

MICHIGAN NSP2 CONSORTIUM

NSP2 Policy and Procedures Manual

Volume 1

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 2. Program Administration
 3. Cultivation of Developers and Program Partners
 4. Neighborhood Revitalization Planning
 5. Acquisition
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-

Updated January 6, 2011





NSP2 Policy and Procedures Manual

Volume 1
1/6/2011



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POLICY AND PROCEDURES MANUAL

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INTRODUCTION

I. INTRODUCTION

The Neighborhood Stabilization Program 2 (NSP2) was established to stabilize neighborhoods whose viability has been and continues to be damaged by the economic effects of properties that have been foreclosed upon and abandoned. NSP2, a term that references the NSP funds authorized by Title XII of Division A of the American Recovery and Reinvestment Act of 2009, (the Recovery Act) provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

On January 14, 2010, HUD awarded a combined total \$1.93 billion in NSP 2 grants to 56 grantees nationwide. This includes 33 consortiums at a regional level and four national consortiums carrying out activities in target areas throughout the country. HUD selected these grantees based on foreclosure needs in their selected target areas, recent past experience, program design and compliance with NSP2 rules.

The Michigan NSP2 Consortium received \$223,875,339 of its requested \$290,000,000. This represents the largest single NSP2 award. The Michigan NSP2 Consortium is as an unprecedented coalition of MSHDA, as lead applicant, 12 city governments, and eight county land banks to work together to remove blight and reposition neighborhoods in targeted NSP2-eligible census tracts. HUD views this as a national model and will examine the administration of this grant during the three-year program period.

II. WELCOME TO THE MICHIGAN NSP2 CONSORTIUM POLICY AND PROCEDURES MANUAL

The Michigan NSP2 Consortium Policy and Procedures Manual is the central management system and provides a series of guidelines, strategies, processes, tools and document templates to manage NSP2. MSHDA designed the Manual to standardize the compliance, reporting, documentation and funds management requirements of NSP2 and assist with effective and efficient program management.

A. Modules

Modules of the Manual include:

1. Policy and Program Guidelines and Design
 - NSP2 and Federal Regulations
 - MSHDA NSP2 Policy and Requirements
2. Program Administration
 - Setting up Your Internal Systems for Planning, Production of Units, Compliance, Financial Management and Auditing, and Governmental and Community Liasion
 - Introduction to OPAL: Project Set-up, Funds Management and Reporting
 - On-going Monitoring, Performance Review and Close-out
3. Environmental Review Release of Funds Process
4. Cultivation and Procurement of Developers and Program Partners
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- Housing Counselors
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 10. Marketing Strategies to Cultivate Buyers and Renters
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 - Homebuyer Affordability Subsidy
 - Link End Mortgages with Buyers
 - Lease Purchase Programs

B. Purpose of the Manual

The Manual seeks to assist MSHDA, Cities, Land Banks and program partners in the following:

1. Demystify NSP2, a federal housing & neighborhood program as well as a CDBG program and explain how NSP2 defaults to the requirements and eligible activities of CDBG when not provided in NSP2 Regulations Notice and ARRA.
2. Centralize the management systems and documentation of the Michigan NSP2 Consortium and streamline the compliance, reporting, documentation and funds management requirements of NSP2
3. Ensure compliance with NSP2 and CDBG for MSHDA, Cities, Land Banks, and Program Partners and expend funds within the three-year program period
4. Provide strategies, processes, checklists, tools and document templates that build the capacity of the Consortium for NSP2
5. Meet the housing and neighborhood goals for each target area.

C. How the Manual Works

This series of managing documents is a toolbox. A toolbox collects and organizes a variety of tools for a tradesman to complete his project efficiently and well. A toolbox stores different tools depending on the type, size and phase of the project. Some of those tools are in there based on recommendations from fellow tradesman on which tools work best for what.

The Michigan NSP2 Policy and Procedures functions the same way and is a work in progress, meaning:

1. MSHDA will introduce, in the order provided above, the modules within the first year of NSP2
2. MSHDA will ask Consortium Members to share their feedback on the modules as well as provide their own best practices and templates. MSHDA will update them regularly to improve their quality.
3. MSHDA will provide trainings either by Workshop, Web Meetings and/or One-on-one Site Visits

Most modules will contain:

- ❶ **Policy and Guidelines:** What are the overarching rules, regulations and policies required by HUD and MSHDA to manage NSP2 funds?
- ❖ **Strategy:** How should you design your program? What is the best way to complete an activity that is compliant, efficient, and effective and meets objectives? How will the interventions assist the stabilization and/or revitalization of targeted block or neighborhood?
- ★ **Process:** What are the steps in order to complete the activity? Who will you need to work with to complete the task? What is the timing and deadlines to complete the work?
- ☑ **Checklists:** What tools and documentation do you need to complete the work and be in compliance? When did you complete it?
- ⚡ **Tools:** How will you ensure that the project is compliant and feasible? That your developers and program partners were procured correctly and doing what they need to be doing? What important information do you need from the document and tools?
- 📄 **Templates:** What are the standard documents you will need to manage the program and project? What language is needed to ensure compliance, report the necessary information, outline the terms of the agreement, and describe specifically the work to be completed?

Do You Need an Answer?

Please submit clear and concise questions along with the facts and circumstances that provide context for your specific project.

NSP2 FREQUENTLY ASKED QUESTION PROCESS

After consulting the policy manual and/or policy bulletins, a consortium member or a Capital Access staff member submits a question to their Community Outreach Specialist (COS) or Grant Implementation Specialist (GIS).

The COS or GIS also consults the policy manual and/or policy bulletins for an answer and responds within 24 hours (if deadline cannot be met, the COS or GIS will forward to Sue DeVries). If the issue still isn't clear or additional assistance is required, the COS or GIS will seek guidance from the appropriate management or policy staff.

Assuming the answer does not already exist (i.e. this actually requires new guidance), the question is submitted to Sue who will verify the question with the grantee.

Sue will coordinate with appropriate staff to seek an initial response, write up the first draft, and provide it to the policy team.

The policy team will review the answer at or before its next weekly meeting, make any necessary changes, and sign off on the final answer.

Sue will follow up directly with the consortium member that submitted the question and their COS/GIS. She will publish the finalized Questions & Answers as available to the NSP2 Web site and notify the consortium by email of the update.



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POLICY AND PROGRAM GUIDELINES MODULE

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POLICY AND PROGRAM GUIDELINES MODULE

❶ POLICY AND PROGRAM GUIDELINES ❶

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I. FUNDING

Under the American Reinvestment and Recovery Act of 2009 (ARRA), Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. MSHDA, as lead applicant, twelve city governments, and seven land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative funds for MSHDA, Cities and Lands Banks.

MSHDA will allocate grants and administrative funds to MSHDA, Cities and Land Banks per each consortium member's Funding Agreement. CDBG Program rules apply to administrative funds. Please see your Funding Agreement for details related to amounts for administration and production funds.

II. FEDERAL REGULATIONS

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding Title XII of Division A of the American Recovery and Reinvestment Act of 2009 (ARRA) and any other correction notices and updates published by HUD.

The notices are posted at:

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

NSP2 Regulations and Federal Requirements

Because NSP2 follows CDBG program rules and regulations, unless stated otherwise in the NSP2 Notice, MSHDA and local grantees must comply with the Federal Requirements that govern CDBG. Federal requirements include:

- Environmental Review, where MSHDA and local grantee handle Tier 1 and Tier 2, respectively.
- Davis Bacon
- Fair Housing
- Lead-based Paint
- Section 3
- Uniform Relocation Act
- Procurement

MSHDA will provide further guidance, checklists and document templates in the corresponding modules to ensure compliance with these requirements.

General requirements apply to all NSP-eligible activities and are as follows:

Acquisition and Relocation

1. Appraisals are required on acquisitions of foreclosed properties valued over \$25,000 using NSP2 funds and must be completed within 60 days from the date of the final offer. A local grantee may submit an offer to purchase contingent upon completion of an appraisal and/or environmental

review. Appraisals must meet CDBG guidelines, and acquisitions must be voluntary. Appraisal guidance is found at:

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/docs/appraisal_guidance.doc

2. For homebuyer programs, a post-rehabilitation appraisal is required to determine sales price. The appraisal could be a combination pre- and post-rehabilitation appraisal.
3. Foreclosed properties with values less than \$25,000 do not require an appraisal. Instead, a written market valuation is required that is based on a review of available data and is made by a person qualified to make the valuation.
4. Non-foreclosed properties may be acquired with NSP2 funds without an appraisal. However, the local grantee must maintain documentation (such as a property valuation) that shows the price paid is reasonable under OMB Cost Principles.
5. When acquiring vacant property, local grantees or program partners shall verify property was (1) vacant through "Notice of Eviction" by lender, utility shut off or transfer, and/or physical inspection by local grantee and (2) not occupied by "bona fide" tenant through lender certification at the time of foreclosure. Adequate documentation for "bona fide" tenant is as follows:
 - A certification that only the former mortgagor and/or immediate family occupied the property at the time of the notice of foreclosure;
 - Copies of the tenant's lease and any notice to vacate from the ISII (describe ISII) to substantiate compliance;
 - Where a tenancy existed without a written lease or at will, information on the tenancy and any notice to vacate from the ISII (describe ISII) to substantiate compliance;
 - A certification of compliance with the NSP tenant protections (or the inapplicability of the tenant protections) from the initial successor in interest.
6. Local grantees or program partners shall purchase foreclosed property at a discount of at least 1% from current market value, based on an appraisal as outlined above in #1.
7. Local grantees or program partners shall only acquire property through voluntary acquisition. URA Voluntary Acquisition Form must be signed to document that the use of eminent domain was not involved for private to public transactions. Public to public transactions are exempt.
8. Local grantees are not required to meet the requirements of One-for-One Replacement of low and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP2 funds.

Demolition

1. Demolition of non-blighted structures is prohibited.
2. The demolition of blighted structures is also eligible with no required reuse in areas with at least a 51% concentration of LMMI households.
3. Demolition of blighted structures without property ownership is eligible, but local grantee will follow procedures outlined in Policy and Procedures Manual.
4. Garages or other subsidiary structures cannot be demolished if the parcel contains housing structures that are privately-owned and not part of an NSP2-funded redevelopment project.
5. Demolition of public housing is prohibited.

Rehabilitation / New Construction Standards

All homes that are sold or rented must meet local building codes, incorporate energy efficiency standards, and be marketable for households earning up to 120% AMI. Addition of bedrooms, bathrooms and

garages are allowed when needed for marketability. Note: construction of garages or other subsidiary structures cannot be a stand alone activity on a parcel.

Rehabilitation and New Construction Specs must meet OMB cost principles (reasonable and necessary costs). New Construction must meet 5-Star Energy Star standards; Inclusive Home Design standards are encouraged and may be required under applicable state law. Grantees are encouraged to set a high standard for renovation to assure long-term affordability, especially in the area of energy efficiency and repairs. Additionally, MSHDA encourages local grantees to incorporate feasible green technologies and environmental sensitive procedures and standards. In short, the NSP-assisted unit should be a model for renovation of other existing housing in the neighborhood. These standards and recommendations will be outlined in the Construction Module.

MSHDA will require the local grantee to place a Construction Mortgage and Note on NSP2-assisted housing for the amount of total NSP2 dollars intended for acquisition, demolition, rehabilitation or new construction, and associated delivery costs. Grantees are not required to include NSP2 funds needed for housing counseling or homebuyer assistance in the Construction Mortgage and Note.

Civil Rights and Fair Housing

An overview of the fair housing policies that apply to NSP2 are located at:

<http://nls.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/docs/summittheofacts.doc>

and

http://www.michigan.gov/documents/mshda_PB22_Fair_Housing_125351_7.pdf

Every local grantee has certified that they will affirmatively further fair housing in their funding agreement. Land Banks have the option to adopt and abide by their partner city's fair housing plan.

1. Local grantees should take the opportunity to review the local analysis of impediments to fair housing choice to determine whether an update is necessary at this time because of current market conditions or other factors.
2. Local grantees should evaluate their program design to ensure opportunities are available to all income-qualified persons and its policies are not discriminatory.
3. Local grantees must design programs and outcomes to be in compliance with accessibility requirements. (See the Fair Housing Act, the Rehabilitation Act of 1973, and the Americans with Disabilities Act).

Environmental Review

Background

The environmental review process for NSP2 projects follows the existing guidance outlined at 24 CFR Part 58, Environmental Review Procedures for Entities assuming HUD Environmental Responsibilities.

Structure of the Environmental Review for NSP2

Since local grantees will not be able to identify immediately specific project sites at the beginning of the program period, a *tiered environmental review* (24 CFR 58.15) will be the most effective way to organize environmental compliance.

A tiered environmental review consists of two distinct steps:

1. General Tier 1 Review

MSHDA conducts the Tier 1 environmental review, which involves a broad analysis of relevant, general environmental conditions in the NSP2 eligible census tracts. The Tier 1 also provides

structure for the Tier 2 review by establishing procedures for site-specific environmental compliance. MSHDA has completed Tier 1 for only residential property and received Release of Funds effective April 9, 2010 from HUD. Please contact MSHDA on conducting a Tier 1 for project involving non-residential structures.

2. Site Specific Tier 2 Review

The Tier 2 review focuses on site-specific environmental conditions that cannot be adequately evaluated at the Tier 1 level. Local grantees will complete the Tier 2 site-specific reviews.

Federal Labor Standards and Related Acts

Federal Davis-Bacon Wage Rates apply to laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with NSP2 funds in contracts for construction or rehabilitation of residential property for eight or more units.

Demolition work funded by NSP2, which is not related to future construction, e.g. demolition and land banking of blighted and foreclosed houses or demolition of privately-owned blighted building, is not subject to the labor standards requirement. However, where an existing building is being demolished as a phase of a construction project, both the demolition and the construction are covered.

Section 3

Section 3 of the Housing and Urban Development Act of 1968, as amended, ("Section 3") requires that economic opportunities generated by certain U.S. Department of Housing and Urban Development financial assistance for housing and community development programs be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and business concerns which provide economic opportunities to low- and very low income persons.

MSHDA and its grantees shall provide opportunities to low- and very low-income persons residing in the State of Michigan (as defined in § 135.5 of 24 CFR Part 135) and to businesses meeting the definition of "Section 3 Business Concern" (as defined by 24 CFR Part 135). Accordingly, MSHDA shall implement policies and procedures to ensure that Section 3, when required, is followed and develop programs and procedures necessary to implement this policy covering all procurement contracts where labor and/or professional services are provided, in order to achieve the goals outlined within the State of Michigan Consolidated Plan for Housing and Community Development. This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It will apply to contractors who install materials or equipment. The policy does not require the employment or contracting of a Section 3 resident or contractor who does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

MSHDA incorporates into this policy the definitions contained in § 135.5 of 24 CFR Part 135.

Catalog of Federal Domestic Assistance

Catalog of Federal Domestic Assistance (CFDA) provides a full listing of all Federal programs available to State and local governments (including the District of Columbia); federally-recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi- public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

The CFDA number for NSP2 is 14.256. CFDA 14.256 provides guidance to NSP2 grantees on the compliance requirements for NSP2 under OMB Circular A-133. OMB Circular A-133 sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. The OMB A-133 Supplemental Audit Guide for programs under ARRA at:

http://www.whitehouse.gov/sites/default/files/omb/assets/a133_compliance/arra_addendum_1.pdf

MSHDA also provides guidance on how to complete an audit at:

http://www.michigan.gov/documents/mshda/mshda_Supplemental_Audit_Guide_11_07_221269_7.pdf

National Objective

NSP2 does not permit using the national objectives of “prevention or elimination of Slum and Blight or “addressing urgent need” using NSP funds. All funds and projects, excluding administration, must meet the Low Moderate and Middle Income (LMMI) threshold. An NSP activity meets the LMMI definition if it:

1. Low-, Moderate- and Middle-income Housing Benefit (LMMH): Improves and provides housing that will be occupied by a household (owner or renter) at or below 120% of AMI (LMMH).
2. Low, Moderate, and Middle-income Area Benefit (LMMA): Serves an area in which 51% of residents have income at or below 120% of AMI.
 - Demolition of buildings that (1) pose an immediate threat to health and safety and (2) are part of a long-term neighborhood redevelopment plan because it removes blight and prepares the site for future redevelopment in an LMMA area.
 - Properties acquired, demolished and land banked
 - Disposition of Land Banked property with or without acquisition

Documentation must be collected at the local level and provided to MSHDA. It will consist of:

1. Low-, Moderate- and Middle-income Housing (LMMH): Income verification that beneficiary households are at or below 120% AMI, documented by a method acceptable to HUD.
2. Low, Moderate, and Middle-income Area Benefit (LMMA): Data verifying that property on which NSP-eligible activity is in NSP2 Census Tract and areas with at least a 51% concentration of LMMI households.

The table, “NSP2 Census Tracts by Income Categories” lists the Income Level of each of the NSP2 Census Tracts of the Michigan NSP2 Consortium. The income levels, national objectives and eligible activities of each of the various income categories are as follows:

Census Tract by Income Level	Definition	National Objective by Eligible Activities
Low, Moderate or Middle Income Level	Census Tract where <u>at least 51%</u> of the households earn at or below 120% AMI	<p><u>LMMH (Household Benefit)</u>: Acquisition, Rehabilitation, Redevelopment of housing in Census Tract that serves households earning at or below 120% AMI</p> <p><u>LMMA (Area Benefit)</u>: Acquisition for Land Banking, Demolition only of Blighted Structures, and Maintenance of Land Banked Property in Census Tract where at least 51% of the households earn at or below 120% AMI</p>
Upper Income	Census Tract where <u>less than 51%</u> of the households earn at or below 120% AMI	<p><u>LMMH (Household Benefit)</u>: Acquisition, Rehabilitation, Redevelopment of housing in Census Tract that serves households earning at or below 120% AMI</p> <p><u>LMMA (Area Benefit)</u>: Ineligible and therefore Demolition and Land Banking Activities cannot be conducted in Targeted Census Tract</p>
No Income	Census Tract where it is inconclusive what the Income Level is. These tracts are usually a Central Business District, Commercial, or Industrial Area	<p><u>LMMH (Household Benefit)</u>: Acquisition, Rehabilitation, Redevelopment of housing in Census Tract that serves households earning at or below 120% AMI</p> <p><u>LMMA (Area Benefit)</u>: Ineligible unless Grantee conducts survey demonstrating that Census Tract is primarily residential where at least 51% of the households earn at or below 120% AMI</p>

Michigan NSP2 Consortium Targeted Census Tracts - APPROVED BY HUD

Tract	City/Area	Income Status	Tract	City/Area	Income Status
BATTLE CREEK			HAMTRAMCK		
26025000100	Battle Creek	No Income	26163552000	Hamtramck	Middle Income
26025000200	Battle Creek	Moderate Income	26163552100	Hamtramck	Low Income
26025000300	Battle Creek	Moderate Income	26163552200	Hamtramck	Moderate Income
26025000400	Battle Creek	Low Income	26163552300	Hamtramck	Moderate Income
26025000500	Battle Creek	Moderate Income	26163552600	Hamtramck	Moderate Income
26025000600	Battle Creek	Moderate Income	HIGHLAND PARK		
26025000700	Battle Creek	Moderate Income	26163553000	Highland Park	Moderate Income
26025000800	Battle Creek	Middle Income	26163553100	Highland Park	Moderate Income
26025000900	Battle Creek	Upper Income	26163553200	Highland Park	Low Income
26025001000	Battle Creek	Middle Income	26163553300	Highland Park	Low Income
26025001100	Battle Creek	Moderate Income	KALAMAZOO		
26025001200	Battle Creek	Middle Income	26077000100	Kalamazoo	Moderate Income
26025001300	Battle Creek	Moderate Income	26077000202	Kalamazoo	Low Income
26025001400	Battle Creek	Middle Income	26077000300	Kalamazoo	Low Income
26025001700	Battle Creek	Upper Income	26077000500	Kalamazoo	Moderate Income
BENTON HARBOR			26077000600	Kalamazoo	Moderate Income
26021000300	Benton Harbor	Low Income	26077000900	Kalamazoo	Moderate Income
26021000400	Benton Harbor	Low Income	26077001000	Kalamazoo	Moderate Income
26021000500	Benton Harbor	Low Income	LANSING		
26021000600	Benton Harbor	Moderate Income	26065000100	Lansing	Moderate Income
DETROIT			26065000200	Lansing	Moderate Income
26163501900	Far East/East English Village	Middle Income	26065000300	Lansing	Low Income
26163502000	Far East/East English Village	Moderate Income	26065000400	Lansing	Middle Income
26163524700	Southwest/Boynton	Moderate Income	26065000500	Lansing	Moderate Income
26163524800	Southwest/Boynton	Moderate Income	26065000600	Lansing	Moderate Income
26163545300	Herman Gardens	Moderate Income	26065000700	Lansing	Low Income
26163545400	Herman Gardens	Low Income	26065000800	Lansing	Moderate Income
FLINT			26065000900	Lansing	Moderate Income
26049000100	Flint	Middle Income	26065001200	Lansing	Moderate Income
26049000300	Flint	Moderate Income	26065001300	Lansing	Low Income
26049001400	Flint	Moderate Income	26065001400	Lansing	No Income
26049001500	Flint	Low Income	26065001500	Lansing	Low Income
26049001600	Flint	Low Income	26065001600	Lansing	Middle Income
26049001700	Flint	Middle Income	26065002000	Lansing	Low Income
26049002700	Flint	Moderate Income	26065002100	Lansing	Moderate Income
26049002800	Flint	Low Income	26065006500	Lansing	Moderate Income
26049002900	Flint	Middle Income	PONTIAC		
26049003200	Flint	Low Income	26125141600	Pontiac	Moderate Income
GRAND RAPIDS			26125142200	Pontiac	Low Income
26081002200	Grand Rapids	Moderate Income	26125142300	Pontiac	Low Income
26081002500	Grand Rapids	Moderate Income	26125142400	Pontiac	Low Income
26081002800	Grand Rapids	Low Income	SAGINAW		
26081002900	Grand Rapids	Moderate Income	26145000100	Saginaw	Low Income
26081003000	Grand Rapids	Moderate Income	26145000400	Saginaw	Low Income
26081003100	Grand Rapids	Low Income	26145000600	Saginaw	Moderate Income
26081003200	Grand Rapids	Moderate Income	26145000700	Saginaw	Low Income
26081003500	Grand Rapids	Moderate Income	26145000800	Saginaw	Low Income
26081003600	Grand Rapids	Low Income	26145001600	Saginaw	Middle Income
26081003700	Grand Rapids	Moderate Income	26145001700	Saginaw	Moderate Income
26081003800	Grand Rapids	Moderate Income	26145001800	Saginaw	Moderate Income
			26145001900	Saginaw	Moderate Income
			WYANDOTTE		
			26163580600	Wyandotte	Middle Income
			26163580700	Wyandotte	Middle Income

III. PROGRAM ADMINISTRATION

Program Period and Expenditure

The program period for NSP2 is three (3) years, meaning that all NSP2 funds must be expended by February 10, 2013. In addition, HUD requires NSP2 grantees to expend 50% of their NSP2 award by February 10, 2012. HUD defines expenditure as total amount withdrawn from the U.S. Department of Treasury, not Treasury withdrawals plus use of program income. HUD still requires Grantees to spend program income first.

For example, a City received \$10 million dollars in NSP2 funds. By February 10, 2012, they must expend \$5 million, i.e. withdraw \$5 million from the U.S. Treasury. If they generate \$1.5 million in program income over those two years, then they must spend \$6.5 million to meet the 50% expenditure rule. If they generate \$3 million in program income during the first three years, then they must spend \$13 million

As a result, MSHDA will:

- Execute funding agreement with local grantees no later than April 1, 2010
- Submit funding agreements to HUD no later than April 10, 2010
- Conduct on-going monitoring of local grantee programs during the three-year program period
- Develop Michigan NSP2 Consortium Production Goals and Performance Measures to meet the 50% and 100% expenditure rule by Year 2 and 3, respectively, based on the original grant plus program income
- Recapture and re-allocate NSP2 funds based on local grantee performance during the three-year program period (see Expenditure of Funds: Production Goals and Performance)

Funds and Grant Management

Online Project Administration Link (OPAL) is MSHDA's online project administration link that is currently used to manage HOME, CDBG, and NSP1 grants to local government and non-profits. MSHDA and local grantees will use OPAL to manage NSP2.

Payment

Payments are made on a reimbursement basis and all NSP2 eligible costs must be documented in writing. Local grantees may submit payment requests as frequently as necessary to assure prompt payment. Note: If work is invoiced from the contractor to the local grantee and the local grantee submits request with invoice, the payment is considered a reimbursement even though payment has not been made to the contractor.

MSHDA will permit advances for acquisitions as long as Grantee has required documentation. MSHDA reserves the right to request documentation from Grantee as deemed necessary.

MSHDA requires 10 days to process payment requests.

Award Amendments

Costs incurred prior to approval of an amendment may not be reimbursed.

Award amendments should not impact the ability to meet the NSP2 50% AMI set-aside requirement.

Types of Award Amendments are:

Amend Grant, i.e. modification of amounts allocated to Eligible Uses: HUD's DRGR system requires that funding be allocated to specific Eligible Uses; any expenditure above the amount allocated requires

that MSHDA modify DRGR and that HUD approve the modification. To the extent possible, MSHDA will expedite the DRGR/HUD steps required for changes. Grantee can move dollars between NSP2 Eligible Uses without an award amendment.

Revise Budget, i.e. modifications of unit production or budgets within an Eligible Use: Local grantees will not be required to submit an amendment request to modify the units of production or per unit cost projections as included in the Funding Agreement, (e.g. balance between acquisition and rehab, or number of units demolished), as long as they can demonstrate that the project is feasible. Local grantee may amend activity line item budgets in OPAL within the same eligible use category without consultation of MSHDA. For example, under NSP2 Eligible Use B, local grantee may move funds from acquisition to rehabilitation without a formal OPAL amendment request.

Professional Services, i.e., modification of responsibilities across City & Land Bank: Grantee hires their Consortium Partner grant to manage a portion of their grant. This is managed through the City and Land Bank Operations Agreement.

Formal Funding Agreement Amendment, i.e. amending award across City & Land Bank Grants: Grantee decreases their award and increases Consortium Partner award. *MSHDA approval required before pursuing this option.* If approved Formal Funding Agreement Amendment, then this amendment requires approval of City, Land Bank, MSHDA and HUD and requires amending DRGR.

Grant Extensions

Due to the three-year program period imposed by ARRA, MSHDA will not approve any grant extensions and will be reviewing drawdown and expenditures closely to ensure that local grantees are expending the Michigan NSP2 funds within the grant period. In addition, MSHDA reserves the right to recapture and reallocate Michigan NSP2 funds that are not used in a timely or appropriate manner.

