) of this Rule.
 - (2) Submitting Objections to the Division.
 - (A) Persons wishing to object to the approval of an amendment by the Division shall make such objection in writing. The Division shall consider objections made only on the following grounds:
 - (i) The recipient's description of needs and objectives is plainly inconsistent with available facts and data,
 - (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the recipient, and
 - (iii) The amendment does not comply with the requirements of this Section or other applicable laws and regulations.
 - (B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with available facts and data, the objection shall include the facts and data upon which the objection is based.
- (g) Citizen participation in the program closeout process.
- (1) Recipients shall conduct one public hearing to assess program performance during the grant closeout process and prior to the actual closeout of the grant in the same manner as in Part (b)(1)(C) of this Rule.
 - (2) Recipients shall continue to solicit and respond to citizen comment in the same manner as in Part (b)(1)(A) of this Rule until such time as the grant program is closed.
- (h) Persons may submit written comments to the Division at any time concerning the applicant's or recipient's failure to comply with the requirements contained in this Subchapter.
- (i) All records of public hearings, citizens' comments, responses to comments and other relevant documents and papers shall be kept in accordance with Rule .0911 of this Subchapter. All program records shall be accessible to citizens in accordance with Rule .0911(b) of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(2); 24 C.F.R. 570.486; Eff. July 1, 1982; Amended Eff. August 1, 1998; June 1, 1993; September 1, 1990; May 1, 1988; March 1, 1984; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002.

04 NCAC 19L .1003 ACQUISITION AND RELOCATION

- (a) The purpose of this Rule is to insure that owners of real property to be acquired under the provisions of this Subchapter are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in governmental land acquisition; and to insure that persons displaced as a result of CDBG-assisted projects are treated equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole. Recipients shall follow the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), Sections 104(d) and 106(d)(5)(A) of Title I of the Housing and Community Development Act of 1974, as amended, and HUD implementing regulations [24 CFR 570:488 and 570.496(a)]. This Subchapter incorporates by reference the federal regulations described in 24 CFR 570.488 and 24 CFR 570.496(a), including subsequent amendments and editions. Copies of these laws and regulations are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each. The following definitions shall apply:
- (1) "HUD" means the Department.
 - (2) "Federal agency" means the Department.
 - (3) "State agency" means the recipient of CDBG funds as defined in this Subchapter.
- (b) The recipient may provide relocation payments and assistance for individuals, families, businesses, non profit organizations and farm operations displaced by an activity that is not subject to the Uniform Act. The recipient also may

ATTACHMENT C: 4 N.C.A.C. 19 L .0908 and .0914, N.C. Gen. Stat. § 14-234 and 24 CFR 570.489(g) and (h) (Conflict of Interest Provisions)

(h) Program income generated under the Development Loan Fund program, including loan repayments, fees, lease payments shall meet all the requirements outlined in 24 CFR 570.489(e) and the contract between the unit of local government and the Department of Housing and Urban Development.

History Note: Filed as Temporary Amendment Eff. August 19, 1988 for a period of 180 days to expire on February 15, 1989;
Authority G.S. 143B-431; 153A-376; 160A-456; 24 C.F.R. 570.489(e);
Eff. July 1, 1982;
Amended Eff. August 1, 1998; March 1, 1995; June 1, 1993; September 1, 1991; September 1, 1990.

04 NCAC 19L .0908 PROCUREMENT STANDARDS

(a) Local governments shall follow the procurement standards established in the Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments (24 C.F.R., Part 85) and HUD implementing regulations contained in 24 CFR 570.489(g), which explicitly prohibit cost plus a percentage of cost and percentage of construction cost methods of contracting. This Subchapter incorporates by reference the federal law and regulations described in 24 CFR, Part 85, 24 CFR 570.489(g), and 24 CFR 570.489(h), including subsequent amendments and editions. Copies of these sections of federal law and regulation are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each.

