

The Neighborhood Stabilization Program: Questions and Answers For Housing Developers

Prepared by the
National Community Stabilization Trust (NCST)

A Project of:



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See StableCommunities.org
for possible updates and other information and NSP resources

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Readers Guide

Below is a compilation of Frequently Asked Questions (FAQs) and answers from HUD regarding the Neighborhood Stabilization Program with occasional comments by NCST (identified as “*NCST comment*”). These questions have been selected because they are pertinent to developers seeking to access NSP funds.

Questions and answers from the HUD website are identified as “HUD FAQ.” See the following link for all of HUD’s FAQs regarding NSP:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfaq.cfm>.

Questions and answers that HUD sent to us by email are identified as “HUD Response.”

Many local governments and developers are asking questions about eligible uses. HUD offers a thorough explanation and guide to NSP eligible uses which is attached as an appendix. Possible updates of this HUD document are available at this link:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspelibleuses.doc>

As HUD refines the NSP, we will continue to monitor the FAQs, request clarifications, and update this document. Please check <http://www.StableCommunities.org> for more recent versions.

1. Timeliness of Use & Expenditure of NSP Funds

Q: How long do States and local communities have to spend this money?

A: “Grantees have 18 months to obligate these funds, and four years to expend funds. Congress was very clear that this money be put to work quickly. In some areas, this level of federal funding will be unprecedented, so HUD will help these communities implement their programs. Meanwhile, we are actively encouraging local governments to coordinate with each other and with their state governments. Implementing these programs may require an area-wide or even regional approach. We believe it may require state and local planners to put their collective heads together to ramp up these programs in a very short time frame.” (HUD FAQ)

Q: What will happen if grantees don’t obligate their funding within 18 months?

A: “HUD will recapture the funds.” (HUD FAQ)

Q: The notice provides that HUD will recapture funds if a grantee does not spend an amount equal to its initial allocation within four years of receipt of the fund—referring to combined expenditures of grant funds and program income. If a grantee is successful in recycling program income and thus delays drawing down all of the grant, is there any ultimate time limit on drawing down the entire initial grant and/or reallocated grant funds?

A: “HUD will allow grantees to draw an amount equivalent to their NSP grant by month 48, including program income, so as not to penalize good performers.” (HUD Response)

2. Acquisition & Relocation

Q: What are the parameters of authority for an NSP grantee that is acquiring properties before receiving its grant award?

A: “A grantee can start incurring costs prior to receiving its grant award beginning September 29, 2008. If a grantee wants to start incurring costs beyond general planning and administrative costs, the grantee needs to comply with the provisions of 24 CFR 570.200(h) of the Entitlement regulations—most notably the environmental review requirements. A grantee must also identify these pre-award costs in the substantial amendment to its action plan which it is developing for NSP funding.” (HUD FAQ)

Q: Can NSP grantees use NSP funds to provide down payment assistance and cover closing costs for families purchasing foreclosed properties rather than acquiring property directly?

A: “Yes. Providing down payment assistance and closing costs to buyers are eligible under Eligible Use A. However, limiting your homeownership assistance activities to down payment and closing cost assistance may create additional challenges for you to meet the other program requirements such as stabilizing target areas of greatest need, ensuring that properties are vacant prior to purchase, and ensuring that properties assisted with NSP funds meet the housing habitability standards.” (HUD FAQ)

Q: Can an NSP grantee perform a neighborhood-wide appraisal to determine the current market assessed value of properties that are being considered for acquisition?

A: “No. NSP grantees must have an appraisal done on each separate property purchased with NSP funds. It may be possible to have one appraiser perform appraisals on multiple properties, but the appraisals must identify a value for each property. In other words, an "appraisal" that indicates that the median value of all 3-bedroom houses in the neighborhood is \$75,000, the median value of 2-bedroom houses is \$68,000, etc. would not be acceptable.” (HUD FAQ)

Q: Do NSP grantees need to identify the specific properties they intend to acquire with NSP funds in the substantial amendment to the action plan?

A: “No. The substantial amendment is submitted well in advance of program implementation and there are too many unknown factors that impact property acquisition making it nearly impossible for an NSP grantee to know specific properties they plan to acquire. For example, NSP grantees will not know what properties will be on the market several months from now or which properties are the best uses of NSP funds.” (HUD FAQ)

Q: If an NSP grantee incurs eligible costs through a failed acquisition of an abandoned or foreclosed property are the incurred costs still eligible?

A: “Generally, yes. HUD recognizes that an NSP grantee may investigate the acquisition of some properties and incur costs before acquiring it (such as the cost of an appraisal or a title search), but then decide that the acquisition is not feasible. In such a case, HUD would support an NSP grantee that chooses to walk away from a property that looks to be problematic, rather than getting bogged down and losing valuable time when the 18-month obligation requirement is drawing near. For drawdown and reporting purposes, a grantee can allocate the project delivery costs of property acquisitions (or considering purchasing) across all properties under the acquisition eligibility category.” (HUD FAQ)

Q: If the former owner is still living in a property, as a tenant, in a lender-foreclosed property, would the NSP grantee be required to pay relocation in order to acquire the property?

A: “In the situation where you have a home that “has been foreclosed upon” (required by NSP), the former-owner who is still in the property is usually no longer an owner (State law is going to dictate here). The former owner may be a tenant, if the new owner (the lender) has allowed them to stay under a lease agreement...or, they may not be a legal occupant and may be subject to a pending eviction (again, state law will dictate here). So, grantees need to be very careful about determining an “occupant’s” status and entitlements. An unlawful occupant (see 49 CFR 24.2(a)(29)) who is displaced for an NSP-funded acquisition will not be entitled to relocation assistance and payments. However, a lawful occupant displaced for an NSP-funded acquisition will generally be eligible for relocation assistance and payments under the URA.” (HUD FAQ)

Q: What if a grantee wants to purchase a property under NSP that is occupied by the former-owner (who is now a tenant under a lease agreement with the lender),

and intends to rehabilitate and re-sell the property to the former-owner/current-tenant? Would the tenant be eligible for relocation assistance during rehabilitation? What if they were not able to purchase the property at a later date?

A: “If the grantee does not intend to permanently displace a legal tenant during the acquisition and rehabilitation of a property, the grantee can provide the tenant with a Notice of Non-displacement (see Handbook 1378, page 2-4, D and the sample guide form in Appendix 4). You will find our Handbook on the web at www.HUD.gov/relocation .

It is quite possible that evicting or requiring a non-purchasing tenant to move for failure to meet the purchase requirements of your NSP program may make them eligible for relocation assistance. It is critical that you properly structure your “lease to own” agreement and program in accordance with federal, state, and local law and that you adequately pre-screen rent-to-own homebuyers before entering into an agreement with them. This may be a very risky program design.” (HUD FAQ)

Q: There is confusion about whether NSP funds can acquire any “real property” or only “homes and residential properties”. Can the NSP funds be used to rehabilitate foreclosed properties that are not residential when those activities will further neighborhood stabilization, such as a community grocery store?

[NCST Comment: We have asked HUD for clarification of this answer.]

A: “Yes, under Eligible Use E, a grantee may acquire demolished or vacant properties (including vacant structures) that are not residential for redevelopment. As noted in the question, these must generally be located in targeted areas of greatest need and support the activities in the area that are acquiring, repairing, and selling foreclosed or abandoned houses. Eligible Uses A, B, and C are limited to homes and residential properties.” (HUD FAQ)

Q: If an NSP grantee or subrecipient purchases a vacant foreclosed home with NSP funds and uses other private financing for the rehabilitation, can the LMA national objective be used, meaning the home could be sold to a household over 120% AMI (provided that the home is located in a low-mod area in accordance with the LMA/LMMA national objective)?

[NCST comment: “LMA” means Low- and Moderate-Income Areas; “LMMA” means Low-, Moderate-, and Middle-Income Areas.]

A: “No, this is not allowed in the NSP program. While it is true that the LMMI neighborhood will benefit indirectly from the acquisition and rehabilitation of a vacant home, the NSP Notice is clear that the primary beneficiary must be an LMMI household. As in the CDBG program, all housing rehabilitation activities must meet the national objectives as housing, not area benefit. The NSP Notice specifically states that an activity meets the HERA national objective if the activity “provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120% of area median income.” (HUD FAQ)

Updated 11/14/08

Q: If a non-profit wants to open a homeless shelter and they buy the property for the shelter before NSP funding is available, would the property still be considered vacant? If so, can a non-profit own a piece of property that is vacant and redevelop it?

A: “A nonprofit can undertake a public facility under 24 CFR 570.201(c), as part of Eligible Use E (Redevelopment). Under that regulatory provision, a nonprofit can own or operate a public facility provided that its services are available to the general public.