Expenditure of Funds: Production Goals and Performance

MSHDA wants and anticipates each local grantee to succeed. However, HUD mandated aggressive timelines to expend NSP2 funds and requires MSHDA to monitor rates of expenditure by each of the local grantees. The Michigan NSP2 Consortium will adopt, and MSHDA will enforce the performance requirements outlined below.

MSHDA will recapture funds from those local grantees who do not meet the performance requirements. MSHDA will re-allocate additional funds, subject to availability, to those local grantees that exceed the performance requirements. MSHDA will recapture and reallocate NSP2 funds based on the following performance requirements:

Performance Requirements for Award Amounts

Below are performance requirements for awards for the original amount (i.e. amount in funding agreement) or awards that have been recaptured because they did not meet performance standard.

The performance requirements are as follows:

- During a specified quarter, local grantees must expend all program income received to date, plus the percentage of the total NSP2 award indicated below:

Quarter	Approximate End Date	Performance Requirements
Q5	March 31, 2011	Local grantee must expend at least 20% of their total award
Q7	Sept 30, 2011	Local grantee must expend at least 50% of their total award
Q9	March 31, 2012	Local grantee must expend at least 75% of their total award
Q11	Sept 30, 2012	Local grantee must expend at least 90% of their total award
Q12	Dec 31, 2012	Local grantee must expend at least 100% of their total award

For example, by March 31, 2011 local grantee must expend 20 percent of their total award. City received \$10 million, whereas Municipality received \$7 million and Land Bank received \$3 million. Together they have generated \$250,000 in program income. Therefore, \$2.0 million of original award and \$250,000 in program income for a total of \$2.25 million must be expended between Municipality and Land Bank by March 31, 2011.

Recapture and Re-allocation of Funds

MSHDA will analyze each consortium city's/land bank's expenditure of funds at each of the above mentioned quarters. The rules of recapture and re-allocation are as follows:

- MSHDA will not recapture funds from those grantees which met expenditure targets.
- MSHDA will recapture funding from low-performing awards up to the percentage indicated in the above table.
- MSHDA may, at its discretion, (a) implement projects directly or (b) offer the recaptured funds to other grantees exceeding their performance requirements and having reasonable plans to expend funds.

Reporting

Local grantees must provide quarterly reports to MSHDA regarding program accomplishments and expenditures, including information for HUD-required reports (e.g., RAMPS, DRGR, and federalreporting.gov.) MSHDA will require local grantees to track and report activities by CDBG Activity, Eligible Use, and address. MSHDA will provide the appropriate reporting forms to local grantees.

Monitoring and Auditing

MSHDA views monitoring and auditing as a way to assist local grantees with their NSP2 program, build local capacity, and prevent any problems that may arise. Therefore, during the program period, MSHDA will conduct ongoing monitoring of the Michigan NSP2 Consortium to ensure program compliance and sound financial management of NSP2 funds. MSHDA will provide the appropriate forms and checklists to assist local grantees to prepare for monitoring, and grantees will be required to respond to any additional requests from MSHDA, HUD and/or Office of Inspector General (OIG).

Program Income

NSP2 program income requirements will follow CDBG and NSP2 regulations. NSP2 Program Income received by the local grantee must be tracked in OPAL. The expending of program income will be outlined in the City and Land Bank Operations Agreement, formerly known as the City and Land Bank

Acquisition and Conveyance Memorandum of Understanding. From February 11, 2010 through February 10, 2013, cities and land banks will retain program income and reinvest, track and report based on NSP2 requirements and their NSP2 Funding Agreement. Cities and land banks must return program income to MSHDA at NSP2 program close-out. MSHDA will reinvest program income to comply with NSP2 requirements and, to the extent feasible, reinvest in the city of origin and adhere to the City and Land Bank Operations Agreement.

Cities and land banks reserve the option to allow the Developer to reinvest proceeds of sale into the Developer's next NSP2-eligible project. Proceeds of sale is sales price less reasonable developer's fee.

IV. ELIGIBLE NSP2 COSTS: ADMINISTRATION, PRODUCTION AND ACTIVITY DELIVERY

Administration

Administration funds related to carrying out the local NSP2 program will be available for general administrative costs. Local grantees are provided a specific dollar amount of administrative funds in their funding agreement and must not spend anything other than the exact allocated amount on administrative costs. Administrative costs are reasonable costs of municipalities and land banks to meet the requirements of NSP2. They are not directly related to a specific activity. Administrative include but are not limited to:

- General NSP2 program management, oversight and coordination
- Monitoring and evaluation
- Providing information to citizens and elected officials
- Preparing budgets and performance reports
- Resolving audit and monitoring findings
- Technical support services
- Assuring fair housing activities

Local grantees should contact MSHDA if they are uncertain whether the activity is an activity delivery cost or administration cost.

Production, Activity Delivery or Soft Costs

Eligible activity delivery costs must be NSP eligible and need appropriate documentation to be reimbursed by MSHDA.

Hard costs are items and services related specifically to construction such as materials and labor from the building trades

Activity delivery costs are known commonly as soft costs and are eligible as part of each project or activity. Activity delivery costs cover staff, professional services, and related items that can be tied to a NSP-assisted property. Unlike HOME, activity delivery costs do not need to be tied to a specific address and may be paid with NSP2 even if the project fails to be completed.

However, for the purposes of the Michigan NSP2 Consortium, MSHDA defines the CDBG Activity Budget Line Items and Activity Delivery Cost Budget Line Items slightly differently to effectively and efficiently manage the costs of an NSP2-assisted project.

Feasible and Infeasible Projects

MSHDA differentiates between Feasible and Infeasible Projects:

Feasible Projects are those projects or addresses that are completed successfully. Examples are a Grantee purchases with NSP2 funds and takes title to a foreclosed property; a Grantee enters into a contract and the contractor demolishes a blighted property with NSP2 funds; or a Grantee rehabilitates a property they acquired with NSP2 funds and sells to a qualified buyer.

Infeasible Projects are those projects that are not completed, but their costs are still eligible to be reimbursed with NSP2 funds. Examples are a Grantee completes an appraisal to purchase a mortgage-foreclosed house, but the REO Agent sold the property to another private investor. The Grantee can document those costs and get them reimbursed under the Infeasible Activity Delivery Line Item.

Production Costs

MSHDA defines Productions Costs as Hard Costs, Third Party Soft Costs and Professional Fees, or Permits and Fees to **complete** a CDBG Activity for a feasible project. The corresponding Budget Line Items in OPAL are:

- Acquisition
- Rehab and Preserve
- Disposition
- Demolition
- Housing Counseling

Examples of **third party soft costs** until the unit is sold/transferred to NSP2 beneficiary are:

- | | |
|---|---|
| • Developer Fee | • Taxes* |
| • Development of Request for Proposals and Request for Qualifications | • Architectural or engineering services |
| • Preparation of rehabilitation work specifications | • Property inspections |
| • Loan processing | • Environmental assessments |
| • Appraisals and title clearance | • Environment review record |
| • Utility costs and/or shut-off | • Labor standards compliance |
| • Legal | • Attending pre-construction conferences |
| • Insurance | • Attorney fees for preparing or review contract documents or property acquisition activity |
| • Security | • Property maintenance |

*The following taxes (as a holding cost) may be paid by NSP2 Grantees:

Entity	Taxes
County Land Bank	City and County
Michigan State Land Bank	City and County
City	County

See Acquisition Policy for taxes paid as a transaction cost when buying a property.

Activity Delivery Staffing Costs

Grantees may charge an average Activity Delivery **Staffing** Costs per feasible property so long as the Grantee documents all activity delivery staffing costs and the costs do not exceed 15% of each NSP2

eligible use. Documenting activity delivery staffing costs includes timesheets of staff person(s), hours worked, and hourly rate of staff person(s) by property address.

Examples of staffing costs are:

- Hire and pay of local implementation manager based the hours they worked to coordinate NSP2 projects. Hours must be documented. Costs are still eligible if targeted project is not completed.
- Hire and pay of acquisition manager based on the hours they worked and expenses for them to identify, inspect, conduct project feasibility analysis and negotiate purchase of foreclosed and/or vacant property. Costs are still eligible even if targeted property is not acquired.
- Hire and pay construction manager and the hours worked and expenses for them to inspect property prior, during and after construction and prepare rehabilitation work specifications. Costs are still eligible even if targeted property is not rehabbed or built.
- Hiring of intake specialist and the related costs for them to collect information and housing preferences as well as verify income of eligible homebuyers or renters
- Hiring of marketing firm and the related costs to reach targeted markets

For example, a grantee wants to rehabilitate a property they acquired. They will convey that property to a developer. Therefore, the development budget for OPAL Project Set-up is as follows:

Construction, Pre-development and Acquisition Hard Costs	\$125,000.00
Third Party Soft Costs	\$25,000.00
Developer Fee (15% of Total Development Costs)	\$22,500.00
Grantee Activity Delivery Staffing Costs (15% of Total Project Costs)	\$3,881.25
TOTAL COSTS	\$176,381.25

For Grantees to be paid for activity delivery staffing costs, they will be reimbursed based on hours worked and rate of pay for each staff person by property. Grantees will keep timesheets on-site as back-up documentation.

Local grantees should contact MSHDA if they would like to pay for certain staffing functions out of activity delivery costs to see if it is eligible.

What Is My Staff Time – Admin or Activity Delivery? Chart on Administrative/Activity Delivery Cost (ADC) Staffing Costs

Generally speaking, allowable administrative expenses include those tasks related to administering the program. Activity Delivery Costs are related to a specific address.

Realistically, some activities go be counted as both. For example: Marketing

- A grantee might market the program to contractors or realtors. This would be an allowable administrative expense.
- However, if a grantee creates and distributes flyers for a specific unit and spends time showing that unit to realtors in the area, related expenses would be charged as an Activity Delivery Cost for that activity.

Task	Admin	Activity Delivery
1. Housing Needs Assessment	X	
2. Time/\$ on Environmental Review (for Program)	X	
3. Time Spent on Public Hearings	X	
4. Time Spent Writing Fair Housing Policy	X	
5. Time Spent Writing Complaint Procedure	X	
6. Time Spent Writing Contractor Selection Process	X	
7. Time Spent Writing Recipient Selection Process	X	
8. Time Spent Writing Application Forms	X	
9. Time Spent Writing Program Guidelines (if any)	X	
10. Outreach and Public Information/Marketing	X	
11. Educating Contractors (Sec. 3, Davis Bacon, etc.)	X	
12. Inspections (General/Lead Based Paint)		X
13. Cost Estimates (for specific address)		X
14. Spec Writing (for specific address)		X
15. Site Specific Environmental Review		X
16. Bid Solicitation Process (for specific address)		X
17. Contractor Selection/Awards (for program or unit?)	X	X
18. Construction Supervision		X
19. Arranging Homeownership Counseling (program)	X	
20. Marketing (Program or Units)	X	X
21. Time Spent Collecting Data for Reporting	X	
22. Time Spent Creating FSR's on OPAL	X	X
23. Time Spent preparing for or at closings		X
24. Time/Travel to attend Trainings	X	

V. PARTNERSHIP BETWEEN MSHDA, CITY AND LAND BANK

To foster the partnership between MSHDA, Cities and Land Banks and their respective program partners, for not only NSP2, but future stabilization and redevelopment projects, MSHDA agrees to utilize a part of their administration funds to facilitate meetings, trainings and technical assistance.

Program Status Meetings

MSHDA, City and Land Bank shall hold and attend the following **meetings**:

1. During the first year of the NSP2 program period, City, Land Bank and MSHDA shall meet no less than twice every calendar month to review production progress, develop list of tasks, and address issues as they may arise. Meetings may occur on site or via conference call or web meeting.
2. During the first year of the NSP2 program period, City and Land Bank will meet no less than once a week to review production progress and address issues as they may arise.
3. During the remaining years 2 and year 3, MSHDA, City and Land Bank will meet no less than once a month to review production progress and address issues as they may arise.
4. During the remaining years 2 and year 3, City and Land Bank will meet no less than every two weeks to review production progress and address issues as they may arise.

Trainings, Web Meetings and Updates

MSHDA will conduct **regional trainings, web meetings and updates through electronic newsletters and conference calls** for local grantees and their program partners. Trainings, meetings and updates will assist them on:

- Developing their program design and strategies
- Managing and implementing NSP2 to meet production goals
- Utilize Michigan NSP2 Consortium management checklists, documents and tools.

MSHDA will invite and require that a representative from each local grantee attend the trainings. Topics may be relevant for local grantee staff from executive leadership to program managers to compliance assistants, and some will be applicable to local program partners.

VI. ACTIVITY DESCRIPTION: RESIDENTIAL REHABILITATION & DEVELOPMENT

Serves Households up to 120% Area Median Income

This activity will provide homeownership and rental / lease purchase opportunities to households with incomes at or below 120% of area median income through the improvement and reuse of vacant, demolished, abandoned and/or foreclosed residential properties. Eligible residential properties include, but are not limited, to:

- Existing City-owned or Land Bank-owned, Abandoned/Foreclosed Residential Lots or Residential Structures
- Abandoned/Foreclosed Residential Lots
- Abandoned/Foreclosed Residential Structures
- Any Vacant or Demolished Property to be redeveloped as Housing

This activity may include;

- Acquisition and rehabilitation of residential unit for resale or rental, where property is purchased by local grantee or program partner. Local grantee or program partners rehabilitate property to meet rehabilitation standards and then sell or lease to income eligible household.
- Demolition of a blighted house, with a new house built on the site and sold or leased to an income-qualified household. Local grantee must demonstrate that market can absorb new construction unit.
- Redevelopment of vacant residential lot with a new house built on the site and sold or rented to an income-qualified household. Local grantee must demonstrate that market can absorb new construction unit.
- Acquiring and deeding sub-standard, vacant residential lot to adjacent, income-eligible homeowners.
- Providing homebuyer assistance in the form of down payment assistance, closing cost assistance and mortgage buy down for income-eligible household. Note: A CDBG rule allows NSP funds to assist only 50% of the down payment.

In every case that a vacant, demolished, foreclosed or abandoned residential property is purchased, local grantee or program partners will ensure that the outcome is homeownership, lease purchase or rental to an income-eligible household. Each household benefitting from homeownership or lease purchase will be required to attend eight hours of homebuyer education from a HUD-certified housing counseling agency. In addition, MSHDA will allow post-purchase counseling under NSP2.

Meets 25% Low-income Set-aside Requirement

This activity will meet the NSP2 requirement that at least 25% of funds must serve low-income households by providing homeownership and rental / lease purchase opportunities to households with incomes at or below 50% of area median income through the improvement and reuse properties as housing.

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Publ. L 111-203) include amendments to the allocation of NSP2 funds to the Michigan NSP2 Consortium and a third appropriation to the Neighborhood Stabilization Program. The law amends the low-income set-aside requirement by removing the restriction that allows only abandoned or foreclosed upon homes or residential properties to be used to meet this requirement. Grantees may now use vacant or demolished property to meet the set-aside as well. This language also allows non-residential property to be used if the

project is undertaken under Eligible Use E, though such sites might require rezoning to allow the development of housing.

Therefore, to meet the set-aside requirement, eligible properties include:

- Existing City-owned or Land Banked-owned, Abandoned/Foreclosed Residential Lots or Residential Structures
- Abandoned/Foreclosed Residential Lots
- Abandoned/Foreclosed Residential Structures
- Any Vacant or Demolished Property to be redeveloped as Housing, including those properties zoned residential or non-residential

This activity may include:

- Acquisition and rehabilitation of unit for resale or rental, where local grantee or program partner purchases residential property. Residential property is rehabilitated to meet rehabilitation standards and then sold or leased to income eligible household. Note: To meet set-aside, Acquisition and Rehabilitation is NSP2 Eligible Use B if property is residential abandoned or foreclosed structure or NSP2 Eligible Use E if property is residential vacant or demolished structure.
- Demolition of a blighted, vacant house, with a new house built on the site and sold or rented to an income-qualified household. Local grantee must demonstrate that market can absorb new construction unit. Note: To meet set-aside, Note: To meet set-aside, Acquisition and Rehabilitation is NSP2 Eligible Use B if property is residential abandoned or foreclosed structure or NSP2 Eligible Use E if property is residential vacant structure and Demolition is Use D. Total Development Costs may count towards the set-aside, i.e. Acquisition, Demolition and Redevelopment Costs.
- Redevelopment of vacant lot with a new house built on the site and sold or leased to an income-qualified household. Local grantee must demonstrate market can absorb new construction unit. Note: To meet set-aside, Note: To meet set-aside, Acquisition and Rehabilitation is NSP2 Eligible Use B if property is residential abandoned or foreclosed lot or NSP2 Eligible Use E if property is residential vacant lot.
- Redevelopment of commercial structure into multi-family housing and sold or leased to an income-qualified household. Note: NSP2 Eligible Use E
- Providing homebuyer assistance in the form of down payment assistance, closing cost assistance and mortgage buy down for income-eligible household where they purchase a foreclosed, abandoned, or vacant residential property. Note: A CDBG rule allows NSP funds to assist only 50% of the down payment required by the lender.

In every case that a property is purchased, the local grantee or program partners must ensure the outcome is homeownership, lease purchase or rental to an income-eligible household. Each household benefitting from homeownership or lease purchase will be required to attend eight hours of homebuyer education from a HUD-certified housing counseling agency. In addition, some homebuyers and all lease purchasers must attend post-purchase counseling. MSHDA will provide further guidance in a module on lease purchase and post-purchase counseling.

Homebuyer Guidelines

Sales Price Requirements

NSP2 requires that the sales price cannot exceed Total Development Costs or Appraised Fair Market Value / Market Sales Price, whichever is lower.

Affordability Requirements

Affordability requirements cover two aspects of project requirements:

1. **Housing Cost Burden and Mortgage Requirements:** For homeownership activities, housing cost burden is defined as principal, interest, taxes and insurance (PITI) and shall not exceed 30% of household's gross monthly income.
2. **Long-term Affordability Requirements:** Long-term affordability requirements of the HOME Investment Partnerships Program requirements found at 24 CFR 92.254 will apply. Recapture guidelines apply, and affordability is based on dollar amount of final direct NSP subsidy that enabled homebuyer to purchase unit. A recordable document is placed on the unit to ensure continued affordability. MSHDA will require prior written authorization for the use of resale provisions as an affordability mechanism under Michigan NSP2 Consortium.

Recapture or repayment is a mechanism to recover all, or a portion, of the direct assistance if the buyer sells the house during the period of long-term affordability. Direct assistance is defined as the total amount received by the buyer for down payment assistance, closing cost assistance, mortgage financing, or principal buy down, etc. MSHDA will utilize a forgivable loan model to recapture all or a portion of the assistance provided. The long-term affordability and recapture guidelines are summarized below.

Subsidy Type	Recordable Document	Continued Affordability Requirement
Development	Construction Mortgage	Satisfied at Home Sale or Permanent Financing
Homebuyer	Forgivable, Soft Second Mortgage	Affordability Period based on Direct Homebuyer Assistance

Direct Assistance	Affordability Period	Amount Forgiven
Less than \$15,000 per unit	5 years	1/5 of direct subsidy amount per year over five years
\$15,000 - \$40,000 per unit	10 years	1/10 of direct subsidy amount per year over 10 years
More than \$40,000 per unit	15 years	1/15 of direct subsidy amount per year over 15 years

Recommended Subsidy Limits and Fees for Professional Service Providers

MSHDA encourages local grantees to provide 100% construction financing of NSP-assisted homebuyer units. Construction costs must be reasonable based on underwriting to prevent undue enrichment and non-luxury improvements, such as, but not limited to, pools, Jacuzzis, and wine cellars.

Assistance	Description
Appraisal Gap / Development Subsidy	Total Development Costs less Appraised Value / Market Sales Price
Affordability Gap / Homebuyer Subsidy	Appraised Value / Market Sales Price less Buyer Purchase Power. Buyer Purchase Power based on 30-year fixed rate mortgage where

	PITI ranges between 20% to 30% Housing to Income Ratio and does not 40% Debt to Income Ratio
Total Subsidy per Unit	Development Subsidy + Homebuyer Subsidy

Professional Fee*	Description	Incentive
Developer Fee	Percentage of Total Development Costs awarded to Developer for providing professional services to manage construction and marketing strategy to sell house to qualified, income-eligible buyer	15% of Total Development Costs Budget for carrying costs for up to six months
Sales Referral Fee	Percentage of Homes Sales Price awarded to State of Michigan Licensed Real Estate Agent for bringing a qualified, income-eligible buyer to purchase NSP-assisted house Developer is eligible to receive fee if they bring buyer to close and have a licensed real estate agent on staff	6% of sales price or \$5,000 whichever greater
Housing Counseling	Fee for bringing a qualified, income-eligible buyer to purchase and close on NSP-assisted house	Up to \$1,500 per unit
*All fees paid out at closing.		

NSP2 Loan Products

First Mortgages

If buyer does not use a MSHDA Single Family mortgage product, conventional mortgages must meet MSHDA's requirements for acceptable mortgage products. See Section G of MSHDA Community Development Housing Resource Fund Summary:

http://www.michigan.gov/documents/mshda_2005_HRF_Master_114626_7.pdf

80/20 Loan

MSHDA recommends that local grantee develop an 80 / 20 loan product with NSP2 funds. Local grantee will provide 20% in mortgage buy down for all eligible homebuyers. This product eliminates PMI and, therefore, increases affordability. The product is an affordability and marketing strategy to attract households earning up to 120% AMI.

The 80% can be a MSHDA Single Family first mortgage or conventional/FHA mortgage.

At a minimum, the buyer is required to provide 50% of the down payment required by the mortgage lender.

Rental Guidelines

Affordability Requirements

Local grantees must lease projects completed with NSP funds to households with income at or below 120% AMI. If the rental project seeks to meet the low-income set-aside requirement, then units completed with NSP funds must be leased to households at or below 50% AMI.

1. Long-term Affordability

Long-term affordability requirements of the HOME Investment Partnerships Program, found at 24 CFR 92.252 (a), (c), (e) and (f), will apply. The long-term affordability period is based on the total NSP dollar amount per unit.

The long-term affordability regulation is enforced through a mortgage lien recorded on the property for the length of that period.

The long-term affordability requirements are summarized below:

Direct Assistance	Affordability Period
Less than \$15,000 per unit	5 years
\$15,000 - \$40,000 per unit	10 years
More than \$40,000 per unit	15 years
Rental New Construction	20 years

Recommended Subsidy Limits and Underwriting Criteria

MSHDA encourages local grantees to provide 100% construction financing of NSP-assisted scattered-site rental units and management fees to incent property managers. MSHDA will require that any net cash flow from the units be placed into replacement reserves to ensure property management and maintenance. MSHDA recommends the following final subsidy limits on rental / lease purchase projects:

Assistance	Description	Limit
Development Subsidy	Total Development Costs	Up to \$150,000 per unit

Underwriting Criteria	Description and Standards
Permanent Financing	Financing is used to pay off and replace a construction loan upon completion and lease-up of an affordable rental project Not required if insufficient positive cash flow
Feasible Project	Income less expenses produces net operating income of 20% Floor PITI front-end ratio of 20% if limited by income

Debt Coverage Ratio (DCR)	No less than 1.20
Replacement Reserves	\$600 per unit per year Kept in account with restricted access & MSHDA must approve expenditure
Management Fee	7% - 15% of gross income, depending on project type and size
Vacancy Rate	10%

VII. ACTIVITY DESCRIPTION: DEMOLITION AND/OR LAND BANKING

Demolition of blighted structures and holding and maintaining of vacant lots in a land bank results in a temporary outcome of a site that is cleared and prepared to produce a buildable lot for future redevelopment. Local grantees will create and manage subsequent redevelopment plans of land banked properties and will overlay their plans with:

- NSP2 regulations on future redevelopment of property
- Market conditions

When demolishing blighted structures, local grantees should consider the efficient use of resources and ability to create jobs through deconstruction. When using deconstruction techniques, the value of reusing resources must be weighed against added costs and concerns about the market for deconstructed materials, demand for deconstruction workers, and environmental hazards, such as lead-based paint.

For purposes of the NSP2 activity outcomes, land banking is the holding of any property prior to or after February 10, 2013. If the local grantee holds the property beyond February 10, 2013, the property must be redeveloped or an eligible disposition must occur per NSP2 regulations prior to February 11, 2020.

It is important to note that there can be only one outcome for a particular project during the program period. It is either residential development or land banking, but never both. If the property is redeveloped during the grant period into a residential use, then it is residential development. If it is not, then it must meet the requirements of the land banking activity and be counted as an outcome accordingly. Land Banking is an LMMA (or area) benefit and will become a LMMH (or housing) benefit when redeveloped in Years 4 – 10.

Demolition of blighted structures without ownership is also eligible with no required reuse in targeted census tracts because they are located in low-, moderate- and middle-income areas, i.e. census tracts with at least a 51% concentration of LMMI households.

Guidelines

Subsidy Limits

Local grantees may finance 100% of Demolition and Land Banking costs, which include acquisition and disposition of land banked property for the three-year program period. Costs must be reasonable and necessary. Local grantee will have to submit required documentation.

Acquisition

Appraisals are required on all acquisitions of foreclosed property, unless the value is less than \$25,000, which requires only a Market Valuation, State Equalized Value or other equivalent method. Please refer to Section 2 – Federal Regulations of this document for further guidance and requirements to acquire foreclosed residential property.

Acquisition costs include:

- Purchase price
- Closing costs
- Title clearance
- Environmental review
- Activity Delivery Staff Costs (Set-up and Billed under Eligible Use C – Feasible Activity Delivery Costs)

Demolition

Local grantee must demonstrate property is blighted per the definition outlined in the Michigan NSP2 Consortium Application. Please refer to Heading 2 – Federal Regulations on pages 3 for further guidance and requirements on demolition of blighted structures and the Glossary for the definition of blighted.

Demolition costs include, but are not limited to:

- Environmental risk assessment and abatement
- Demolition / Deconstruction Costs
- Disconnection of utilities
- Title clearance
- Site inspections to certify blighted condition
- Planting and fencing
- Activity Delivery Staff Costs (Set-up and Billed under Eligible Use D – Feasible Activity Delivery Costs)

Disposition of Land Banked Properties

Local grantee may finance 100% of the costs to maintain, manage and dispose of properties in the three-year program period. Costs may include:

Disposition costs may include, but are not limited to:

- Insurance
- Maintenance, e.g. lawn mowing and debris removal
- Staffing and soft project delivery costs to manage land banked properties
- Marketing
- Activity Delivery Staff Costs (Set-up and Billed under Eligible Use C – Feasible Activity Delivery Costs)

NSP2 Lien Requirements – Who holds the lien?

