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Subcommittee on Insurance, Housing, and Community Opportunity
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Hearing on "Legislative Proposals to End Taxpayer Funding for Ineffective Foreclosure Mitigation Programs"
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Chairwoman Biggert, Ranking Member Gutierrez, and Members of the Subcommittee, my name is Katie Jones, and I am an analyst at the Congressional Research Service. I am honored to appear before the Subcommittee today. As requested by the Subcommittee, my testimony will provide background information on the four federal foreclosure mitigation initiatives that are the subject of the draft legislation that is the focus of this hearing. Those programs are the Home Affordable Modification Program (HAMP); the FHA Short Refinance Program; the Emergency Homeowners' Loan Program; and the Neighborhood Stabilization Program (NSP).

The Subcommittee specifically requested that I provide data on performance and funding metrics related to these foreclosure mitigation initiatives. Since CRS does not independently collect data, the numbers provided in my testimony come from data that are made publicly available by the Treasury Department, the Department of Housing and Urban Development, or other government entities. My testimony today highlights information that is discussed in my CRS Report R40210 entitled *Preserving Homeownership: Foreclosure Prevention Initiatives* and CRS Report RS22919 entitled *Community Development Block Grants: Neighborhood Stabilization Program; Assistance to Communities Affected by Foreclosures,* written by two of my colleagues. I have included both of these reports for the record. My testimony is limited to information contained in these reports and previous analyses that my colleagues or I have done in relation to these initiatives. CRS has not performed specific analyses of these programs for this hearing, and it has not performed any analyses of the draft legislation. As is its policy, CRS takes no position on these legislative proposals or on the initiatives themselves.

I have organized my testimony by first addressing the two foreclosure mitigation initiatives in question that are Obama Administration initiatives funded under the Troubled Asset Relief Program (TARP). I then address the two additional initiatives that were created by Congress. I will spend much of my time addressing HAMP and NSP, since these are the two initiatives that have been active for the longest periods of time.

HAMP

The first initiative that I will discuss is the Home Affordable Modification Program (HAMP), which was established by the Obama Administration using TARP funds. HAMP was first announced in February

2009, became active in March 2009, and currently has an end date for entering into new modifications of December 31, 2012. HAMP provides financial incentives to mortgage servicers, borrowers, and investors to facilitate mortgage modifications that lower borrowers' monthly mortgage payments to no more than 31% of their monthly income. Borrowers first enter into a trial modification, which is supposed to become a permanent modification if borrowers make all of their trial period payments on time and all other eligibility criteria are met. The financial incentive payments provided by the federal government are offered only for permanent modifications.

While HAMP is primarily geared to making monthly payments on first mortgages more affordable for borrowers, several additional components of HAMP that address related factors have been announced and implemented since HAMP first became active. These include the Second Lien Modification Program (2MP), which provides incentives for the modification of second liens when the first lien is modified through HAMP; the Home Affordable Foreclosure Alternatives Program (HAFA), which provides incentives to facilitate short sales and deeds-in-lieu of foreclosure as alternatives for borrowers who ultimately do not qualify for HAMP modifications; the Home Affordable Unemployment Program (UP), which provides for a three-month forbearance period for unemployed borrowers who meet the initial HAMP eligibility criteria; and the Principal Reduction Alternative (PRA), which requires servicers to consider reducing principal balances for certain homeowners who owe more than their homes are worth, although they are not required to do so. Additionally, mortgages insured by the Federal Housing Administration (FHA) can participate in a program known as FHA-HAMP, and mortgages insured by the Department of Agriculture's Rural Development agency can participate in a program called RD-HAMP. The start dates of HAMP and these related initiatives are included in **Table 1**.

Table 1. Start Dates of HAMP and Related Programs

Event	Date
HAMP Announced	February 18, 2009
HAMP Start Date	March 4, 2009
Start Date of 2MP	August 13, 2009
Start Date of FHA-HAMP	August 15, 2009
Start Date of HAFA	April 5, 2010
Start Date of UP	July 1, 2010
Start Date of RD-HAMP	September 24, 2010
Start Date of PRA	October 1, 2010
Anticipated Program End Date	December 31, 2012

Source: Table prepared by CRS on the basis of HAMP guidance.

