

To: The Honorable Mayor and City Council
From: Kay Grant, Budget Manager 
Date: November 13, 2012
RE: Neighborhood Stabilization Program Reimbursement

RECOMMENDATION

It is recommended that the Mayor and City Council ratify the amendment to Fiscal Year 2012-13 Revenue and Expense budgets for the transfer of \$154,802.02 from the General Fund to Neighborhood Stabilization Program Fund, and the appropriation of said funds for expenditure under the NSP1 Program.

BACKGROUND

Title III of the Housing and Economic Recovery Act of 2008 appropriated \$3.92 billion dollars for emergency assistance to states and local jurisdictions for the redevelopment of vacant, abandoned and foreclosed homes and properties. In 2009 the City of North Miami was awarded \$2,847,089 to purchase foreclosed and abandoned properties and to rehabilitate the properties for sale and/or rental to low and moderate income families. The U.S. Department of Housing and Urban Development recently conducted a review of the program to determine compliance with applicable laws and regulations and the community's continuing capacity to carry out the program.

As a result of the review, the City was found to be in violation of the CDBG Conflict of Interest regulations that govern the NSP program. It was determined that the City provided a Commissioner's relative NSP1 funds for the purchase and rehabilitation of a single family home without first seeking HUD's exception to the Conflict of Interest provision. The total amount expended for this NSP1 activity was \$154,802.02.

As a corrective measure, the City is required to reimburse a total of \$154,802.02 to the NSP1 Line of Credit. This resolution seeks to ratify the operating transfer of this amount from the General Fund to the Neighborhood Stabilization Program Fund, and to amend FY2012-13 Revenue and Expense Budgets to recognize the receipt and appropriation of said funds for the NSP1 program.



Council Report

Attachments

Resolution

Letter dated July 26, 2012 from H.U.D.

Interoffice Memorandum dated August 24, 2012

RESOLUTION NO. _____

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF NORTH MIAMI, FLORIDA, RATIFYING AN
AMENDMENT TO FISCAL YEAR 2012-2013 REVENUE
AND EXPENSE BUDGET FOR THE APPROPRIATION AND
TRANSFER OF ONE HUNDRED FIFTY-FOUR THOUSAND
EIGHT HUNDRED TWO DOLLARS AND TWO CENTS
(\$154,802.02) FROM THE CITY GENERAL FUND TO THE
CITY'S NEIGHBORHOOD STABILIZATION PROGRAM
(NSP1) FUND; PROVIDING FOR AN EFFECTIVE DATE
AND ALL OTHER PURPOSES.**

WHEREAS, the Mayor and City Council of the City of North Miami passed and adopted an annual budget in accordance with the Charter of the City of North Miami ("City") for the current Fiscal Year 2012-2013, commencing on October 1, 2012; and

WHEREAS, the City was awarded funds in the amount of Two Million Eight Hundred Forty-Seven Thousand Eighty-Nine Dollars (\$2,847,089.00) from the U.S. Housing and Urban Development ("HUD") Neighborhood Stabilization Program ("NSP1"), to purchase foreclosed and abandoned properties, and to rehabilitate such properties for sale or lease to low and moderate income families residing in the City; and

WHEREAS, HUD recently conducted a review of the NSP1 and Home Investment Partnership (HOME) Program to determine compliance with applicable laws and regulations, and to determine the City's continuing capacity to carry out the mission and purpose of the NSP1 and HOME Program; and

WHEREAS, as a result of HUD's review, the City was found to be in violation of a conflict of interest provision when NSP1 funds were used for a relative of a City Councilperson, without first seeking HUD's exception to the conflict of interest provision; and

WHEREAS, as a corrective measure, HUD requested from the City the reimbursement of the City's NSP1 line of credit in the amount of One Hundred Fifty-Four Thousand Eight Hundred Two Dollars and Two Cents (\$154,802.02); and

WHEREAS, the Mayor and City Council desire to amend the Fiscal Year 2012-2013 adopted Revenue and Expense Budget, for the appropriation and transfer of funds for the reimbursement of the City's NSP1 funds, requested by HUD.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. **Amendment of Budget.** The Mayor and City Council of the City of North Miami, Florida, hereby ratify an amendment to Fiscal Year 2012-2013 Revenue and Expense Budget for the appropriation and transfer of One Hundred Fifty-Four Thousand Eight Hundred Two Dollars and Two Cents (\$154,802.02) from the City General Fund to the City's Neighborhood Stabilization Program (NSP1) fund.

