

2009 Final Stimulus Bill--Housing Provisions
February 13, 2009

Prepared by Citizens' Housing and Planning Association

The Conference Committee issued its version of the stimulus bill ([H.R.1](#) - The American Recovery and Reinvestment Act of 2009) on February 12. The following pages provide more detail on the bill provisions.

New Appropriations	Conference
Public Housing Capital Fund	\$4 billion (\$3 billion by formula)
CDBG	\$1.0 billion - for formula grants
HOME (for LIHTC Gap Filler only)	\$2.25 billion
Neighborhood Stabilization Program (NSP)	\$2.0 billion
Homelessness Prevention	\$1.5 billion
Section 8/ 202/ 811 Project-Based contracts (to ensure 12 month funding)	\$2.0 billion
Section 8/ 202/ 811 Energy Retrofit Grants/Loans	\$250 million
Native American Housing Block Grant	\$510 million
Lead Hazard Abatement	\$100 million
Self-Help/Assisted Homeownership	0
Total HUD	\$13.61 billion
Community Development Financial Institutions	\$100 million (new capital)
DOE Weatherization Program	\$5 billion*
LIHEAP (Fuel Assistance)	0
Community Services Block Grant	\$1 billion**
FEMA Emergency Food & Shelter	\$100 million
Rural Housing 502 loan authority	\$1 billion for direct loans \$10.472 billion for unsubsidized guaranteed loans \$200 million for loan costs, including costs of modifying (\$67million for direct, \$133 million for unsubsidized)
New Market Tax Credits	\$3 billion (\$1.5 billion each in 2008 and 2009)
Total Other	\$20.872 billion

* Bill also raises income limit to 200% of poverty, allowed investment per household to \$6,500 and allowed spending for training and technical assistance to 20%. Extends eligibility for re-assistance to homes weatherized prior to 9/30/1994.

** Bill also allows States to raise eligibility limit to 200% of poverty for FY2009, FY2010

Tax and Statutory Changes

Low Income Housing Tax Credit (LIHTC) Grant Exchange	Lets states exchange 2008 and 2009 9% credit allocations for upfront one-time grant set at 85¢ for every \$1 of credit exchanged times 10. States can exchange up to 100% of unused 2008 credits and up to 40% of new 2009 credits. Grant can assist non-LIHTC projects that meet LIHTC income limits, etc. Must spend by 1/1/2011.
LIHTC Accelerator	not in
Homebuyer Tax Credit Revision	Revises current first-time homebuyer credit for 10% of purchase price. For purchases between Jan. 1-November 30, 2009, raises maximum credit to \$8,000 and drops repayment requirement if principal residence at least 3 years.
FHA and GSE Loan Limits 2009	Keeps 2008 FHA and GSE limits as a floor and allows HUD or FHFA to set a higher limit for sub-areas if warranted by sub-area median home prices. [§1202]

Appropriation Details

Program	Appropriation Details
Public Housing Capital Fund	Provides \$4 billion in new funds, of which: <ul style="list-style-type: none"> • \$3 billion is to be distributed using the 2008 formula (can withhold from troubled PHAs and PHAs that decline funds) • \$1 billion to be awarded competitively • Up to 0.5% of appropriation can be used for HUD costs
Competitive grants	HUD shall use \$1 billion for competitive grants for “priority investments” including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments.
Mandated Priorities	In using funds, PHAs must give priority to: <ul style="list-style-type: none"> • rehab of vacant apartments • projects underway or in their 5 year capital plan • projects that can award contracts based on bids within 120 days from date funds are made available to them
Maintenance of effort	Requires HUD to take steps to ensure funds serve to “ <i>supplement and not supplant expenditures from other federal, state or local sources independently generated by the grantee</i> ”
HUD waiver authority/ limitations	Lets HUD waive or specify alternative requirements “ <i>for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds</i> ” as needed to “expedite or facilitate the use of such funds” (except fair housing, non-discrimination, labor standards and the environment). Also allows HUD to waive state and local procurement requirements. <ul style="list-style-type: none"> • makes “restriction of funding to replacement housing inapplicable” • explicitly bans use for operating or rental assistance activities
Obligation and spending deadlines	<ul style="list-style-type: none"> • HUD must obligate formula funds within 30 days of bill enactment and must obligate competitive grants by 9/30/2009 • PHAs must obligate 100% of funds within 1 year of date on which funds become available to them for obligation, spend at least 60% within 2 years of that same date and 100% within 3 years • HUD must recapture, reallocate funds from PHAs that fail any of the three deadlines
Assisted Housing Energy Retrofit Grants/Loans	\$250 million for grants or loans for energy retrofits and green investments to property owners with project based rental assistance under S202, S811 or S8 <ul style="list-style-type: none"> • <i>owners must extend term of affordability by time set by HUD (at least 15</i>