From the question, HUD assumes that the grantee or the nonprofit entity intends to use some source of funds other than NSP funds to acquire the property. Ownership of the property has no bearing on whether it is vacant, under Eligible Use E. A vacant property is one on which the land and/or buildings are vacant (unoccupied). If there are no structures on the property, then the vacant property can be redeveloped (a homeless shelter built on it) under Use E. If there are blighted structures on the property, the grantee or nonprofit could use other funds to demolish those structures; the property would then be vacant and can be redeveloped under Use E. If, however, the grantee or the nonprofit wishes to also use NSP funds to demolish any structures on the property, the demolition itself must be eligible under use D, and thus the buildings must be blighted. The grantee and the nonprofit should be aware that their acquiring the property with other funding may have implications regarding the applicability of Environmental and Uniform Act requirements, since NSP funds are clearly envisioned for eventual use in this project.” (HUD FAQ)

Updated 11/14/08

Q: Can NSP funds be used to refinance existing mortgages and prevent foreclosure?

A: “No. NSP funds may not be used to refinance existing mortgages and prevent foreclosure. The program was designed to stabilize communities through acquisition and redevelopment of properties that have already been foreclosed or abandoned. NSP grantees should design activities based on the eligible activities listed in the NSP Notice.” (HUD FAQ)

Updated 11/14/08

Q: URA regulations require grantees to send a letter to the seller (Bank) regarding the occupancy and other conditions 60 days before closing. Does this requirement apply to NSP? Can the appraisal be completed by the lender holding the property or must the acquiring entity order the appraisal?

A: “The NSP Notice requires that the buyer obtain an appraisal that is issued within 60 days from the date of the final offer. We realize that the initial offer may not comply with the purchase discount requirements so multiple offers may be made before a final purchase price is agreed upon. There is no time limit for “closing” an acquisition under NSP. The Agency must comply with 49 CFR 24.103 of the URA, which requires that the Agency order and obtain the appraisal.” (HUD FAQ)

Updated 11/14/08

Q: If a jurisdiction institutes a lease-purchase program, will the grantee be required to relocate the tenant if he/she does not qualify to purchase the property at the end of the lease term?

A: “Assuming this is a new tenant--who was not in the property at the time of the Initiation of Negotiations (ION) for acquisition, demolition, rehabilitation or conversion of a lower income unit for an NSP-funded project—someone the URA would consider a “subsequent tenant”: if before the tenant agreed to occupy the unit, they were provided with a Move in Notice (see 24 CFR 570.606(b)(2)(ii)(B)) that advised them they were occupying an NSP-funded project for a lease-to-own program and that if they were

unable to meet the eligibility requirements to become an owner within the program's time limit that they would not be eligible for relocation assistance under either the URA and/or section 104(d) (see Appendix 29 of Handbook 1378 for a sample Move in Notice) that neither the URA nor 104(d) relocation payments may be an issue. The key is that the tenant know the possibility that they could be displaced BEFORE they move in (so they could choose not to move in if they did not want to take the chance and agree to the terms of the project).

This brings to mind the eviction for cause standards in the URA 49 CFR 24.206. The issue may become what provisions relating to downpayment or other program eligibility requirements are stated in the lease and whether failure to meet those terms by some specified point in time would be considered "material" and is the nature of the breach "serious" or "repeated" and would be considered a basis for eviction under local law.

It is quite possible that a non-purchasing tenant may be made eligible for relocation assistance for failure to meet the homeownership requirements at a later date if they were evicted or asked to leave for failure to meet the requirements." (HUD FAQ)

Updated 11/14/08

Q: For a single family home that is being demolished and rebuilt, what type of environmental review will be required under NSP? Is a demo/rebuild considered rehabilitation or new construction? If new construction, will a full Format II be required?

A: "The level of environmental review required depends upon the program design and project description. The responsible entity should consider the use of the categorical exclusion at §58.35(a)(4) which reads:

A responsible entity (RE) may apply the categorical exclusion at §58.35(a) on an individual application basis, allowing the RE to use this categorical exclusion when an individual applicant is submitting an application for construction, demolition and/or reconstruction of dwelling units. For instance, if the RE designs a program where individual applicants will be submitting applications for new construction of up to four dwelling units, then each individual application may be considered to be categorically excluded per §58.35(a)(4)(i). Another example is if the RE designs a program where individual applicants will be submitting applications for a project of five more housing units on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site, then each individual application may be considered to be categorically excluded per §58.35(a)(4)(ii).

However, it should also be noted that if the program is clearly designed and intended to develop a specific block/neighborhood or other limited geographic area, then an environmental assessment for the program/area will be required." (HUD FAQ)

Updated 11/14/08

Q: Please clarify how an NSP grantee would redevelop blighted structures that do not fall under the definition of foreclosed or abandoned?

A: "To the extent that a grantee wishes to use NSP funds for activities that are eligible under only one of the five eligible uses, the five eligible uses listed in HERA and the NSP Notice can be viewed as severable and discrete. However, the provisions of the different Eligible Uses become cumulative if a grantee wishes to use NSP funding for multiple

eligible activities on the same project, and those eligible activities are not all categorized under the same one Eligible Uses.

Under Eligible Use E, a grantee may use NSP funds to redevelop a property that is vacant or has been demolished. Providing NSP funds are only used for redevelopment activities listed under Eligible Use E, the property need not be abandoned, foreclosed upon or previously residential.

If the property to be redeveloped is not vacant or previously demolished, NSP funds can be used to demolish structures on the property prior to redevelopment, under Eligible Use D. However, in order to use NSP funds for demolition, the structures must be blighted, but they need not be abandoned and they need not be residential.

If a grantee wishes to use NSP funds to purchase and then demolish and redevelop a property, then they must qualify the acquisition under Eligible Use B. Under Eligible Use B, homes and residential properties can be purchased with NSP funds if they are abandoned or foreclosed upon; the grantee can rehabilitate, sell, or rent such properties under Eligible Use B; the demolition can be undertaken under Eligible Use D, and the grantee can redevelop the properties under Eligible Use E.

If a grantee wishes to purchase a home and envisions redeveloping the property sometime in the future for some presently-unknown use, the acquisition can be undertaken under Eligible Use C, Land Banks; Eligible Use C can be used only for purchasing and maintaining or disposing of foreclosed upon homes; vacant property, abandoned property or nonresidential property cannot be purchased under Eligible Use C. However, if the redevelopment of the property is imminent, then Eligible Use C would not be appropriate, as the grantee's intent is clearly not to just buy the property and hold it for some indeterminate period for eventual reuse.

If a grantee wishes to use NSP funds to provide financing to another entity for that other entity to purchase or redevelop a homes or residential properties, that must be undertaken under Eligible Use A; the property must be foreclosed upon and must be residential.” (HUD FAQ)

Updated 11/14/08

Q: Can redevelopment activities be done in an area that does not have a lot of abandoned or foreclosed properties? One of the proposed redevelopment projects would call for the purchase of a vacant multi-unit complex (approximately 270 units of prior LMI housing) from a for-profit individual in the amount of over \$6million. Would the local grantee be able to purchase and redevelop it into a mixed income property?

A: “The NSP Notice requires grantees to give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, but it does not mandate that grantees work only in those areas. HUD advises grantees to have a strong rationale for undertaking projects outside areas of greatest need. If you have determined that your proposed project makes sense, the Notice would allow purchase and redevelopment of a vacant multifamily structure into a mixed use project.” (HUD FAQ)

Updated 11/25/08

Q: Must a recipient of NSP funds (grantee, subgrantee, non-profit organization, individual homebuyer, etc.) who will use NSP funds to acquire foreclosed property under the voluntary acquisition provisions of the Uniform Act (URA) provide written notice to the owner (bank, mortgagee, etc.) that it will not acquire the property if negotiations fail to result in agreement and inform the owner in writing of what it believes to be the fair market value of the property?

A: “Yes. The URA acquisition requirements apply to anyone who uses NSP funds (or any Federal financial assistance) to acquire property including any Agency, non-profit, or individual homebuyers who use federally-funded downpayment or other financial assistance. To meet the requirements at 49 CFR 24.101(b)(1)-(5) (commonly known as the URA voluntary acquisition requirements), the owner of record must be notified in writing that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, that the acquisition will not take place. Further, under the NSP, an appraisal of foreclosed property must be made to determine the current fair market value 60 days prior to making the final offer and the owner must be advised that, under NSP, the acquisition price must be at a discount from the fair market value (the offer price should reflect the discount proposed by the buyer). There are specific URA voluntary acquisition requirements that must be met depending on whether or not the buyer has the power of eminent domain and will not use it (see 49 CFR 24.101(b)(1)(i)-(iv)) or if the buyer does not have the power of eminent domain (see 49 CFR 24.101(b)(2)). Any acquisition under possible threat of eminent domain, cannot be considered a “voluntary acquisition” (even if the seller is willing to negotiate). HUD has developed a number of sample guideforms to assist NSP grantees in meeting these requirements. The guideforms and other information and resources are available on the NSP Acquisition & Relocation Resources page at: <http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm> “ (HUD FAQ)

Updated 11/25/08

Q: On page 58331, the NSP Notice requires the use of the URA appraisal process. Does that mean that grantees must do both an appraisal and a review appraisal?