Activity	Held by (mortgagor)	Terms
Demolition, if stand-alone or green space redevelopment	Local grantee (if privately-owned)	Minimum 5-year forgivable, not prorated, in the amount of NSP2 assistance. Lien retained in grantee's file.
Demolition, as part of a NSP2-funded construction project	MSHDA	Amount of demolition will be included in the construction mortgage (see terms of construction mortgage below).
Demolition with end use being the sale or donation of vacant parcel.	Local grantee (if privately-owned)	Minimum 5-year forgivable, not prorated, in the amount of the NSP2 assistance. If sold for less than Fair Market Value, within 5 years, lien transfers to the new owner.
Construction of grantee-owned property, as part of a NSP2-funded construction project	MSHDA	0% Construction mortgage. \$0 payment, discharged upon resale in compliance with regulations and upon accountability for tracking of sales proceeds; allows repayment of any construction loans (sample). Required only if grantee acquires, owns and develops property.
Construction of nonprofit and for-profit developer-owned property, as part of a NSP2-funded construction project	Local grantee	0% Construction mortgage. \$0 payment, discharged upon resale in compliance with regulations and upon accountability for tracking of sales proceeds; allows repayment of any construction loans (sample).
Homebuyer subsidy	MSHDA	See Affordability Requirements under Homebuyer Guidelines (page 14)

NOTE: The grantee must have an agreement, contract, or lien against non-grantee-owned property to ensure NSP2-assisted units meet NSP2 eligible activities and income-eligibility requirements and first mortgage product meets MSHDA standards. Such agreements, contracts or liens will be held by the grantee within their project files.

VIII. GLOSSARY

Abandoned. A home or residential property is abandoned if either (a) mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or (b) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or (c) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state, local or tribal law or otherwise meets a state definition of an abandoned home or residential property.

Appraisals. If NSP2 funds are to be used to acquire a foreclosed upon home or residential property (other than through donation) and the market value of property is \$25,000 or more, the grantee must ensure that the purchase price includes a discount from the value established by an appraisal that meets the following requirements:

1. The appraisal must have been completed within 60 days of the offer made for the property (we have advised that an initial offer can be made, subject to the completion of the appraisal within 60 days of a final offer).
2. The appraisal must meet the URA definition of an appraisal (see 49 CFR 24.2(a)(3) and the five following requirements (see 49 CFR 24.103(a)(2)):
 - An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.
 - All relevant and reliable approaches to value. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.
 - A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
 - A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.
 - The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

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. Further defined in the Michigan NSP2 Consortium Application as:

A blighted property is a blighted / abandoned / uninhabitable property that meets any of the following criteria:

- Declared a public nuisance in accordance with local housing, building, plumbing, fire, or other related code or ordinance.
- Attractive nuisance because of physical condition or use.
- Fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.
- Has a subsurface structure or demolition debris that renders the property unfit for its intended use.

Bona Fide Lease or Tenancy: A lease or tenancy shall be considered “bona fide” only if: (1) mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property. A “lease” does not have to be written, but either the lease or tenancy must meet the requirements of the Recovery Act.

Foreclosed. A home or residential property has been foreclosed upon if any of the following conditions apply: (a) The property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or (b) the property owner is 90 days or more delinquent on tax payments, or (c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed, or d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, contractor, subrecipient, developer, or end user.

Funding Agreement: The award agreement executed between MSHDA and local grantee on February 11, 2010 that outlines the terms and conditions of MSHDA and local grantee to expend and administer NSP2 funds.

Mortgage Bankers of American Delinquency Calculation: NSP grantees will use the Mortgage Banker Association (MBA) Delinquency Calculation Method to determine the current delinquency status of a mortgage. Under the MBA method, a loan would be considered delinquent if the payment had not been received by the end of the day immediately preceding the loan’s next due date (generally the last day of the month which the payment was due). Using the example above, a loan with a due date of August 1, 2009, with no payment received by the close of business on August 31, 2009, would have been reported as delinquent in September. From September 1 to September 30, 2009, the mortgage’s current delinquency status would be 30 days. On October 1, 2009, the mortgage’s current delinquency status would become 60 days.

Non-residential: NSP funds may be used to acquire and redevelop nonresidential property for housing under “Eligible Use E – Redevelop demolished or vacant properties.” Nonresidential uses include, but are not limited to, public parks or mixed residential and commercial use.

Program Partners: Local professional service providers, non-profit or for-profit developers, housing counselors, realtors, property managers, etc. who are not direct grantees of NSP2 funds but have entered into a third-party contract with local grantee to provide services, develop housing, or qualify buyers or renters to implement NSP2 activities.

Purchase Discount Price: Any purchase of a foreclosed upon home or residential property with NSP2 funds shall be at a one percent (1%) discount from the current market appraised value (or market valuation if less than \$25,000) of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

Homes or Residential Property: HUD interprets homes as any type of permanent residential dwelling unit, such as detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes where treated under state law as real estate (not personal property). Residential properties includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

Vacant: “Vacant properties” includes both vacant land and properties with vacant structures on the land. However, HUD understands redevelopment to imply that properties were once developed; therefore previously undeveloped or “greenfield” sites may not be acquired under Eligible Use E.

For additional guidance on property types under each Eligible use, please refer to:

- the NSP Budget Guide, and

- http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp_terminology.pdf

Valuation: Any purchase of a foreclosed upon home or residential property that has an anticipated value of less than \$25,000 requires a market valuation instead of an appraisal. A market valuation is based on available data to verify value, and conducted and certified by a grantee-approved professional or entity with knowledge and qualifications to conduct such a review.

Michigan NSP2 Consortium Targeted Census Tracts - APPROVED BY HUD

Tract	City/Area	Income Status
BATTLE CREEK		
26025000100	Battle Creek	No Income
26025000200	Battle Creek	Moderate Income
26025000300	Battle Creek	Moderate Income
26025000400	Battle Creek	Low Income
26025000500	Battle Creek	Moderate Income
26025000600	Battle Creek	Moderate Income
26025000700	Battle Creek	Moderate Income
26025000800	Battle Creek	Middle Income
26025000900	Battle Creek	Upper Income
26025001000	Battle Creek	Middle Income
26025001100	Battle Creek	Moderate Income
26025001200	Battle Creek	Middle Income
26025001300	Battle Creek	Moderate Income
26025001400	Battle Creek	Middle Income
26025001700	Battle Creek	Upper Income
BENTON HARBOR		
26021000300	Benton Harbor	Low Income
26021000400	Benton Harbor	Low Income
26021000500	Benton Harbor	Low Income
26021000600	Benton Harbor	Moderate Income
DETROIT		
26163501900	Far East/East English Village	Middle Income
26163502000	Far East/East English Village	Moderate Income
26163524700	Southwest/Boynton	Moderate Income
26163524800	Southwest/Boynton	Moderate Income
26163545300	Herman Gardens	Moderate Income
26163545400	Herman Gardens	Low Income
FLINT		
26049000100	Flint	Middle Income
26049000300	Flint	Moderate Income

Tract	City/Area	Income Status
HAMTRAMCK		
26163552000	Hamtramck	Middle Income
26163552100	Hamtramck	Low Income
26163552200	Hamtramck	Moderate Income
26163552300	Hamtramck	Moderate Income
26163552600	Hamtramck	Moderate Income
HIGHLAND PARK		
26163553000	Highland Park	Moderate Income
26163553100	Highland Park	Moderate Income
26163553200	Highland Park	Low Income
26163553300	Highland Park	Low Income
KALAMAZOO		
26077000100	Kalamazoo	Moderate Income
26077000202	Kalamazoo	Low Income
26077000300	Kalamazoo	Low Income
26077000500	Kalamazoo	Moderate Income
26077000600	Kalamazoo	Moderate Income
26077000900	Kalamazoo	Moderate Income
26077001000	Kalamazoo	Moderate Income
LANSING		
26065000100	Lansing	Moderate Income
26065000200	Lansing	Moderate Income
26065000300	Lansing	Low Income
26065000400	Lansing	Middle Income
26065000500	Lansing	Moderate Income
26065000600	Lansing	Moderate Income
26065000700	Lansing	Low Income
26065000800	Lansing	Moderate Income
26065000900	Lansing	Moderate Income
26065001200	Lansing	Moderate Income
26065001300	Lansing	Low Income

26049001400	Flint	Moderate Income
26049001500	Flint	Low Income
26049001600	Flint	Low Income
26049001700	Flint	Middle Income
26049002700	Flint	Moderate Income
26049002800	Flint	Low Income
26049002900	Flint	Middle Income
26049003200	Flint	Low Income

GRAND RAPIDS

26081002200	Grand Rapids	Moderate Income
26081002500	Grand Rapids	Moderate Income
26081002800	Grand Rapids	Low Income
26081002900	Grand Rapids	Moderate Income
26081003000	Grand Rapids	Moderate Income
26081003100	Grand Rapids	Low Income
26081003200	Grand Rapids	Moderate Income
26081003500	Grand Rapids	Moderate Income
26081003600	Grand Rapids	Low Income
26081003700	Grand Rapids	Moderate Income
26081003800	Grand Rapids	Moderate Income

26065001400	Lansing	No Income
26065001500	Lansing	Low Income
26065001600	Lansing	Middle Income
26065002000	Lansing	Low Income
26065002100	Lansing	Moderate Income
26065006500	Lansing	Moderate Income

PONTIAC

26125141600	Pontiac	Moderate Income
26125142200	Pontiac	Low Income
26125142300	Pontiac	Low Income
26125142400	Pontiac	Low Income

SAGINAW

26145000100	Saginaw	Low Income
26145000400	Saginaw	Low Income
26145000600	Saginaw	Moderate Income
26145000700	Saginaw	Low Income
26145000800	Saginaw	Low Income
26145001600	Saginaw	Middle Income
26145001700	Saginaw	Moderate Income
26145001800	Saginaw	Moderate Income
26145001900	Saginaw	Moderate Income

WYANDOTTE

26163580600	Wyandotte	Middle Income
26163580700	Wyandotte	Middle Income

MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

POLICY AND PROGRAM GUIDELINES MODULE

① NSP2 ELIGIBLE PROJECT SCENARIOS ①

I. INTRODUCTION

The NSP2 Eligible Project Scenarios provides guidance to determine if projects are NSP2 Eligible and, if so, how NSP2 program requirements function within typical development and land banking projects. The guidance considers zoning, prior use, and status of property type based on HUD’s NSP2 definitions of homes, residential property, non-residential property, foreclosed, abandoned, and vacant. For definitions, please refer to the Glossary of the Michigan NSP2 Policy and Program Guidelines.

If your project is not included in the “NSP2 Project Scenarios,” please contact your CD Specialist.

II. INSTRUCTIONS TO USE THE SCENARIO MATRIX

Instructions on interpreting the matrices on the following pages are:

A. Zoning and Prior Use:

Property Type	Description of the Property: Is it a house, commercial or mixed-use building, multi-family, or vacant lot?
Zoning:	<u>Current</u> zoning of the property. This assumes the zoning prior to any re-zoning considerations for the purposes of NSP2.
Prior Use:	Prior or existing use of structure, especially if it is vacant. For example, vacant, mixed use building was commercial – first floor and residential – upper floors. Vacant Lots are not determined by their prior use, but their Zoning. Source: “Residential property includes...vacant land that is currently designated for residential use, e.g. through zoning.” Explanation of Property Type under Each Eligible Use, HUD, December 3, 2009
End Use:	Proposed end use for the property – single-family housing, multi-family rental, demolition only, or land banking for future redevelopment. For NSP2, all property must be rehabilitated or redeveloped as housing.

B. Property Information

NSP2 Eligible Property* *Per the definitions outlined by HUD in NSP2 NOFA and New Definitions Notice and Policy Guidance	Foreclosed or Abandoned* If the property is identified as foreclosed or abandoned, what income level may it assist or national object will it meet?	Vacant or Demolished, Non-foreclosed, and Non-abandoned* If the property is identified as vacant or demolished, what income level may it assist or national object will it meet?
Income Level	Is the property eligible to assist with 25% Low-income Set-aside Requirement? Will the property serve households up to 120% AMI? Is the income level not applicable because the end use is an LMMI Area Benefit or the property is ineligible with NSP2?	

National Objective	National Objective: Low-, moderate-, or middle-income households or low-, moderate, or middle-income area benefit
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C. CDBG Activity and NSP2 Eligible Use

	NSP2 Eligible Use NSP2 Eligible Use for the corresponding CDBG Activity. If the project does not involve a CDBG Activity, it is “Not Applicable.” If the property type, project or activity is ineligible, it is “Not Eligible.”	
CDBG Activity	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Acquisition	NSP2 Eligible Use to acquire property	
Disposition	For the purposes of the Michigan NSP2, “Disposition” is any NSP2 eligible maintenance, management and conveyance costs of Land Banked Property (Use C – Land Banking of Foreclosed Residential Property)	
Demolition	Any cost eligible under “Use D – Demolition of Blighted Structures,” means the complete demolition of a structure. Demolition to prepare for rehabilitation of a property are not included and are considered part of the Hard Construction Costs.	
Rehab and Preserve	NSP2 Eligible Use to rehabilitate or build the property	
Housing Counseling	Housing Counseling follows the NSP2 Eligible Use of Rehab and Preserve.	
Homebuyer Assistance	Homebuyer Assistance follows the NSP2 Eligible Use of Rehab and Preserve. Homebuyer Assistance usually does not involve a cash transaction.	

III. SINGLE FAMILY PURCHASE REHABILITATION

A. Zoning and Prior Use

Property Type	Single-family House
Zoning:	Residential
Prior Use:	Residential
End Use:	Single-family Residential For Sale or Rent

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI
National Objective	Low, Moderate and Middle-income Households	Low, Moderate and Middle-income Households

C. CDBG Activity and NSP2 Eligible Use

CDBG Activity	NSP2 Eligible Use	
	Foreclosed or Abandoned	Vacant, Non-foreclosed or Non-abandoned
Acquisition	Use B	Use E
Disposition	Not Applicable	Not Applicable
Demolition	Not Applicable	Not Applicable
Rehab and Preserve	Use B	Use E
Housing Counseling	Use B	Use E
Homebuyer Assistance (Note: Usually does not involve a cash transaction)	Use B	Use E

IV. SINGLE FAMILY PURCHASE, DEMOLITION AND NEW CONSTRUCTION

A. Zoning and Prior Use

Property Type	Blighted, Single-family House
Zoning:	Residential
Prior Use:	Residential
End Use:	Single-family Residential For Sale or Rent

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI
National Objective	Low, Moderate and Middle-income Households	Low, Moderate and Middle-income Households

C. CDBG Activity and NSP2 Eligible Use

	NSP2 Eligible Use	
CDBG Activity	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Acquisition	Use B	Use E
Disposition	Not Applicable	Not Applicable
Demolition	Use D	Use D
Rehab and Preserve	Use E – New Construction Use B – Reconstruction	Use E
Housing Counseling	Use E – New Construction Use B – Reconstruction	Use E
Homebuyer Assistance (Note: Usually does not involve a cash transaction)	Use E – New Construction Use B - Reconstruction	Use E

V. RESIDENTIAL VACANT LOT AND NEW CONSTRUCTION FOR SALE OR RENT

A. Zoning and Prior Use

Property Type	Vacant Lot
Zoning:	Residential
Prior Use:	Residential
End Use:	Residential

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI
National Objective	Low, Moderate and Middle-income Households	Low, Moderate and Middle-income Households

C. CDBG Activity and NSP2 Eligible Use

CDBG Activity	NSP2 Eligible Use	
	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Acquisition	Use B	Use E
Disposition	Not Applicable	Not Applicable
Demolition	Not Applicable	Not Applicable
Rehab and Preserve	Use B - Reconstruction Use E – New Construction	Use E
Housing Counseling	Use B - Reconstruction Use E – New Construction	Use E
Homebuyer Assistance (Note: Usually does not involve a cash transaction)	Use B - Reconstruction Use E – New Construction	Use E

VI. DEMOLITION ONLY OF PRIVATELY-OWNED PROPERTY

A. Zoning and Prior Use

Property Type	Blighted Structure
Prior Use:	Any Use eligible for NSP2
Zoning:	Any Zoning eligible for NSP2
End Use:	Vacant Lot

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	Not applicable – Area Benefit	Not applicable – Area Benefit
National Objective	Low, Moderate and Middle-income Area Benefit	Low, Moderate and Middle-income Area Benefit

C. CDBG Activity and NSP2 Eligible Use

	NSP2 Eligible Use	
CDBG Activity	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Acquisition	Not Applicable	Not Applicable
Disposition	Not Applicable	Not Applicable
Demolition	Use D	Use D
Rehab and Preserve	Not Applicable	Not Applicable
Housing Counseling	Not Applicable	Not Applicable
Homebuyer Assistance	Not Applicable	Not Applicable

VII. ACQUISITION, DEMOLITION AND LAND BANKING OF RESIDENTIAL STRUCTURE FOR FUTURE REUSE

A. Zoning and Prior Use

Property Type	Blighted, Residential Structure
Prior Use:	Residential
Zoning:	Residential
End Use:	Vacant Residential Lot

B. Property Information

NSP2 Eligible Property	Foreclosed	Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	Not applicable – Area Benefit	Not applicable – Area Benefit	Not applicable – Area Benefit
National Objective	Low, Moderate and Middle-income Area Benefit	Low, Moderate and Middle-income Area Benefit	Low, Moderate and Middle-income Area Benefit

C. CDBG Activity and NSP2 Eligible Use

CDBG Activity	NSP2 Eligible Use		
	Foreclosed	Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Acquisition	Use C	Not Eligible	Not Eligible
Disposition	Use C	Not Eligible	Not Eligible
Demolition	Use D	Use D	Use D
Rehab and Preserve	Not Eligible	Not Eligible	Not Eligible
Housing Counseling	Not Eligible	Not Eligible	Not Eligible
Homebuyer Assistance	Not Eligible	Not Eligible	Not Eligible

VIII. ACQUISITION AND LAND BANKING OF VACANT LOT FOR FUTURE REUSE

A. Zoning and Prior Use

Property Type	Vacant Lot
Prior Use:	Residential
Zoning:	Residential
End Use:	Vacant Residential Lot

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	Not applicable – Area Benefit	Not applicable – Area Benefit	Not applicable – Area Benefit
National Objective	Low, Moderate and Middle-income Area Benefit	Low, Moderate and Middle-income Area Benefit	Low, Moderate and Middle-income Area Benefit

C. CDBG Activity and NSP2 Eligible Use

CDBG Activity	NSP2 Eligible Use		
	Foreclosed	Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Acquisition	Use C	Not Eligible	Not Eligible
Disposition	Use C	Not Eligible	Not Eligible
Demolition	Not Applicable	Not Applicable	Not Applicable
Rehab and Preserve	Not Eligible	Not Eligible	Not Eligible
Housing Counseling	Not Eligible	Not Eligible	Not Eligible
Homebuyer Assistance	Not Eligible	Not Eligible	Not Eligible

IX. ACQUISITION AND REHABILITATION OF COMMERCIAL OR MIXED USE STRUCTURE TO BE REDEVELOPED AS HOUSING (*ZONED NON-RESIDENTIAL*)

A. Zoning and Prior Use

Property Type	Commercial or Mixed Use Structure
Zoning:	Non-residential
Prior Use:	Commercial or Mixed Use
End Use:	Multi-family Residential for Sale or Rent

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI
National Objective	Low, Moderate and Middle-income Households	Low, Moderate and Middle-income Households

C. CDBG Activity and NSP2 Eligible Use

CDBG Activity	NSP2 Eligible Use	
	Foreclosed or Abandoned	Vacant, Non-foreclosed or Non-abandoned
Acquisition	Use E	Use E
Disposition	Not Applicable	Not Applicable
Demolition	Not Applicable	Not Applicable
Rehab and Preserve	Use E	Use E
Housing Counseling	Use E	Use E
Homebuyer Assistance (Note: Usually does not involve a cash transaction)	Use E	Use E

X. ACQUISITION AND REHABILITATION OF COMMERCIAL OR MIXED USE STRUCTURE TO BE REDEVELOPED AS HOUSING (*ZONED RESIDENTIAL*)

A. Zoning and Prior Use

Property Type	Commercial or Mixed Use Structure
Zoning:	Residential
Prior Use:	Commercial or Mixed Use
End Use:	Multi-family Residential for Sale or Rent

B. Property Information

NSP2 Eligible Property	Foreclosed or Abandoned	Vacant or Demolished, Non-foreclosed, and Non-abandoned
Income Level	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI	May assist with meeting 25% set-aside to serve households at or below 50% AMI Up to 120% AMI
National Objective	Low, Moderate and Middle-income Households	Low, Moderate and Middle-income Households

C. CDBG Activity and NSP2 Eligible Use

CDBG Activity	NSP2 Eligible Use	
	Foreclosed or Abandoned	Vacant, Non-foreclosed or Non-abandoned
Acquisition	Use B	Use E
Disposition	Not Applicable	Not Applicable
Demolition	Not Applicable	Not Applicable
Rehab and Preserve	Use B	Use E
Housing Counseling	Use B	Use E
Homebuyer Assistance (Note: Usually does not involve a cash transaction)	Use B	Use E

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5321-N-01]

Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of fund availability, waivers granted, alternative requirements applied, and statutory program requirements.

SUMMARY: This notice advises the public of the fund availability, competitions criteria, alternative requirements, and the waivers of regulations granted to recipients under an allocation of funds provided under the American Reinvestment and Recovery Act of 2009 (Public Law 111-005)(Recovery Act) for additional activities under Division B, Title III of the Housing and Economic Recovery Act of 2008 (Public Law 110-289)(HERA), as amended, for the purpose of assisting in the redevelopment of abandoned and foreclosed homes under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes heading, referred to throughout this notice as the Neighborhood Stabilization Program (NSP). As described in the Supplementary Information section of this notice, HUD is authorized by statute to specify waivers and alternative requirements for this purpose. This notice also notes statutory issues affecting program design and implementation.

DATES: Issuance Date: **May 4, 2009.**

Deadline for Receipt of Application: July 17, 2009. Applications must be received via paper submission to the Robert C. Weaver HUD Headquarters building by 5:00 p.m. Eastern Daylight Time.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block

Appendix I: Program Requirements

Notice of Fund Availability, Neighborhood Stabilization Program 2

The Department is using this Appendix to provide grant recipients, grant administrators and HUD field staff the program requirements and information about ways in which the requirements for NSP2 vary from regular CDBG and NSP1 program rules. Except as described in this notice, statutory and regulatory provisions governing the CDBG program shall apply to the use of these funds. State requirements include those at 24 CFR part 570 subpart I and for CDBG entitlement communities and other NSP2 recipients, those at 24 CFR part 570 subparts A, C, D, J, K, and O. For the purposes of NSP2, all non-governmental recipients shall comply with requirements applicable to entitlement communities under CDBG regulations, except nonprofit recipients are subject to (1) administrative requirements in 24 CFR 570.502(b) instead of 570.502(a) (see section M), (2) environmental review requirements in 24 CFR Part 50 when lacking a governmental consortium member with jurisdiction over a project (see section T), and (3) requirements for affirmatively furthering fair housing (see section S). Other sections of this Appendix will provide further details of the changes, the majority of which concern adjustments necessitated by HERA and Recovery Act provisions, simplifying program rules to expedite administration, or relate to the ability of state recipients to act directly instead of solely through distribution to local governments.

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For purposes of the NSP2 program, nonprofits will be subject to CDBG regulations for entitlement communities unless otherwise noted. The key differences are that nonprofits will be subject to (1) administrative requirements in 24 CFR 570.502(b) instead of 570.502(a), (2) environmental review requirements in 24 CFR Part 50 (see section T), and (3) requirements for affirmatively furthering fair housing (see section S).

Because it is a competitive program, HUD is treating a recipient's use of its NSP2 grant independently of the consolidated plan and annual action plan process. The NSP2 grant is a special CDBG allocation to address the problem of abandoned and foreclosed homes. HERA, Recovery Act and the NSP2 competition notice establish the need, target the geographic areas, and define the eligible uses of NSP2 funds. Treating the NSP2 independently from the regular CDBG submission requirements implements the Recovery Act direction to allocate funds competitively and facilitates the distribution of NSP funds, while ensuring citizen participation

on the specific use of the funds. Therefore, consolidated plan requirements at 24 CFR 91 are not applicable, including the certification of consistency with the consolidated plan to mean the NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the recipient's application. In addition, HUD is waiving the consolidated plan regulations to the extent necessary to adjust reporting to fit the requirements of the Recovery Act, the NSP2 competition and the use of the DRGR.

The waivers, alternative requirements, and statutory changes apply only to the grant funds appropriated under the Recovery Act and not to the use of regular formula allocations of CDBG funds and NSP1, even if they are used in conjunction with NSP2 funds for a project. They provide expedited program implementation and implement statutory requirements unique to this appropriation.

A. Definitions for purposes of the CDBG Neighborhood Stabilization Program 2

Background

Certain terms are used in HERA that are not used in the regular CDBG program, or the terms are used differently in HERA and the HCD Act. In the interest of speed and clarity of administration, HUD is defining these terms in this notice for all NSP2 recipients. States may define other program terms under the authority of 24 CFR 570.481(a), and will be given maximum feasible deference in accordance with 24 CFR 570.480(c) in matters related to the administration of their NSP programs.

Requirement

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.

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.

CDBG funds. CDBG funds means, in addition to the definition at 24 CFR 570.3, NSP2 grant funds distributed under this notice.

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 recipient, subrecipient, developer, or individual homebuyer; provided, however, if the anticipated value of the proposed acquisition is estimated at \$25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the recipient determines is qualified to make the valuation.

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.

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 program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been 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 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.

Subrecipient. Subrecipient shall have the same meaning as at the first sentence of 24 CFR 570.500(c). This includes any nonprofit organization (including a unit of general local government) that an NSP2 recipient awards funds to. The term also includes any land bank receiving NSP funds from the recipient or other subrecipient.

Use for the purposes of section 2301(c)(1). Funds are used when they are obligated by a state, unit of general local government, a nonprofit entity, consortium of nonprofit entities, or any subrecipient thereof, for a specific NSP activity. 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, nonprofit entity, consortium of nonprofit entities, or a 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.

B. Pre-grant process

Background

To expedite the process and to ensure that the NSP2 grants are awarded in a timely manner, while preserving reasonable citizen participation, HUD is requiring a minimum time for citizen comments of 10 days. Application materials relating to target geography and proposed uses of funds must be posted on the applicant's official website as the materials are developed, published, and submitted to HUD. Applicants will also be required to provide the website address of the proposed and final plans to HUD for posting on HUD's program website.