(b) Recipients may incur costs with written approval of the Division for the procurement of supplies, equipment, construction and services before the Grant Agreement between the recipient and the Division has been executed. In the case of program amendments, recipients may not incur costs for the procurement of supplies, equipment, construction and services that are the subject of the program amendment until the program amendment has been approved in writing by the Division. Recipients that incur costs prior to execution of the grant agreement must ensure that the activities are eligible and meet requirements of 24 CFR Part 58, Environmental Review.

(c) Recipients must also comply with the North Carolina General Statutes applicable to the procurement of supplies, equipment, construction and services. Relevant state laws include:

- (1) Conflict of Interest, G.S. 14-234 (cities and counties);
- (2) Public Building Contracts, G.S. 143-128 through 135 (cities and counties); and
- (3) Model payment and performance bond, G.S. 44A-25 through 33 (cities and Counties).

(d) Additional rules governing property acquisition are found in this Subchapter under Rule .1003 ACQUISITION AND RELOCATION; Rule .0907 PROPERTY MANAGEMENT STANDARDS; Rule .1001 EQUAL OPPORTUNITY; and Rule .1006 LABOR STANDARDS.

(e) The requirements of the Office of Management and Budget Circular No. A-87, Cost Principles for State and Local Governments, shall apply to the procurement of materials and services funded in whole or in part with CDBG funds.

History Note: Authority G.S. 14-234; 143-128 through 143-135; 143B-431; 153A-158;
153A-163 through 153A-165; 159-15; 42 U.S.C.A. 5304(b)(4); 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. June 1, 1993; September 1, 1990; April 1, 1989; March 1, 1984.

04 NCAC 19L .0909 PROPERTY MANAGEMENT STANDARDS

This Rule prescribes uniform standards governing the use and disposition of property acquired in whole or in part with Community Development Block Grant funds.

- (1) Definitions.
 - (a) "Real property" means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.
 - (b) "Personal property" means any kind of property except real property. It may be tangible - having physical existence, or intangible - having no physical existence, such as patents, inventions, and copyrights.

- (c) "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of one thousand dollars (\$1,000.00) or more per unit.
 - (d) "Expendable personal property" refers to all tangible personal property other than nonexpendable property.
 - (e) "Acquisition cost of purchased nonexpendable personal property" means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property useable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the regular accounting practices.
- (2) Real Property.
- (a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the original grant as long as needed.
 - (b) The recipient shall obtain prior approval by the Division for the use of the real property in other projects when the recipient determines that the property is no longer needed for the original grant purposes. Use in other projects will be limited to those under other federal and state grant programs, or programs that have purposes consistent with those authorized for support by the Department.
 - (c) When the real property is no longer needed as provided in (a) and (b) of this Paragraph, the recipient shall request disposition instructions from the Division, according to the following rules:
 - (i) The recipient may be permitted to retain title after it compensates the program budget in an amount computed by applying the CDBG percentage of participation in the cost of the original project to the current fair market value of the property.
 - (ii) The recipient may be directed to sell the property under guidelines provided by the Division.
- (3) Nonexpendable Personal Property. Title to nonexpendable personal property whose acquisition cost is borne in whole or part by Community Development Block Grant funds shall be vested in the recipient subject to the following restrictions:
- (a) Use. The recipient shall use the property as long as there is a need for such property to accomplish the objectives of the Housing and Community Development Act of 1974, as amended, whether or not the recipient is supported by funds appropriated under this Act.
 - (b) Disposition. When the recipient no longer needs the property as provided in this Rule, the property may be used in accordance with the following standards:
 - (i) Nonexpendable personal property with a unit acquisition cost of less than one thousand dollars (\$1,000) may be retained by the recipient for other programs or sold by the recipients without reimbursement to the program budget.
 - (ii) Nonexpendable personal property with a unit acquisition cost of one thousand dollars (\$1,000) or more may be retained by the recipient for other uses provided that compensation is made as program income in accordance with Rule .0907. The amount of compensation shall be computed by applying the percentage of CDBG participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property then it shall dispose of the property in accordance with State law and proceeds shall be considered as program income.
 - (c) Property records shall be maintained accurately and shall include:
 - (i) a description of the property;
 - (ii) manufacturer's serial number, model number, federal stock number, national stock number, or other identification number;
 - (iii) source of the property including grant or other agreement number;
 - (iv) acquisition date;
 - (v) percentage of CDBG participation in the cost of the project for which the property was acquired;
 - (vi) location, use, and condition of the property and the date the information was reported;