A: “No. The Notice specifies that the URA appraisal requirements of 49 CFR 24.103 must be used in the valuation of NSP funded “foreclosed upon” properties. The URA review appraisal requirements of 49 CFR 24.104 are not required, nor is an appraisal review required. However, NSP grantees and subrecipients may choose to adopt an appraisal review process and URA appraisal review requirements for NSP funded acquisitions if they so choose.” (HUD FAQ)

Updated 11/25/08

Q: Must appraisers meet all state certification requirements and be FIRREA certified or could knowledgeable grantee staff perform this function?

A: “Persons performing appraisals of NSP funded acquisitions of “foreclosed upon” properties must meet the appraisal qualifications of 49 CFR 24.103(d). All persons performing such valuations must be qualified to perform an appraisal, even if they are on staff. The regulations at 49 CFR 24.103(d)(2) only require contract “fee” appraisers to be state licensed or certified. Staff appraisers are not required to possess such qualifications, however, they must be qualified. In most circumstances, staff appraisers possess a state

appraisal license or certification, even though they are not required to do so by regulation.” (HUD FAQ)

Updated 11/25/08

Q: If there were tenants in the property when the lender/servicer completed foreclosure and the lender/servicer completes the eviction process prior to initiation of negotiations for the sale of the property to a locality that uses NSP funds to acquire the property, does the locality need to comply with the 12-month look-back provision of the URA?

A: “There is no 12 month “look back” period in the URA statute or regulations. Any legal occupant who is evicted for the purpose of evading a relocation obligation may be eligible for assistance. The URA does address “Eviction for Cause” at 49 CFR 24.206.

Under section 104(d), HUD looks at “vacant occupiable” lower-income dwelling units that have been occupied within 3 months before the execution of an agreement for one-for-one replacement purposes and we would see this as a reasonable timeframe for any NSP grantee to consider when approaching an owner about purchasing a foreclosed property under this new program (for some level of assurance that the owner did not evict a legal occupant in order to sell the property as vacant to the grantee). However, a grantee must use due diligence when approaching any owner about purchasing property with Federal funds, particularly if the property is currently occupied or may have been recently occupied, to assure that the project does not influence the owner’s decision to evict an occupant and cause their displacement in order to participate in the grantee’s program.

Where an owner either evicts a tenant in order to sell a property as “vacant” to an Agency for a HUD-funded project, HUD will usually presume that the tenant was displaced “for the project.” In such cases, the Agency would be responsible for finding the displaced tenant and providing appropriate relocation assistance, unless the Agency can prove that the tenant’s move was not attributable to the project (see HUD Handbook 1378, Chapter 1, paragraph 1-6 J.1, regarding evictions for additional guidance).

<http://www.hud.gov/offices/adm/hudclips/handbooks/cpdh/1378.0/1378chp1CPDH.pdf>

(HUD Response)

Updated 11/25/08

Q: Normally under the URA, if a grantee is purchasing all or substantially all of the properties in a target area, those purchases must be considered to be “involuntary”. Under NSP, if a grantee is buying all or substantially all of the abandoned or foreclosed properties in a targeted area (for example for a land bank or an area of greatest need), would those acquisitions be considered “involuntary” and if yes, would the URA involuntary sale rules apply or would the NSP Notice text on page 58339 mean that the voluntary process would be followed?

A: “The URA does not use the terminology “target area.” We believe this question relates to “voluntary” acquisition requirements which must be fulfilled under 49 CFR 24.101(b)(1)(ii). While a grantee may be planning to purchase all of the abandoned or foreclosed properties in a targeted area, it is unlikely that this purchase will encompass all property located in an area (some properties will not be abandoned or foreclosed or for sale) and not all such properties may ultimately be acquired by the grantee if agreement cannot be reached. Unless this acquisition is being made under the threat of eminent

domain or for a specific designated purpose with defined boundaries that are limiting (such as construction of a multi-family housing project or a community center or park on a site defined as two specific blocks), we do not see that purchasing foreclosed properties for a land bank that has no specific end-result planned for the property at the time of the acquisition or make acquisitions of foreclosed properties that are randomly available in a specific zip code or neighborhood subject to the involuntary requirements. The acquisition of abandoned properties for a land bank is not an eligible use of NSP funds under (C) of the NSP notice.” (HUD FAQ)

Updated 11/25/08

Q: If NSP funds are combined with other federal funds in a project, including CDBG or HOME, would the NSP rules apply or the standard URA and 104(d) rules, including one for one replacement of units?

A: “It is possible that both would apply. The answer would depend on the nature of the project and the use of funds. If NSP funds are used to purchase a foreclosed property, then the acquisition is subject to the NSP requirements (appraisal, discount, etc.). If HOME funds are used for rehabilitation of this foreclosed property into rental housing affordable to low-moderate income persons, then the HOME rules on income eligibility, HOME rents, affordability period, etc. are applicable. If CDBG funds are used for demolition to convert a low-moderate income dwelling unit that was on this NSP-acquired property into a park, then the one for one replacement requirements of section 104(d) are applicable (even if NSP was used for acquisition of the property).” (HUD FAQ)

Updated 11/25/08

Q: Can NSP grantees redevelop property that was not foreclosed upon?

A: “Yes, under eligible use E, properties need not be foreclosed in order to be redeveloped. NSP only requires that these properties be demolished or vacant.” (HUD FAQ)

Updated 11/25/08

Q: Does “vacant property” refer to vacant land or vacant buildings?

A: “A vacant property under Eligible Use E can either be vacant land or vacant buildings on the land.” (HUD FAQ)

Updated 11/25/08

Q: Is vacant, undeveloped land eligible to be redeveloped under Eligible Use E?

A: “In order for a property to be “redeveloped” under Eligible Use E, it must have been previously developed and is now vacant. Raw land would not be eligible for redevelopment. It will be up to the grantee to demonstrate that the property had been previously developed. Previous redevelopment could include vacant buildings or infrastructure improvements such as roads, water, sewer, power lines, etc. However, land that has been farmland, open space, wilderness, etc. would not be eligible for redevelopment. The Department has not imposed any specific standard on how long a property has to be vacant in order to qualify for redevelopment under Eligible Use E; grantees should exercise reasonable judgment in this area. A property that had once been a factory and has been idle for 20 years is not going to raise any issue. However, reasonable minds might question using NSP funds to redevelop a site where the previous

development was demolished 100 years ago and the property has lain fallow ever since.” (HUD FAQ)

Updated 11/25/08

Q: After an NSP grantee acquires real property with its NSP funds, are subsequent transfers of real property subject to HUD’s environmental compliance review requirements?

A: “All HUD environmental compliance review requirements apply only to federally assisted projects. Therefore, as long as the CDBG requirements apply to the transfers of title and or the use of the property as a result of the transfer, HUD’s environmental review requirements also apply. For NSP this means that environmental review requirements will apply:

1. When an NSP-acquired or -assisted property is sold to a homebuyer, to some other purchaser such as to operate a multi-family building, or for a redevelopment purpose, and no more NSP funds will be used; or,
2. When all NSP funds that have been committed to the property have been expended on the property (no more than four years after receipt of funds); or
3. When a land-banked property is dedicated to a permanent use (in no more than ten years).” (HUD FAQ)

3. Homeownership Counseling

Q: If a homebuyer has previously completed homeownership counseling or previously owned a home, is additional counseling necessary to comply with the NSP housing counseling requirement?

A: “HUD will consider granting an alternative requirement for homebuyers who have previously completed homeownership counseling on a case-by-case basis. For homebuyers who previously owned a home, NSP grantees are expected to verify whether or not these homebuyers completed adequate homeownership counseling in the past to satisfy the NSP housing counseling requirement.” (HUD FAQ)

Q: Can NSP grantees provide homeownership counseling directly rather than contracting with a HUD-certified non-profit?