Applicants are cautioned that, despite the competition process, they are still responsible for ensuring that all citizens have equal access to information about the programs. Among other things, this means that each recipient must take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency (LEP), pursuant to Title VI of the Civil Rights Act of 1964. This may mean providing language assistance services or ensuring that program information is available in the appropriate languages for the geographic area targeted by the applicant. Applicants must be aware of LEP speaking populations in their targeted geography. See Section III.C.4.f. of the General Section for further guidance.

Accordingly, the following describes the expedited steps for NSP2 grants:

- Proposed uses of funds and target geography published via the general news media and on the Internet for no less than 10 calendar days of public comment;
- Final uses of funds and target geography posted on the Internet and submitted to HUD in accordance with this Notice;
- HUD reviews applications, determines fundable applications, requests consortium funding agreements, if applicable;
- HUD selects recipients and prepares a cover letter, grant agreement, and grant conditions;
- Grant agreement signed by HUD and transmitted to the recipient;
- Recipient signs and returns the grant agreement within 30 days;
- HUD establishes the line of credit and the recipient requests and receives DRGR access;
- After the environmental review(s) pursuant to 24 CFR part 50 (nonprofits) or 58 (States or units of general local government) are completed and, as applicable, the recipient receives notice of completion from HUD (nonprofits) or an approval from HUD or the State of the Request for Release of Funds and certification (governmental entities), the

recipient may draw-down funds from the line of credit.

Requirement

1. General note. Except as described in this notice, statutory and regulatory provisions governing the CDBG program for states and entitlement communities, as applicable, shall apply to the use of these funds. In general, nonprofits are subject to the rules applicable to entitlement communities, unless modified by this Notice.
2. Continued affordability. Recipients 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 HERA, Section 2301(f)(3)(A)(ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.
 - a. In its NSP2 application, the applicant will define “affordable rents” and the continued affordability standards and enforcement mechanisms that it will apply for each (or all) of its NSP2 activities. HUD will consider any applicant 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 an applicant 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).)
 - b. The recipient must require each NSP2-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before

obtaining a mortgage loan. If the recipient is unable to meet this requirement for a good cause (e.g., there are no HUD-approved housing counseling agencies within the recipient's jurisdiction, or there are no HUD-approved housing counseling agencies within the recipient's jurisdiction that engage in homebuyer counseling), the recipient may submit a request to its HUD field office for an exception to this requirement. Upon a determination of good cause, HUD may, subject to statutory limitations, grant an exception to this provision. Each exception must be in writing and specify the grounds for approving the exception. The recipient must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages (see, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>).

Recipients must design NSP2 programs to comply with this requirement and must document compliance in the records, for each homebuyer. Recipients are cautioned against providing or permitting homebuyers to obtain subprime mortgages for whom such mortgages are inappropriate, including homebuyers who qualify for traditional mortgage loans.

c. If NSP2 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, the recipient must revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

3.a. HUD is requiring applicants to provide no fewer than 10 calendar days for citizen comment. Specifically, applicants must, at least 10 days prior to application submission to HUD, post

information on (1) the amount of money, (2) uses of funds, and (3) in which target geography, it plans to address in its NSP2 program on its official website. With their NSP2 application package, applicants must include a summary of citizen comments received during the comment period and the URL address of the website where the plan is posted.

b. HUD is also requiring applicants to publish planned program information on (1) the amount of money, (2) uses of funds, and (3) the target geography in a newspaper of general circulation or other general news media outlets that cover the target geography of the application.

c. NSP2 recipients must provide a timely written response to every citizen complaint within an established period of time (within 15 days working days, where practicable).

4. DUNS Requirement and Central Contractor Registration. In accordance with the Notice of HUD's FY2009 Notice of Funding Availability, Policy Requirements and General Section (73 FR 79548) (Dec. 29, 2008) (General Section), all applicants must obtain a DUNS number and have an active registration in the Central Contractor Registration (CCR) to receive funds from HUD. Information on obtaining a DUNS number is available at

<http://www.hud.gov/grants/index.cfm>. Information on CCR registration is available at

<http://www.ccr.gov/Renew.aspx> and <http://www.ccr.gov/Help.aspx>.

C. Reimbursement for pre-award costs

Background

NSP2 recipients will need to move forward rapidly to undertake administrative actions, as soon as awards are announced. Therefore, HUD is granting permission for recipients to incur pre-award costs as if each was a new recipient preparing to receive its first allocation of CDBG funds. Applicants taking advantage of this waiver do so entirely at their own risk, as they may not be selected for NSP2 funding.

Requirement

24 CFR 570.200(h) is waived to the extent necessary to grant permission to applicants under this notice to incur pre-award costs as described in this Notice. Similarly, in accordance with OMB Circular A-87, Attachment B, paragraph 31, HUD is allowing states applying to HUD under this Notice to incur pre-award costs under the same terms. Nongovernmental entities cannot incur pre-award costs for activities other than administrative and planning because all other activities require an environmental review.

D. Grant conditions

For NSP2 recipients that HUD determines are high risk in accordance with 24 CFR 85.12(a) (governments) and 84.14 (nonprofits), HUD will apply additional grant conditions in accordance with 24 CFR 85.12(b) and 84.14.

E. Income eligibility requirement changes

Background

The NSP2 program includes two low- and moderate-income requirements at Section 2301(f)(3)(A) of HERA that supersede existing CDBG income qualification requirements.

Under the heading ~~“Low and Moderate Income Requirement,”~~ HERA states 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.”~~

Thus, NSP2 allows the use of *only* the low- and moderate-income national objective. Activities may **not** qualify for NSP2 under other CDBG national objectives using the ~~“prevent or eliminate slums and blight”~~ or ~~“address urgent community development needs”~~ objectives.

Second, this provision also redefines and supersedes the definition of ~~“low- and~~

moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of area median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program. To prevent confusion, HUD will refer to this new income group as —middle income,” and keep the regular CDBG definitions of “low-income” and “moderate income” in use. Further, HUD will characterize aggregated households whose incomes do not exceed 120 percent of median income as —low, moderate-, and middle-income households,” abbreviated as LMMH. For the purposes of NSP2, an activity may meet the HERA low- and moderate-income national objective if the assisted activity:

- provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);
- serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA); or
- serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

HUD uses the parenthetical terms above to refer to NSP national objectives in program implementation, to avoid confusion with the regular HCD Act definitions.

For recipients choosing to assist land banks or demolition of structures with NSP funds, the change to the income qualification level for low-, moderate-, and middle-income areas will likely include most of the neighborhoods where property stabilization is required. If an assisted land bank is not merely acquiring properties, but is also carrying out other activities intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of

the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA) prior to final disposition of the banked property. HUD notes that the recipient must determine the actual service area benefiting from a land bank's activities, in accordance with the regulations.

However, HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods or that this is the best use of limited NSP funds absent a re-use plan. Therefore, HUD is requiring that a land bank may not hold a property for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

Note that if a state provides funds to an entitlement community, the entitlement community must apply the area median income levels applicable to its regular CDBG program geography and not the ~~“balance of state”~~ levels.

Other than the change in the applicable low- and moderate- income qualification level from 80 percent to 120 percent, the area benefit, housing, and limited clientele benefit requirements at 570.208(a) and 570.483(b) remain unchanged, as does the required documentation.

The other NSP low- and moderate-income related provision states 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 advises recipients to take note of this new threshold as they design NSP activities. This provision does not have a parallel in the regular CDBG program. Applicants must document that an amount equal to at least 25 percent of the requested NSP2 grant amount has been budgeted in the NSP2 application for activities that will provide housing for income-qualified individuals or families. Prior to and at grant closeout, HUD will review recipients for compliance with this provision by determining whether at least 25 percent of grant funds have been expended for housing for individual households whose incomes do not exceed 50 percent of area median income.

Requirements

1. Overall benefit supersession and alternative requirement. The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.484 (for states), and 24 CFR 570.200(a)(3) that 70 percent of funds are for activities that benefit low- and moderate-income persons are superseded and replaced by section 2301(f)(3)(A) of HERA. One hundred percent of NSP funds must be used to benefit individuals and households whose income does not exceed 120 percent of area median income. NSP shall refer to such households as ~~low-~~, moderate-, and middle-income.”
2. National objectives supersession and alternative requirements. The requirements at 42 U.S.C 5301(c) are superseded and 24 CFR 570.208(a) and 570.483 are waived to the extent necessary to allow the following alternative requirements:
 - a. for purposes of NSP only, the term ~~low-~~ and moderate-income person” as it appears throughout the CDBG regulations at 24 CFR part 570 shall be defined as a member of a low- , moderate-, and middle-income household, and the term ~~low and moderate-income household~~” as it appears throughout the CDBG regulations shall be defined as a household having an income

equal to or less than 120 percent of area median income, measured as 2.4 times the current Section 8 income limit for households below 50 percent of median income, adjusted for family size. A state choosing to carry out an activity directly must apply the requirements of 24 CFR 570.208(a) to determine whether the activity has met the low-, moderate-, and middle-income (LMMI) national objective and must maintain the documentation required at 24 CFR 570.506 to demonstrate compliance to HUD.

b. 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.

c. Each applicant whose application includes assisting rental housing shall develop and make public its definition of affordable rents for NSP-assisted rental projects.

d. An NSP-assisted property may not be held in a land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP2 requirements. Recipients that have NSP2 funded properties in land banks at the three year expenditure deadline will be required to fulfill this duty as part of their grant close-out agreement.

e. Not less than 25 percent of any NSP grant 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.

F. State distribution to entitlement communities and Indian Tribes

Background

Unlike the regular CDBG program, States receiving allocations under this notice may distribute funds to or within any jurisdiction within the state 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. However, to ensure swift program implementation, HUD strongly urges state applicants to take advantage of their authority provided for NSP2 that allow States to carry out activities directly rather than distributing the funds as is usual under the annual State CDBG program.

Requirement

In accordance with the direction of HERA that recipients distribute funds to the areas of greatest need and the nature of the competitive program under the Recovery Act, 42 U.S.C. 5302(a)(7) (definition of “nonentitlement area”) and 24 CFR part 570, including 24 CFR 570.480(a), do not apply to NSP2 funding. There is no prohibition on states receiving NSP2 funds from distributing such funds to units of general local government in entitlement communities or to Tribes. The appropriations law supersedes the statutory distribution prohibition at 42 U.S.C. 5306(d)(1) and (2)(A).

G. State’s direct action

Background

In the State CDBG program, states receiving CDBG funds may not directly use the funds for activities, but must distribute them to units of general local government, which then use the funds for program activities. States may still use this “method of distribution” program model under NSP, but HUD reminds the states of the 2- and 3-year deadlines for expenditure of grant funds.

Therefore, a state receiving NSP funds may carry out NSP activities directly for some or all of its assisted grant activities, just as CDBG entitlement communities do under 24 CFR 570.200(f), including, but 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).

For those activities a state chooses to carry out directly, HUD strongly advises the state to adopt the recordkeeping required for an entitlement community at 570.506 and the subrecipient agreement provisions at 570.503. Also, in such cases, as an alternative requirement to 42 U.S.C. 5304(i), the state may retain and re-use program income as if it were an entitlement community.

HUD is granting regulatory waivers of State CDBG regulations to conform the applicable management, real property change of use, and recordkeeping rules when a state chooses to carry out activities as if it were an entitlement community.

Requirements

1. Responsibility for state review and handling of noncompliance. This change conforms NSP requirements with the waiver allowing the state to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may be necessary or appropriate to meet the requirements of 42 U.S.C.5304(e)(2), as amended, as modified by this notice. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any designated public agencies or units of general local government and for its subrecipients.
2. Change of use of real property for state recipients acting directly. This waiver conforms the change of use of real property rule to the waiver allowing a state to carry out activities directly.

For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), ~~unit~~ of general local government” shall be read as ~~unit~~ of general local government or state.”

3. Recordkeeping for a state recipient acting directly. Recognizing that the state may carry out activities directly, 24 CFR 570.490(b) is waived in such a case and the following alternative provision shall apply: state records. The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of NSP funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other federal requirements, the content of records maintained by the state shall be sufficient to: (1) enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly by the state; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the application. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

4. State compliance with certifications for state recipients acting directly. This is a conforming change related to the waiver to allow a state to act directly. Because a state recipient under this appropriation may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining whether the state has failed to carry out its certifications, so that such basis shall be that the state has failed to carry out its certifications in compliance with applicable program requirements.

5. Clarifying note on the process for environmental release of funds when a State carries out activities directly. Usually, a state distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grant recipients and

approving releases of funds. For this grant, HUD will allow a state recipient to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a state carries out activities directly, the state must submit the certification and request for release of funds to HUD for approval.

H. Eligibility and allowable costs

Background

Most of the activities eligible under NSP represent a subset of the eligible activities under 42 U.S.C. 5305(a). Due to limitations in the reporting system, DRGR, the NSP-eligible uses must be correlated with CDBG-eligible activities. This correlation also reduces implementation risks, because it will ensure that the NSP grants are administered largely in accordance with long-established CDBG rules and controls. The table in the requirements paragraph below shows the eligible uses under NSP and the corresponding eligible activities from the regulations for the regular CDBG entitlement program that HUD has determined best correspond to those uses. If a recipient creates a program design that includes a CDBG-eligible activity that is not shown in the table to support an NSP2-eligible use, the Department is providing an alternative requirement to 42 U.S.C. 5305(a) that HUD may allow a recipient an additional eligible-activity category if HUD finds the activity to be in compliance with the NSP statute. NSP2 recipients should note that the Recovery Act amended the HERA eligible uses 2301(c)(3)(C) (land banks) and 2301(c)(3)(E) (redevelopment of demolished or vacant property) to read as shown in the table below. As under the regular CDBG program, recipients may fund costs, such as reasonable developer's fees, related to NSP2-assisted housing rehabilitation or construction activities. Regular CDBG administration and planning caps are not applicable to NSP grants, because some of the costs usually allocated (for example, the costs of completing the entire consolidated plan

process) would be excessive in the context of the NSP program. HUD is therefore providing an alternative requirement that an amount of up to 10 percent of an NSP grant provided to a jurisdiction and of up to 10 percent of program income earned may be used for general administration and planning activities as those are defined at 24 CFR 570.205 and 206. For all recipients, including states, nonprofit entities and consortia of nonprofit entities, the 10 percent limitation applies to the grant as a whole. The regulatory and statutory requirements for state match for program administration at 24 CFR 570.489 (a)(i) are superseded by the statutory direction at HERA, Section 2301(e)(2) that no matching funds shall be required for a state or unit of general local government to receive a grant.

Requirements

1. Use of grant funds must constitute an eligible use under HERA as amended by the Recovery Act.
2. In addition to being an eligible NSP use of funds, each activity funded under this notice must also be CDBG-eligible under 42 U.S.C. 5305(a) and meet a CDBG national objective.
- 3.a. Certain CDBG-eligible activities correlate to specific NSP2-eligible uses and vice versa. 42 U.S.C. 5305(a) and 24 CFR 570.201-207 and 482(a) through (d) are superseded to the extent necessary to allow the eligible uses described under section 2301(c)(3) of HERA in accordance with this paragraph (including the table and subparagraphs below) or with permission granted, in writing, by HUD upon a written request by the recipient that demonstrates that the proposed activity constitutes an eligible use under NSP. All NSP recipients, including states, will use the NSP categories and CDBG entitlement regulations listed below.

NSP-Eligible Uses	Correlated Eligible Activities From the CDBG Entitlement Regulations
(A) Establish financing mechanisms for purchase and redevelopment of	<ul style="list-style-type: none"> • As part of an activity delivery cost for an eligible activity as defined in 24 CFR

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	<p>570.206.</p> <ul style="list-style-type: none"> • Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(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	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation , and (n) Direct homeownership assistance (as modified below); • 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).
(C) Establish land banks for homes and residential properties that have been foreclosed upon	24 CFR 570.201(a) Acquisition and (b) Disposition.
(D) Demolish blighted structures	<ul style="list-style-type: none"> • 24 CFR 570.201(d) Clearance for blighted structures only.
(E) Redevelop demolished or vacant properties as housing	<ul style="list-style-type: none"> • 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, and (n) Direct homeownership assistance (as modified below). • 24 CFR 570.202 Eligible rehabilitation and preservation activities for demolished or vacant properties. • 24 CFR 570.204 Community based development organizations. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost

b. HUD will not consider requests to allow foreclosure prevention activities, 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. HUD does not have the authority to permit uses or activities not authorized by HERA.

c. New construction of housing is eligible as part of eligible-use (E) to redevelop demolished or vacant properties as housing.

d. 24 CFR 570.201(n) is waived and an alternative requirement provided for 42 U.S.C. 5305(a) to the extent necessary to allow provision of NSP-assisted homeownership assistance to persons whose income does not exceed 120 percent of median income.

e. No NSP2 funds may be used to demolish any public housing (as defined by Section 3 of the U.S. Housing Act of 1937 (42 U.S.C. 1437a)).

f. In accordance with the Recovery Act, a recipient may not use more than 10 percent of its grant for demolition activities under HERA, Section 2301(c)(3)(C) and (D) unless the Secretary determines that such use represents an appropriate response to local market conditions.

Applicants seeking to use more than 10 percent of their grant amounts on demolition activities must request a waiver as part of the application process.

4. Alternative requirement for the limitation on planning and administrative costs. 24 CFR 570.200(g) and 570.489(a)(3) are waived to the extent necessary to allow each recipient under this notice to expend no more than 10 percent of its grant amount, plus 10 percent of the amount of program income received by the recipient, for activities eligible under 24 CFR 570.205 or 206. The requirements at 24 CFR 570.489 are waived to the extent that they require a state match for general administrative costs. (States may use NSP2 funds under this 10 percent limitation to provide technical assistance to local governments and nonprofit program participants.)

I. Rehabilitation standards

Background

HERA provides that any NSP-assisted 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. This means that each applicant must describe or reference in its NSP2 application what rehabilitation standards it will apply for NSP2-assisted rehabilitation. HUD will monitor to ensure the standards are implemented.

HERA defines rehabilitation to include improvements to increase the energy efficiency or conservation of such homes and properties or to provide a renewable energy source or sources for such homes and properties. HUD has strongly encouraged NSP1 recipients to use grant funds not only to stabilize neighborhoods in the short-term, but to strategically incorporate modern, green building and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods. Several rating factors in the NSP2 Notice, including especially rating factors 5 and 6, also incorporate these program features.

J. Sale of homes

Background

Section 2301(d)(3) of HERA directs 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. (Sales and closing costs are eligible NSP redevelopment or rehabilitation costs.) Note that 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 may include, among other items, costs related to the sale of the property).

Requirements

1. In its records, each recipient must maintain sufficient documentation about the purchase and sale amounts of each property and the sources and uses of funds for each activity so that HUD can determine whether the recipient is in compliance with this requirement. A recipient will be expected to provide this documentation individually for each activity.
2. In determining the sales price limitation, HUD will not consider the costs of boarding up, lawn mowing, simply maintaining the property in a static condition, or, in the absence of NSP-assisted rehabilitation or redevelopment of the property, the costs of completing a sales transaction or other disposition to be redevelopment or rehabilitation costs. These costs may not be included by the recipient in the determination of the sales price for an NSP-assisted property.
3. For reporting purposes **only**, for a housing program involving multiple single-family structures under the management of a single entity, HUD will permit reporting the aggregation of activity delivery costs across the total portfolio of projects until completion of the program or closeout of the grant with HUD, whichever comes earlier.

K. Acquisition and relocation

Background

Acquisition of Foreclosed-Upon Properties. HUD notes that section 2301(d)(1) of HERA conflicts with section 301(3) of the URA (42 U.S.C. 4651) and related regulatory requirements at 49 CFR 24.102(d). Section 2301(d)(1) of HERA requires that any acquisition 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 and that such discount shall ensure that purchasers are paying below-

market value for the home or property. Section 301(3) of the URA, as implemented at 49 CFR 24.102(d), provides that an offer of just compensation shall not be less than the agency's approved appraisal of the fair market value of such property. These URA acquisition policies apply to any acquisition of real property for a federally funded project, except for acquisitions described in 49 CFR 24.101(b)(1) through (5) (commonly referred to as “voluntary acquisitions”). As the more recent and specific statutory provision, section 2301(d)(1) of HERA prevails over section 301 of the URA for purposes of NSP-assisted acquisitions of foreclosed-upon homes or residential properties.

NSP2 Appraisal Requirements. As noted above, section 301 of the URA does not apply to voluntary acquisitions. While the URA and its regulations do not require appraisals for such acquisitions, the URA acquisition policies do not prohibit acquiring agencies from obtaining appraisals. Appendix A, 49 CFR 24.101(b)(2) acknowledges that acquiring agencies may still obtain an appraisal to support their determination of fair market value. Section 2301(d)(1) of HERA requires an appraisal for purposes of determining the statutory purchase discount. This appraisal requirement applies to any NSP-assisted acquisition of a foreclosed-upon home or residential property (including voluntary acquisitions).

One-for-One Replacement. HUD is providing an alternative requirement to the one-for-one replacement requirements set forth in 42 U.S.C. 5304(d)(2), as implemented at 24 CFR 42.375, because the additional workload of reviewing requests could cause a substantial backlog at HUD and delay NSP2 program operations. Therefore, the alternative requirement is that an NSP2 recipient will not be required to meet the requirements of 42 U.S.C. 5304(d), as implemented at 24 CFR 42.375, to provide one-for-one replacement of low- and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP funds. Alternatively, each

recipient must submit the information described below relating to its demolition and conversion activities in its application. The recipient will report to HUD and citizens (via prominent posting of the DRGR reports on the recipient's official Internet site) on progress related to these measures until the closeout of its grant with HUD.

URA requirements that do not conflict with HERA continue to apply. HUD is not specifying alternative requirements to the relocation assistance provisions at 42 U.S.C. 5304(d). Guidance on meeting these requirements is available on the HUD website and through local HUD field offices. HUD urges recipients to consider URA requirements in designing their programs and to remember that there are URA obligations related to voluntary and involuntary property acquisition activities, even for vacant and abandoned property. HUD reminds recipients, especially nonprofits, to be aware of the requirement to have and follow a residential anti-displacement and relocation plan for the CDBG and HOME programs. This requirement is not waived for those programs and continues to apply to activities assisted with regular CDBG and HOME funds.

The Recovery Act included several provisions concerning tenants' rights that are applicable to acquisitions under HERA. A recipient must document its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property (typically, the initial successor in interest in property acquired through foreclosure is the lender or trustee for holders of obligations secured by mortgage liens) has provided *bona fide* tenants with the notice and other protections outlined in the Recovery Act. Recipients are cautioned that NSP funds may not be used to finance the acquisition of property from the initial successor in interest that failed to comply with applicable requirements unless it assumes the obligations of such initial successor in interest with respect to *bona fide* tenants. Recipients who elect to assume

such obligations are reminded that tenants displaced as a result of the NSP funded acquisition are entitled to the benefits outlined in 24 CFR 570.606.

Requirements

1. The one-for-one replacement requirements at 24 CFR 570.488, 570.606(c), and 42.375 are waived for low- and moderate-income dwelling units demolished or converted in connection with an activity assisted with NSP2 funds. As an alternative requirement to 42 U.S.C. 5304(d)(2)(A)(i) and (ii), each recipient planning to demolish or convert any low- and moderate-income dwelling units as a result of NSP2-assisted activities must identify all of the following information in its application:

- (a) the number of low- and moderate-income dwelling units reasonably expected to be demolished or converted as a direct result of NSP-assisted activities;
- (b) the number of NSP2 affordable housing units (made available to low-, moderate-, and middle-income households) reasonably expected to be produced, by activity and income level as provided for in DRGR, by each NSP2 activity providing such housing (including a proposed time schedule for commencement and completion); and
- (c) the number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

The recipient must also report on actual performance for demolitions and production, as required elsewhere in this notice.

2. The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a *bona fide* tenant at the time of foreclosure. The use of NSP funds

for acquisition of such property is subject to a determination by the recipient that the initial successor in interest complied with these requirements.

a. The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any *bona fide* tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any *bona fide* tenant, as of the date of such notice of foreclosure: (i) under any *bona fide* lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

b.i. In the case of any qualified foreclosed housing in which a recipient of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) (the “Section 8 Program”) resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit.

ii. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

iii. If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in

interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(1) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (2) for the family's reasonable moving costs, including security deposit costs.

c. For purposes of this section, a lease or tenancy shall be considered *bona fide* only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm's length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

d. The recipient shall maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under section K.2.a. and K.2.b. If the recipient determines that the initial successor in interest in such property failed to comply with such requirements, it may not use NSP funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in section K.2.a. and K.2.b. If a recipient elects to assume such obligations, it must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of an activity assisted with NSP funds and maintain records in sufficient detail to demonstrate compliance with the provisions of that section.

3. The recipient of any grant or loan made from NSP funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.
4. This section shall not preempt any Federal, State or local law that provides more protections for tenants.

L. Note on eminent domain

Although section 2303 of HERA appears to allow some use of eminent domain for public purposes, HUD cautions recipients that section 2301(d)(1) may effectively ensure that all NSP-assisted property acquisitions must be voluntary acquisitions as the term is defined by the URA and its implementing regulations. HERA, Section 2301(d)(1) directs that 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 and that such discount shall ensure that purchasers are paying below-market value for the home or property. However, the Fifth Amendment to the U.S. Constitution provides that private property shall not be taken for public use without just compensation. The Supreme Court has ruled that a jurisdiction must pay fair market value for the purchase of property through eminent domain. A recipient contemplating using NSP funds to assist an acquisition involving an eminent domain action is advised to consult appropriate legal counsel before taking action.

M. Timeliness of use and expenditure of NSP funds

Background

One of the most critical NSP2 provisions is the Recovery Act provision that recipients:

- . . shall expend at least 50 percent of allocated funds within 2 years of the date funds become available to the [recipient] for obligation, and 100 percent of such funds within 3

years of such date.

NSP2 recipients should note that timelines are significantly tighter than NSP1. If any NSP2 recipient fails to meet the requirement to expend its grant within the relevant timelines, HUD, on the first business day after that deadline, will simultaneously notify the recipient and restrict the amount of unused funds in the recipient's line of credit. HUD will allow the recipient 30 days to submit information to HUD regarding any additional expenditure of funds not already recorded in the Disaster Recovery Grant Reporting system (DRGR). Then HUD will proceed to recapture the unused funds.

Requirements

1. Timely expenditure of NSP2 funds. The timely distribution or expenditure requirements of sections 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: All NSP2 recipients must expend on eligible NSP2 activities 50 percent of their award of NSP2 funds within 2 years and 100 percent within 3 years. A recipient will be deemed by HUD to have received its NSP2 grant at the time HUD signs its NSP2 grant agreement.

2. Nonprofit recipients of NSP2 funds shall follow the uniform administrative requirements for CDBG subrecipients at 24 CFR 570.502(b) as if they were subrecipients under that section.