In addition, Treasury has made several changes or updates to the program guidance for first-lien modifications since HAMP first became active. One such change was a requirement that servicers verify borrowers' income information before approving a trial modification, rather than approving trial modifications on the basis of stated income information and requiring documented income information before a trial converted to permanent status, as was allowed by the initial program guidance. This change went into effect for all servicers on June 1, 2010. Another program change was a requirement that servicers evaluate borrowers for HAMP eligibility before referring a borrower to foreclosure, which also went into effect for all servicers on June 1, 2010. There have also been a number of enhanced disclosure and outreach requirements that have gone into effect over the course of HAMP's existence. In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act required certain changes to HAMP.

Namely, that law required that Treasury make a net present value (NPV) calculator available online, which Treasury has said it expects to be operational in Spring 2011; and that servicers provide borrowers with certain net present value test inputs upon denying a borrower for a modification, which went into effect for all servicers on February 1, 2011.

Program Funding

Treasury initially estimated that up to $75 billion would be spent on HAMP modifications. Of that amount, $50 billion was to come from TARP funds, and $25 billion was to be provided by Fannie Mae and Freddie Mac ("the GSEs") for the costs of modifying mortgages that they own or guarantee. The $50 billion in TARP funds has since been reduced to a total of $45.62 billion for HAMP and other housing programs. Treasury has reduced the amount of TARP funds that it has designated specifically for HAMP and its related programs to $29.91 billion, with the remainder of the funds designated for the FHA Short Refinance program ($8.12 billion) and the Hardest Hit Fund ($7.6 billion).

According to Treasury, as of February 25, 2011, $1.04 billion of the HAMP funding has been disbursed.[1] TARP funds spent on HAMP are used to pay incentive payments to mortgage servicers, borrowers, and investors in connection with first-lien modifications of non-GSE mortgages under HAMP. Some of the funding is also used for incentive payments under the related HAMP programs described earlier, as well as incentive payments related to modifying or extinguishing second liens under the FHA Short Refinance program.

Under the HAMP incentive structure, mortgage servicers receive an upfront incentive payment when a modification becomes permanent, and mortgage investors also receive a payment cost share incentive for successful permanent modifications. In addition, mortgage servicers can receive "pay-for-success" incentive payments of $1,000 per year for up to three years, and borrowers can receive pay-for-success incentive payments of $1,000 per year for up to five years in the form of principal reduction, if the borrower remains current on the modified mortgage payments. In other words, certain HAMP incentive payments are designed to be paid based on the *future* success of servicer actions in the *past*. For this reason, Treasury may continue to have a contractual obligation to pay servicers for their past performance under (or reliance on) the HAMP program, even if new legislation is enacted to terminate the program before its currently-scheduled end date.

While Treasury anticipates that the entire $45.62 billion currently designated for the three housing programs that use TARP funds (HAMP, FHA Short Refinance, and the Hardest Hit Fund) will be spent, a November report from the Congressional Budget Office (CBO) estimates that only $12 billion in TARP funds will ultimately be spent on these programs.[2]

Program Participation

In public announcements when HAMP began, the Treasury Department estimated that HAMP could reach between 3 million to 4 million homeowners.[3] As of December 2010, there were 521,630 permanent,

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[1] U.S. Department of the Treasury, *Daily TARP Update (Figures as of 02/25/2011)*, February 25, 2011, http://www.treasury.gov/initiatives/financial-stability/briefing-room/reports/tarp-daily-summary-report/TARP%20Cash%20Summary/Daily%20TARP%20Update%20-%2002.25.2011.pdf.

[2] Congressional Budget Office, *Report on the Troubled Asset Relief Program – November 2010*, http://www.cbo.gov/ftpdocs/119xx/doc11980/11-29-TARP.pdf.

[3] U.S. Department of the Treasury, *Making Home Affordable: Summary of Guidelines*, March 4, 2009,
(continued...)

active HAMP modifications. Another 152,289 modifications were currently active in the trial period that precedes a permanent HAMP modification, for a total of 673,919 currently-active modifications. At the same time, nearly 800,000 modifications have been canceled since the start of the program. Most of these were trial modifications that never converted to permanent status.[4] Note that these numbers include both GSE and non-GSE modifications; nearly 54% of all active HAMP modifications as of the December report were GSE loans.