- (vii) unit acquisition cost; and
- (viii) ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Department for its share.
- (d) A physical inventory of property shall be taken annually to verify the existence, current utilization and continued need for the property. The results shall be reconciled with the property records at least once every two years. Any differences between the quantities determined by the physical inspections and those shown in the accounting records shall be investigated to determine the causes of the differences.
- (e) Adequate maintenance procedures shall be implemented to keep the property in good condition.
- (f) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.
- (g) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.
- (4) Expendable Personal Property. Title to expendable personal property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding one thousand dollars (\$1,000) in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the recipient shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the program for its share. The amount of compensation will be computed in the same manner as nonexpendable personal property.
- (5) Intangible Property.
 - (a) Inventions and patents. If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Department, such fact shall be promptly and fully reported to the Department. Unless there is a prior agreement between the recipient and the Department on disposition of such items, the Department shall determine whether protection on the invention or discovery shall be sought. The Department will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administrated in order to protect the public interest consistent with "Government Patent Policy" (President's memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and Statement of Government Patent Policy as printed in 36 FR 16889); and
 - (b) Copyrights. Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Departmental agreement, but the Department shall reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(4),(d)(2),(e); 24 C.F.R. 570.489; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; May 1, 1988; April 1, 1983.

04 NCAC 19L .0910 PROGRAM AMENDMENTS

- (a) Community development program amendments. Recipients shall request prior Division approval for all program amendments when:
- (1) The recipient proposes to change the approved project budget amount for any activity by more than 10 percent of the total project amount;
 - (2) The recipient proposes to add or delete any activity or activities, change project locations, or change the scope of the program or class of beneficiaries of previously approved activities; and
 - (3) The cumulative effect of a number of smaller changes involving the approved activities exceeds 10 percent of the total project amount. In such instances, the recipient shall include in its request for an amendment

§ 14-234. Public officers or employees benefiting from public contracts; exceptions.

- (a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.
- (2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.
- (3) No public officer or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.
- (a1) For purposes of this section:
- (1) As used in this section, the term "public officer" means an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contractor of a public agency.
- (2) A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.
- (3) A public officer or employee is involved in making a contract if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes action on the contract, whether or not the public officer actually participates in that action, unless the contract is approved under an exception to this section under which the public officer is allowed to benefit and is prohibited from voting.
- (4) A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.
- (5) A public officer or employee is not involved in making or administering a contract solely because of the performance of ministerial duties related to the contract.
- (b) Subdivision (a)(1) of this section does not apply to any of the following:
- (1) Any contract between a public agency and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the General Statutes.
- (2) An interest in property conveyed by an officer or employee of a public agency under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the public agency.
- (3) Any employment relationship between a public agency and the spouse of a public officer of the agency.
- (4) Remuneration from a public agency for services, facilities, or supplies furnished directly to needy individuals by a public officer or employee of the agency under any program of direct public assistance being rendered under the laws of this State or the United States to needy persons administered in whole

or in part by the agency if: (i) the programs of public assistance to needy persons are open to general participation on a nondiscriminatory basis to the practitioners of any given profession, professions or occupation; (ii) neither the agency nor any of its employees or agents, have control over who, among licensed or qualified providers, shall be selected by the beneficiaries of the assistance; (iii) the remuneration for the services, facilities or supplies are in the same amount as would be paid to any other provider; and (iv) although the public officer or employee may participate in making determinations of eligibility of needy persons to receive the assistance, he or she takes no part in approving his or her own bill or claim for remuneration.