Section 2. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, this _____ day of November, 2012.

ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Andre D. Pierre, Esq.	_____ (Yes)	_____ (No)
Vice Mayor Marie Erlande Steril	_____ (Yes)	_____ (No)
Councilperson Michael R. Blynn, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Jean R. Marcellus	_____ (Yes)	_____ (No)



TO: Stephen E. Johnson, City Manager

C: Vernon Paul, Finance Director
Kay Grant, Budget Director
Coleen Christie, Housing Manager

FROM: Maxine Calloway, Esq., A.I.C.P., Director of Community Planning and Development

DATE: August 24, 2012

RE: Reimbursement of NSP1 Line of Credit from General Funds-HUD Audit-Conflict of Interest Finding

Mr. Manager, attached please find a letter dated July 26, 2012, from the U.S. Department of Housing and Urban Development (HUD) regarding their most recent audit of the City's HOME and NSP1 programs.

As a result of the audit, the City was found to be in violation of the CDBG Conflict of Interest regulations that govern the NSP program. The finding stated that the City provided a Commissioner's mother NSP1 funds for the purchase and rehabilitation of a single family home without first seeking HUD's exception to the Conflict of Interest provision. The total amount expended for this NSP1 activity is \$154,802.02 ✓

As a correction action, in order to clear the finding, the City is required to reimburse a total of \$154,802.02 to its NSP1 line of credit from General Funds. ✓

Please authorize Finance to process the reimbursement immediately. ✓

Regards,

Maxine

MC/cc

Attachments: 1) Letter dated July 26, 2012
2) Expenditure sheet with supporting documentation



U.S. Department of Housing and Urban Development

Region IV, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Rm. 500
Miami, FL 33131-3042

July 26, 2012

Ms. Maxine Calloway, Esq., A.I.C.P., Director
City of North Miami
Community Planning and Development
776 N. E. 125th Street
North Miami, Florida 33161

RECEIVED

JUL 27 2012

COMMUNITY PLANNING
& DEVELOPMENT

Dear Ms. Calloway:

SUBJECT: Home Investment Partnership (HOME) Program
On-Site Compliance Monitoring Report – FY 2012
Grantee Name: City of North Miami

Our office has conducted a review of the City's HOME program, pursuant to the regulations for the Home Investment Partnership (HOME) Program (Section 92. et seq.). This review is required to determine compliance with applicable laws and regulations, and your community's continuing capacity to carry out the program in a timely manner. Additionally, a cursory review of the City's NSP1 Program was conducted to determine compliance with applicable laws and regulations and the community's continuing capacity to carry out the program.

The monitoring was conducted by Rafael Portuondo, Senior Community Planning & Development Representative and John Gordon, Community Planning and Development Specialist on June 12, 2012 through June 21, 2012; they met with you and members of your staff. The Areas selected for review were:

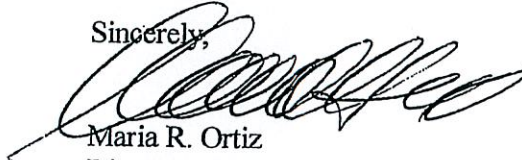
- Physical
- Management (e.g. overall management systems, program design)
- Services
- Financial (Match Requirements)

Verification of compliance consisted of a review of the City's internal documentation, and interviews with City staff. At the exit conference held on June 26, 2012, the HUD monitor discussed the results of the review and provided the City an opportunity to comment on our initial conclusions.