A: “Yes, a unit of general local government may provide homeownership counseling directly, as long as its counseling program meets the HUD standards for such counseling at 24 CFR 214, which was made final on September 28, 2007 and may be found at: <http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf>” (HUD FAQ)

4. Purchase Discount

[NCST comment: We are requesting written confirmation and advice on whether the discount rules apply if non-NSP federal funds are used for acquisition. During information sessions, we have heard HUD officials state that if otherwise qualified

properties are purchased with private funds, the purchase discount does not apply; and in those instances, NSP funds can be used to rehab or fund other NSP-eligible uses on these properties. This is yet to be clarified in writing.]

Q: The NSP Federal Register Notice addresses the purchase discounts of 5% and 15% respectively. One is considered an individual purchase discount (5%) and the other is purchases in the aggregate (15%). If an individual purchase is just that, the purchase of a single property in one transaction, how do you define a purchase in the aggregate?

A: “Aggregate purchases for NSP are defined as all properties that an NSP grantee purchases with its entire NSP grant.” (HUD FAQ)

Q: Purchasing units below the market value could further bring down the value of the homes in neighborhoods. To avoid this situation, can NSP grantees purchase homes at full price, with seller concessions to achieve the same result of paying less than full price, but the public record shows a market sales price? Likewise when the home is sold to a homebuyer, can NSP grantees sell it at market value, offer gifted equity and seller concessions so that the homebuyer does not pay more than the amount of the total eligible expenses?

[NCST comment: We are proposing to HUD another approach to achieve the same goal of preserving neighborhood property values. If we are successful, the approach will be posted on www.StableCommunities.org.]

A: “The HERA legislation requires that homes be purchased at a discount below appraised value. It is difficult to understand how such concessions could be accurately valued to demonstrate compliance with the law. Therefore, HUD does not approve this practice. However, appraisers can account for government actions that depress values in a market; hopefully this will not present undue problems.” (HUD FAQ)

Q: If a property seller does not agree to a purchase discount, can NSP grantees use other local funds to buy down the purchase price, thereby creating a purchase discount to comply with the NSP purchase discount requirement?

A: “No. Title III of the Housing and Economic Recovery Act of 2008 requires that any property purchased in whole or in part with NSP funds must be purchased at a discount, regardless of the sources of the money.” (HUD FAQ)

Q: How would the purchase discount requirements apply to a bulk purchase of properties?

A: “Arranging to purchase multiple properties in bulk may not have much effect on meeting the individual and aggregate purchase discount requirements. The individual discount requirement still applies to each individual house and an appraisal is required for each house. If a grantee made three different bulk purchases of 10, 20 and 7 houses each, and then separately bought 4 other houses one at a time, the aggregate purchase discount is applied to all 41 houses. However, using a bulk purchase arrangement might help the grantee to meet the lower, 10% aggregate discount, if those bulk purchase prices were determined using carrying costs & other factors identified in the notice.” (HUD FAQ)

Updated 11/25/08

Q: Does the purchase discount apply when an NSP grantee provides financing to an eligible individual for the purchase of a home?

A: “The purchase discount is required for all foreclosed homes acquired in part or in whole with NSP funds by the grantee directly or indirectly by individuals receiving NSP funding from the grantee.” (HUD FAQ)

5. Program Income

Q: The Federal Register Notice discussion on program income says that the sale of property must be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate the home or property, but the example talks about a \$25,000 profit. How can there be profits if the sale must be in an amount equal to or less than the acquisition cost?

A: “It is true that in some circumstances the sale of a property will not generate a profit, but there is a vital distinction. The requirement regarding the sale price has to do with selling a property to someone for use as their residence (see Notice section J). The example cited in the Federal Register Notice question concerns program income requirements, and it talks about selling a multifamily building (such as a rental property), but the example does not talk about selling individual units to individual homeowners; it talks about selling the entire building. Nothing prohibits selling a residential building to an investor, developer or a nonprofit for a profit.” (HUD FAQ)

Q: If an NSP grantee uses both NSP and CDBG funds to acquire and rehabilitate a property, how do you prorate the program income and in this situation can profits be generated?

A: “The proration is based on the amount of NSP and regular CDBG funds used. For example, if an entitlement community buys a property for \$10,000, rehabilitates it for \$10,000, and then sells it for \$22,000 (assuming the sale is not to an individual for use as a primary residence). The cost of acquisition and rehabilitation is paid with NSP funds (75%) and entitlement funds (25%). The NSP program income is \$16,500 (75% of \$22,000) and regular CDBG program income is (\$5,500). The profit that is subject to be returned to the Treasury is \$1,500.” (HUD FAQ)

Q: Can it be affirmed that this requirement allows states, units of local government and subrecipients to retain and reuse program income generated from financing and land banking activities?

A: “Regarding retention of revenues on financing, land banking, and demolition, yes, these are not required to be repaid in 5 years.” (HUD Response)

Updated 11/14/08

Q: Do the resale/recapture provisions apply to properties assisted with NSP funding?

A: “Yes. The resale recapture provisions to ensure continued affordability do apply. In its NSP action plan substantial amendment, a grantee will define “affordable rents” and the continued affordability standards and enforcement mechanisms that it will apply for

each (or all) of its NSP activities. HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e), and (f), and 92.254 to be in minimal compliance with this standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration (Note that HERA's continued affordability standard is longer than that required of subrecipients and participating units of general local government under 24 CFR 570.503 and 570.501(b))." (HUD FAQ)

Updated 11/14/08

Q: A grantee wishes to make a loan (the "NSP Loan") to a non-profit entity (the "Developer") to finance the purchase of foreclosed upon homes and residential properties for rehabilitation (or redevelopment) and resale to low- and moderate-income homebuyers. Upon completion of the rehabilitation (or redevelopment), the Developer will sell each property to an NSP income eligible homebuyer and take back a "purchase money mortgage" (i.e., a promissory note secured by a lien on the property). The payments received by the Developer on the purchase money mortgages will be used by it in accordance with NSP requirements to finance the purchase and rehabilitation (or redevelopment) of additional foreclosed upon properties for subsequent resale to NSP income eligible homebuyers. The Developer will take back a purchase money mortgage on each sale. The terms of the NSP Loan may provide for no interest and no principal amortization until the maturity date, and may contain such other terms as may be negotiated between the Developer and the grantee, subject to compliance with applicable NSP requirements. The NSP Loan terms may also provide for forgiveness of the Developer's repayment obligations, in whole or in part, upon completion of the approved activities, as specified in the NSP Loan agreement, in accordance with NSP requirements. Is this activity eligible?

A: "The activity can be carried out as a financing mechanism pursuant to Section 2301(c)(3)(A) if the grantee provides the NSP funds to the Developer as a loan that is evidenced by a promissory note or other obligation. The financing mechanism can be used to carry out the correlated eligible activities for Section 2301(c)(3)(A) that are listed on page 58338 of the NSP Notice published in the *Federal Register* on October 6, 2008."

Q: Must the revenue received by the Developer from payments on the purchase money mortgage be returned to the grantee or can it be retained by the Developer for similar uses?

A: "The NSP Notice provides that revenue received by a private individual or other entity that is directly generated by an activity carried out pursuant to Section 2301(c)(3)(A) must be provided to the grantee. However, since the grantee could immediately use that revenue to make another loan to the Developer for a similar activity, the loan agreement between the grantee and Developer can provide for continued use as described above, subject to compliance with all applicable NSP requirements. Grantees are reminded that Section 2301(d)(3) provides that, if an abandoned or foreclosed-upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition."

Q: Must the revenue be returned to HUD after five years?

A: “Revenue generated by activities carried out pursuant to Section 2301(c)(3)(A) does not have to be returned to the grantee after five years.” (HUD FAQ)

Updated 11/14/08

Q: How long do NSP grantees have to track program income on NSP-funded activities?

A: “As stated in the NSP Notice, program income from NSP-funded activities is subjected to limitations and requirements based on the NSP activity that generated the program income and on the date the income is received. Program income received before July 30, 2013, may be retained by the state or unit of general local government if it is used for eligible NSP activities. Program income received on or after July 30, 2013, must be remitted to HUD for deposit in the Treasury unless HUD approves a request to use the funds for other NSP purposes.” (HUD FAQ)

6. Eligible Uses

Q: Can an NSP grantee offer NSP funding to a person whose home has been foreclosed in order to buy back the same home or another home? Can a nonprofit purchase a foreclosed home and sell it back to the original owner whose home was foreclosed?

A: “Nothing would prevent a grantee from taking these actions so long as the person receiving the NSP assistance meets the income qualifications. However, it is up to the grantee to decide whether this is an appropriate use of their funds.” (HUD FAQ)

Q: Can NSP funds be used to redevelop a public facility (Eligible Use E) that will be owned and operated by a nonprofit (For example, turning a vacant library into a homeownership center owned and operated by a nonprofit organization)?

[NCST Comment: We have asked HUD for clarification of this answer.]