(b1) No public officer who will derive a direct benefit from a contract entered into under subsection (b) of this section may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.

(c) through (d) Repealed by Session Laws 2001-409, s. 1, effective July 1, 2002.

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

- (1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twelve thousand five hundred dollars (\$12,500) for medically related services and twenty-five thousand dollars (\$25,000) for other goods or services within a 12-month period.
- (2) The official entering into the contract with the unit or agency does not participate in any way or vote.
- (3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.
- (4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health,

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developmental disabilities, and substance abuse board, or public hospital which contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

(d2) Subsection (d1) of this section does not apply to contracts that are subject to Article 8 of Chapter 143 of the General Statutes, Public Building Contracts.

(d3) Subsection (a) of this section does not apply to an application for or the receipt of a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21 of Chapter 143 of the General Statutes or the Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General Statutes by a member of the Soil and Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and does not apply to a district supervisor of a soil and water conservation district if the requirements of G.S. 139-8(b) are met.

(d4) Subsection (a) of this section does not apply to an application for, or the receipt of a grant or other financial assistance from, the Tobacco Trust Fund created under Article 75 of Chapter 143 of the General Statutes by a member of the Tobacco Trust Fund Commission or an entity in which a member of the Commission has an interest provided that the requirements of G.S. 143-717(h) are met.

(d5) This section does not apply to a public hospital subject to G.S. 131E-14.2 or a public hospital authority subject to G.S. 131E-21.

(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public agency that is a party to the contract may request approval to continue contracts under this subsection as follows:

- (1) Local governments, as defined in G.S. 159-7(15), public authorities, as defined in G.S. 159-7(10), local school administrative units, and community colleges may request approval from the chair of the Local Government Commission.
- (2) All other public agencies may request approval from the State Director of the Budget.

Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare. (1825, c. 1269, P.R.; 1826, c. 29; R.C., c. 34, s. 38; Code, s. 1011; Rev., s. 3572; C.S., s. 4388; 1929, c. 19, s. 1; 1969, c. 1027; 1975, c. 409; 1977, cc. 240, 761; 1979, c. 720; 1981, c. 103, ss. 1, 2, 5; 1983, c. 544, ss. 1, 2; 1985, c. 190; 1987, c. 570; 1989, c. 231; 1991 (Reg. Sess., 1992), c. 1030, s. 5; 1993, c. 539, s. 145; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 519, s. 4; 2000-147, s. 6; 2001-409, s. 1; 2001-487, ss. 44(a), 44(b), 45; 2002-159, s. 28; 2006-78, s. 2.)

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government shall not be directly funded or capitalized with grant funds.

(g) *Procurement.* When procuring property or services to be paid for in whole or in part with CDBG funds, the state shall follow its procurement policies and procedures. The state shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the state. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by § 570.489(h).) The state shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, executive orders and implementing regulations.

(h) *Conflict of interest—(1) Applicability.* (i) In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and subrecipients, the conflict of interest provisions in paragraph (g) of this section shall apply.

(ii) In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG funds by the unit of general local government or its subrecipients, to individuals, businesses and other private entities.

(2) *Conflicts prohibited.* Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or

have an interest in any contract, sub-contract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(3) *Persons covered.* The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.

(4) *Exceptions: Thresholds requirements.* Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the state may be granted by HUD on a case-by-case basis. In all other cases, the state may grant such an exception upon written request of the unit of general local government provided the state shall fully document its determination in compliance with all requirements of paragraph (h)(4) of this section including the state's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as appropriate. An exception may be considered only after the state or unit of general local government, as appropriate, has provided the following:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the attorney for the state or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.

(5) *Factors to be considered for exceptions.* In determining whether to grant

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a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;

(vi) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

(i) *Closeout of grants to units of general local government.* The State shall establish requirements for timely closeout of grants to units of general local government and shall take action to ensure the timely closeout of such grants.