Enclosed are the conclusions of our review. Our evaluation resulted in two (2) findings and three (3) concerns for the HOME program and one (1) finding for the NSP1 program; a finding is a Federal violation that requires a response within 30 days from the date of this letter, a concern, although not a violation of specific regulations, if not addressed could result in violations and your remedies should be included in your response to this report. If you do not understand the basis for the findings or are unable to comply with the corrective measures within the required time frame, please contact our office for additional information.

We would like to thank you for the courtesies extended to our staff during the review. We appreciate your staff's cooperation and assistance. If you have any questions relating to the review, you may contact Mr. Rafael Portuondo, Senior Community Planning Development Representative at (305) 520-5016 or via e-mail rafael.a.portuondo@hud.gov

Sincerely,



Maria R. Ortiz
Director
Community Planning and
Development Division

Enclosure

Cc: Ann D. Chavis, Program Manager, USHUD
Lisa Bustamante, Program Manager, USHUD

Enclosure
Home Investment Partnership (HOME) Program
City of North Miami

Purpose of Evaluation

The purpose of this review was to conduct an assessment of the City's progress according to the stated goals and objectives of the approved Consolidated Plan as well as compliance with the Federal applicable regulations. The visit included: a) review of City records and other documents related to the program, and b) interviews with City staff.

II. HUD Staff Conducting the Review

Rafael Portuondo, Senior Community Planning and Development Representative
John Gordon, Community Planning and Development Specialist

III. Persons Interviewed during the Review

Maxine Calloway, Director
Coleen Christie, Housing Manager
Carolyn Francis-Royer, CDBG & IDIS Administrator
Otera Hart, Housing Coordinator

IV. Areas Assessed and Discussed during this Review

- Physical (e.g. homebuyer assistance)
- Management (e.g. overall management systems, program design)
- Services
- Financial (Match requirements)

V. Area Assessments and Conclusions Drawn

PHYSICAL

Homebuyer Assistance

The purpose of this review was to determine the City's compliance with the HOME homebuyer program requirements in the areas of participant eligibility, property eligibility, recapture/resale provisions, eligible costs, property standards, on-site inspections, contractor selection, construction management, and project documentation.

HUD monitoring staff reviewed eleven (11) files that represent 100 % of the City's First Time Homebuyer program files. This review resulted in no findings or concern.

MANAGEMENT

Overall Management

This review is designed to assess the overall administration of the PJ's HOME program. The areas reviewed were overall management, program progress, reporting and oversight, written agreements, HOME subsidy, HOME affordability requirements, Housing Quality Standards, recordkeeping and other related requirements. Our review revealed areas of non-compliance as noted below:

Finding No. 1: HOME Subsidy Layering.

Condition: Our review revealed that the City failed to follow the HOME Subsidy Layering Regulations per 24 CFR 92.250 (b) and its own policies.

Criteria: Per 24 CFR § 92.250 (b), "before committing funds to a project, the PJ must evaluate the project with guidelines that it has adopted for this purpose and will not invest any more HOME funds, in combination with other governmental assistance, than necessary to provide affordable housing."

Cause: Staff made its best efforts to implement the HOME regulations, but did not follow their policies regarding the minimum HOME investment requirements.

Effect: Failure to properly administer the HOME program in accordance with the HOME regulations can result in fewer beneficiaries being served and funds being reimbursed

Corrective Action: In order to close this finding, the City must perform a subsidy layering review to ensure that before committing funds to a project, it would evaluate the project in accordance with guidelines that it has adopted for this purpose and will not invest any more HOME funds, in combination with other governmental funds, than is necessary to provide affordable housing. The City must submit copies of all written subsidy layering reviews for all HOME projects that are not yet completed within 30 days of this letter.

Finding No. 2: HOME Open Activities

Condition: A review of the City's records and HUD's HOME reports revealed that the City is not entering project completion data information of completed HOME projects into HUD's Integrated Disbursement and Information System (IDIS) in a timely basis. A review of the City's most recent HOME Open Activities Report indicates that 2 open activities are not progressing.