A: “Yes. Public facilities can be owned and operated by nonprofit entities. 24 CFR 201(c) provides the regulatory parameters for public facilities. It explains that nonprofit entities may acquire title to public facilities so long as these facilities are open for general use by the general public during normal hours of operation.” (HUD FAQ)

Q: Can clients eligible to participate in the Section 8 Homeownership program also participate in financing provided through the NSP? For example:

- 1. Can a Section 8 Homeownership client purchase a property that was acquired with NSP funding and made available for sale by a subrecipient?**
- 2. Can a Section 8 Homeownership client apply for NSP financing to acquire a home and then pay the mortgage with the Section 8 Homeownership Voucher?**

A: “Yes, persons with downpayment assistance, participants in lease-purchase programs, and Sec. 8 homeownership voucher holders may use those mechanisms to purchase an NSP home, whether from a subrecipient or directly from the unit of government. Additionally, prospective purchasers may receive financial assistance from the NSP program, through such means as downpayment assistance, to purchase houses that have been acquired with NSP funds. The grantee must ensure through its underwriting that

such forms of dual assistance do not overly subsidize the purchase, but they are allowed.” (HUD FAQ)

Q: New construction is an eligible activity under NSP, does the new construction have to follow the CDBG requirements and be done under 24 CFR 570.204 by a Community-Based Development Organization?

A: “HUD does not have any specific restrictions on doing new construction of housing beyond the normal CDBG program requirements. New housing construction does not have to be done by a CBDO to be eligible under the NSP program.” (HUD FAQ)

Q: Can land banking include purchasing a foreclosed or abandoned property that has a structure on it or does the property have to be vacant land?

A: “Where the definition of a land bank in the Federal Register Notice refers to “vacant” land, it is referring to unoccupied properties. Land banking activities may include properties with or without structures, as long as they are foreclosed upon as required by the land bank eligible use as described in the Notice.” (HUD Response)

Q: Can NSP funds be used to secure abandoned properties and minimize vandalism prior to rehabilitation?

A: “Yes. Securing property may be eligible as part of the rehabilitation costs or as a disposition cost under NSP depending on how your program is structured. Keep in mind the definition of “abandoned property” under the NSP Notice.”(HUD FAQ)

Q: According to the notice: “An activity may meet the HERA low- and moderate income national objective if the assisted activity ... creates or retains jobs for persons whose household incomes are at or below 120 percent of median income.” Is this relevant to program planning, implementation and compliance, since it appears that all eligible NSP activities can meet the low- moderate-income objective either by providing homes to low-, moderate-, and middle-income households (LMMH) or, in the case of demolition or land-banking, performing the activities in an area that has 51% or more LMMH?

A: “HUD anticipates that there may be some commercial redevelopment that occurs under Eligible Use E, Redevelopment, as this is being interpreted to allow acquisition of vacant commercial property. In some cases, new retail will serve an LMMA area; in others, it is possible that some small offices, over shops, might be built. This provision allows for job creation there, but HUD does not expect it to be extensively used.” (HUD Response)

Q: According to the notice, HUD will not consider the costs of “simply maintaining the property in a static condition” as a determinant of the sales price limitation. What is the definition of a “static condition”?

A: “I am providing an example to illustrate the definition: Static conditions are generally characterized by lack of activity or change. As an example for NSP purposes, a grantee may purchase a foreclosed upon home that needs rehab work. The grantee elects not to provide rehab, but to keep the property in the original state in which acquired. The grantee sells the property as is 6 months later. When determining the price at which

the property was to be sold, the grantee could not include the costs of maintaining the property in its original state for the 6 month period in which the grantee held the property.” (HUD Response)

Q: According to the definitions section of the notice: “HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure.” May a property be purchased through a short sale using NSP funds?

A: “Short sales are typically used to prevent a foreclosure. Owners use the proceeds of short sales to settle outstanding obligations with lenders. As such, the title to the property remains in the hands of the homeowner until the sale is executed. Accordingly, a short sale property would not meet the definition of a “foreclosed upon” property provided in the NSP Notice.” (HUD Response)

Q: If a mortgage lender requires that funds be allocated for operating reserves as a condition of the lender approving a mortgage for a multifamily housing project, can NSP funds be used for the operating reserves?

A: “Yes, NSP funds can be used for operating reserves if the NSP grantee can demonstrate that such a requirement is consistent with industry practices and the dollar amount of the required reserves is consistent with local industry standards.” (HUD FAQ)

Updated 11/14/08

Q: Can NSP funds be used for demolition of abandoned properties regardless of whether they have been foreclosed or not?

A: “Yes, this may be eligible under eligible use D, provided the structures meet a local definition of “blighted”.” (HUD FAQ)

Updated 11/14/08

Q: If a municipality completes a tax foreclosure on a property and keeps it vacant waiting for the market to rebound, would such a property be eligible for NSP funding?

A: “This could be eligible under eligible use C as part of a land bank or it could be eligible under eligible use B if the municipality is rehabilitating homes that will be sold, rented or redeveloped for income eligible individuals.” (HUD FAQ)

Updated 11/14/08

Q: Would such an activity still be eligible if the properties had been foreclosed and vacant versus foreclosed and operating under this scenario?

A: “No, eligible use B does not require NSP assisted homes to be vacant. It only requires that they be abandoned or foreclosed. Please see NSP Notice for definitions of abandoned and foreclosed.” (HUD FAQ)

Updated 11/14/08

Q: There will be a period of time between acquisition, rehabilitation, and resale where the NSP grantee will need to maintain the property (e.g. grass cutting, snow

removal, insurance, etc.). Can the NSP grantee recover those costs from NSP funds as a delivery cost related to the activity?

A: “Yes. Several sections of the NSP Eligible Uses, which are correlated with CDBG Eligible Activities on page 58338 of the NSP Notice, and excerpted below, allow Disposition. The CDBG regulations specifically permit temporary property maintenance as part of Disposition. The only constraint for NSP is that you cannot add these costs to the eventual purchase price.” (HUD FAQ)

Updated 11/14/08

Q: Can NSP funds be used to rehabilitate properties already in the municipality’s portfolio that were abandoned, vacant, foreclosed upon, or subject to tax sale prior to the housing crisis? If no, what is "prior to the housing crisis?" I don't see anything in the NSP Notice to support or negate this use.

A: “Yes. NSP grantees may use properties already in portfolio that meet the definitions of abandoned or foreclosed in the NSP Notice. Keep in mind the following advice from the Guide to NSP Eligible Uses, which you can find at this link: <http://hudstage.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspelibleuses.doc> (HUD FAQ)

Updated 11/14/08

Q: Will a portion of NSP allocations be set-aside for supportive services?

A: “There are no specific set-asides for any kind of use under NSP. However, grantees could use NSP funds to support such services in certain circumstances. It will depend on the grantee, the housing stock, etc. Please see the eligible uses in the NSP Notice for further details.” (HUD FAQ)

Updated 11/25/08

Q: How do we define “project” under NSP for the purpose of complying with the URA?

A: “The URA regulations define “program or project” at 49 CFR 24.2(a)(22). There is no alternative definition provided under NSP.” (HUD FAQ)

Updated 11/25/08

Q: If a home is purchased and rehabilitated with NSP funds: Is there minimum threshold for reselling the home?

A: “No. There is no minimum price threshold so long as the sale of the home conforms to the NSP affordability requirements”

Q: Does the buyer’s purchase discount count against the 50% limitation on direct assistance to homebuyers?

A: “The 50% limit applies to down payment assistance. Other means of writing down the purchase price such as purchase price discounts, soft second mortgages, etc. do not count against the down payment assistance cap.” (HUD FAQ)

Updated 12/11/08

Q: An NSP grantee acquires a home for \$100,000; rehabilitation costs \$100,000; by NSP requirements the maximum sale price would be \$200,000. Can the home be resold to an income eligible individual for \$100,000 in order to comply with the NSP affordability requirements?

A: “The poles between which you are working are maximum homeownership assistance payments based on NSP affordability requirements and “reasonable costs” determined by OMB Circular A-87. If it costs the NSP grantee \$100,000 to subsidize the acquisition and rehabilitation costs to make a home comply with the NSP affordability requirements, then that would be allowable and not unreasonable. However, if the NSP grantee subsidizes the home much further, you would need a solid explanation of the reasons to satisfy OMB A-87.” (HUD FAQ)

Updated 12/11/08

Given the challenging mortgage market our state Housing Finance Agency (HFA) would like to create a mortgage revenue bond loan program that would use prudent underwriting while reaching out to a lower credit score population with the use of NSP monies to fund a loan loss reserve for this HFA loan product.

Q: What documentation does NSP require grantees to maintain for loan loss reserves?