Governmental recipients shall follow the regular CDBG requirements at 24 CFR 570.502(a).

N. Alternative requirement for program income generated by activities assisted with grant funds

Background

The Recovery Act repealed Section 2301(d)(4) of HERA, which set requirements for the disposition of revenues generated by NSP assisted activities. Therefore, regular CDBG rules

governing program income shall apply. Recipients are strongly encouraged to avoid the undue enrichment of entities that are not subrecipients. For example, recipients are encouraged to structure assistance to developers that undertake acquisition and/or rehabilitation as loans rather than grants. Recipients are also encouraged to include language in agreements with entities that are not subrecipients that provides for recipients to share in any excess cash flow generated by the assisted project to the extent practicable. (Generally, excess cash flow on a real estate project is the amount of cash generated from operations, sales, or refinancing that is in excess of the amount required to provide the owner a reasonable return on its equity investment.)

Requirements

1. Revenue (i.e., gross income) received by a NSP recipient or subrecipient (as defined at 24 CFR 570.500(c)) that is directly generated from the use of CDBG funds (which term includes NSP2 grant funds) constitutes CDBG program income. To ensure consistency of treatment of such program income, the definition of program income at 24 CFR 570.500(a) shall be applied to amounts received by all NSP2 recipients.
2. Cash management. Substantially all program income must be disbursed for eligible NSP2 activities before additional cash withdrawals are made from the U.S. Treasury.
3. Agreements with subrecipients and other entities. NSP2 recipients must incorporate in subrecipient agreements such provisions as are necessary to ensure compliance with the requirements of this paragraph.

O. Reporting

Background

HUD is requiring regular reporting on each NSP2 grant in the DRGR system to ensure the Department gets sufficient management information to follow-up promptly if a recipient lags

in implementation and risks recapture of its grant funds. For NSP2, HUD will collect more regular information on various aspects of the uses of funds and of the activities funded with these grants in accordance with Recovery Act requirements. HUD will use the reports to exercise oversight for compliance with the requirements of this notice and for prevention of fraud, waste, and abuse of funds.

The regular CDBG performance measurement requirements will not apply to the NSP2 funds. The outcomes described in this Notice will apply to each NSP2 grant.

To collect these data elements and to meet its reporting requirements, HUD is requiring each recipient to report on its NSP2 funds to HUD using the online DRGR system. HUD will use recipient reports to monitor for anomalies or performance problems that suggest fraud, waste, and abuse of funds; to reconcile budgets, obligations, fund draws, and expenditures; to calculate applicable administrative and public service limitations and the overall percent of benefit to LMMI persons; and as a basis for risk analysis in determining a monitoring plan. The recipient must post the NSP2 report on a website for the public when it submits the report to HUD.

A few additional data elements beyond those required by the CDBG program are required by the Recovery Act. After award, HUD will provide additional guidance to all NSP2 recipients on how to report those elements.

Requirements

1. Performance report requirement. Reporting requirements for NSP2 differ from the regular CDBG program in order to comply with Recovery Act reporting provisions. Therefore, the reporting form and timing requirements for NSP2 funds is that:
 - a. Each recipient must submit a quarterly performance report, as HUD prescribes, no later than 10 days following the end of each quarter, beginning 10 days after the completion of the first full

calendar quarter after grant award. In addition to this quarterly performance reporting, each recipient will report monthly on its NSP obligations and expenditures beginning 10 days after the end of the 21st month following receipt of funds, and continuing until reported total expenditures are equal to or greater than half the total NSP grant. After HUD has accepted a report from a recipient showing such expenditure of grant funds, the monthly reporting requirement will end and quarterly reports will continue until the 33rd month, when the monthly cycle will repeat until the entire NSP2 grant has been expended or the 36-month deadline reached. Each report will include information about the uses of funds, including, but not limited to, the project name, activity, location, national objective, funds budgeted and expended, the funding source and total amount of any non-NSP funds, numbers of properties and housing units, beginning and ending dates of activities, and numbers of low- and moderate-income persons or households benefiting. Reports must be submitted using HUD's web-based DRGR system and, at the time of submission, be posted prominently on the recipient's official website.

b. HUD may require the additional Recovery Act reporting elements to be reported in DRGR or in another system. HUD will provide additional guidance on meeting this statutorily required reporting after awards are announced. Elements will include status of National Environmental Policy Act (NEPA) reviews.

c. HUD will also require recipients to report on subawards in accordance with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) and the Recovery Act. At a minimum, grantees will be required to name subrecipients, the amount awarded, the information on the award, the location of the subrecipient, a unique identifier, and other information specified by OMB. HUD will provide additional guidance on meeting the statutory and OMB requirements after awards are announced.

P. Note that FHA properties are eligible for NSP2 acquisition and redevelopment

The Department notes that it is an eligible use of CDBG grant funds to acquire and redevelop FHA foreclosed properties. The Department strongly urges every community to consider and include such properties under their NSP2 programs because the nature and location of many of these homes will make them very compatible with the eligible uses of grant funds, the areas of greatest need, and the income eligibility thresholds and limits. Furthermore, in many areas, FHA foreclosed properties will be available for purchase at below-market value to meet HERA requirements. FHA provides quick access to location, condition, and sales price information; FHA may also offer expedited closing time frames. These factors may help expedite NSP2 fund use.

HUD will provide technical assistance on its website regarding how these programs can effectively interact. Recipients may also contact their local HUD FHA field office for further information.

Q. Purchase discount

Background

Section 2301(d)(1) limits the purchase price of a foreclosed home, as follows:

–Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.”

To ensure that uncertainty over the meaning of this section does not delay program implementation, HUD is defining –current market appraised value” in this notice. For mortgagee foreclosed properties, HUD is requiring that recipients 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 recipient or subrecipient. HUD has adopted an approach that requires a minimum discount of one percent for each residential property purchased with NSP funds and a minimum average discount of five percent for all residential properties purchased with NSP2 funds during the three year expenditure period.

Requirements

1. Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least one percent from the current market-appraised value of the home or property.
2. Purchase transactions in the aggregate. The average purchase discount for all properties purchased with NSP funds during the three year expenditure period shall be at least 5 percent.
3. An NSP2 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 necessary and reasonable costs related to the appraisal and transfer of title. If NSP2 funds are used to pay such costs when property owned by the recipient is conveyed to a subrecipient, homebuyer, developer, or other jurisdiction, the property is NSP-assisted and subject to all program requirements, such as requirements for NSP-eligible use and benefit to income-qualified persons.
4. The address, appraised value, purchase offer amount, and discount amount of each property purchase must be documented in the recipient's program records. The address of each acquired property must be recorded in DRGR.

R. Removal of annual requirements

Requirement

Throughout 24 CFR 570, all references to ~~annual~~ requirements such as submission of

plans and reports are superseded and replaced with the provisions of this notice as applies NSP2 funds, with no recurring annual requirements other than those related to civil rights and fair housing certifications and requirements.

S. Affirmatively furthering fair housing and accessibility requirements

1. Successful applicants and subrecipients must affirmatively further fair housing. Nothing in this notice may be construed as affecting each NSP2 recipient's responsibility to carry out its certification to affirmatively further fair housing. For both successful governmental and nonprofit applicants, a provision on the obligation to affirmatively further fair housing will be incorporated into the NSP2 grant agreement and successful applicants will certify that they will affirmatively further fair housing as described in section (V) of this Appendix.

With respect to governmental applicants, HUD encourages each entitlement community and state CDBG applicant to review its analysis of impediments to fair housing choice to determine whether an update is necessary because of current market conditions or other factors.

Nonprofit applicants are not required to conduct an analysis of impediments to fair housing choice (AI) for the jurisdictions in which they will work, but they are urged to become familiar with the AI prepared by a state or entitlement CDBG community covering the target geography, and they must affirmatively market NSP2 assisted housing and carry out NSP2 activities that further fair housing through innovative housing design or construction to increase access for persons with disabilities, language assistance services to persons with limited English proficiency (on the basis of national origin), or location of new or rehabilitated housing in a manner that provides greater housing choice or mobility for persons in classes protected by the Fair Housing Act. Affirmative marketing consists of taking actions to provide information and otherwise attract eligible persons in the housing market to the housing program without regard to

race, color, national origin, sex, religion, familial status or disability. The requirements and procedures include: methods for informing the public and potential homebuyers about federal fair housing laws; use of the Equal Housing opportunity logo; and procedures to inform and solicit applications from persons in the housing market who are not likely to apply for the program without special outreach. Non-profit entities must also maintain records on such programs or activities and their results and must report annually to HUD the race and ethnicity statistics on persons receiving services funded by NSP2 on form HUD-27061.

2. Successful applicants are subject to Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8.

T. Nonprofits and environmental review

All NSP2 assistance is subject to the National Environmental Policy Act of 1969 and related federal environmental authorities and regulations at 24 CFR part 58. Non-profits, and other recipients that are not designated responsible entities under 24 CFR part 58, may not assume environmental review responsibilities and must receive HUD approved environmental reviews under 24 CFR part 50 unless they apply in consortia with states, Indian tribes, or units of general local government with jurisdiction over proposed projects. In the case of consortium applicants, states, Indian tribes or units of general local governments may perform the environmental reviews on behalf of the consortium for projects within their jurisdiction as described under Part 58.

For activities requiring environmental review, non-profits—and consortia without state, Indian tribe, or unit of general local government members with jurisdiction over the projects in question—will need to coordinate with their local HUD office to receive approval for relevant activities in compliance with 24 CFR part 50. States, Indian tribes, and units of general local

government may only conduct environmental reviews within their jurisdiction. Therefore, consortia planning projects that require environmental review outside the jurisdiction of state, Indian tribe, or unit of general local government members must receive environmental reviews from HUD under 24 CFR part 50 for those projects.

Recipients undergoing a Part 50 environmental review will be required to: (1) supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50; (2) carry out mitigating measures required by HUD or select alternate eligible property; and (3) not acquire, rehabilitate, demolish, convert, lease, repair or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received.

Grant applicants are cautioned that no activity or project may be undertaken, or federal or non-federal funds or assistance committed, if the project or activity would limit reasonable choices or could produce an adverse environmental impact, until all required environmental reviews and notifications have been completed by HUD or by a unit of general local government, tribe, or state, and until HUD notifies the recipient that the review under 24 CFR part 50 is completed or HUD or the state approves a recipient's request for release of funds under the environmental provisions contained in 24 CFR part 58. After the environmental review(s) pursuant to 24 CFR part 50 or 58 are completed and, as applicable, the grantee receives notice of completion from HUD or approval from HUD or the state of the request for release of funds and certification, the grantee may draw down funds from the line of credit.

U. Consortia and for-profit partners

Background

The Recovery Act provides that eligible entities for the NSP2 competition shall include “States, units of general government, and nonprofit entities or consortia of non-profit entities,” which all may submit proposals with for profit entities. Applicants may consist of one or more non-profit or governmental entities applying as a consortium. Applicants that apply as part of consortium will submit an agreement committing members at the time of submission. Applicants HUD determines to be in the fundable range must sign a consortium funding agreement with the lead applicant specifying the distribution of funds and the responsibilities of each party by the date specified in the Notice.

Those applicants shall similarly submit a firm commitment binding the for-profit to performance with its application. Applications with a for-profit partner will demonstrate the relevant expertise of the for-profit partner (e.g., media company, financier, developer, consultant/contractor), the nature of the relationship demonstrated by a firm commitment, and the specific contribution of the for-profit entity (e.g., air time, marketing, full operating partner, etc.). For the purposes of NSP2, HUD considers a for-profit partner to be an entity that carries out NSP2 activities or provides some service to the program other than, or in addition to, financing.

Requirements

1. Grant agreements must be signed by a governmental or non-profit entity as the lead applicant and recipient.
2. Consortia agreements must be signed by all members at the time of submission. To be funded in accordance II.B.1(3) of this Notice, members must provide HUD with a consortia funding agreement that specifies the contributions and responsibilities of each consortia member, the division of NSP2 program funds, and binds each member to NSP2 program requirements.

3. The recipient, prior to authorizing payment for NSP2 activities carried out by the for-profit partner, shall (1) conduct a cost or price analysis as required under 24 CFR part 84 or 85, as applicable, that demonstrates how the recipient determined necessary and reasonable costs for such payment; (2) provide a firm commitment from the for-profit entity at the time of application submission; and (3) enter into a written agreement setting forth the partner's responsibilities for performance and agreement to comply with NSP2 program requirements in accordance with this Notice.

V. Certifications

Certifications for NSP2 applicants, alternative requirement. HUD is providing alternative certifications for states, local governments, nonprofits and Indian tribes as provided in Appendix 4.

W. Note on statutory limitation on distribution of funds

Section 2304 of HERA states that none of the funds made available under this Title or title IV shall be distributed to an organization that has been indicted for a violation under federal law relating to an election for federal office; or an organization that employs applicable individuals. Section 2304 defines applicable individuals.

X. Information collection approval note

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2506-0185. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

Y. Duration of funding

The Recovery Act makes funds available to HUD to obligate to NSP recipients until September 30, 2010. The Recovery Act makes NSP2 grants available to recipients for up to three years after receipt of the grant from HUD.

Appendix 2

NSP2 Recommended Energy Efficient and Environmentally-Friendly Green Elements

HUD strongly recommends that your proposed project(s) incorporate the following additional energy efficient and environmentally-friendly Green elements into the design. No specific element is required and your scoring under Factor 5 will not be based on the use of any specific element. For the scoring, HUD is looking for thoughtful, achievable consideration and implementation of energy efficient and environmentally friendly elements inside your NSP2 program.

HUD is providing the guidance below because the Department has become aware during the implementation of NSP1 that many grantees are not aware that many of their common community development practices, such as trying to help police and teachers live in the neighborhood in which they work, are also considered sustainable and environmentally friendly. Similarly, most affordable housing units are also smaller and can easily be made more energy efficient than larger units. The increased energy efficiency then serves to increase the long-term affordability of the units.

Renewable Energy

1. *Passive Solar.* Orient the building to make the greatest use of passive solar heating and cooling.
2. *Photovoltaic-ready.* Site, design, engineer and wire the development to accommodate installation of photovoltaic panels in the future.

Sustainable Site Design

1. *Transportation Choices.* Locate projects within a one-quarter mile of at least two, or one-half mile of at least four community and retail facilities.
2. *Connections to Surrounding Neighborhoods.* Provide three separate connections from the development to sidewalks or pathways in surrounding neighborhoods.
3. *Protecting Environmental Resources.* Do not locate the project within 100 feet of wetlands; 1,000 feet of a critical habitat; or on steep slopes, prime farmland or park land.
4. *Erosion and Sediment Control.* Implement EPA's Best Management Practices for erosion and sedimentation control during construction.
5. *Sustainable Landscaping.* Select native trees and plants that are appropriate to the site's soils and microclimate.
6. *Energy Efficient Landscaping.* Locate trees and plants to provide shading in the summer and allow for heat gain in the winter.

Water Conservation

1. *Efficient Irrigation.* Install low volume, non-spray irrigation system (such as drip irrigation, bubblers, or soaker hose).

Energy Efficient Materials

1. *Durable Materials.* Use materials that last longer than conventional counterparts such as stone, brick or concrete.
2. *Resource Efficient Materials.* Use layouts and advanced building techniques that reduce the amount of homebuilding material required.
3. *Heat Absorbing Materials.* Use materials that retain solar heat in winter and remain cool in summer.

4. *Solar-reflective Paving.* Use light-colored/high-albedo materials and/or open-grid pavement with a minimum Solar Reflective index of 0.6 over at least 30 percent of the site's hardscaped areas.
5. *Local Source Materials.* Use materials from local sources that are close to the job site.
6. *Green Roofing.* Use Energy Star-compliant and high-emissive roofing, and/or install a Green (vegetated) roof for at least 50 percent of the roof area; or a combination of high-albedo and vegetated roof covering 75 percent of the roof area.

Healthy Homes

1. *Green Label Certified Floor Covering.* Do not install carpets in basements, entryways, laundry rooms, bathrooms or kitchens; if using carpet, use the Carpet and Rug Institute's Green Label certified carpet and pad.
2. *Healthy Flooring Materials: Alternatives.* Use non-vinyl, non-carpet floor coverings in all rooms.
3. *Healthy Flooring Materials: Reducing Dust.* Install a whole-house vacuum system with high-efficiency particulate air filtration.
4. *Sealing Joints.* Seal all wall, floor and joint penetrations to prevent pest entry; provide rodent and corrosion proof screens (e.g., copper or stainless steel mesh) for large openings.
5. *Termite-resistant Materials.* Use termite-resistant materials in areas known to be infested.
6. *Tub and shower Enclosures: Moisture Prevention.* Use one-piece fiberglass or similar enclosure or, if using any form of grouted material, use backing materials such as cement board, fiber cement board, fiber-glass reinforced board or cement plaster.

7. *Green Maintenance Guide.* Provide a guide for homeowners and renters that explains the intent, benefits, use and maintenance of Green building features, and encourages additional Green activities such as recycling, gardening and use of healthy cleaning materials.

8. *Resident Orientation.* Provide a walk-through and orientation to the homeowner or new tenants.

number for this notice (USCG–2010–0212) in the “Keyword” box, and then click “Search.”

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair’s discretion, members of the public may make brief oral presentations during the meeting. If you would like to make an oral presentation at a meeting, please notify the Assistant to the Chairman no later than November 12, 2010. Written material (no more than 2 full pages) for distribution at the meeting should reach the Coast Guard no later than November 12, 2010. If you would like a copy of your material (no more than 2 full pages) distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Assistant to the Chairman no later than November 12, 2010.

The transcript of the meeting, including all comments received during the meeting, will be posted to <http://www.regulations.gov> and will include any personal information you have provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Chairman as soon as possible.

Authority: This notice is issued under authority of 5 U.S.C. 552(a).

Dated: October 14, 2010.

J.R. Caplis,

Captain, U.S. Coast Guard, Chief, Office of Incident Management & Preparedness.

[FR Doc. 2010–26287 Filed 10–18–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5447–N–01]

Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of allocation method, waivers granted, alternative requirements applied, and statutory program requirements.

SUMMARY: This notice advises the public of the allocation formula and allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations granted to grantees under Section 2301(b) of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, approved July 30, 2008) (HERA), as amended, and an additional allocation of funds provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203, approved July 21, 2010) (Dodd-Frank Act) for additional assistance in accordance with the second undesignated paragraph under the heading ‘Community Planning and Development—Community Development Fund’ in Title XII of Division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009) (Recovery Act), as amended, for the purpose of assisting in the redevelopment of abandoned and foreclosed homes. Except where provided for otherwise, these amounts are distributed based on funding formulas for such amounts established by the Secretary in accordance with HERA.

The additional allocation represents the third round of Neighborhood Stabilization Program funding and is referred to throughout this notice as NSP3. HERA provided a first round of formula funding to States and units of general local government, and is referred to herein as NSP1. The Recovery Act provided a second round of funds awarded by competition and is referred to herein as NSP2. The three rounds of funding are collectively referred to as NSP. As described in the Supplementary Information section of this notice, HUD is authorized by statute to specify alternative requirements and make regulatory waivers for this purpose. This notice also notes statutory issues affecting program design and implementation.

Note: This notice is intended to provide unified program requirements for grantees of the two formula NSP grant programs, NSP1 and NSP3. The allocation and application information under Section I.A and Section II.B below is only applicable to NSP3 grants. For NSP1, HUD awarded grants to a total of 309 grantees including the 55 states and territories and selected local governments to stabilize communities hardest hit by foreclosures and delinquencies. For the allocation formula and application process for NSP1, please see the October 6, 2008 **Federal Register** Notice (73 FR 58330), as amended by the June 19, 2009 “Bridge” Notice (74 FR 29223), and Appendix A attached hereto. For NSP2, HUD awarded a combined total \$1.93 billion in NSP2 grants to 56 grantees nationwide on January 14,

2010. Funds under NSP2 were distributed by competition under criteria described in the May 4, 2009 Notice of Funding Availability. Where requirements differ between the rounds of funding, it is so noted.

DATES: *Effective Date:* October 19, 2010.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. FAX inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the “800” number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Program Background and Purpose

Recipients will use the funds awarded under this notice to stabilize neighborhoods whose viability has been, and continues to be, damaged by the economic effects of properties that have been foreclosed upon and abandoned. In 2008, Congress appropriated funds for neighborhood stabilization under HERA. In 2009, Congress appropriated additional neighborhood stabilization funds under the Recovery Act. In 2010, Congress appropriated a third round of neighborhood stabilization funds in the Dodd-Frank Act.

When referring to a provision of the first appropriations statute, this notice will refer to HERA; when referring to a provision of the second appropriations statute, this notice will refer to the Recovery Act; and when referring to the third appropriations statute this notice will refer to the Dodd-Frank Act. When referring to the grants, grantees, assisted activities, and implementation rules under the Dodd-Frank Act, this notice will use the term “NSP3.” When referring to the grants, grantees, assisted activities, and implementation rules under the Recovery Act, this notice will use the term “NSP2.” When referring to the grants, grantees, assisted activities, and implementation rules under HERA, this notice will use the term “NSP1.” Collectively, the grants, grantees, assisted activities, and implementation rules under these three rounds of funding is referred to as NSP. NSP is a component of the Community Development Block Grant (CDBG) program (authorized under Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) (HCD Act)).

Program Principles

Programs under NSP should aim to integrate the following principles:

- Retain CDBG distinctive requirements. Congress gave HUD broad waiver and alternative requirement authority, which HUD used in designing NSP program requirements. However, distinctive characteristics of the CDBG program including the objectives of the HCD Act, financial accountability, local citizen participation and information, grantee selection of activities within broad Federal policy parameters, and income targeting of beneficiaries were retained. All of these elements are required in NSP1, NSP2, and NSP3.

- Target and reconnect neighborhoods. Invest funds in programs and projects that will revitalize targeted neighborhood(s) and reconnect those targeted neighborhoods with the economy, housing market, and social networks of the community and metropolitan area as a whole.

- Rapidly arrest decline. Support NSP uses and activities that will rapidly arrest the decline of a targeted neighborhood(s) that has been negatively affected by abandoned or foreclosed properties.

- Assure compliance with the NSP “deep targeting” requirement. No less than 25 percent of the funds shall be used to house individuals and families whose incomes do not exceed 50 percent of area median income.

- Ensure longest feasible continued affordability. Invest in affordable housing that will remain desirable and affordable for the longest feasible period.

- Support projects that optimize economic activity, and the number of jobs created or retained or that will provide other long-term economic benefits.

- Build inclusive and sustainable communities free from discrimination.

- Coordinate planning and resources. Integrate neighborhood stabilization programs with other Federal policy priorities and investments, including energy conservation and efficiency, sustainable and transit-oriented development, integrated metropolitan area-wide planning and coordination, improvements in public education, and access to healthcare.

- Leverage resources and remove destabilizing influences. Augment neighborhood stabilization programs with other Federal, public and private resources. Eliminate destabilizing influences, such as blighted homes, that can prevent programs from producing results.

- Set goals. Set aggressive, but achievable, goals for outputs and outcomes.

- Ensure accountability. Ensure accountability for all programs, keep citizens actively informed, and provide all required NSP reporting elements.

Objectives and Outcomes

1. *Objectives.* The primary objective of the CDBG program is the development of viable urban communities, by providing decent housing, a suitable living environment, and economic opportunity, principally for persons of low- and moderate-income. NSP grantees must strive to meet this objective in neighborhoods that are in decline (or further decline) due to the negative effects of a high number and percentage of homes that have been foreclosed upon. The first goal is to arrest the decline. Then the grantee must stabilize the neighborhood and position it for a sustainable role in a revitalized community.

2. *Outcomes.* Measurable NSP short term program outcomes may include, but are not limited to:

- Arresting decline in home values based on average sales price in targeted neighborhoods, and
- Reduction or elimination of vacant and abandoned residential property in targeted neighborhoods.

The long term outcomes may include, but are not limited to:

- Increased sales of residential property in targeted neighborhoods, and
- Increased median market values of real estate in targeted neighborhoods.

Authority To Provide Alternative Requirements and Grant Regulatory Waivers

The Dodd-Frank Act states that, except where provided for otherwise, assistance shall be provided in accordance with the same provisions applicable under the NSP2 authorization. In turn, the Recovery Act provides that assistance shall be made available as authorized under HERA. The Recovery Act authorizes the Secretary to specify waivers and alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of funds except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds.

The Secretary finds that the following alternative requirements are necessary to expedite the use of these funds for their required purposes.

Except as described in this notice, statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subpart I for states, and those at 24 CFR part 570 subparts A, C, D, J, K, and O for CDBG entitlement communities, as appropriate, shall apply to the use of these funds. The State of Hawaii will be allocated funds and will be subject to part 570, subpart I, as modified by this notice. Other sections of the notice provide further details of the changes, the majority of which deal with adjustments necessitated by statutory provisions, simplify program rules to expedite administration, or relate to the ability of state grantees to act directly instead of solely through distribution to local governments. Additional guidance and technical assistance will be available at <http://www.hud.gov/nspta>.

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I. Allocations

A. *Formula: Allocation.* Grants awarded under NSP1 were allocated to States and local governments according to the formula described in Attachment A. The Dodd-Frank Act makes available an additional \$1 billion that is generally to be construed as CDBG program funds (NSP3) for the communities and in the amounts listed in Attachment B to this notice.

B. *Formula: Reallocation.*

1.a. *Failure to Apply (NSP3).* To expedite the use of NSP3 funds, the Department is specifying alternative requirements to 42 U.S.C. 5306(c). If a unit of general local government receiving an allocation of NSP3 funds under this notice (as designated in Attachment B) fails to submit a substantially complete application for its grant allocation by March 1, 2011, or submits an application for less than the total allocation amount, HUD will notify the jurisdiction of the cancellation of all or part of its allocation amount and proceed to reallocate the funds to the state in which the jurisdiction is located.

b. If a state or insular area receiving an allocation of funds under this notice fails to submit a substantially complete application for its allocation by March 1, 2011, or submits an application for less than the total allocation amount, HUD will notify the state or insular area of the reduction in its allocation amount and proceed to reallocate the funds to the 10 highest-need states based on original rankings of need.