(j) *Change of use of real property.* The standards described in this section apply to real property within the unit of general local government's control (including activities undertaken by subrecipients) which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for small purchase procurement (24 CFR 85.36, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Feder-

ally Recognized Indian Tribal Governments"). These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of the unit of general local government's grant.

(1) A unit of general local governments may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, unless the unit of general local government provides affected citizens with reasonable notice of and opportunity to comment on any proposed change, and either:

(i) The new use of the property qualifies as meeting one of the national objectives and is not a building for the general conduct of government; or

(ii) The requirements in paragraph (j)(2) of this section are met.

(2) If the unit of general local government determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (j)(1) of this section, it may retain or dispose of the property for the changed use if the unit of general local government's CDBG program is reimbursed or the state's CDBG program is reimbursed, at the discretion of the state. The reimbursement shall be in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property, except that if the change in use occurs after grant closeout but within 5 years of such closeout, the unit of general local government shall make the reimbursement to the State's CDBG program account.

(3) Following the reimbursement of the CDBG program in accordance with paragraph (j)(2) of this section, the property no longer will be subject to any CDBG requirements.

(k) *Accountability for real and personal property.* The State shall establish and implement requirements, consistent with State law and the purposes and requirements of this subpart (including paragraph (j) of this section) governing the use, management, and disposition of real and personal property acquired with CDBG funds.

ATTACHMENT D: SUB-CHAPTER 03 M-UNIFORM ADMINISTRATION of STATE GRANTS

North Carolina General Statute
(includes Technical and Clarifying changes from Session Law 2005-276)

HANDOUT #1-B

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§ 143C-6-21. (Effective July 1, 2007) Payments to nonprofits.

Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation shall be made in a single annual payment. An annual appropriation of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be made in quarterly or monthly payments, in the discretion of the Director of the Budget. (2006-203, s. 3.)

§ 143C-6-22. (Effective July 1, 2007) Use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. — Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.

(b) Compliance by Non-State Entities. — If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.

(c) Civil Actions. — Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2006-203, s. 3.)

§ 143C-6-23. (Effective July 1, 2007) State grant funds: administration; oversight and reporting requirements.

(a) Definitions. — The following definitions apply in this section:

(1) "Grant" and "grant funds" means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.

(2) "Grantee" means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(3) "Subgrantee" means a non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(b) Conflict of Interest Policy. — Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. — Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. — The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.

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(includes Technical and Clarifying changes from Session Law 2005-276)

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- (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.
- (3) Ensure that State funds are spent in accordance with the purposes for which they were granted.
- (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.
- (5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds.
- (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.
- (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
- (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.
- (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.
- (10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.
- (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.
- (12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