A: “HUD expects a grantee to be able to demonstrate that the methodology used to determine the interest rate that would be applied to individual loans be indicative of the net cost of losses on the loans. HUD prefers a methodology that reflects the following approach: the interest rate applied to loans should be developed based on estimates of future defaults (including timing), recovery rates (including timing of recoveries), and other factors (e.g., costs of recovery) that would affect the estimates of future losses. The loss rate used to determine the amount disbursed into the loss reserve as each loan is made should be derived by discounting net cash flows (i.e., losses-recoveries+/- other receipts/disbursements) to the present and dividing the result by the net present value of loan disbursements over the period that loans will be made. The estimates of future losses would normally be based on historical data for comparable loans.”

Q: Would at least 25% of the loans covered in the reserve need to be under 50% AMI?

A: “No, but the use of NSP funds by HFA would be included in the overall calculation.”

Q: Would the use of the NSP funds in the loan loss reserve escrow account be considered a direct use of NSP funds to each of those loans?

A: “Yes.”

Q: Would the use of these funds in a loan loss escrow require that each of the properties in the pool be subject to the Inspections, Environmental review, etc, requirements of NSP funds?

A: “Yes. If NSP funds are used with respect to any loan, the proceeds of that loan must be used in accordance with the requirements that would apply if NSP funds had been used directly.”

Q: Is there anything that would prohibit a borrower who uses the HFA loan that is backed by the loan loss escrow from using other NSP funds for down payment and/or rehab needs, if the NSP funds come through another non-profit within the state?

A: “NSP funds can be used to supplement financing under private loans so long as NSP funds are used in accordance with applicable requirements.”

Q: If there is interest earned on the loan loss reserve fund, it is our expectation that the earnings would remain in the loan loss escrow and over time provide the credit enhancement to more units. Is this acceptable?

A: “The methodology described above assumes that the interest earned on the loss reserve would be used in conjunction with the initial deposited funds to pay losses as they occur. Thus, it is not expected that material amounts of interest would be left to carry out additional activities.”

Q: Once the program income remittance date passes on July 30, 2013, could earnings continue to remain in the growing loan loss escrow until all of the loans in the pool have been paid off?

A: “Yes. Again, the methodology assumes that funds in the loss reserve will be invested and the earnings will be used (in conjunction with the original deposit) to pay losses as they occur.”

Q: Would the balance of the loan loss escrow, after all of the loans have been paid off, be required to be returned to HUD or could the HFA seek a waiver to keep the loan loss fund to continue to be a credit enhancement for another generation of loans?

A: “If funds remain after all loans are repaid, they should be returned to the NSP program accounts and used in accordance with requirements then in effect. Note that HUD expects grantees to periodically evaluate loss to the loss reserves and adjust the amount in the reserve based on actual experience on loans and estimates of future losses.”

Q: If NSP funds are used to finance homes with a 0% interest rate are the monthly principal repayments on the loan program income?

A: “Yes. The principal repayments received would be used to provide more buyers with the same program as funds accrue.”

Q: What documentation would be required for HFA to collect from program recipients since the NSP funds went to the HFA and not directly to the buyer?

A: “The HFA would have to document the current market appraised value, purchase discount, and income eligibility of the homebuyer.”

Q: Would the use of these funds in a loan loss escrow require that each of the properties in the pool be subject to the Inspections, Environmental review, etc, requirements of the NSP funds?

A: “NSP funds can not be used for loss reserves if it is taking back a mortgage.”

Q: Is there anything that would prohibit a borrower who uses this HFA loan from using any other NSP funds for down payment and/or rehabilitation needs, if the NSP funds are from another non-profit within the state?

A: “No. If other NSP funds are used to supplement the HFA assistance and the use of the NSP funds complies with applicable requirements, it is possible for a borrower to receive NSP funds for multiple purposes.” (HUD FAQ)

Updated 12/11/08

Q: Does a servicer of second mortgages derived from Neighborhood Stabilization Trust funds (CDBG) need to be a HUD approved servicer?

A: “There is no requirement in the NSP Notice regarding qualifications for servicers of second mortgages aside from conformance with OMB Circular A-87. NSP grantees (cities, states) may impose their own requirements in accordance with relevant state and local laws and regulations.” (HUD FAQ)

7. Public Facilities

Q: Can NSP funding be used to renovate vacant state- or federally-assisted public housing in NSP target areas?

A: “There is no prohibition against this use of NSP funds, but HUD encourages grantees to seek funding from the agency that owns the property as well.” (HUD FAQ)

Q: Can vacant public properties such as a city fire station be redeveloped under Eligible use E—redevelop demolished or vacant properties? The facility is located in a low-mod census tract needing a public facility for neighborhood activities.

A: “Simply locating it in an LMMI area is not sufficient in itself. If the redevelopment activities support the housing activities in the target area than YES it would be eligible.” (HUD FAQ)

Updated 11/14/08

Q: Can NSP funds be used for homeless shelters and transitional housing?

A: “NSP funds can be used to develop homeless shelters or transitional housing. Facilities designed to provide shelter for persons having special needs, such as homeless shelters and group homes, are eligible as public facilities under 24 CFR 570.201(c). Any such facilities that are not permanent housing would be categorized as a public facility. It is possible to redevelop demolished or vacant property for such use under Eligible Use E, Redevelopment. Under Eligible Use B, a grantee could purchase and rehabilitate residential properties for reuse as special needs housing.” (HUD FAQ)

8. Tax Liens

Q: According to the NSP Notice “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.” Is the NSP recipient the municipality administering the funds or are the subcontractors of the municipality? If it is the municipality, then would that preclude down payment assistance to a homeowner who purchases a HUD \$1 home from the municipality which must be in the chain of title or a municipal land-bank?

A: “The unit of general local government (municipality or urban county) is the recipient. Sales at nominal value (One Dollar Houses, for example) are acceptable. The recipient may use downpayment assistance to assist purchasers of tax-foreclosed houses. The concern in prohibiting third party purchases on tax-foreclosed properties is that grantees will in effect reimburse themselves for the value of the tax lien. HUD does not allow units of government to receive funds in this way, which would also reduce available NSP funding for other projects.” (HUD FAQ)

Q: Can NSP funds be used to pay “back taxes,” clear tax liens or other liens, code enforcement fines, etc. if they are associated with acquisition costs?

A: “Yes there are some situations where NSP funds could be used to pay these taxes, but the options are limited. First, NSP grantees cannot use NSP funds to repay taxes that they levied; if your jurisdiction levied the tax, than your jurisdiction would have to waive the tax. However, if the tax was levied by another jurisdiction, than your jurisdiction may pay off the taxes owed. In other words, if your jurisdiction is a city and the tax was levied by the county or state, than your city may pay off the taxes owed to acquire the property. Please keep in mind that you have only 18 months to obligate your jurisdiction’s NSP funds. Therefore, it is important that you be careful not to take on time consuming acquisitions. If a property has title or other legal issues associated with it that could delay the acquisition, we strongly encourage you to move on to the next property.” (HUD FAQ)

9. Household Income Requirements

Q: **The HERA legislation requires that 25% of the NSP funds shall be used for the purchase and redevelopment of residential properties that will be used to house individuals whose incomes do not exceed 50% of area median income. My city would like to purchase residential structures that will eventually be redeveloped by Habitat for Humanity or similar organizations, but expects that the redevelopment or rehabilitation will not take place for several years. Can we assign those units to the subrecipient without being certain of the date of redevelopment and still count them toward the 25% low-income set-aside?**

A: “No. The income targeting requirement is based on actual occupancy. The units could be land banked for up to ten years. However, land banking is an area benefit activity (LMMA) that would not satisfy the 25% set-aside, which must meet the housing national objective. HUD will determine at grant closeout whether the 25% below 50% requirement has been met. If the houses are not occupied by that time, they will not count toward any housing goal.” (HUD FAQ)

Q: **In leveraging NSP funds with other private funds to create rental housing, do ALL of the units created need to be affordable?**

A: “Yes. HUD’s current policy is that NSP funds cannot be prorated; therefore you could not operate your program in this way. However, the subject is under active discussion and the policy may be liberalized. HUD has interpreted the legislative mandate that all NSP funds benefit LMMI persons in a literal way, meaning that any mixing of funds might violate the longstanding CDBG rule that projects assisted *in whole or in part* with these funds must meet all requirements. On the other hand, one can make a reasonable argument that, as long as the NSP funds only benefit LMMI persons, the additional funds would not undermine the legislative intent. This approach would also support the Department’s goal of promoting mixed-income communities.

For the present, please refrain from such projects. If the Department does change this policy, it is expected to happen before grantees receive approval to use their NSP funds. Thus it could be incorporated soon enough to become a viable tool. This policy change would be posted on the NSP website.” (HUD FAQ)

Q: Do you know if the amount of NSP funds for housing to households with incomes equal to or less than 50% AMI is based on the entire grant or the grant minus 10% taken off top for administrative costs?