2.a. *Failure to Meet 18-Month Obligation Deadline (NSP1).* Consistent with the August 23, 2010 Notice of NSP Reallocation Process Changes (Docket No. FR-5435-N-01), HUD will block each grantee's ability to obligate NSP1 grant funds in the Disaster Recovery Grant Reporting System (DRGR) on the first business day after the statutory 18-month deadline for use of funds. HUD will notify the grantee of this action by electronic mail. Grantees will not be able to obligate grant funds after the deadline without requesting and receiving permission from HUD, and HUD determines that the grantee is not high risk consistent with this notice. The grantee will still be able to expend grant funds obligated before the deadline. Receipt and use of any program income will also be unaffected.

b. Grantees that fail to obligate an amount equal to or greater than its initial grant amount may submit information to HUD, for up to 30 days following its 18-month deadline, documenting any additional obligation of funds not already recorded in the

DRGR system and demonstrating to HUD that the obligation occurred on or before the 18-month deadline. Before the 18-month deadline, each grantee should also review its recorded obligations and notify HUD within 30 days following the deadline of any necessary adjustments to the amount and the reason for such an adjustment. For example, the grantee has become aware that an obligation amount that was previously recorded for an acquisition will not proceed, therefore a downward adjustment is necessary.

c. After the deadline, if a grantee needs to decrease or increase the amount of grant funds obligated to an activity, it must first ask HUD to remove the DRGR block on changing the amount obligated. If the amount of decrease is more than 15 percent of the obligation for any activity, the grantee must submit to HUD a written request that clearly demonstrates with compelling information that factors beyond the grantee's reasonable control caused the need to adjust after the deadline. If HUD agrees to grant the request, it will restore the grantee's ability to obligate grant funds in DRGR. If HUD does not grant the request, the grantee must either complete the activity as originally obligated or the amount previously obligated for that activity will be recaptured. HUD may also remove the obligations block following risk assessment of the grantee or a review of some or all of a grantee's obligation documentation.

d. Before HUD determines the appropriate corrective action or recaptures grant funds, HUD will review the submitted information, consider the grantee's capacity as described in 24 CFR 570.905 and 24 CFR 570.493, and the grantee's continuing need for the funds.

e. Following the review and consistent with the procedures described in 24 CFR 570.900(b), HUD will proceed to notify the grantee of the selected corrective action it is required to undertake.

f. HUD will recapture and reallocate up to \$19.6 million from any state grantee with unused NSP1 grant funds. Additional corrective actions may be taken related to any amount of unused funds greater than \$19.6 million.

g. HUD will reallocate recaptured NSP1 grant funds in accordance with the reallocation formula described in a separate reallocation notice. A grantee receiving a reallocation must apply for the grant in accordance with the NSP1 Notice or this notice, as applicable. A nonentitlement grantee that is not required to submit a consolidated plan to HUD under the CDBG program will

prepare an abbreviated plan. The substance of an abbreviated plan must include all the required elements that entitlement communities provide as part of an NSP Action Plan substantial amendment as described under Section II.B.2 of the NSP1 Notice or this Notice, as applicable.

h. Each grantee must meet the statutory requirement to expend 25 percent of its grant amount for activities that will provide housing for households whose income is at or under 50 percent of area median income. This cannot occur unless the funds are first obligated to activities for this purpose, or program income is received and used for eligible activities. Therefore, if a grantee fails to obligate or record program income use of at least 25 percent of its original grant amount for activities that will provide housing for households whose income is at or under 50 percent of area median income, HUD may issue a concern or a finding of noncompliance. Consistent with the procedures described in 24 CFR 570.900(b), HUD will require as a corrective action that the grantee either adjust its remaining NSP1 planned activities to ensure that 25 percent of the original NSP1 formula grant amount and program income supports activities providing housing to households with incomes at or under 50 percent of area median income, or make a firm commitment to provide such housing with nonfederal funds in an amount sufficient to offset any deficiency to comply with the requirement before the expenditure deadline for the NSP1 grant.

i. The NSP1 Notice allows each grantee to use up to 10 percent of its NSP1 grant for general administration and planning activities. If HUD recaptures funds from a grant, this percentage limitation will still apply to the remaining grant funds, reducing the amount available for administration activities.

3. *Failure to Meet Expenditure Deadline for NSP3.*

NSP3 grantees must expend 50 percent of their grants within 2 years and 100 percent of their grants within 3 years. HUD will recapture and reallocate the amount of funds not expended by those deadlines or provide for other corrective action(s) or sanction. Further guidance will be issued prior to the deadline.

II. Alternative Requirements and Regulatory Waivers

This section of the notice briefly provides a justification for alternative requirements, where additional explanation is necessary, and describes

the necessary basis for each regulatory waiver. This section also highlights some of the statutory requirements applicable to the grants. This background narrative is followed by the NSP requirements. While program requirements across the three rounds of NSP funding are similar, certain requirements differ in accordance to statutory provisions.

Each grantee eligible for an NSP grant that already receives annual CDBG allocations has carried out needs hearings, has a consolidated plan, an annual action plan, a citizen participation plan, a monitoring plan, an analysis of impediments to fair housing choice, and has made CDBG certifications. The consolidated plan already discusses housing needs related to up to four major grant programs: CDBG, HOME, Emergency Shelter Grants (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). A grantee's annual action plan describes the activities budgeted under each of those annual programs.

HUD is treating a state and entitlement grantee's use of its NSP grant to be a substantial amendment to its current approved consolidated plan and 2010 annual action plan. The NSP grant is a special CDBG allocation to address the problem of abandoned and foreclosed homes. Treating NSP3 as a substantial amendment will expedite the distribution of NSP3 funds, while ensuring citizen participation on the specific use of the funds. HUD is waiving the consolidated plan regulations on the certification of consistency with the consolidated plan to the extent necessary to mean NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the grantee's substantial amendment. In addition, HUD is waiving the consolidated plan regulations to the extent necessary to adjust reporting to fit the requirements of HERA and the use of DRGR.

Non-entitlement local government grantees receiving NSP3 funds that are not required to submit a consolidated plan to HUD under the CDBG program will prepare an abbreviated plan. The substance of an abbreviated plan must include all the required elements that entitlement communities provide as part of an NSP Action Plan substantial amendment as described under Section II.B.2.

The waivers, alternative requirements, and statutory changes apply only to the grant funds appropriated under NSP and not to the use of regular formula allocations of CDBG, even if they are used in conjunction with NSP funds for

a project. They provide expedited program implementation and implement statutory requirements unique to the covered NSP appropriations.

A. Definitions for Purposes of the Neighborhood Stabilization Program

Background

Certain terms are used in HERA that are not used in the regular CDBG program, or the terms are used differently in HERA and the HCD Act. In the interest of clarity of administration, HUD is defining these terms in this notice for all grantees, including states. For the same reason, HUD is also defining eligible fund uses for all grantees, including states. States may define other program terms under the authority of 24 CFR 570.481(a), and will be given maximum feasible deference in accordance with 24 CFR 570.480(c) in matters related to the administration of their NSP programs.

Requirement

Abandoned. A home or residential property is abandoned if either (a) mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or (b) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or (c) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state or local law or otherwise meets a state definition of an abandoned home or residential property.

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.

CDBG funds. CDBG funds means, in addition to the definition at 24 CFR 570.3, grant funds distributed under this notice.

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 either: (1) The appraisal requirements of the URA at 49 CFR 24.103, or (2) the Uniform Standards of Professional Appraisal Practice (USPAP), or (3) the appraisal requirements of the Federal Housing Administration (FHA) or a government sponsored enterprise (GSE); and the appraisal must be completed or updated within 60 days of a final offer made for

the property by a grantee, subrecipient, developer, or individual homebuyer. However, if the anticipated value of the proposed acquisition is estimated at \$25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the grantee determines is qualified to make the valuation.

Date of Notice of Foreclosure. For purposes of the NSP tenant protection provisions described at Section K, the date of notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed. If none of these events occur in the acquisition of a foreclosed property (e.g. in a short sale), in order to ensure fair and equitable treatment of *bona fide* tenants and consistency with the NSP definition of foreclosed, the date of notice of foreclosure shall be deemed to be the date on which the property is acquired for the NSP-assisted project. **Note:** This definition does not affect or otherwise alter the definition of "foreclosed" as provided in this notice.

Foreclosed. A home or residential property has been foreclosed upon if any of the following conditions apply: (a) The property's current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified; (b) the property owner is 90 days or more delinquent on tax payments; (c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed; or (d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, contractor, subrecipient, developer, or end user.

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 NSP, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been 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 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.

Subrecipient. Subrecipient shall have the same meaning as at the first sentence of 24 CFR 570.500(c). This includes any nonprofit organization (including a unit of general local government) that a state awards funds to.

Use (for the purposes of HERA 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.

Vicinity. For the purposes of NSP3, HUD defines "vicinity" as each neighborhood identified by the NSP3 grantee as being the areas of greatest need.

B. NSP3 Pre-Grant Process

Background

With this notice, HUD is establishing the NSP3 allocation formula, including reallocation provisions, and announcing the distribution of funds. CDBG grantees receiving NSP3 allocations may immediately begin to prepare and submit action plan substantial amendments for NSP3 funds, in accordance with this notice. (Insular areas should follow the requirements for entitlement communities.) Non-entitlement local government grantees will follow entitlement requirements except for the submission of an abbreviated plan rather than a substantial amendment or as otherwise explained in this notice.

To receive NSP3 funding, each grantee listed in Attachment B must submit an action plan substantial amendment or abbreviated plan to HUD in accordance with this notice by March 1, 2011.

HUD encourages each grantee to carry out its NSP activities in the context of a comprehensive plan for the community's vision of how it can make its neighborhoods not only more stable, but also more sustainable, inclusive, competitive, and integrated into the overall metropolitan fabric, including access to transit, affordable housing, employers, and services. HUD also

encourages grantees to incorporate green and sustainable development practices, such as the examples in Attachment C.

HUD encourages each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline.

Jurisdictions may cooperate to carry out their grant programs through a joint request to HUD. HUD is providing regulatory waivers and alternative requirements to allow joint requests among units of general local government and to allow joint requests between units of general local government and a state. Any two or more contiguous units of general local government that are in the same metropolitan area and that are eligible to receive an NSP grant may instead make a joint request to HUD to implement a joint NSP program. A jurisdiction need not have a joint agreement with an urban county under the regular CDBG entitlement program to request a joint program for NSP funding. Similarly, any community eligible to receive an NSP grant may instead make a request for a joint NSP program with its state. An NSP joint request under a cooperation agreement results in a single combined grant and a single action plan substantial amendment. Potential requestors should contact HUD as soon as possible (as far as possible in advance of publishing a proposed NSP substantial amendment) for technical guidance. The requestors will specify which jurisdiction will receive the funds and administer the combined grant on behalf of the requestors; in the case of a joint request between a local government jurisdiction and a state, the state will administer the combined grant. (Grantees choosing this option should consider the Consolidated Plan and citizen participation implications of this approach. The lead entity's substantial amendment or abbreviated plan will cover any participating members. The citizen participation process must include citizens of all jurisdictions participating in the joint NSP program, not just those of the lead entity.)

Given the rule of construction in HERA that NSP funds generally are construed as CDBG program funds, subject to CDBG program requirements, HUD generally is treating NSP3 funds as a special allocation of Fiscal Year (FY) 2010 CDBG funding. This has important consequences for local governments presently participating in an existing urban county program, and for metropolitan cities that have joint agreements with urban counties. HUD will consider any existing cooperation agreements between a local government

and an urban county governing FY2010 CDBG funding (for purposes of either an urban county or a joint program) to automatically cover NSP funding as well. These cooperation agreements will continue to apply to the use of NSP funds for the duration of the NSP grant, just as cooperation agreements covering regular CDBG Entitlement program funds continue to apply to any use of the funds appropriated during the 3-year period covered by the agreements. For example, a local government presently has a cooperation agreement covering a joint program or participation in an urban county for Federal FYs 2009, 2010 and 2011. The local government may choose to discontinue its participation with the county at the end of the applicable qualification period for purposes of regular CDBG entitlement funding. However, the county will still be responsible for any NSP3 projects funded in that community, and for any NSP3 funding the local government receives from the county, until those funds are expended and the funded activities are completed.

A third method of cooperating is also available. A jurisdiction may choose to apply for its entire grant, and then enter into a subrecipient agreement with another jurisdiction or nonprofit entity to administer the grant. In this manner, for example, all of the grantees operating in a single metropolitan area could designate the same land-bank entity (or the state housing finance agency) as a subrecipient for some or all of their NSP activities.

Each NSP3 grantee will have until March 1, 2011, to complete and submit a substantial amendment to its annual action plan or an abbreviated plan. A grantee that wishes to submit its action plan amendment to HUD electronically in the DRGR system rather than by paper may do so by contacting its local field office for the DRGR submission directions. Paper submissions to HUD also will be allowed, although each grantee must set up its action plan in DRGR prior to the deadline for the first required performance report after receiving a grant.

HUD encourages grantees, during development of their action plan amendments or abbreviated plans, to contact HUD field offices for guidance in complying with these requirements, or if they have any questions regarding meeting grant requirements.

Normally, in the CDBG program, a grantee takes at least 30 days soliciting comment from its citizens before it submits an annual action plan to HUD, which then has 45 days to accept or reject the plan. To expedite the process and to ensure that the NSP grants are

awarded in a timely manner, while preserving reasonable citizen participation, HUD is waiving the requirement that the grantee follow its citizen participation plan for this substantial amendment. HUD is shortening the minimum time for citizen comments and requiring the substantial amendment or abbreviated plan to be posted on the grantee's official Web site as the materials are developed, published, and submitted to HUD.

A grantee will be deemed by HUD to have received its NSP grant at the time HUD signs its NSP grant agreement (or amendment thereof, in the case of a state that later receives reallocated grant funds).

Grantees are cautioned that, despite the expedited application and plan process, they are still responsible for ensuring that all citizens have equal access to information about the programs. Among other things, this means that each grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. This will be a particular issue for states that make grants covering regular CDBG entitlement areas (or to entitlement grantees). Because regular State CDBG funds are not used in entitlement areas, State CDBG staffs may not be aware of limited English proficient (LEP) speaking populations in those metropolitan jurisdictions.

HUD will review each grantee submission for completeness and consistency with the requirements of this notice and will disapprove incomplete and inconsistent action plan amendments or abbreviated plans. HUD will allow revision and resubmission of a disapproved amendment or abbreviated plan in accordance with 24 CFR 91.500(d) so long as any such resubmission is received by HUD 45 days or less following the date of first disapproval.

In combination, the notice alternative requirements provide the following expedited steps for NSP grants:

- Proposed action plan amendment or abbreviated plan published via the usual methods and on the Internet for no less than 15 calendar days of public comment;
- Final action plan amendment or abbreviated plan posted on the Internet and submitted to HUD by March 1, 2011 (grant application includes Standard Form 424 (SF-424) and certifications);
- HUD expedites review;
- HUD accepts the plan and prepares a cover letter, grant agreement, and grant conditions;

- Grant agreement signed by HUD and immediately transmitted to the grantee;
- Grantee signs and returns the grant agreements;
- HUD establishes the line of credit and the grantee requests and receives DRGR access (if it does not already have access);
- After completing the environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receiving from HUD or the state an approved Request for Release of Funds and certification, the grantee may draw down funds from the line of credit.

In consideration of the shortened comment period, it is essential that grantees ensure that affected parties have sufficient notice of the opportunity to comment. The action plan substantial amendment or abbreviated plan and citizen participation alternative requirement will permit an expedited grant-making process, but one that still provides for public notice, appraisal, examination, and comment on the activities proposed for the use of NSP3 grant funds.

Note: HUD believes an adequate and acceptable substantial amendment or abbreviated plan should be no longer than 25 pages. A plan should provide sufficient detail for citizens and HUD reviewers. Internet address links can be provided to longer elements that may change, such as detailed rehabilitation standards.

Requirement

1. General. Except as described in this notice, statutory and regulatory provisions governing the CDBG program for states and entitlement communities, as applicable, shall apply to the use of these funds. Except as described in this notice, non-entitlement local government grantees receiving a grant directly from HUD shall follow statutory and regulatory provisions governing the CDBG program for entitlement communities.

2. Contents of an NSP Action Plan substantial amendment or abbreviated plan. The elements in the NSP substantial amendment to the Annual Action Plan or an abbreviated plan required for the CDBG program under part 91 are:

- a. General information about needs, distribution, use of funds, and definitions:
 - i. Each grantee must use the HUD Foreclosure Need Web site as linked to from <http://www.hud.gov/nsp> to submit to HUD the locations of its NSP3 areas of greatest need. On this site, HUD provides estimates of foreclosure need and a foreclosure related needs scores at the Census Tract level. The score rank

need from 1 to 20, with 20 being census tracts with the HUD-estimated greatest need.

ii. The neighborhood or neighborhoods identified by the NSP3 grantee as being the areas of greatest need must have an individual or average combined index score for the grantee's identified target geography that is not less than the lesser of 17 or the twentieth percentile most needy score in an individual state. For example, if a state's twentieth percentile most needy census tract is 18, the requirement will be a minimum need of 17. If, however, a state's twentieth percentile most needy census tract is 15, the requirement will be a minimum need of 15. HUD will provide the minimum threshold for each state at its Web site <http://www.hud.gov/nsp>. If more than one neighborhood is identified in the Action Plan, HUD will average the neighborhood NSP3 scores, weighting the scores by the estimated number of housing units in each identified neighborhood.

iii. A narrative describing how the distribution and uses of the grantee's NSP funds will meet the requirements of Section 2301(c)(2) of HERA, as amended by the Recovery Act and the Dodd-Frank Act;

iv. For the purposes of the NSP3, the narratives will include:

(A) A definition of "blighted structure" in the context of state or local law;

(B) A definition of "affordable rents;"

(C) A description of how the grantee will ensure continued affordability for NSP-assisted housing; and

(D) A description of housing rehabilitation standards that will apply to NSP-assisted activities.

b. Information by activity describing how the grantee will use the funds, identifying:

i. The eligible use of funds under NSP3;

ii. The eligible CDBG activity or activities;

iii. The areas of greatest need addressed by the activity or activities;

vi. The expected benefit to income-qualified persons or households or areas;

v. Appropriate performance measures for the activity (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels represented in DRGR, which are currently 50 percent of area median income and below, 51 to 80 percent, and 81 to 120 percent);

vi. Amount of funds budgeted for the activity;

vii. The name and location of the entity that will carry out the activity; and

viii. The expected start and end dates of the activity.

c. A brief description of the general terms under which assistance will be provided, including:

i. Range of interest rates (if any);

ii. Duration or term of assistance;

iii. Tenure of beneficiaries (*e.g.*, renters or homeowners); and

vi. If the activity produces housing, how the design of the activity will ensure continued affordability;

v. How the grantee shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity of NSP3 projects or contract with small businesses that are owned and operated by persons residing in the vicinity of such project, including information on existing local ordinances that address these requirements;

vi. The procedures used to create preferences for the development of affordable rental housing developed with NSP3 funds; and

vii. Whether the funds used for the activity are to count toward the requirement to provide benefit to low-income persons (earning 50 percent or less of area median income).

d. The action plan narrative should specifically address how the grantee's program design will address the local housing market conditions.

e. Information on how to contact grantee program administrators, so that citizens and other interested parties know whom to contact for additional information.

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) of HERA, as amended, remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

a. 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).)

b. The grantee must require each NSP-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. If the grantee is unable to meet this requirement for a good cause (*e.g.*, there are no HUD-approved housing counseling agencies within the grantee's jurisdiction, or there are no HUD-approved housing counseling agencies within the grantee's jurisdiction that engage in homebuyer counseling), the grantee may submit a request for an exception to this requirement to the responsible HUD field office, and the HUD field office has the authority to grant an exception for good cause. The grantee must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages (*see*, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>). Grantees must design NSP programs to comply with this requirement and must document compliance in the records, for each homebuyer. Grantees are cautioned against providing or permitting homebuyers to obtain subprime mortgages for whom such mortgages are inappropriate, including homebuyers who qualify for traditional mortgage loans.

4. Citizen participation alternative requirement. HUD is providing an alternative requirement to 42 U.S.C. 5304(a)(2) and (3), to expedite distribution of grant funds and to provide for expedited citizen participation for the NSP substantial amendment. Provisions of 24 CFR 91.105(k), 91.115(i), 570.302 and 570.486, with respect to following the citizen participation plan, are waived to the extent necessary to allow implementation of the requirements below.

a. *Initial Allocation*. To receive its grant allocation, a grantee must submit to HUD for approval an NSP3 application by March 1, 2011. This

submission will include a signed SF-424, signed certifications, and a substantial action plan amendment or abbreviated plan meeting the requirements of paragraph b below. (24 CFR 91.505 is waived to the extent necessary to require submission of the substantial amendment to HUD for approval in accordance with this notice.)

Reallocation. To receive an NSP reallocation, a grantee must submit to HUD for approval an NSP application by the deadline indicated in a reallocation announcement. This submission will include a signed standard Federal form SF-424, signed certifications, and a substantial action plan meeting the requirements of paragraph B.3.b below. (24 CFR 91.505 is waived to the extent necessary to require submission of the substantial amendment to HUD for approval in accordance with this notice.)

b. Each grantee must prepare and submit its annual Action Plan amendment or abbreviated plan to HUD in accordance with the consolidated plan procedures under the CDBG program as modified by this notice, or HUD will reallocate the funds allocated for that grantee. HUD is providing alternative requirements to 42 U.S.C. 5304(a)(2) and waiving 24 CFR 91.105(c)(2), 91.105(k), 91.115(c)(2), and 91.115(i) to the extent necessary to allow the grantee to provide no fewer than 15 calendar days for citizen comment (rather than 30 days) for its initial NSP submission and any subsequent substantial NSP action plan amendment, and to require that, at the time of submission to HUD, each grantee post its approved action plan amendment and any subsequent NSP amendments on its official Web site along with a summary of citizen comments received within the 15-day comment period. After HUD processes and approves the plan amendment and both HUD and the grantee have signed the grant agreement, HUD will establish the grantee's line of credit in the amount of funds included in the Action Plan amendment, up to the allocation amount.

5. Joint requests. To expedite the use of funds, HUD is providing an alternative requirement to 42 U.S.C. 5304(i) and is waiving 24 CFR 570.308 to the extent necessary to allow for additional joint programs described below.

a. *Unit of General Local Government Joint Agreements*. Two or more contiguous jurisdictions that are eligible to receive a NSP allocation and are located in the same metropolitan area

may enter into joint agreements. All members to the joint agreement must be eligible to receive NSP1 or NSP3 funds, and one unit of general local government must be designated as the lead entity. The lead entity must execute the NSP grant agreement with HUD. Consistent with 24 CFR 570.308, the lead entity must assume responsibility for administering the NSP grant on behalf of all members, in compliance with applicable program requirements. The lead entity's substantial amendment to the action plan or abbreviated plan will include all participating communities.

b. Joint agreements with a state. Any jurisdiction that is eligible to receive an NSP allocation may enter into a joint agreement with its state. The state shall be the lead entity and must assume responsibility for administering the NSP grant on behalf of the local government, in compliance with applicable program requirements. The substantial amendment to the state's action plan will include any participating unit of general local government.

c. Local jurisdictions receiving reallocation funds may enter into joint agreements in accordance with paragraph B.5.a. or b., regardless of whether the local jurisdiction had a joint agreement for the original NSP allocation.

6. Effect of existing cooperation agreements governing joint programs and urban counties for NSP3 (see NSP1 Notice for parallel language for NSP1 grantees). Any cooperation agreement between a unit of general local government and a county, concerning either a joint program or participation in an urban county under 24 CFR 570.307 or 570.308, and governing CDBG funds appropriated for Federal FY 2010, will be considered to incorporate and apply to NSP3 funding. Any such cooperation agreements will continue to apply to the use of NSP3 funds until the NSP3 funds are expended and the NSP3 grant is closed out. Grantees should note that certain provisions in existing cooperation agreements that govern CDBG funding may be inconsistent with parts of HERA, the Recovery Act, the Dodd-Frank Act or this notice. For instance, set minimum and/or maximum allocation amounts may conflict with priority distributions to areas of greatest need identified in the grantee's action plan substantial amendment. Conforming amendments should be made to existing cooperation agreements, as necessary, to comply with NSP statutory requirements and this notice.

C. Reimbursement for Pre-Award Costs

Background

NSP grantees will need to move forward rapidly to prepare the NSP substantial amendment or abbreviated plan and to undertake other administrative actions, including environmental reviews, as soon as allocations are known. Therefore, HUD is granting permission to states and jurisdictions receiving a direct allocation of NSP funds to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds.

Requirement

HUD is waiving 24 CFR 570.200(h) to the extent necessary to grant permission to jurisdictions receiving a direct NSP allocation under this notice to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. Similarly, in accordance with OMB Circular A-87, Attachment B, paragraph 31, HUD is allowing states to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. NSP grantees will be allowed to incur costs necessary to develop the NSP substantial action plan amendment and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in the final plan, provided that the other conditions of 24 CFR 570.200(h) are met. (For units of general local government applying to the state (including entitlements not receiving a direct NSP allocation under this notice), 24 CFR 570.489(b) applies unmodified. Units of general local government receiving direct NSP allocations may incur pre-award costs as would an entitlement community.)

D. Grantee Capacity and Grant Conditions

Background

In the October 6, 2008 Notice, HUD encouraged each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline. To support this consideration, HUD will provide each grantee a self-assessment tool that grantees may find useful in better understanding their capacity to undertake and manage NSP activities. This is essentially the same self-assessment tool that is used for NSP Technical Assistance purposes and it will allow HUD to more rapidly identify capacity gaps and technical assistance needs and to provide appropriate technical assistance. Although HUD suggests that every NSP grantee

complete and submit the self-assessment with its substantial amendment or abbreviated plan, HUD will require some grantees to complete and submit such a self-assessment as a special condition of receiving funding.

Requirement

For NSP grantees that HUD determines are high risk in accordance with 24 CFR 85.12(a), HUD will apply additional grant conditions in accordance with 24 CFR 85.12(b).

E. Income Eligibility Requirement Changes

Background

The NSP program includes two low- and moderate-income requirements at HERA section 2301(f)(3)(A) that supersede existing CDBG income qualification requirements. Under the heading "Low and Moderate Income Requirement," HERA states 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.

This provision does two main things. First, for the purposes of NSP, it effectively supersedes the overall benefit provisions of the HCD Act and the CDBG regulations, which allow up to 30 percent of a grant to be used for activities that meet a national objective other than low- and moderate-income benefit. Thus, NSP allows the use of *only* the low- and moderate-income benefit national objective. Activities may **not** qualify under NSP using the "prevent or eliminate slums and blight" or "address urgent community development needs" objectives.

Second, this provision also redefines and supersedes the definition of "low- and moderate-income," effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of area median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program. To prevent confusion, HUD will refer to this new income group as "middle income," and keep the regular CDBG definitions of "low-income" and "moderate income" in use. Further, HUD will characterize aggregated households whose incomes do not exceed 120 percent of median income as "low-, moderate-, and middle-income households," abbreviated as LMMH. For the purposes of NSP only, an activity may meet the HERA low- and moderate-income national objective if the assisted activity:

- Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);

- Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA); or

- Serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

HUD will use the parenthetical terms above to refer to NSP national objectives in program implementation, to avoid confusion with the regular HCD Act definitions.