Figure 1 shows the number of new HAMP trial modifications and new HAMP permanent modifications in each month in 2010. The number of new trial modifications decreased each month in the beginning of the year, but has somewhat leveled out in subsequent months. The number of new permanent modifications increased each month in the beginning of 2010, with a peak of over 68,000 new permanent modifications in April 2010. After that point, the number of new permanent modifications generally decreased over the next several months, although the numbers of new trial and permanent modifications both showed slight increases in the last months of 2010. In the last quarter of calendar year 2010, an average of 32,000 mortgages were entering a HAMP trial period each month, and an average of 28,000 modifications were transitioning to permanent status each month.

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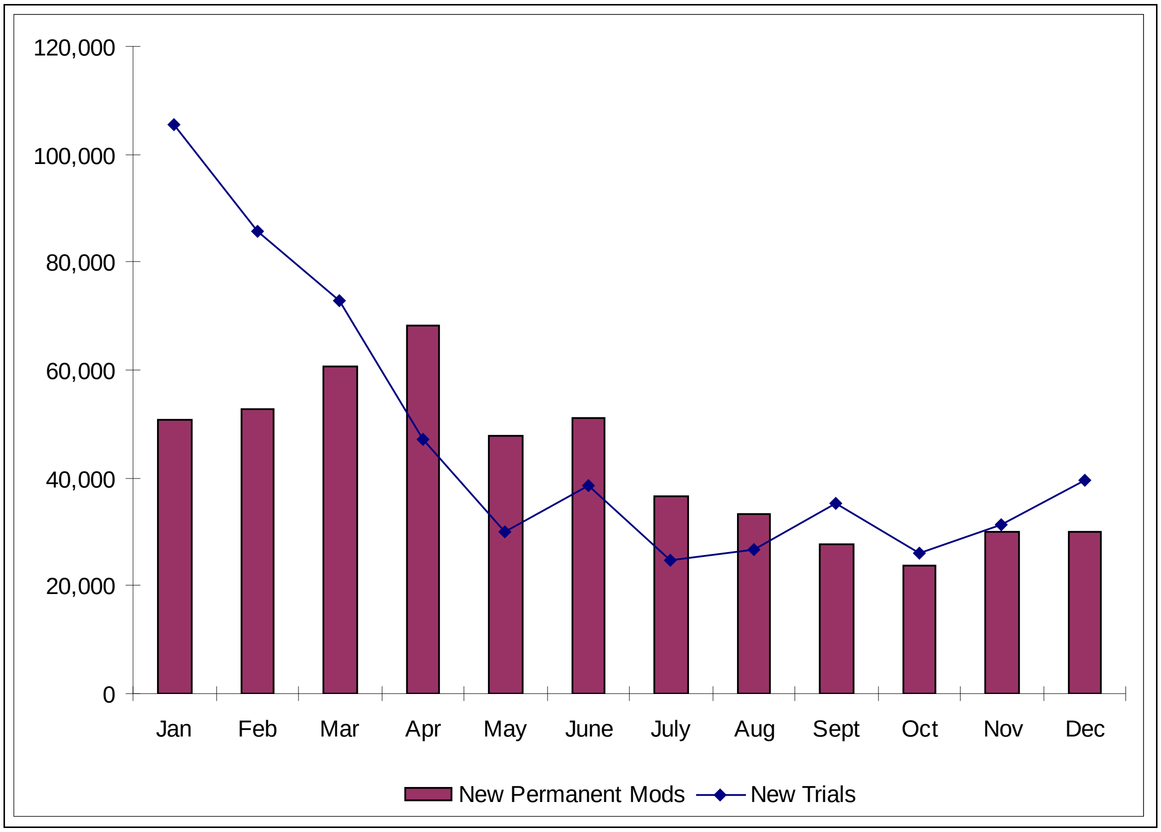
http://www.treasury.gov/press-center/press-releases/Documents/guidelines_summary.pdf.

[4] U.S. Department of the Treasury, *Making Home Affordable Servicer Performance Report through December 2010*, January 31, 2011, http://www.treasury.gov/initiatives/financial-stability/results/MHA-Reports/Documents/Dec%202010%20MHA%20Report%20Final.pdf.