Example 1: Grant is 100,000. Amount to very low income is \$25,000.

Example 2: Grant is 100,000. Grant minus admin is 90,000. Amount to very low income is \$22,500

A: “Your Example 1 is the policy.” (HUD Response)

Updated 11/14/08

Q: How does HUD define “continued affordability” and how long do NSP grantees have to monitor NSP-funded activities?

A: “As stated in the NSP Notice, Grantees shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties under this section remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of Section 2301(f)(3)(A)(ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e), and (f), and 92.254 to be in minimal compliance with this standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration.” (HUD FAQ)

Updated 11/14/08

Q: Is it true that an NSP grantee may use NSP funds to purchase residential property to be used as a homeless shelter to provide transitional or temporary housing? Is it also true that these funds used for this activity will not count towards the 25% set-aside for very low income households?

A: “You may acquire residential property under Eligible Use B or non-residential property (Vacant land or vacant structures) under Eligible Use E. Under B, you could construct residential housing that is permanent housing (e.g. residential group home). In this case, if you can document that the residents are below 50% of area median income it would count toward the 25% set-aside. Under E, redevelopment, you could construct such facilities. Most shelters are not considered housing, since they are short term. You could assist with their construction as public facilities, but this would not count toward the 25% set-aside.” (HUD FAQ)

Updated 11/14/08

Q: The HERA law requires that 25% of a grantee’s grant must be used for activities that will house individuals or families with incomes at or below 50% of the area median income. The NSP program also allows a grantee to use up to 10% of its grant for general administrative and planning expenses. Is the 25% low income targeting requirement applied to the entire grant amount, or only to the 90% of the grant that is not used for planning and general administration?

A: “The HERA statutory language in question begins with the language “not less than 25 percent of the funds appropriated or otherwise made available under this section...” HUD believes that the 25% low income targeting provision must be counted against the entire grant amount. For example, if a grantee received an NSP allocation of \$4,000,000, and

uses \$400,000 for planning and general administration, it has \$3,600,000 for specific activities. The grantee must ensure that at least \$1,000,000 (25% of \$4 million) of its grant is expended for housing for individuals and families with incomes at or below 50% of the area median income. If it were to only expend 25% of the \$3.6 million (or \$900,000), it would not be in compliance.” (HUD FAQ)

Updated 11/25/08

Q: 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?

A: “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 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 contains two housing units, at least one unit must be occupied by a low, moderate or middle income household.
- If a structure 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 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 a 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.” (HUD FAQ)

Updated 11/25/08

Q: 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?

A: “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 contains one housing unit, that unit must be occupied by a low income household (at or below 50% of AMI) in order 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 contains two or more housing units, the proportion of NSP fund expenditures 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 the units in a multi-unit structure are occupied by low-income households, then a grantee can count 30% of the NSP funds expended on the project 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.” (HUD FAQ)

APPENDIX:
**Guide to Neighborhood Stabilization
 Program (NSP) Eligible Uses**

This Guide is designed to present the activities that are eligible to be assisted under the Neighborhood Stabilization Program (NSP) found in Title III of Division B of the Housing and Economic Recovery Act of 2008. For guidance on how to apply for NSP funds, consult the [NSP Quick Guide for Grantees](#) and the [Application and Checklist](#).

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I. GENERAL INFORMATION

1. LOW AND MODERATE INCOME REQUIREMENT

(Housing and Economic Recovery Act §2301(f)(3)(A)(i) and (ii))

Requirements for the use of NSP funds:

(1) All of the funds made available under this section are to be used with respect to individuals and families whose incomes do not exceed 120% of area median income.

(2) Not less than 25% of these funds are to be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income.

Note that NSP redefines and supersedes the definition of “low- and moderate-income” of the CDBG program by allowing households whose incomes exceed 80% but are no

greater than 120% of area median income to qualify for NSP funds. HUD will refer to this new income group as “middle income,” but continue to use the CDBG definitions of “low-income” and “moderate-income.” HUD will use the term “low-, moderate- and middle-income” (LMMI) to refer to the national objective of the program.

For more information on the 120% of area median income requirement consult <http://www.huduser.org/publications/commdevl/nsp.html>.

Meeting the National Objective:

NSP allows for the use of *only* the LMMI national objective.

- Activities may NOT qualify under NSP using the “prevent or eliminate slums or blight” or “address urgent community development needs” objectives as allowed in the overall benefit provisions of the HCD Act and the CDBG regulations.
- Note that although NSP changes the low and moderate income requirement level of the CDBG program, the remaining requirements of 24 CFR 570.208(a) and 570.483(b) regarding area benefit, housing, and limited clientele benefit remain unchanged.

Examples of how funds can be used to meet the national objective:

Housing Activities: Providing or improving permanent residential structures that will be occupied by a household whose income is at or below 120% of area median income (LMMH).

- Acquisition, Rehabilitation, Rental, Sale, Conversion, Construction of Housing Units
- Homeownership Assistance
- Infrastructure for housing as part of redevelopment
- All Units must be occupied by those meeting the low- and moderate-income requirement.

Area Benefit Activities: Benefiting all the residents of a primarily residential area in which at least 51% of the residents have incomes at or below 120% of area median income (LMMA).

- Grantees must identify the service area of each NSP-funded activity.
- HUD will provide data on the percentage of low-, moderate- and middle income persons, by census tracts and block groups.
See <http://www.huduser.org/publications/commdevl/nsp.html>
- Demolition, Acquisition, Lank Banks if maintenance and demolition also take place
- No use of the “upper quartile” provision for exception criteria communities.

Limited Clientele Activities: Serving a limited clientele whose incomes are at or below 120 % of area median income (LMMC).

- Housing counseling for prospective purchasers/tenants
- Public facilities such as emergency shelters, group homes

Meeting the 50% of area median income requirement:

- The requirement applies to each grant, not to the NSP program as a whole, nor each project or activity, nor each subrecipient.
- Compliance based on dollars, not number of units
- Principal way to comply will be through rental housing:
 - New construction or conversion
 - Acquisition
 - Rehabilitation

2. PRIORITY FOR AREAS OF GREATEST NEED

(Housing and Economic Recovery Act §2301(c)(2))

- In distributing NSP funds, grantees are to give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—
 - (A) with the greatest percentage of home foreclosures;
 - (B) with the highest percentage of homes financed by subprime mortgage related loan;
 - (C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.
- HUD has developed a foreclosure and abandonment risk score to assist grantees in targeting the areas of greatest need within their jurisdictions. Grantees may wish to consult <http://www.huduser.org/publications/commdevl/nsp.html>

3. CONTINUED AFFORDABILITY

- Grantees shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of section 2301(f)(3)(A)(ii), to remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.
- HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e) and (f), and 92.254 to be in minimal compliance with this

affordability standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration.

- If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the grantee must revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

4. TIMELY USE AND EXPENDITURE OF FUNDS

(Housing and Economic Recovery Act §2301(c)(1))

- Grantees must use NSP funds within eighteen months of receipt.

Relevant Definition:

Use for the purposes of section 2301(c)(1). Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity; for example, for acquisition of a specific property. Funds are obligated for an activity when orders are placed, contracts are awarded, services are received, and similar transactions have occurred that require payment by the state, unit of general local government, or subrecipient during the same or a future period. Note that funds are not obligated for an activity when subawards (e.g., grants to subrecipients or to units of local government) are made.

- A grantee will be deemed to have received its NSP grant at the time HUD signs its NSP grant agreement (or amendment thereto if funds are later reallocated to the grantee).
- Grantees must be expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP funds within four years of receipt of funds.

5. INFORMATION FOR STATES

- Unlike the CDBG program, states may distribute funds to or within any jurisdiction within the state (e.g. entitlement communities and Indian tribes) that is among those with the greatest need, even if the jurisdiction is among those receiving a direct formula allocation of funds from HUD under the regular CDBG program or NSP.
- Also, unlike the State CDBG program, a state receiving NSP funds may carry out NSP activities directly for some or all of its assisted grant activities in the same manner that entitlement communities are permitted under 24 CFR 570.200(f). Such activities include, but are not limited to, carrying out activities using its own

employees, procuring contractors, private developers, and providing loans and grants through nonprofit subrecipients (including local governments and other public nonprofits such as regional or local planning or development authorities and public housing authorities).

II. ELIGIBLE USES

(Housing and Economic Recovery Act §2301(c)(3))

1. FINANCING MECHANISMS

§2301(c)(3)(A) 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;

Relevant Definition:

Foreclosed. A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Correlated Eligible Activities from the CDBG Entitlement Regulations

- As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.
- Financing mechanisms used to carry out CDBG eligible activities listed below.