The current status code for one of the activities (292) in IDIS indicates that it has been in final draw (FD) since Jan. 23, 2008. The other activity (272) is in a status code of final draw (FD) and over the 120 days completion threshold for activities for which a final draw has occurred (i.e.: 371 days) which is in violation of the final HOME rule.

The City is not meeting key indicators according to the SNAPSHOT of HOME Program Performance. During the period of review, the City had red flag indicators for: 1) the percentage of completed CHDO disbursements to all CHDO commitments; and 2) the percentage of occupied rental units to all rental units.

Criteria: The HOME final rule at 24 CFR 92.502(d)(1) requires PJs to enter project completion information into IDIS within 120 days of making a final draw for a project. PJs must report HOME project completion and beneficiary data for initial occupants timely by entering it in IDIS on a regular basis, and periodically review the status of all projects in the system to identify those that need to be cancelled. Failure to do so is a violation of this provision and of 24 CFR 92.504(a), which states that PJs are responsible for managing day-to-day operations of its program.

Cause: It appears that staff implementing the HOME program has not inputted the necessary project completion data information of completed HOME projects into IDIS as required.

Effect: Failure to provide satisfactory project completion data could result in HUD suspending further project set-ups or take other corrective actions. Further, failure to enter project completion data negatively affects a PJ's score on several SNAPSHOTS of HOME Program Performance indicators, understating actual accomplishments and reducing the PJ's statewide and national overall rankings.

Corrective Action: In order to clear this finding, the City must gather and report accurate accomplishment information in IDIS for all outstanding activities. The City must also submit evidence of adopted and written quality control systems in place to ensure that required project completion information and beneficiary data are complete, accurate and entered into IDIS at least monthly. Project completion information, including beneficiary data for any occupied units, must be entered into IDIS as soon as it is available. Beneficiary data for units that are vacant at the time of project completion must be entered as they are obtained. For homeowner rehabilitation projects, project completion data, including beneficiary data, must be entered as soon as the rehabilitation and final inspections are completed. For homebuyer projects (particularly those involving down payment assistance with no construction activity), project completion and beneficiary data can often be entered at the time that a final draw is made, as total costs, other financing sources, and occupant information are known at that time. If this is not possible, project completion information should be entered immediately after the closing. Evidence of the quality control system must be submitted to our office within 30 days of this letter.

Beneficiary Written Agreements

The purpose of this review was to determine the City's compliance with HOME requirements for beneficiary written agreements, specifically, homebuyer and homeowner agreements for participants utilizing the City of North Miami HOME funds for homebuyer assistance and homeowner rehabilitation assistance.

A limited review of randomly selected sampling of HOME executed beneficiary written agreements and supporting documentation revealed two (2) concerns.

Concern No. 1: Written Agreements

Condition: During the review it was noted that the HOME agreements being used for the rehabilitation program included the contractor, homeowner and the City in one agreement.

Cause: It appears that staff made their best efforts to fulfill program requirements, but had not been aware of what is required by regulations.

Effect: By including all parties in one agreement, the homeowner's personal information (i.e. terms, repayment, etc) would be exposed.

Recommendation: The City has agreed to separate the contractor and have new agreement between the homeowner and the contractor only. Please submit documentation showing that this process has been implemented.

Concern No. 2: Requalification of Applicants

Condition: During the review it was noted that an applicant received additional funds (i.e. original grant March, then on May and Dec) on three different occasions for work to be performed in his home within the same year. These funds were given without re-qualifying the applicant.

Cause: It appears that staff accommodated the applicant on three separate occasions.

Effect: Additional funds were used without verification of eligibility (i.e. income, etc) and/or delaying applicants in need of assistance.

Recommendation: The City needs to assure sure that staff adhere to the City's Program Guidelines as well as Federal Regulations. Please submit evidence that a policy is in place to avoid benefits being offered on several occasions during the same year.

Neighborhood Stabilization Program (NSP1)

The purpose of this review was to conduct an assessment of the grantee's progress according to the stated goals and objectives of the approved NSP Action Plan as well as compliance with the applicable Federal regulations.