Land banks are not allowed in the regular CDBG program because of the very high risk that the delay between acquiring property and meeting a national objective can be excessively long, attenuating the intended CDBG program benefits by delaying benefit far beyond the annual or even the 5-year consolidated plan cycles. In the regular CDBG program (and in NSP other than in an eligible land-bank use), a property acquisition activity is dependent on the subsequent re-use of the property meeting a national objective in order to demonstrate program compliance. Given this, the HERA direction that assistance to land banks is an eligible use of NSP funds requires an alternative requirement and policy clarification.

For grantees choosing to assist land banks or demolition of structures with NSP funds, the change to the income qualification level for low-, moderate- and middle-income areas will likely include most of the neighborhoods where property stabilization is required. If an assisted land bank is not merely acquiring properties, but is also working in an area in which other activities are being carried out that are intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA) prior to final disposition of the banked property. HUD notes that the grantee must determine the actual service area benefiting from a land bank's activities, in accordance with the regulations.

However, HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods or that this is the best use of limited NSP funds absent a re-use plan. Therefore, HUD requires that a

land bank may not hold a property for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

Note that if a state provides funds to an entitlement community, the entitlement community must apply the area median income levels applicable to its regular CDBG program geography and not the "balance of state" levels.

Other than the change in the applicable low- and moderate-income qualification level from 80 percent to 120 percent and this notice's change to the calculation at 570.483(b)(3), the area benefit, housing, and limited clientele benefit requirements at 24 CFR 570.208(a) and 570.483(b) remain unchanged, as does the required documentation.

The other NSP low- and moderate-income related provision, as modified by the Dodd-Frank Act, states that:

"not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income."

The Dodd-Frank Act struck language in HERA that specified that funds meeting the 25 percent requirement must be used specifically for the purchase and redevelopment of abandoned and foreclosed homes or residential properties. This means that, as of the effective date of the Dodd-Frank Act, any NSP eligible activity used to house individuals or families at or below 50 percent area medium income may be used to satisfy this requirement (*i.e.*, vacant properties that are not abandoned or foreclosed may be used to meet the requirement as well as eligible commercial properties that are reused to house individuals and families at or below 50% AMI). However, NSP1 and NSP2 funds already obligated or expended prior July 21, 2010, do not retroactively satisfy this requirement.

HUD advises grantees to take note of this threshold as they design NSP activities. This provision does not have a parallel in the regular CDBG program. Grantees must document that an amount equal to at least 25 percent of a grantee's NSP grant (initial allocation plus any program income) has been budgeted in the initial approved action plan substantial amendment or abbreviated plan for activities that will provide housing for income-qualified individuals or families. Prior to and at grant closeout, HUD will review grantees for compliance with this provision by determining whether at least 25 percent of grant funds have

been expended for housing for individual households whose incomes do not exceed 50 percent of area median income.

HUD is providing a waiver and alternative requirement to allow grantees to determine low- and moderate income benefit on a unit basis to allow greater support of mixed income housing than the structure basis required by 24 CFR 570.483(b)(3). (Under the cited regulation, the general rule is that at least 51 percent of the residents of an assisted structure must be income eligible.) Under the unit approach, one or more of the units in a structure must house income-eligible families, but the remainder of the units may be market rate, so long as the proportion of assistance provided compared to the overall project budget is no more than the proportion of units that will be occupied by income-eligible households compared to the number of units in the overall project. Under the unit approach, the number of income-eligible units is proportional to the amount of assistance provided. Note that this approach may only be used if the units are generally comparable in size and finishes. Based on HUD experience, this approach is generally more compatible with large-scale development of mixed-income housing than the structure approach under which a dollar of CDBG assistance to a structure means that 51 percent of the units must meet income requirements.

For the purposes of NSP, adopting the unit basis continues to benefit individuals and families whose income does not exceed 120 percent of area median income by limiting the proportion of the funding to the proportion of units that are being assisted with NSP funds. This approach also helps to avoid displacing existing over-income tenants in a building being treated with NSP. Finally, it promotes the type of mixed-income developments that experience shows to be more successful both economically and socially. Therefore, the waiver and alternative requirements allow the grantee a choice. The grantee may measure benefit within a housing development project (1) according to the existing CDBG requirements, (2) according to the HOME program requirements at 24 CFR 92.205(d) or (3) according to the modified CDBG alternative requirements specified in this notice, which extend the CDBG exception noted above. The grantee must select and use just one method for each project.

Requirements

1. Overall benefit supersession and alternative requirement. The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.484 (for states), and 24 CFR 570.200(a)(3) that 70 percent of funds are for activities that benefit low- and moderate-income persons are superseded and replaced by section 2301(f)(3)(A) of HERA. One hundred percent of NSP funds must be used to benefit individuals and households whose income does not exceed 120 percent of area median income. NSP shall refer to such households as “low-, moderate-, and middle-income.”

2. National objectives supersession and alternative requirements. The requirements at 42 U.S.C 5301(c) are superseded and 24 CFR 570.208(a) and 570.483 are waived to the extent necessary to allow the following alternative requirements:

a. for purposes of NSP only, the term “low- and moderate-income person” as it appears throughout the CDBG regulations at 24 CFR part 570 shall be defined as a member of a low-, moderate-, and middle-income household, and the term “low- and moderate-income household” as it appears throughout the CDBG regulations shall be defined as a household having an income equal to or less than 120 percent of area median income, measured as 2.4 times the current Section 8 income limit for households below 50 percent of median income, adjusted for family size. A state choosing to carry out an activity directly must apply the requirements of 24 CFR 570.208(a) to determine whether the activity has met the low-, moderate-, and middle-income (LMMI) national objective and must maintain the documentation required at 24 CFR 570.506 to demonstrate compliance to HUD.

b. 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.

c. Each grantee whose plan includes assisting rental housing shall develop and make public its definition of affordable rents for NSP-assisted rental projects.

d. An NSP-assisted property may not be held in a land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

e. Not less than 25 percent of any NSP grant shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

f. HUD will consider assistance for a multi-unit housing project involving new construction, acquisition, reconstruction, or rehabilitation to benefit LMMI households in the following circumstances:

(i)(A) The NSP assistance defrays the development costs of a housing project providing eligible permanent residential units that, upon completion, will be occupied by income-qualified households; and

(B) if the project is rental, the units occupied by income-qualified households will be leased at affordable rents. The grantee or unit of general local government shall adopt and make public its standards for determining “affordable rents” for this purpose; and

(C) The proportion of the total cost of developing the project to be borne by NSP assistance is no greater than the proportion of units in the project that will be occupied by income-qualified households; or

(ii) When NSP assistance defray the development costs of eligible permanent residential units, such assistance shall be considered to benefit LMMI persons if the grantee follows the provisions of 24 CFR 92.205(d); or

(iii) The requirements of 24 CFR 570.208(a)(3) or 570.483(b)(3) are met, as applicable.

(iv) The grantee must select and use just one method for each project.

(v) The term “project” will be defined as in the HOME Program at 24 CFR 92.2.

(vi) If the grantee applies option (i) or (ii) above to a housing project, 24 CFR 570.208(a)(3) or 570.483(b)(3), as applicable, is waived for that project.

F. State Distribution to Entitlement Communities and Indian Tribes

Background

This notice includes an alternative requirement to the HCD Act and a regulatory waiver allowing distribution of funds by a state to CDBG regular entitlement communities and Tribes. This is consistent with the provision of HERA that specifically sets distribution priorities for areas with the greatest need, including “metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas * * *.” Therefore, states receiving allocations under this notice may distribute funds to or within any jurisdiction within the state 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 this notice.

Requirement

Alternative requirement for distribution to CDBG metropolitan cities, urban counties, and Tribes. In accordance with the direction of HERA that grantees distribute funds to the areas of greatest need, HUD is providing an alternative requirement to 42 U.S.C. 5302(a)(7) (definition of “nonentitlement area”) and waiving provisions of 24 CFR part 570, including 24 CFR 570.480(a), that would prohibit states electing to receive CDBG funds from distributing such funds to units of general local government in entitlement communities or to Tribes. The appropriations law supersedes the statutory distribution prohibition at 42 U.S.C. 5306(d)(1) and (2)(A). Alternatively, the state is required to distribute funds without regard to a local government status under any other CDBG program and must use funds in entitlement jurisdictions if they are identified as areas of greatest need, regardless of whether the entitlement receives its own NSP allocation.

G. State’s Direct Action

Background

In the State CDBG Program, states receiving CDBG funds may not directly use the funds for activities, but must distribute them to units of general local government, which then use the funds for program activities. HUD also notes the language of HERA section 2301(c) that says, in part, that:

“Any State * * * that receives amounts pursuant to this section shall * * * use such amounts to purchase and redevelop * * *.”

This clearly speaks to the states using funds directly for projects and supersedes the HCD Act direction for states to only *distribute* funds to nonentitlement areas. Direct use of funds by a state may also result in more expeditious use of NSP funds. Therefore, a state receiving NSP funds may carry out NSP activities directly for some or all of its assisted grant activities, just as CDBG entitlement communities do under 24 CFR 570.200(f), including, but 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).

For those activities a state chooses to carry out directly, HUD strongly advises the state to adopt the recordkeeping required for an entitlement community at 24 CFR 570.506 and the subrecipient agreement provisions at 24 CFR 570.503. Also, in such cases, as an alternative requirement to 42 U.S.C. 5304(i), the state may retain and re-use program income as if it were an entitlement community.

HUD is granting regulatory waivers of State CDBG regulations to conform the applicable management, real property change of use, and recordkeeping rules when a state chooses to carry out activities as if it were an entitlement community.

Requirements

1. Responsibility for state review and handling of noncompliance. This change conforms NSP requirements with the waiver allowing the state to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2), as amended, as modified by this notice. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any designated public agencies or units of general local governments and for its subrecipients.

2. Change of use of real property for state grantees acting directly. This waiver conforms the change of use of real property rule to the waiver allowing a state to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), "unit of general local government" shall be read as "unit of general local government or state."

3. Recordkeeping for a state grantee acting directly. Recognizing that the state may carry out activities directly, 24 CFR 570.490(b) is waived in such a case and the following alternative provision shall apply:

State Records. The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of NSP funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other

Federal requirements, the content of records maintained by the state shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly by the state; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

4. State compliance with certifications for state grantees acting directly. This is a conforming change related to the waiver to allow a state to act directly. Because a state grantee under this appropriation may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining whether the state has failed to carry out its certifications, so that such basis shall be that the state has failed to carry out its certifications in compliance with applicable program requirements.

5. Clarifying note on the process for environmental release of funds when a state carries out activities directly. Usually, a state distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grantees and approving releases of funds. For NSP, HUD allows a state grantee to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a state carries out activities directly, the state must submit the certification and request for release of funds to HUD for approval.

H. Eligibility and Allowable Costs

Background

Most of the activities eligible under NSP are correlated with CDBG-eligible activities under 42 U.S.C. 5305(a). This correlation reduces implementation risks, because it ensures that the NSP grants are administered largely in accordance with long-established CDBG rules and controls. The table in the requirements paragraph below shows the eligible uses under NSP and the eligible activities from the regulations for the regular CDBG entitlement program that HUD has determined best correspond to those uses. If a grantee creates a program design that includes a CDBG-eligible activity that is not

shown in the table to support an NSP-eligible use, the Department is providing an alternative requirement to 42 U.S.C. 5305(a) that HUD may allow a grantee an additional eligible-activity category if HUD finds the activity to be in compliance with NSP statutory requirements. As under the regular CDBG program, grantees may fund costs, such as reasonable developer's fees, related to NSP-assisted housing rehabilitation or construction activities. Only NSP1 funds may be used to redevelop acquired property for nonresidential uses, such as public parks, commercial uses, or mixed residential and commercial uses. Redevelopment activities using NSP2 and NSP3 funds must be for housing.

The annual entitlement CDBG program allows up to 20 percent of any grant amount plus program income may be used for general administration and planning costs. The State CDBG Program is also subject to the 20 percent limitation, but within that cap up to 3 percent may be used by the state for state administrative costs and technical assistance to potential local government program grantees, with the remainder available to be granted to local government grantees for their administrative costs. Because some of the costs usually allocated under these caps are not applicable to NSP grants (for example, the costs of completing the entire consolidated plan process), these amounts seem excessive to HUD in the context of the NSP program. On the other hand, HUD wants to encourage and support expeditious, appropriate, and compliant use of grant funds, and to prevent fraud, waste, and abuse of funds. Therefore, HUD is providing an alternative requirement that an amount of up to 10 percent of an NSP grant provided to a jurisdiction and of up to 10 percent of program income earned may be used for general administration and planning activities as those are defined at 24 CFR 570.205 and 206. For all grantees, including states, the 10 percent limitation applies to the grant as a whole.

The regulatory and statutory requirements for state match for program administration at 24 CFR 570.489(a)(i) are superseded by the statutory direction at section 2301(e)(2) of HERA that no matching funds shall be required for a state or unit of general local government to receive a grant.

Requirements

1. Use of grant funds must constitute an eligible use under HERA.

2. In addition to being an eligible NSP use of funds, each activity funded under NSP must also be CDBG-eligible under

42 U.S.C. 5305(a) and meet a CDBG national objective.

3.a. Certain CDBG-eligible activities correlate to specific NSP-eligible uses and vice versa. 42 U.S.C. 5305(a) and 24 CFR 570.201–207 and 570.482(a) through (d) are superseded to the extent

necessary to allow the eligible uses described under section 2301(c)(4) of HERA in accordance with this paragraph (including the table and subparagraphs below) or with permission granted, in writing, by HUD

upon a written request by the grantee that demonstrates that the proposed activity constitutes an eligible use under NSP. All NSP grantees, including states, will use the NSP categories and CDBG entitlement regulations listed below.

NSP-eligible uses	Correlated eligible activities from the CDBG entitlement regulations
(A) Establish financing mechanisms for purchase and redevelopment of <i>foreclosed upon homes and residential properties</i> , including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.	<ul style="list-style-type: none"> • As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. • Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate <i>homes and residential properties that have been abandoned or foreclosed upon</i> , in order to sell, rent, or redevelop such homes and properties.	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance (as modified below); • 24 CFR 570.202 eligible rehabilitation and preservation activities for homes and other residential properties. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.
(C) Establish and operate land banks for <i>homes and residential properties that have been foreclosed upon</i> .	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition and (b) Disposition. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.
(D) Demolish <i>blighted structures</i>	<ul style="list-style-type: none"> • 24 CFR 570.201(d) Clearance for blighted structures only.
(E) Redevelop <i>demolished or vacant properties</i> as housing.*	<ul style="list-style-type: none"> • 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, and (n) Direct homeownership assistance (as modified below). • 24 CFR 570.202 Eligible rehabilitation and preservation activities for demolished or vacant properties. • 24 CFR 570.204 Community based development organizations. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.

*NSP1 funds used under eligible use (E) may be used for nonresidential purposes, while NSP2 and NSP3 funds must be used for housing.

b. HUD will not consider requests to allow foreclosure prevention activities, or to allow demolition of structures that are not blighted. Neither will it allow purchase of residential properties and homes that have not been abandoned or foreclosed upon, except under paragraph (E) of the eligible use chart above. HUD does not have the authority to permit uses or activities not authorized by HERA.

c. New construction of housing is eligible as part the redevelopment of demolished or vacant properties as provided in paragraph (E) of the eligible use chart above.

d. 24 CFR 570.201(n) is waived and an alternative requirement provided for 42 U.S.C. 5305(a) to the extent necessary to allow provision of NSP-assisted homeownership assistance to persons whose income does not exceed 120 percent of median income.

e. No NSP2 or NSP3 funds may be used to demolish any public housing (as defined by Section 3 of the U.S. Housing Act of 1937 (42 U.S.C. 1437a)).

f. For NSP2 and NSP3, a grantee may not use more than 10 percent of its grant for demolition activities under HERA sections 2301(c)(4)(C) and (D), unless the Secretary determines that such use represents an appropriate response to

local market conditions. NSP2 and NSP3 grantees seeking to use more than 10 percent of their grant amounts on demolition activities must request a waiver from HUD.

4. Alternative requirement for the limitation on planning and administrative costs. 24 CFR 570.200(g) and 570.489(a)(3) are waived to the extent necessary to allow each grantee under this notice to expend no more than 10 percent of its grant amount, plus 10 percent of the amount of program income received by the grantee, for activities eligible under 24 CFR 570.205 or 206. The requirements at 24 CFR 570.489 are waived to the extent that they require a state match for general administrative costs. (States may use NSP funds under this 10 percent limitation to provide technical assistance to local governments and nonprofit program participants.)

I. Rehabilitation Standards

Background

HERA provides that any NSP-assisted 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. HUD is also imposing this requirement for NSP3-assisted new construction. This imposes a requirement that does not exist in the CDBG program. This means that each grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation. As a reminder, grantees are subject to Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act, including their respective provisions related to physical accessibility standards for persons with disabilities. See 24 CFR part 8; 24 CFR 100.205. See also 24 CFR 570.487 and 24 CFR 570.602. HUD will monitor to ensure the standards are implemented.

HERA defines rehabilitation to include improvements to increase the energy efficiency or conservation of such homes and properties or to provide a renewable energy source or sources for such homes and properties. Such improvements are also eligible under the regular CDBG program. HUD strongly encourages grantees to use NSP funds not only to stabilize neighborhoods in the short-term, but to strategically incorporate modern, green

building and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods. At minimum, NSP3 grantees must have the rehabilitation standards required below. See Appendix C for examples of green and energy-efficiency actions. Additional resources related to sustainable and energy-efficient construction are available on the NSP Resource Exchange Web site (<http://www.hud.gov/nspta>).

Requirement. For NSP3, HUD is requiring that all gut rehabilitation (*i.e.*, general replacement of the interior of a building that may or may not include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls) or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation or new construction of mid- or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1–2004, Appendix G plus 20 percent (which is the Energy Star standard for multifamily buildings piloted by the Environmental Protection Agency and the Department of Energy). Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken, *e.g.*, replace older obsolete products and appliances (such as windows, doors, lighting, hot water heaters, furnaces, boilers, air conditioning units, refrigerators, clothes washers and dishwashers) with Energy Star-labeled products. Water efficient toilets, showers, and faucets, such as those with the WaterSense label, must be installed. Where relevant, the housing should be improved to mitigate the impact of disasters (*e.g.*, earthquake, hurricane, flooding, fires).

J. Sale of Homes

Background

Section 2301(d)(3) of HERA directs 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. (Sales and closing costs are eligible NSP redeveloped or rehabilitation costs). Note that 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 may include, among other items, costs related to the sale of the property).

Requirements

1. In its records, each grantee must maintain sufficient documentation about the purchase and sale amounts of each property and the sources and uses of funds for each activity so that HUD can determine whether the grantee is in compliance with this requirement. A grantee will be expected to provide this documentation individually for each activity.

2. In determining the sales price limitation, HUD will not consider the costs of boarding up, lawn mowing, simply maintaining the property in a static condition, or, in the absence of NSP-assisted rehabilitation or redevelopment of the property, the costs of completing a sales transaction or other disposition to be redevelopment or rehabilitation costs. These costs may not be included by the grantee in the determination of the sales price for an NSP-assisted property.

3. For reporting purposes only, for a housing program involving multiple single-family structures under the management of a single entity, HUD will permit reporting the aggregation of activity delivery costs across the total portfolio of projects until completion of the program or closeout of the grant with HUD, whichever comes earlier.

K. Acquisition and Relocation

Background

Acquisition of Foreclosed-Up On Properties. HUD notes that section 2301(d)(1) of HERA conflicts with section 301(3) of the URA (42 U.S.C. 4651) and related regulatory requirements at 49 CFR 24.102(d). As discussed further, section 2301(d)(1) of HERA requires that any acquisition 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 and that such discount shall ensure that purchasers are paying below-market value for the home or property. Section 301(3) of the URA, as implemented at 49 CFR 24.102(d), provides that an offer of just compensation shall not be less than the agency's approved appraisal of the fair market value of such property. These URA acquisition policies apply to any acquisition of real property for a federally funded project, except for acquisitions described in 49 CFR 24.101(b)(1) through (5) (commonly referred to as "voluntary acquisitions").

As the more recent and specific statutory provision, section 2301(d)(1) of HERA prevails over section 301 of the URA for purposes of NSP-assisted acquisitions of foreclosed-upon homes or residential properties.

NSP Appraisal Requirements. Section 2301(d)(1) of HERA requires an appraisal for purposes of determining the statutory purchase discount. This appraisal requirement applies to any NSP-assisted acquisition of a foreclosed-upon home or residential property (including voluntary acquisitions). As noted above, section 301 of the URA does not apply to voluntary acquisitions. While the URA and its regulations do not require appraisals for such acquisitions, the URA acquisition policies do not prohibit acquiring agencies from obtaining appraisals. Appendix A, 49 CFR 24.101(b)(1)(iv) and (2)(ii), acknowledges that acquiring agencies may still obtain an appraisal to support their determination of fair market value.

One-for-One Replacement. HUD is providing an alternative requirement to the one-for-one replacement requirements set forth in 42 U.S.C. 5304(d)(2), as implemented at 24 CFR 42.375. The Department anticipates a large number of requests from grantees for whom the requirements will be onerous given the pressing rush to implement NSP, and several of the major housing markets affected by the foreclosure crisis have a surplus of abandoned and foreclosed-upon residential properties. The additional workload of reviewing requests under 42 U.S.C. 5304(d)(3) and 24 CFR 42.375(d) could cause a substantial backlog at HUD and delay NSP program operations. Therefore, the alternative requirement is that an NSP grantee is not required to meet the requirements of 42 U.S.C. 5304(d), as implemented at 24 CFR 42.375, to provide one-for-one replacement of low- and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP funds. Alternatively, each grantee must submit the information described below relating to its demolition and conversion activities in its action plan substantial amendment or abbreviated plan. The grantee will report to HUD and citizens (via prominent posting of the DRGR reports on the grantee's official Internet site) on progress related to these measures until the closeout of its grant with HUD. HUD reminds grantees to be aware of the requirement to have and follow a residential antidisplacement and relocation plan for the CDBG and HOME programs. This requirement is not waived for those programs and

continues to apply to activities assisted with regular CDBG and HOME funds.

Relocation Assistance. HUD is not waiving or specifying alternative requirements to the URA's relocation provisions. Those requirements that do not conflict with HERA continue to apply. HUD is *not* specifying alternative requirements to the relocation assistance provisions at 42 U.S.C. 5304(d). Guidance on meeting these requirements is available on the HUD Web site and through local HUD field offices. HUD urges grantees to consider URA requirements in designing their programs and to remember that there are URA obligations related to voluntary and involuntary property acquisition activities, even for vacant and abandoned property.

Tenant Protections. The Recovery Act included tenant protections applicable to NSP grants. First, the Recovery Act included a provision applicable to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a *bona fide* tenant at the time of foreclosure. The use of NSP funds for acquisition of such property is subject to a determination by the grantee that the initial successor in interest complied with these requirements. Second, NSP grantees may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) because of the status of the prospective tenant as such a participant.

Requirements

One for One Replacement Requirements.

1. The one-for-one replacement requirements at 24 CFR 570.488, 570.606(c), and 42.375 are waived for low- and moderate-income dwelling units demolished or converted in connection with an activity assisted with NSP funds. As an alternative requirement to 42 U.S.C. 5304(d)(2)(A)(i) and (ii), each grantee planning to demolish or convert any low- and moderate-income dwelling units as a result of NSP-assisted activities must identify all of the following information in its NSP substantial amendment or abbreviated plan:

(a) The number of low- and moderate-income dwelling units reasonably expected to be demolished or converted as a direct result of NSP-assisted activities;

(b) The number of NSP affordable housing units (made available to low-, moderate-, and middle-income

households) reasonably expected to be produced, by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion); and

(c) The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

The grantee must also report on actual performance for demolitions and production, as required elsewhere in this notice.

Tenant Protections.

2. The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a *bona fide* tenant at the time of foreclosure. The use of NSP funds for acquisition of such property is subject to a determination by the grantee that the initial successor in interest complied with these requirements.

a. The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any *bona fide* tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any *bona fide* tenant, as of the date of such notice of foreclosure: (i) Under any *bona fide* lease entered into before the date of notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

b.i. In the case of any qualified foreclosed housing in which a recipient of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) (the "Section 8 Program") resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit.

ii. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

iii. If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(1) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (2) for the family's reasonable moving costs, including security deposit costs.

c. For purposes of this section, a lease or tenancy shall be considered *bona fide* only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm's length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property. See Section II.A for the definition of date of notice of foreclosure.

d. The grantee shall maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under section K.2.a. and K.2.b. If the grantee determines that the initial successor in interest in such property failed to comply with such requirements, it may not use NSP funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in section K.2.a. and K.2.b.

e. Grantees must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of an NSP-assisted activity and maintain records in sufficient detail to demonstrate compliance with the provisions of that section. For purposes

of clarification, grantees need to be aware that the NSP tenant protection requirements under the Recovery Act are separate and apart from the obligations imposed on grantees by the URA. The URA applies to any person displaced as a direct result of acquisition, rehabilitation, and/or demolition of real property for a federally-assisted project. Eligibility determinations under the URA and the required notices and relocation assistance requirements are separate and distinct from the NSP tenant protections in the Recovery Act. Grantees cannot assume that a person entitled to the NSP tenant protections under the Recovery Act is also eligible for assistance under the URA (or vice versa). Any tenant lawfully occupying the property evicted by the owner/mortgagor in order to facilitate an acquisition under the NSP program (including short sales) is most likely eligible for URA relocation assistance and payments as a displaced person.

3. The grantee of any grant or loan made from NSP funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.

4. This section shall not preempt any Federal, State or local law that provides more protections for tenants.

L. Note on Eminent Domain

Although section 2303 of HERA appears to allow some use of eminent domain for public purposes, HUD cautions grantees that HERA section 2301(d)(1) may effectively ensure that all NSP-assisted property acquisitions must be voluntary acquisitions as the term is defined by the URA and its implementing regulations. Section 2301(d)(1) of HERA directs that 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 residential property and that such discount shall ensure that purchasers are paying below-market value for the home or property. However, the Fifth Amendment to the U.S. Constitution provides that private property shall not be taken for public use without just compensation. The Supreme Court has ruled that a jurisdiction must pay fair market value for the purchase of property through eminent domain. A grantee contemplating using NSP funds to assist an acquisition involving an eminent domain action is advised to consult appropriate legal counsel before taking action.

