

PRORATING NSP FUNDS

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How should grantees apply the statutory requirement regarding benefiting persons at or below 120% of AMI to multi-unit housing properties? Does the language in Section 2301(f)(3)(A)(i) of HERA mean that every unit in a multi-unit housing structure must be occupied by individuals or households with incomes at or below 120 percent of area median income?

Section 2301(f)(3)(A)(i) of the Housing and Economic Recovery Act of 2008 (HERA) requires that “all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income”. Paragraph (ii) of this section further provides that “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.” HUD has determined that these requirements shall be applied to NSP-assisted housing activities—those that meet the low- and moderate-income housing national objective criteria—as follows:

Meeting the 120% AMI targeting requirement:

- If a structure is assisted in whole or in part with NSP funds and it contains one housing unit, that unit must be occupied by a low, moderate or middle income household in order to meet the national objective requirements and the NSP income targeting requirement.
- If a structure is assisted in whole or in part with NSP funds and contains two housing units, at least one unit must be occupied by a low, moderate or middle income household.
- If a structure is assisted in whole or in part with NSP funds and contains three or more housing units, the proportion of units occupied by low, moderate and middle income households must be equal to or greater than the proportion of NSP assistance in the total project development costs borne by NSP funds. Thus, if NSP funds represent 50% of the total development costs for a project, then at least 50% of the units must be occupied by low, moderate and middle income persons upon completion and occupancy. If NSP funds are the sole funding source for a project, then all units must be occupied by low, moderate and middle income persons. If a grantee assists an income eligible homebuyer to buy a foreclosed fourplex, where the owner will live in one unit, and NSP funds represent 60% of the acquisition and rehabilitation costs, then 2 of the 3 rental units must be occupied by income eligible tenants; but if NSP funds were no more than 25% of the total costs, then none of the rental units need be occupied by income eligible tenants.
- Where two or more rental buildings being assisted are or will be located on the same or contiguous properties and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose to be a single structure.

- Activities such as acquisition of land, demolition, and installation of infrastructure that are undertaken as a precursor to, or otherwise support the development of housing, may be considered to meet this requirement based on the occupancy of the housing that actually results from these activities.
- If a unit is not initially occupied by the time that a grantee's grant is ready for closeout, it cannot be counted as having been occupied by an income-eligible household.
- Where a grantee can demonstrate that NSP assistance only assisted a specific unit in a multi-unit structure and not the structure as a whole—such as downpayment assistance for a homebuyer to purchase a condominium unit—then only that specific assisted unit must meet the income eligibility requirements.

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How should grantees count multi-unit housing properties toward the requirement to expend 25% of NSP funds for housing for persons at/below 50% of AMI? Do the requirements of Section 2301(f)(3)(A)(ii) mean that a grantee can only count expenditures toward the low-income housing targeting requirement if every unit in a multi-unit structure is occupied by a low-income individual or household?

Meeting the 50% AMI targeting requirement:

- In order to be countable toward the low-income targeting requirement, the NSP funds must be used for the purchase or redevelopment of abandoned or foreclosed homes or residential properties. Redevelopment of non-residential properties or residential properties that are not abandoned or foreclosed upon cannot be counted toward meeting this requirement.
- In order to be countable toward the low-income targeting requirement, the housing must be permanent housing that meets the LMMH national objective criteria. Homeless shelters, group homes for the developmentally disabled, etc. that are categorized as eligible public facilities cannot be counted toward meeting this requirement.
- If a structure is assisted in whole or in part with NSP funds and contains one housing unit, that unit must be occupied by a low income household (at or below 50% of AMI) in order to count NSP expenditures for the activity toward the low- income targeting requirement. In this case, 100% of the NSP expenditures can be counted toward this requirement.
- If a structure is assisted in whole or in part with NSP funds and contains two or more housing units, the proportion of NSP funds to the total development costs that can be counted toward the low-income targeting requirement is equal to the proportion of units occupied by low income households. If 30% of total development costs come from NSP funds, then 30% of the units in a multi-unit structure must be occupied by low-income households in order to count toward the low-income targeting requirement.
- For purposes of this requirement, it is irrelevant whether NSP funds are the sole funding source or are combined with other funds.