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	<p>years)</p> <ul style="list-style-type: none"> • Up to 5% of appropriation may be used by HUD for underwriting, loan oversight, and up to 1% for staffing, training, technical assistance, evaluation, etc. • <i>Grants or loans shall be provided through the “policies, procedures, contracts, and transactional infrastructure” of existing Office of Affordable Housing Preservation programs</i> • HUD can set terms and conditions as appropriate, including as needed to facilitate timely expenditure of funds • HUD can offer incentives to owners to undertake energy retrofits and green investments as part of these programs, including but not limited to fees for investment oversight and implementation or to encourage job creation for low- or very-low-income individuals • HUD may share in a portion of future property utility savings resulting from these grants or loans
Deadlines, Waivers	<p>HUD must take steps to ensure recipients spend funds within 2 years of receipt. HUD may waive or specify alternative requirements (except fair housing, labor standards, environmental and nondiscrimination) as needed to expedite or facilitate use of funds</p>
HOME Gap Filler funds	<p>\$2.25 billion to be distributed to state tax credit allocating agencies for capital investments in LIHTC projects</p> <ul style="list-style-type: none"> • Funds to be distributed to States based on the percentage of HOME funds each State (including its participating jurisdictions) received for FY2008 • Eligible basis shall not be reduced by the amount of any grant under this Section
Selection process	<p>Allocating agencies must:</p> <ul style="list-style-type: none"> • award funds <u>competitively</u> pursuant to their QAP to owners of projects who have received or receive simultaneously an LIHTC award. Projects that were awarded allocation in FY2007, FY2008 or FY2009 are also eligible for funding. • give priority to projects expected to be completed within 3 years of bill enactment • give HUD information on projects that receive funding under this program and HUD website must publish list of all projects receiving awards, award amount and link to the QAP used to make award
Deadlines	<ul style="list-style-type: none"> • States must commit at least 75% of funds within 1 year of bill enactment • Owners must spend 75% of funds within 2 years of date of bill enactment and 100% within 3 years. If owners fail to meet either deadline, state allocating agencies must “redistribute” these funds • Any funds not spent within 3 years of date of bill enactment shall be redistributed by HUD to other states that have used all funds • States must establish compliance and recapture procedures
Waivers	<ul style="list-style-type: none"> • Same as for other programs. • Projects must follow HOME environmental review requirements
CDBG	<p>\$1 billion in new funds for formula grants (using FY2008 formula) to 2008 grantees</p> <ul style="list-style-type: none"> • HUD must establish requirements to expedite use of funds. Can waive or specify alternative program requirements (except with regard to fair housing, etc.) to expedite use of funds as long as consistent with overall purpose of statute • Recipients must give priority to projects that can award contracts based on