Figure 1. New Trial and Permanent HAMP Modifications by Month

January 2010 – December 2010

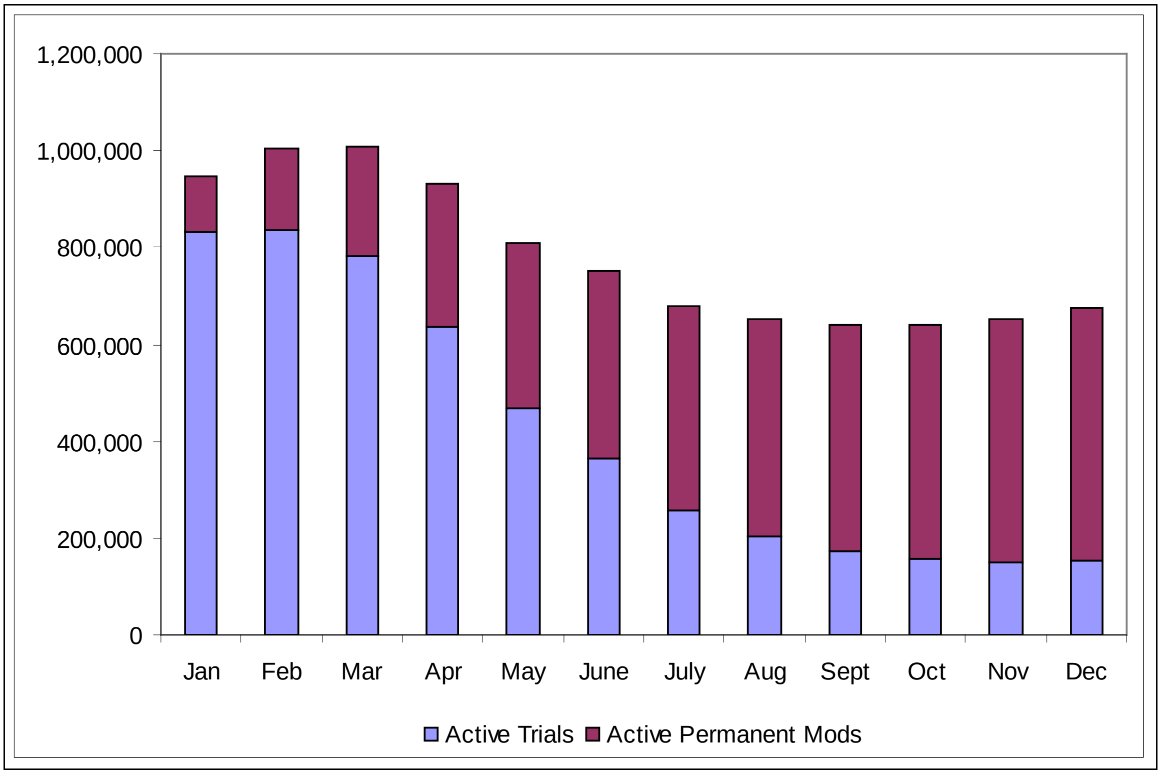


Source: Figure created by CRS based on data from Treasury's monthly Making Home Affordable Servicer Performance Reports.

Figure 2 illustrates the total number of active trial and permanent modifications, and their relative shares of the number of total active modifications, in each month between January and December 2010. The total number of active permanent modifications, and the proportion of active modifications that are permanent modifications, have both increased over the course of the year. This is to be expected as trial modifications convert to permanent status. The number of active trial modifications, and the total number of active modifications, has also decreased partly because a number of trial modifications have been canceled rather than converting to permanent status, and a smaller number of trial modifications have been beginning each month. While the total number of active modifications decreased for several months after a peak in March 2010, the number of total active modifications began to flatten out and then slightly increase in the last months of 2010.

Figure 2. Total Active Trial and Permanent Modifications by Month

January 2010 – December 2010



Source: Figure created by CRS based on data provided in Treasury's monthly Making Home Affordable Servicer Performance Reports.