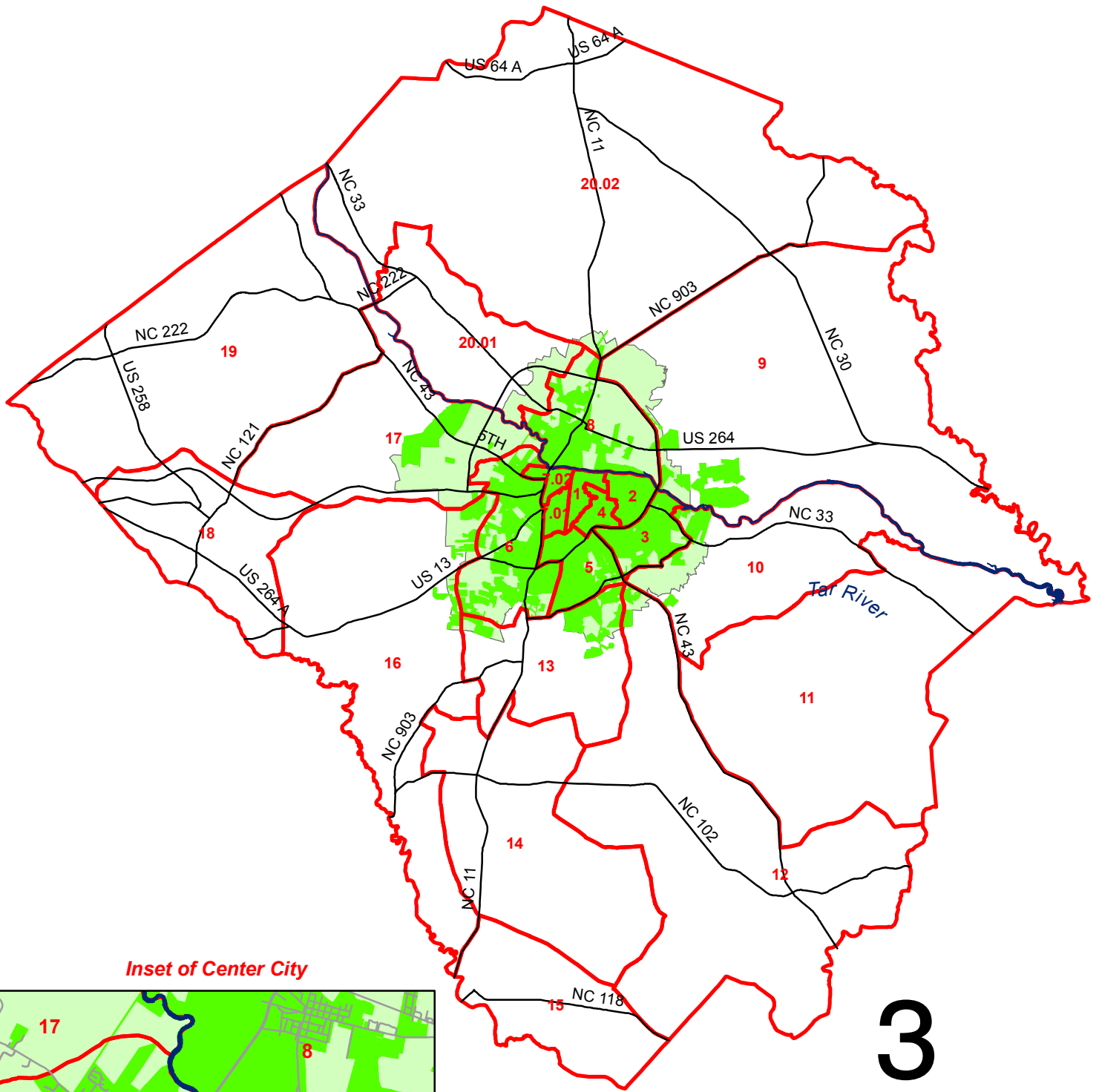
(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.

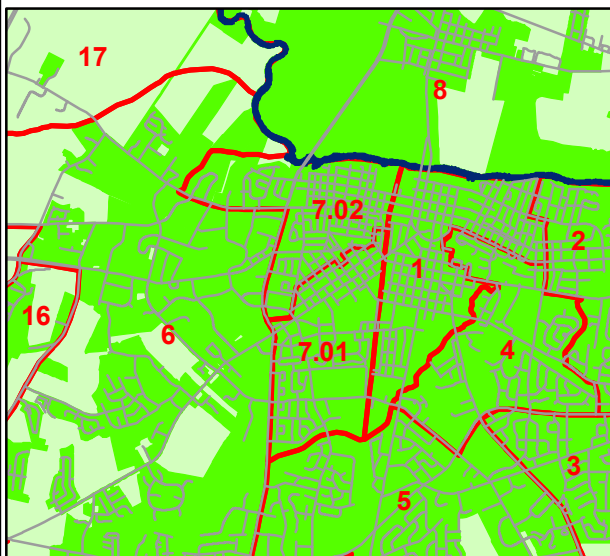
(h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.

(i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section. (2006-203, s. 3.)

Map of Pitt County Census Tracts






Inset of Center City



January 14, 2009

Map Legend

-  Census Tract Boundary Line
-  Greenville City Limits
-  Greenville ETJ

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