Program	Appropriation Details
	bids within 120 days of date funds are made available to them
Neighborhood Stabilization Program (NSP)	<p>\$2 billion in new funds, to be awarded competitively (vs. by formula).</p> <ul style="list-style-type: none"> • HUD can use up to 1% for staffing, training, evaluation, etc. • HUD can use up to 10% of grant funds to provide “capacity building of and support for local communities” receiving NSP funds
Grant selection criteria; eligible entities	<p>All \$2 billion must be allocated <u>competitively</u>. HUD can set a minimum grant size.</p> <ul style="list-style-type: none"> • Eligible entities include states, units of local government and <i>nonprofit entities or consortia of nonprofit entities; nonprofits may submit proposals in partnership with for-profit entities</i> • HUD must ensure grantees are in areas with the greatest number and percentage of foreclosures and can meet spending deadlines below • Criteria for awards must also include grantee capacity, leveraging potential, and concentration of investment to achieve neighborhood stabilization, as well as any other criteria HUD establishes.
NSP Deadlines	<p>HUD must publish criteria for grant competition within 75 days of bill enactment with applications due to HUD within 150 days of bill enactment. HUD must obligate all funds within 1 year of bill enactment.</p> <p>Grantees must spend at least 50% of allocated funds within 2 years of date funds become available to them and 100% within 3 years.</p>
NSP Repayment Requirements	<p>Revises statute by repealing the requirement that revenues generated by the use of NSP funds had to continue to be used for NSP activities and some returned to the Treasury after five years. Still requires that all revenues generated to States and units of general local government be treated as CDBG funds (silent re: any nonprofit revenues).</p>
Revisions to Eligible Uses of Funds, Demolition Restrictions	<p>Makes minor revisions to statutory language regarding eligible uses:</p> <ul style="list-style-type: none"> • adds operation of land banks for homes and residential properties (as opposed to just establishment of land banks) • clarifies that NSP funds for redevelopment of demolished or vacant structures can only be used to redevelop them as housing • caps each grantee’s spending on demolition in connection with land bank and redevelopment activities at 10% of their grant unless HUD determines such use appropriate to local market conditions.
NSP Renter Protections	<p>Forbids grant and loan recipients from refusing to rent a unit in an NSP assisted dwelling to a household based on their status as a Section 8 voucher holder (applies to old NSP too starting date of bill enactment)</p> <p>Starting on date of bill enactment, successors in interest of foreclosed or other properties acquired with these funds:</p> <ul style="list-style-type: none"> • cannot evict bona fide tenants without giving them at least a 90 day notice to vacate (longer if required by state or local law), subject to any additional protections available to tenants with a subsidized tenancy, and • must honor leases of bona fide tenants until end of term (or subject to rights of state law if no lease or tenant at will), except can terminate upon date of sale to another purchaser who will occupy the property as a primary residence or if property is not marketable if tenant remains or if the owner or subsequent purchaser desires units for personal or family use. In any case must give bona fide tenants 90 day notice • must comply with terms of lease and HAP contract of any bona fide tenant who is a voucher holder at the time of the acquisition or financing. If public housing agency (PHA) is unable to make payments to the successor

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	<p>in interest due to action or inaction by the successor (e.g. rejection of rent payments, housing quality violations) or inability to make contact with successor, PHA may use funds it would have used to pay rent to (1) pay utility costs that are the responsibility of the owner under the lease or (2) reasonable moving costs for the family including security deposit costs</p> <ul style="list-style-type: none"> • Defines bona fide tenant as tenant, who is not the owner being foreclosed upon, with a lease/tenancy entered before the notice of foreclosure that is the result of an arms-length transaction and that requires “rent not substantially below fair market rent”.
Homelessness Prevention Fund	<p>\$1.5 billion for homelessness prevention and “rapid re-housing”. Funds to be distributed using the Emergency Shelter Grant (ESG) formula. Up to 0.5% of appropriation can be used for HUD costs.</p> <p>Funds <i>must</i> be used for:</p> <ul style="list-style-type: none"> • short- or medium-term rental assistance • housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location and moving cost assistance • other appropriate activities for homelessness prevention or rapid rehousing of persons who have become homeless • allows HUD to set a minimum grant size • requires grantees to track use of funds and persons served through HMIS or comparable system • lets grantees use up to 5% of award for administrative costs • allows HUD to waive program requirements (with usual exceptions)
Deadlines	<p>Within 30 days of bill enactment, HUD must publish a notice to establish the requirements needed to carry out this program. The notice will take effect upon issuance.</p> <p>Grantees must spend at least 60% of funds within 2 years of date funds become available and 100% within 3 years</p> <p>HUD <i>may</i> recapture unexpended funds in violation of the 2 year deadline and redistribute to other grantees.</p>
Waivers	<p>HUD may waive statutory or regulation requirements as needed to facilitate timely expenditures (with usual exceptions).</p>
Lead Hazard Reduction	<p>\$100 million – funds must go first to jurisdictions that applied for funding under the FY2008 NOFA for the Lead Based Paint Hazard Control Grant but did not receive award due to funding limits. Any remaining funds shall be added to the FY2009 NOFA amount.</p> <p>Allows faster environmental review process by treating certain programs – funded now or earlier- as “special projects” including Healthy Homes Initiative, Operation Lead Elimination Action Plan and Lead Technical Studies.</p> <p>Grantees must spend at least 50% within 2 years of date funds become available to them and 100% within 3 years</p>