In terms of redefault rates, the Treasury Department reports that about 20% of borrowers who receive permanent HAMP modifications are 60 or more days behind on their mortgages again twelve months after the modification became permanent.[5] The Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS), which put out a quarterly Mortgage Metrics Report, report similar numbers. For example, the OCC/OTS Mortgage Metrics Report for the Fourth Quarter 2010 reports that 14.4% of HAMP modifications completed in the fourth quarter of 2009 are 60 or more days delinquent nine months after the modification. This compares to a redefault rate of 30.3% for modifications performed during the same time period that took place outside of HAMP. [6]

FHA Short Refinance

The FHA Short Refinance program was established by the Obama Administration using TARP funds. It allows certain homeowners who are current on their mortgage payments, but owe more than their homes are worth, to refinance into new mortgages insured by the Federal Housing Administration (FHA), if the original mortgage lender agrees to write down the principal balance by certain amounts. The program was

[5] Treasury's *Making Home Affordable Servicer Performance Report through December 2010*, p. 4.

[6] Office of the Comptroller of the Currency and Office of Thrift Supervision, *OCC and OTS Mortgage Metrics Report, Third Quarter 2010*, December 2010, p. 37, http://occ.gov/publications/publications-by-type/other-publications/mortgage-metrics-q3-2010/mortgage-metrics-q3-2010.pdf.

announced in March 2010; detailed guidance on the program was released on August 6, 2010; and the program became effective on September 7, 2010. Currently, borrowers can refinance through the program until December 31, 2012.

Program Funding

Treasury has designated up to $8.12 billion in TARP funds for the FHA Short Refinance program to cover a portion of any losses that FHA experiences on defaulted loans through this program. Also, as noted earlier, a portion of the TARP funds set aside for HAMP will be used by Treasury to pay the costs of incentive payments to second lienholders to reduce second mortgage balances or extinguish their liens through this program.

Program Participation

The FHA Short Refinance program became active in September 2010. As of a January 2011 FHA report, 40 loans had refinanced through the program.[7]

A HUD economic impact analysis of the FHA Short Refinance Program notes that HUD cannot make a "definitive estimate" of the number of households that could utilize the program due to the voluntary nature of the program and the number of external factors that could impact program participation. However, the same analysis states that Treasury expects that 1 million households could refinance through the program, and HUD has established a range of between 500,000 and 1.5 million households to evaluate the program. HUD also states that it anticipates that most of these expected participants (60%) would sign up in the program's first year (FY2011).[8]

Emergency Homeowners' Loan Program

Congress established the Emergency Homeowners' Loan Program (EHLP) in the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), which was enacted on July 21, 2010. The Dodd-Frank Act reauthorized and made changes to the Emergency Mortgage Relief Program, which was initially established by the Emergency Housing Act of 1975. The legislation also provided funding to HUD to administer the program, effective October 1, 2010. Through the Emergency Homeowners' Loan Program, HUD will provide short-term, zero-interest, subordinate loans to some homeowners who meet certain eligibility criteria, and who have experienced a reduction in income due to unemployment or underemployment to help cover the cost of their mortgage payments. No payment on the subordinate loan will be due during the following five-year period as long as borrowers remain current on their first mortgage payments and continue to live in the home as their primary residence. HUD will forgive the subordinate loan entirely after five years if these criteria continue to be met.

The program is expected to begin taking applications in Spring 2011. By statute, no new loan agreements with borrowers can be entered into after September 30, 2011.

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[7] U.S. Department of Housing and Urban Development, *FHA Single-Family Outlook, January 2011*, p. 4, http://www.hud.gov/offices/hsg/rmra/oe/rpts/ooe/olcurr.pdf.

[8] U.S. Department of Housing and Urban Development, "Economic Impact Analysis of the FHA Refinance Program for Borrowers in Negative Equity Positions," http://www.hud.gov/offices/adm/hudclips/ia/ia-refinancenegativeequity.pdf.

Program Funding

Congress provided up to $1 billion in mandatory funding for the Emergency Homeowners' Loan Program in the Dodd-Frank Act. HUD has allocated this funding to the 32 states (and Puerto Rico) that are not eligible to receive funding under Treasury's Hardest Hit Fund Program; the funding was allocated according to each state's relative share of unemployed homeowners with a mortgage.

States that already have programs that are deemed to be "substantially similar" to the Emergency Homeowners' Loan Program can receive allocations of their share of funds for the cost of making loans under their existing programs. In states that do not have substantially similar programs, HUD has contracted with NeighborWorks America to perform administrative and outreach functions, including accepting applications from homeowners. Since the program is not yet taking applications, no funds have been dispersed to borrowers to date.