2. PURCHASE AND REHABILITATION

§2301(c)(3)(B) 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;

Relevant Definitions:

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.

Current market appraised value. The current market appraised value means 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, subrecipient, developer, or individual homebuyer.

Acquisition:

- Section 2301(d)(1) of HERA requires any purchase of a foreclosed-upon home or residential property under NSP be at a discount from the current market-appraised value of the home or property. Such discount shall ensure that purchasers are paying below-market value for the home or property.
- For mortgagee foreclosed properties, grantees must seek to obtain the “maximum reasonable discount” from the mortgagee, taking into consideration likely “carrying costs” of the mortgagee if it were to not sell the property to the grantee or subrecipient.
- Section 301 of the URA, regarding just compensation, does not apply to voluntary acquisitions.
- All acquisitions of property under NSP require an appraisal for purposes of determining the statutory purchase discount.
- For individual purchase transactions, the purchase discount is to be at least 5% from the current market appraised value of the home or property.
- For purchase transactions in the aggregate, the average purchase discount depends on how the purchase discount for an individual property is determined.
 - The average purchase discount shall be at least 10% if the State, unit of general local government, or subrecipient determines the discount for each purchase transaction through use of a methodology that results in a discount equivalent to the total carrying costs that would be incurred by the seller if the property were not purchased with NSP funds (provided the discount is at least 5%).
 - Such methodology shall provide for an analysis of the estimated holding period for the property and the nature and amount of the carrying costs of holding the property for this period.
 - Carrying costs shall include, but not be limited to: taxes, insurance, maintenance, marketing, overhead, and interest.
 - If this methodology is not used, the minimum average discount shall be at least 15%.

- 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.
- Grantees that are contemplating using NSP funds to assist an acquisition involving an eminent domain action are advised to consult legal counsel before taking action, as this may present problems with the Takings Clause of the Fifth Amendment to the U.S. Constitution and prior Supreme Court rulings.
- HUD is not specifying alternative requirements to the relocation assistance provisions at 42 U.S.C. 5304(d).
- Grantees are encouraged to acquire and redevelop FHA foreclosed properties. HUD provides information on such properties at <http://www.hud.gov/offices/hsg/sfh/reo/reohome.cfm>. Grantees may also contact their local HUD FHA office for further information.

Rehabilitation

- Any rehabilitation of a foreclosed upon home or residential property shall be to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. In their substantial amendment, grantees must define their housing rehabilitation standards that will apply to NSP assisted activities.
- Funds may be used for preservation, improving energy efficiency or conservation, or providing renewable energy source(s).
 - HUD encourages grantees to strategically incorporate modern green building and energy efficiency improvements to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.
- Grantees may fund costs, such as sales costs, closing costs, and reasonable developer's fees, related to NSP-assisted housing, rehabilitation, or construction activities.
- NSP funds may be used to redevelop acquired property for nonresidential uses, such as a public parks or mixed residential and commercial use.
- Grantees may rehabilitate property to be operated as rental housing by the grantee, by a subrecipient, by a lessee or by a purchaser. Grantees should note that the costs of purchase, rehabilitation, conversion and sale of such properties are eligible NSP activities, but the expenses of actually operating the rental

housing (such as maintenance, insurance, deficits in monthly operating income) and tenant-based rental subsidies are not eligible NSP activities.

Sale

- If an abandoned or foreclosed upon home or residential property is to be sold to an individual as a primary residence, no profit may be earned on such sale.
- Section 2301(d)(2) directs that the sale of such property shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.
- The maximum sales price for a property is determined by aggregating all costs of acquisition, rehabilitation, and redevelopment (including related activity delivery costs, which generally include, among other things, costs related to the sale of property).
- In determining the sales price, HUD will NOT consider the costs of boarding up, lawn mowing, maintaining the property in a static condition, or, in the absence of NSP-assisted rehabilitation or redevelopment, the costs of completing a sales transaction or other disposition to be redevelopment or rehabilitation costs.
- Each NSP-assisted homebuyer is required to receive and complete at least eight hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan.
- Grantees must ensure that homebuyers obtain a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages.
- Grantees are cautioned against providing or permitting homebuyers to obtain subprime mortgages for whom such mortgages are inappropriate.

Correlated Eligible Activities from the CDBG Entitlement Regulations

- 24 CFR 570.201
 - (a) Acquisition
 - (b) Disposition
 - (i) Relocation
 - (n) Direct homeownership assistance to persons whose incomes do not exceed 120% of median income.
- 24 CFR 570.202 Eligible rehabilitation and preservation activities for homes and other residential properties. Note that rehabilitation may include counseling for those seeking to take part in the activity.

3. LAND BANKS

§2301(c)(3)(C) establish land banks for homes that have been foreclosed upon;

Relevant definitions:

Land bank. A land bank is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purposes of the NSP, 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.

Land Bank Uses:

- A land bank may not hold a property for more than ten years without obligating the property for a specific, eligible redevelopment in accordance with NSP requirements. HUD does not believe that holding property alone is sufficient to stabilize most neighborhoods.
- The grantee must determine the actual service area benefiting from a land bank's activities.
- Grantees may pursue other Land Bank activities, however, NSP funds may only be used for acquisition
- For more information on land banks and examples of best practices visit: <http://www.hud.gov/offices/cpd/about/conplan/foreclosure/landbanks.cfm>

Correlated Eligible Activities from the CDBG Entitlement Regulations:

- 24 CFR 570.201
 - (a) Acquisition
 - (b) Disposition

4. DEMOLITION

§2301(c)(3)(D) demolish blighted structures;

Relevant definition:

Blighted structure. A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

General information:

- The national objectives related to prevention and elimination of slums and blight and addressing urgent community development needs (24 CFR 570.208(b) and (c) and 570.483(c) and (d)) are not applicable to NSP-assisted activities.
- NSP grantees will NOT be required to meet the requirements of 42 U.S.C. 5304(d) as implemented at 24 CFR 42.375, which mandates one-for-one replacement of low- and moderate-income dwellings units that are demolished or converted for activities assisted with NSP funds.

Correlated Eligible Activities from the CDBG Entitlement Regulations

- 24 CFR 570.201 (d) Clearance, for blighted structures only

5. REDEVELOPMENT

§2301(c)(3)(E) redevelop demolished or vacant properties

- Grantees may fund costs, such as sales costs, closing costs, and reasonable developer's fees, related to NSP-assisted housing, rehabilitation, or construction activities.
- New construction of housing and building infrastructure for housing is an eligible use.
- Grantees may redevelop property to be used as rental housing.
- Grantees are encouraged to acquire and redevelop FHA foreclosed properties. HUD provides information on such properties at <http://www.hud.gov/offices/hsg/sfh/reo/reohome.cfm>. Grantees may also contact their local HUD FHA office for further information.

Correlated Eligible Activities from the CDBG Entitlement Regulations

- 24 CFR 570.201
 - (a) Acquisition
 - (b) Disposition
 - (c) Public facilities and improvements

- (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties
- (i) Relocation
- (n) Direct homeownership assistance (for persons whose income does not exceed 120% of median income)

- 24 CFR 570.204 Community based development organizations
- New housing construction

6. ADMINISTRATION AND PLANNING COSTS
(Housing and Economic Recovery Act §2301(c)(3))

- An amount of up to 10% of an NSP grant provided to a jurisdiction and up to 10% of program income earned may be used for general administration and planning activities as defined at 24 CFR 570.205 and 206.
- For all grantees, including states, the 10% limitation applies to the grant as a whole.
- There is no state match requirement for administrative costs as exists in the CDBG program.
- Activity delivery costs, as defined in 24 CFR 570.206, may be charged to the particular activity performed above and will not count as general administration and planning costs.
- Pre-award Costs: A grantee may incur pre-award costs necessary to develop the NSP Application and undertake other administrative and planning actions necessary to receive the NSP grant, in compliance with 24 CFR 570.200(h). States may allow subrecipients to incur pre-award costs pursuant to 24 CFR 570.489(h).

7. OTHER USES

- If grantees would like to use funds for activities not specifically addressed, grantees must make a written request to their local HUD field office for approval. Such request must demonstrate that the proposed activity constitutes an eligible use under the NSP.
- If not otherwise stated, if an activity is ineligible under CDBG, it is ineligible under the NSP program.

- HUD will not consider requests to allow foreclosure prevention activities, such as refinancing mortgages and paying back taxes; or to allow demolition of structures that are not blighted; or to allow purchase of residential properties and homes that have not been abandoned or foreclosed upon as provided in HERA and defined in this notice