The City of North Miami was awarded \$2,847,089.00 for Neighborhood Stabilization (NSP) for areas of the city that were designated areas of greatest need. The plan submitted by the city includes the activities of acquisition of single-family foreclosed homes, and rehabilitation of the single-family properties for both first time homebuyers and renters.

Finding No. 3: Conflict of Interest

Condition: Our review indicated that the City provided a Commissioner's mother NSP1 funds for the purchase and rehabilitation of a single family home without first seeking HUD's exception to the Conflict of Interest provision. The City is in violation of the CDBG conflict of interest regulations that govern the NSP Program.

Criteria: 24 CFR 570.611 in part states that, "the conflict of interest provisions of paragraph (b) of this section states no persons described in paragraph (c) of this section who exercises or have exercised any function or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regards to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties during their tenure or for one year thereafter". (c) *Persons covered.* "The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part."

Cause: The City staff has indicated that it was unaware of this requirement.

Effect: The City failed to meet the necessary requirements of the NSP program as it relates to the Conflict of Interest provision, which could result in less persons being assisted and funds being repaid.

Corrective Action: In order to clear this finding, the City must calculate all money expended for this activity and reimburse its NSP1 Line of Credit from Non-Federal funds within thirty (30) days of this correspondence, in addition the City must implement written policies and procedures to enforce the conflict of interest provisions and provide our office with a written copy, once available.

MANAGEMENT

Grantees are responsible for oversight and administration of its federal allocation. It is also important that grantees comply with HUD regulations, policies and procedures. The City provided a copy of its manuals, which entailed its policies and procedures for administering its HOME program. Based on our review of the documentation provided, it appears that the City is generally in compliance with HUD guidelines relating to overall management.

Our review revealed that the City used HUD's Section 8 income limits for the appropriate Fiscal Year (2010). Additionally, the review indicated that policies and procedures are in place for the City's HOME Program.

The February 28, 2012, HOME Status of Funds Report (PR27) shows that from FY'1992 through FY'2011, the City had received HOME allocations totaling \$4,834,628.00. Of that amount, the City has committed \$4,714,628.00 or 97.57% of its total HOME commitment requirement to individual activities. In the area of overall disbursements, the Status of Funds Report (PR27) indicates that of the total amount of funds committed in IDIS, the City disbursed \$3,741,813.39 or 85.7% of its total authorization. The City's overall performance in this area meets HUD's guidelines.

Our review revealed that the Home Deadline Compliance Report for the period ending January 31, 2012, indicates that the City has met its statutory 24 month commitment deadline for its FY2010 HOME allocation.

Concern No. 3: Staff Turnover

Condition: During our review it was noted that the City experienced a high volume of staff turnover in the past two years.

Cause: This was due to staff retiring or moving to different positions.

Effect: Because of the high turnover ratio (new housing manager, coordinator, etc) the City's capacity is affected.

Recommendation: The City should take advantage of participating in training opportunities that are provided by HUD as well as other independent contractors.

Environmental Requirements

This limited review is conducted to determine the City's compliance with the appropriate Environmental Requirements procedures as per 24 CFR Part 58. Although our review resulted in no concerns, the documentation provided by the City was transmitted to our Environmental Officer for their review.

Lead-Based Paint

This limited review was conducted to determine the City's compliance with Lead Hazards Rules of 24 CFR Part 35. Although there were no findings or concerns noted, the office of Lead Based Paint may conduct an in-depth review of the City's programs.

Recordkeeping

Under the HOME program, Grantees are responsible for keeping accurate records and securing files in accordance to 24 CFR 92.508. During the monitoring visit, staff reviewed the clients files for eligibility. The appropriate documentation, such as income verification, lead based paint review, inspections, vouchers, mortgage notes, insurance, and signage of documentation by all parties was found in each file reviewed. There were no findings or concerns noted.

FINANCIAL

Match Requirements

The City is responsible in ensuring that activities are carried out and documented according to the applicable federal regulations, including oversight on financial management. The City's financial matching records were reviewed in order to ensure compliance with 24 CFR 92.221. There were no findings or concerns noted with this portion of the monitoring review.