Program Participation

The Emergency Homeowners' Loan Program has not yet begun taking applications, but is expected to begin doing so imminently. The Conference Report that accompanied the Dodd-Frank Act did not provide an estimate of the number of borrowers that Congress expected could be assisted through this program. HUD also does not appear to have publicly announced an estimate of the number of borrowers it expects to receive loans through this program.

Neighborhood Stabilization Program

Congress established the Neighborhood Stabilization Program in the Housing and Economic Recovery Act of 2008 (P.L. 110-289), enacted on July 30, 2008, to allow states and local communities to purchase and redevelop foreclosed or abandoned properties. Congress subsequently provided additional funding for the program in the American Recovery and Reinvestment Act (P.L. 111-5), enacted on February 17 , 2009, and in the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), enacted on July 21, 2010. These components of NSP are identified as NSP-1, NSP-2, and NSP-3 respectively.

Program Funding

The Housing and Economic Recovery Act of 2008 provided $3.9 billion for NSP-1. HUD awarded the funds to states and local governments based on a formula that focused on the number and percentage of residential foreclosures and subprime loans. Each state was granted a minimum allocation of 0.5% of the amount appropriated. Only local governments who received a minimum allocation of $2 million were granted direct administrative control of NSP-1 funds. In total, 309 states and local governments met the minimum requirements to directly administer NSP funds.

The American Recovery and Reinvestment Act provided $2 billion for NSP-2. These funds were awarded competitively to states, local governments, or non-profit entities. For-profit entities could participate as direct recipients of funds when teamed with a state or local government or a non-profit entity. Funds were awarded based not only on need, as measured by highest number and percentages of foreclosed homes, but also on additional factors intended to measure project quality, such as a project's potential leveraging of other public and private sector funds. The program's Notice of Funding Availability (NOFA) required that the amount requested was to be of "sufficient size to contribute toward significant and measurable neighborhood stabilization." The minimum grant request could be not less than $5 million, and was required to return at least 100 abandoned or foreclosed homes back to the housing stock. On January 14, 2010, HUD announced the selection of 56 grantees. Most were consortia of local governments and nonprofit housing organizations.

The Dodd-Frank Wall Street Reform and Consumer Protection Act provided $1 billion for NSP-3, to be obligated using the same formula as NSP-1. Each state receives a minimum grant amount of $5 million. The minimum grant threshold for communities is $1 million based on the results of the formula used by HUD. Cities whose fund allocation is less than $1 million are rolled into its county's allocation. If the county's allocation falls below $1 million, its allocation is rolled into the state allocation. HUD announced 283 grantees on September 8, 2010. Grantees were required to submit their action plans to HUD by March 1, 2011.

Each of the rounds has specific deadlines that must be met with respect to the obligation and expenditure of funds.

- Under NSP-1, grantees had 18 months from the date HUD signed their grant agreements to obligate these funds and four years to expend allocations. According to HUD, 99.7% of NSP-1 funds had been obligated by grantees by September 30, 2010, and 55.4% of NSP-1 funds had been disbursed as of February 7, 2011.
- Under NSP-2, recipients are required to spend at least half of the funds within two years of their allocation date (February 2012), and 100% within three years of the date funds are allocated (February 2013). As of February 7, 2010, HUD reports that 9% of NSP-2 funds had been disbursed. All NSP-2 funds were obligated to grantees by the February 17, 2010 deadline established by ARRA.
- Under NSP-3, no obligation deadline was established in legislation; however, 50% of NSP-3 funds must be expended within two years, and 100% within three years.

Program Participation

According to data available to date, NSP-1 grantees are using funds principally for two types of activities: acquisition accounted for 33% of obligated funds, and residential rehabilitation accounts for 27%. As of January 13, 2011, HUD reported that NSP-1 grantees have completed 19,189 units, which may include rehabilitation activities, clearance and demolition, and new housing construction.[9]

[9] U.S. Department of Housing and Urban Development, FY2012 Congressional Budget Justification, http://portal.hud.gov/hudportal/documents/huddoc?id=Neighborhood_Stab_2012.pdf.