M. Timeliness of Use and Expenditure of NSP Funds

Background

One of the most critical NSP1 provisions is the HERA requirement at section 2301(c)(1) that any grantee receiving a grant:

“ * * * shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.”

HUD has defined the term “use” in this notice to include obligation of funds.

A further complication is that HERA clearly expects grantees to earn program income under this grant program. As provided under 24 CFR 85.21, entitlements grantees and subrecipients shall disburse program income before requesting additional cash withdrawals from the U.S. Treasury. States are governed similarly by 24 CFR 570.489(e)(3) and 31 CFR part 205. This requirement is reflected in the regulations governing use of program income by states and units of general local government under the CDBG program. This means that a grantee that successfully and quickly deploys its program and generates program income may obligate, draw down, and expend an amount equal to its NSP1 allocation amount, and still have funds remaining in its line of credit, possibly subject to recapture at the 18-month deadline.

On consideration, the Department chose to implement the NSP1 use test based on whether the state or unit of general local government has expended or obligated the NSP1 grant funds and program income in an aggregate amount at least equal to the NSP1 allocation. HUD also imposed a deadline for expending NSP1 grant funds because the intent of these grants clearly is to quickly address an emergency situation in areas of the greatest need.

NSP2 and NSP3 grants follow the statutory expenditure deadlines described under the Recovery Act, which provides that grantees:

“shall expend at least 50 percent of allocated funds within 2 years of the date funds become available to the [recipient] for obligation, and 100 percent of such funds within 3 years of such date.”

NSP2 and NSP3 expenditure timelines are tighter than under NSP1. In the NSP2 NOFA, HUD required NSP2 grantees to expend their entire grant, including program income, within the statutory timeframes. Upon reflection, HUD has determined that the better interpretation would be similar to the NSP1 requirement that requires the

expenditure of grant funds and program income in an aggregate amount at least equal to the NSP2 or NSP3 allocation. HUD is therefore including a revision to the NSP2 NOFA program requirements in this Notice. If any NSP grantee fails to meet the requirement to expend an amount equal to its grant within the relevant timelines, HUD, on the first business day after that deadline, will notify the grantee and restrict the amount of unused funds in the grantee's line of credit. HUD will allow the grantee 30 days to submit information to HUD regarding any additional expenditure of funds not already recorded in DRGR. Then HUD may proceed to recapture the unused funds or provide for other corrective action(s) or sanction.

Requirements

1. Timely use of NSP1 funds. At the end of the statutory 18-month use period, which begins when the NSP grantee receives its funds from HUD, the state or unit of general local government NSP grantee's accounting records and DRGR information must reflect outlays (expenditures) and unliquidated obligations for approved activities that, in the aggregate, are at least equal to the NSP allocation. (The DRGR system collects information on expenditures and obligations.) Grantees receiving a reallocation of NSP1 funds must also comply with the 18-month use requirement.

2. Timely expenditure of NSP1 funds. The timely distribution or expenditure requirements of sections 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: All NSP1 grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP1 funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended.

3. Timely expenditure of NSP2 and NSP3 funds. The timely distribution or expenditure requirements of sections 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: NSP2 and NSP3 grantees must expend on eligible NSP activities an amount equal to or greater than the 50 percent of the initial allocation of NSP funds within 2 years of receipt of those funds and 100 percent of the initial allocation of NSP funds within 3 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended or provide for other corrective action(s) or sanction. A grantee will be deemed by HUD to have received its

NSP grant at the time HUD signs its NSP grant agreement.

N. Alternative Requirement for Program Income (Revenue) Generated By Activities Assisted With Grant Funds

Requirement

1. Revenue (*i.e.*, gross income) received by a state, unit of general local government, or subrecipient (as defined at 24 CFR 570.500(c)) that is directly generated from the use of CDBG funds (which term includes NSP grant funds) constitutes CDBG program income. To ensure consistency of treatment of such program income, the definition of program income at 24 CFR 570.500(a) shall be applied to amounts received by states, units of general local government, and subrecipients.

2. Cash management. Substantially all program income must be disbursed for eligible NSP activities before additional cash withdrawals are made from the U.S. Treasury.

3. Agreements with subrecipients. States and units of general local government must incorporate in subrecipient agreements such provisions as are necessary to ensure compliance with the requirements of this section.

O. Reporting

Background

HUD is requiring regular reporting on each NSP grant in the DRGR system to ensure the Department has sufficient management information to follow-up promptly if a grantee lags in implementation and risks recapture of its grant funds. For NSP, HUD is waiving the annual reporting requirements of the consolidated plan to allow HUD to collect more regular information on various aspects of the uses of funds and of the activities funded with these grants. HUD will use the reports to exercise oversight for compliance with the requirements of this notice and for prevention of fraud, waste, and abuse of funds.

The regular CDBG performance measurement requirements will not apply to the NSP funds. HUD has configured DRGR performance measures to fit the NSP activities and will provide additional guidance on NSP performance measures.

To collect these data elements and to meet its reporting requirements, HUD is requiring each grantee to report on its NSP funds to HUD using the online DRGR system, which uses a streamlined, Internet-based format. HUD will use grantee reports to monitor for anomalies or performance problems that

suggest fraud, waste, and abuse of funds; to reconcile budgets, obligations, fund draws, and expenditures; to calculate applicable administrative and public service limitations and the overall percent of benefit to LMMI persons; and as a basis for risk analysis in determining a monitoring plan.

The grantee must post the NSP report on a Web site for its citizens when it submits the report to HUD (DRGR generates a version of the report that the grantee can download, save, and post).

The Office of Management and Budget has established October 1, 2010 as the deadline for Federal agencies to initiate sub-award reporting in compliance with the Federal Funding Accountability and Transparency Act (Pub. L. 109–282) (FFATA). NSP3 grantees will be required to comply with this additional reporting requirement. Additional HUD guidance on compliance with the FFATA requirements is forthcoming.

Requirements

1. Performance report alternative requirement. The Secretary may specify the form and timing of reports provided by the grantee under both 42 U.S.C. 5304(e) (the HCD Act) and 42 U.S.C. 12708 (NAHA). Therefore, the consolidated plan regulation at 24 CFR 91.520 is waived and the alternative reporting form and timing for the NSP funds is that:

a. Each grantee must enter its NSP Action Plan amendment or abbreviated plan into HUD's web-based DRGR system in sufficient detail to meet the NSP action plan content requirements of this notice and to serve as the basis for acceptable performance reports.

b. NSP1 and NSP3 grantees must submit a quarterly performance report, as HUD prescribes, no later than 30 days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award and continuing until the end of the grant. In addition to this quarterly performance reporting, beginning three months prior to its use or expenditure deadline, as applicable, each grantee will report monthly on its NSP use and expenditure of funds, and continuing monthly until reported total uses or expenditure of funds are equal to or greater than the total NSP grant or the deadline occurs. After HUD has accepted a report from a grantee showing such use or expenditure of funds, the monthly reporting requirement will end. Quarterly reports will continue until all NSP funds (including program income) have been expended and those expenditures are included in a report to HUD, or until HUD issues other instructions. Each

report will include information about the uses of funds, including, but not limited to, the project name, activity, location, national objective, funds budgeted and expended, the funding source and total amount of any non-NSP funds, numbers of properties and housing units, beginning and ending dates of activities, beneficiary characteristics, and numbers of low- and moderate-income persons or households benefiting. Reports must be submitted using HUD's web-based DRGR system and, at the time of submission, be posted prominently on the grantee's official Web site.

c. Additional reporting requirements consistent with the Federal Funding Accountability and Transparency Act will be required for NSP3 Grantees. HUD guidance on these requirements is forthcoming.

P. FHA First Look Program

The Department notes that it is an eligible use of NSP grant funds to acquire and redevelop FHA foreclosed properties. The Federal Housing Administration's (FHA) First Look sales method provides NSP grantees exclusive access to review and purchase newly conveyed FHA real estate-owned (REO) properties that are located in their designated areas. Grantees will have the opportunity to make a purchase offer on a property prior to it being made available to other entities. NSP grantees can purchase these properties at up to a 10% discount from the appraised value. Further information about First Look was published in the **Federal Register** on July 15, 2010 (75 FR 41225), and is also available online at: <http://edocket.access.gpo.gov/2010/pdf/2010-17335.pdf>.

HUD will provide technical assistance on its Web site regarding how these programs can effectively interact. Grantees may also contact their local HUD FHA field office for further information.

Q. Purchase Discount

Background

HERA Section 2301(d)(1) limits the purchase price of a foreclosed home or residential property, as follows:

Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

To ensure that uncertainty over the meaning of this section does not delay program implementation, HUD is

defining “current market appraised value” in this notice. For mortgagee foreclosed properties, HUD is requiring that grantees 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. HUD has adopted an approach that requires a minimum discount of one percent for each foreclosed upon home or residential property purchased with NSP funds.

Requirements

1. Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least one percent from the current market-appraised value of the home or property.

2. An NSP grantee 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 necessary and reasonable costs related to the appraisal and transfer of title. If NSP funds are used to pay such costs when property owned by the grantee is conveyed to a subrecipient, homebuyer, developer, or other jurisdiction, the property is NSP-assisted and subject to all program requirements, such as requirements for NSP-eligible use and benefit to income-qualified persons. This section does not preclude payment of tax liens on property that is not owned by the grantee or payment of current taxes while the property is being redeveloped or held in a land bank.

3. The address, appraised value, purchase offer amount, and discount amount of each property purchase must be documented in the grantee’s program records. The address of each acquired property must be recorded in DRGR.

R. Removal of Annual Requirements

Requirement

Throughout 24 CFR parts 91 and 570, all references to “annual” requirements such as submission of plans and reports are waived to the extent necessary to allow the provisions of this notice to apply to NSP funds, with no recurring annual requirements other than those related to civil rights and fair housing certifications and requirements.

S. Affirmatively Furthering Fair Housing

Nothing in this notice may be construed as affecting each grantee’s responsibility to carry out its certification to affirmatively further fair housing. HUD encourages each grantee

to review its analysis of impediments to fair housing choice to determine whether an update is necessary because of current market conditions or other factors. Non-entitlement local government grantees must affirmatively further fair housing by adopting and following procedures and requirements to affirmatively market NSP3-assisted housing opportunities. This means that they will affirmatively market NSP3 assisted units and carry out NSP3 activities that further fair housing through innovative housing design or construction to increase access for persons with disabilities, language assistance services to persons with limited English proficiency (on the basis of national origin), or location of new or rehabilitated housing in a manner that provides greater housing choice or mobility for persons in classes protected by the Fair Housing Act, and maintain records reflecting the actions in this regard.

T. Certifications

Background

HUD is substituting alternative certifications. The alternative certifications are tailored to NSP3 grants and remove certifications and references that are appropriate only to the annual CDBG formula program. NSP1 and NSP2 certifications have already been submitted to HUD in accordance with the requirements of the NSP1 Notice and the NSP2 NOFA.

Requirements

1. *Certifications for states and for entitlement communities, alternative requirement.* Although the NSP3 is being implemented as a substantial amendment to the current annual action plan, HUD is requiring submission of this alternative set of certifications as a conforming change, reflecting alternative requirements and waivers under this notice. Each jurisdiction will submit the following certifications:

1. Affirmatively furthering fair housing. The jurisdiction certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

2. Anti-displacement and relocation plan. The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.

3. Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

4. Authority of jurisdiction. The jurisdiction certifies that the consolidated plan or abbreviated plan, as applicable, is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.

5. Consistency with plan. The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan or abbreviated plan, as applicable.

6. Acquisition and relocation. The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.

7. Section 3. The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

8. Citizen participation. The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.

9. Following a plan. The jurisdiction certifies it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD. [Only States and entitlement jurisdictions use this certification.]

10. Use of funds. The jurisdiction certifies that it will comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and Title XII of Division A of the American Recovery and Reinvestment Act of 2009 by spending 50 percent of its grant funds within 2 years, and spending 100 percent within 3 years, of receipt of the grant.

11. The jurisdiction certifies:

a. That all of the NSP funds made available to it will be used with respect to individuals and families whose

incomes do not exceed 120 percent of area median income; and

b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

12. Excessive force. The jurisdiction certifies that it has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

13. Compliance with anti-discrimination laws. The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

14. Compliance with lead-based paint procedures. The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

15. Compliance with laws. The jurisdiction certifies that it will comply with applicable laws.

2. Certifications for Non-Entitlement Local Governments, alternative requirement.

For non-entitlement local government grantees that do not have annual action plans to amend, NSP3 is being implemented through the submission of

an abbreviated plan under 25 CFR 91.235. HUD is requiring submission of this alternative set of certifications as a conforming change, reflecting alternative requirements and waivers under this notice. Each jurisdiction will submit the following certifications:

1. Affirmatively furthering fair housing. The jurisdiction certifies that it will affirmatively further fair housing.

2. Anti-displacement and relocation plan. The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.

3. Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

4. Authority of jurisdiction. The jurisdiction certifies that the consolidated plan or abbreviated plan, as applicable, is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.

5. Consistency with plan. The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan or abbreviated plan, as applicable.

6. Acquisition and relocation. The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.

7. Section 3. The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

8. Citizen participation. The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.

9. Use of funds. The jurisdiction certifies that it will comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and Title XII of Division A of the American Recovery and Reinvestment Act of 2009 by spending 50 percent of its grant funds

within 2 years, and spending 100 percent within 3 years, of receipt of the grant.

10. The jurisdiction certifies:

a. That all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income; and

b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

11. Excessive force. The jurisdiction certifies that it has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

12. Compliance with anti-discrimination laws. The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

13. Compliance with lead-based paint procedures. The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

14. Compliance with laws. The jurisdiction certifies that it will comply with applicable laws.

U. Additional NSP3 Requirements— Preferences for Rental Housing and Local Hiring

The NSP3 allocation included statutory language requiring grantees to “establish procedures to create preferences for the development of affordable rental housing for properties assisted with NSP3 funds.” HUD is requiring grantees to describe such procedures as part of their substantial amendments or abbreviated plans as described in Section II.B. above.

Grantees also “shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined by the Secretary, of projects funded under this section or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects.” For the purposes of administering this requirement, HUD is adopting the Section 3 applicability thresholds for community development assistance at 24 CFR 135.3(a)(3)(ii). **Note:** The NSP3 local hiring requirement does not replace the responsibilities of grantees under Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135, except to the extent the obligations may be in direct conflict.

For the purposes of NSP3, HUD defines “vicinity” as each neighborhood identified by the NSP3 grantee as being the areas of greatest need. See section II.B.2. Small business means a business that meets the criteria set forth in section 3(a) of the Small Business Act. See 42 U.S.C. 5302(a)(23).

V. Note on Statutory Limitation on Distribution of Funds

Section 2304 of HERA and 1479(a)(7)(A) of the Dodd-Frank Act states that none of the funds made available under this Title or title IV shall be distributed to an organization that has been convicted of a violation under Federal law relating to an election

for Federal office; or an organization that employs applicable individuals. Section 1479(a)(7)(B) defines applicable individuals.

W. Information Collection Approval Note

HUD has approval from the Office of Management and Budget (OMB) for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). OMB approval is under OMB control number 2506–0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

X. Duration of Funding

The appropriation accounting provisions in 31 U.S.C. 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP1 and NSP3 grants direct that these funds be available until expended.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for grants made under NSP are as follows: 14.218; 14.225; and 14.228.

Finding of No Significant Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)(2)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451

Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Establishment of Formula

The funding formula set out in Attachment B to this notice was established by HUD on August 18, 2010.

Dated: October 13, 2010.

Mercedes M. Márquez,
Assistant Secretary for Community Planning and Development.

Attachments

- A—Formula Allocation
- B—NSP3 Formula and Allocation of Funds
- C—Recommended Green and Sustainable Practices

Attachment A

HUD’s Methodology for Allocating the Funds for Neighborhood Stabilization Program 1 (NSP1)

HERA calls for allocating funds “to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

- (A) The number and percentage of home foreclosures in each State or unit of general local government;
- (B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and
- (C) the number and percentage of homes in default or delinquency in each State or unit of general local government.”

It further directs that “each State shall receive not less than 0.5 percent of funds”. The allocation formula operates as follows. In this formula, the primary data on foreclosure rates, subprime loan rates, and rates of loans delinquent or in default come from the Mortgage Bankers Association National Delinquency Survey (MBA–NDS). Because the MBA–NDS may have uneven coverage from state-to-state in respect to the total number of mortgages reported, the total count of mortgages is calculated as the number of owner-occupied mortgages from the 2006 American Community Survey increased with data from the Home Mortgage Disclosure Act to capture the proportion of total mortgages made within a state made to investors between 2004 and 2006. The first step of the allocation is to make a “statewide” allocation using the following formula:

Statewide Allocation = \$3.92 billion *	
{[0.70 * (State’s number of foreclosure starts in last 6 quarters) *}	(Percent of all loans in state to enter foreclosure last 6 quarters) +
National number of foreclosure starts in last 6 quarters	Percent of all loans in nation to enter foreclosure last 6 quarters
0.15 * (State’s number of subprime loans) *	(Percent of all loans in state subprime) +
National number of subprime loans	Percent of all loans in nation subprime
0.10 * (State’s number of loans in default (90+ days delinquent). *	(Percent of all loans in state in default) +
National number of loans in default	Percent of all loans in nation in default
0.05 * (State’s number of loans 60 to 89 days delinquent). *	Percent of all loans in state 60 to 89 days delinquent)] *
National number of loans 60 to 89 days delinquent	National percent of all loans 60 to 89 days delinquent

(Pct of all addresses in state vacant in Census Tracts where more than 40% of the 2004 to 2006 loans were high cost);
Pct of all addresses in nation vacant in Census Tracts where more than 40% of the 2004 to 2006 loans were high cost

This formula allocates 70 percent of the funds based on the number and percent of foreclosures, 15 percent for subprime loans, 10 percent for loans in default (delinquent 90 days or longer), and 5 percent for loans delinquent 60 to 90 days. The higher weight on foreclosures is based on the emphasis the statute places on targeting foreclosed homes. The percentage adjustments, the rate of a problem in a state relative to the national rate of a problem, are restricted such that a state's allocation based on its proportional share of a problem cannot be increased or decreased by more than 30 percent.

Because HERA specifically indicates that the funds are needed for the "redevelopment of abandoned and foreclosed upon homes and residential properties," HUD has included a variable to proxy where abandonment of homes due to foreclosure is more likely, specifically each state's rate of vacant residential addresses in neighborhoods with a high proportion (more than 40 percent) of loans in 2004 to 2006 that were high cost. Information on vacant addresses is based on United States Postal Service data as of June 30, 2008 aggregated by HUD to the Census Tract level. The residential vacancy adjustment factor reflects

a state's vacancy rate relative to the national average and cannot increase or decrease a state's proportional share of the allocation based on foreclosures, subprime loans, and delinquencies and defaults by more than 10 percent.

Finally, if a statewide allocation is less than \$19.6 million, the statewide grant is increased to \$19.6 million. Because this approach will result in a total allocation in excess of appropriation, all grant amounts above \$19.6 million are reduced pro-rata to make the total allocation equal to the total appropriation.

From each statewide allocation, a substate allocation is made as follows:

- Each state government is allocated \$19.6 million
- If the statewide allocation is more than \$19.6 million, the remaining funds are allocated to FY 2008 CDBG entitlement cities, urban counties, and non-entitlement balance of state proportional to relative need.
- If a local government receives less than \$2 million under this sub-allocation, their grant is rolled up into the state government grant.

Note that HUD has determined that HERA's direction that a minimum of \$19.6

million be allocated to the state means that a minimum grant must be provided to each state government of \$19.6 million. As a result, this approach provides state governments with proportionally more funding than their estimated need. As such, state governments should use their best judgment to serve both those areas not receiving a direct grant and those areas that do receive a direct grant, making sure that the total of all funds in the state are going proportionally more to those places (as prescribed by HERA):

- "With the greatest percentage of home foreclosures;
- With the highest percentage of homes financed by a subprime mortgage related loan; and
- Identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures."

For the amount of funds above each state's \$19.6 million, the remaining funds are allocated among the entitlement communities and non-entitlement balances using the following formula:

$$\text{Local Allocation} = (\text{Statewide Allocation} - \$19,600,000) * \frac{(\text{Local estimated number of foreclosure starts in last 6 quarters}) * \text{State total number of foreclosure starts in last 6 quarters}}{(\text{Local vacancy rate in Census Tracts with more than 40\% of the loans High-cost}) * \text{State vacancy rate in Census Tracts with more than 40\% of the loans High-cost}}$$

Where: The residential vacancy rate adjustment cannot increase or reduce a local jurisdiction's allocation by more than 30 percent and the estimated number of foreclosures is calculated based on a predicted foreclosure rate times the estimated number of mortgages in a community.

HUD analysis shows that 75 percent of the variance between states on foreclosure rates can be explained by three variables available from public data:

- Office of Federal Housing Enterprise Oversight (OFHEO) data on change in home values as of June 2008 compared to peak home value since 2000.
- Percent of all loans made between 2004 and 2006 that are high cost as reported in the Home Mortgage Disclosure Act (HMDA).
- Unemployment rate as of June 2008 (from Bureau of Labor Statistics).

Because these three variables are publicly available for all CDBG eligible communities and they are good predictors of foreclosure risk, they are used in a model to calculate the

estimated number of foreclosures in each jurisdiction within a state. The formula used is as follows:

$$\begin{aligned} \text{Predicted Foreclosure Rate} = & -2.211 \\ & - (0.131 \times \text{Percent change in MSA OFHEO} \\ & \text{current price relative to the maximum in past} \\ & \text{8 years}) \\ & + (0.152 * \text{Percent of total loans made between} \\ & \text{2004 and 2006 that are high cost}) \\ & + (0.392 * \text{Percent unemployed in the place} \\ & \text{our county in June 2008}). \end{aligned}$$

This predicted foreclosure rate is then multiplied times the estimated number of mortgages within a jurisdiction (number of HMDA loans made between 2004 and 2006 times the ratio of ACS 2006 data on total mortgages in state/HMDA loans in state). This "estimated number of mortgages in the jurisdiction" is further adjusted such that the estimated number of foreclosures from the model will equal the total foreclosure starts in the state from the Mortgage Bankers Association National Delinquency Survey.

As noted above, for entitlement cities and urban counties that would receive an NSP allocation of less than \$2 million, the funds are allocated to the state grantee. The District of Columbia and the four Insular Areas receive direct allocations and are not subject to the minimum grant threshold.

Because this funding is one-time funding and the eligible activities under the program are different enough from the regular program, HUD believes that a grantee must receive a minimum amount of \$2 million to have adequate staffing to properly administer the program effectively. In addition, fewer grants will allow HUD staff to more effectively monitor grantees to ensure proper implementation of the program and reduce the risk for fraud, waste, and abuse.

Attachment B

HUD's Methodology for Allocating the Funds for Neighborhood Stabilization Program 3 (NSP3)

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

State	Grantee	NSP3 Grant
Alaska	State of Alaska	\$5,000,000
Alabama	State of Alabama	5,000,000
	Birmingham	2,576,151
	Alabama Total	7,576,151
Arkansas	State of Arkansas	5,000,000
Arizona	Avondale City	1,224,903
	State of Arizona	5,000,000

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
California	Chandler	1,332,011
	Glendale	3,718,377
	Maricopa County	4,257,346
	Mesa	4,019,457
	Mohave County	1,990,744
	Peoria City	1,198,780
	Phoenix	16,053,525
	Pinal County	3,168,315
	Surprise City	1,329,844
	Tucson	2,083,771
	Arizona Total	45,377,073
	Apple Valley	1,463,014
	Bakersfield	3,320,927
	State of California	7,777,019
	Compton	1,436,300
	Contra Costa County	1,871,294
	Corona	1,317,310
	Fontana	2,695,735
	Fresno	3,547,219
Fresno County	2,739,766	
Hemet	1,360,197	
Hesperia	1,785,047	
Imperial County	1,708,780	
Indio City	1,092,071	
Kern County	5,202,037	
Lancaster	2,364,566	
Long Beach	1,567,935	
Los Angeles	9,875,577	
Los Angeles County	9,532,569	
Madera County	1,659,017	
Merced	1,196,182	
Merced County	2,705,877	
Modesto	2,951,549	
Monterey County	1,284,794	
Moreno Valley	3,687,789	
Oakland	2,070,087	
Ontario	1,872,853	
Orange County	1,004,948	
Palmdale	2,310,023	
Perris City	1,342,449	
Pomona	1,235,629	
Rialto	1,936,370	
Richmond	1,153,172	
Riverside	3,202,152	
Riverside County	14,272,400	
Sacramento	3,762,329	
Sacramento County	4,595,671	
San Bernardino	3,277,401	
San Bernardino County	10,438,181	
San Joaquin County	4,398,543	
Santa Ana	1,464,113	
Solano County	1,622,757	
Stanislaus County	4,175,947	
Stockton	4,280,994	
Tulare County	2,845,529	
Vallejo	1,744,593	
Victorville	2,159,937	
California Total	149,308,651	
Colorado	Adams County	1,997,322
	Aurora	2,445,282
	State of Colorado	5,098,309
	Colorado Springs	1,420,638
	Denver	2,700,279
	Greeley	1,203,745
	Pueblo	1,460,506
Weld County	1,023,188	
Colorado Total	17,349,270	
Connecticut	Bridgeport	1,215,150

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	State of Connecticut	5,000,000
	Hartford	1,029,926
	New Haven	1,041,579
	Waterbury	1,036,101
	Connecticut Total	9,322,756
District of Columbia	Washington, DC	5,000,000
Delaware	State of Delaware	5,000,000
Florida	Boynton Beach	1,168,808
	Brevard County	3,032,850
	Broward County	5,457,553
	Cape Coral	3,048,214
	Charlotte County	2,022,962
	Citrus County	1,005,084
	Clearwater	1,385,801
	Collier County	3,884,165
	Coral Springs	1,657,845
	Davie	1,171,166
	Daytona Beach	1,127,616
	Deerfield Beach	1,183,897
	Deltona	1,964,066
	Escambia County	1,210,487
	State of Florida	8,511,111
	Ft Lauderdale	2,145,921
	Ft Myers	1,539,941
	Hernando County	1,953,975
	Hialeah	2,198,194
	Hillsborough County	8,083,062
	Hollywood	2,433,001
	Indian River County	1,500,428
	Jacksonville-Duval County	7,102,937
	Kissimmee	1,042,299
	Lake County	3,199,585
	Lakeland	1,303,139
	Lauderhill	1,500,609
	Lee County	6,639,174
	Manatee County	3,321,893
	Margate	1,148,877
	Marion County	4,589,714
	Martin County	1,563,770
	Melbourne	1,257,986
	Miami	4,558,939
	Miami Beach	1,475,088
	Miami Gardens City	1,940,337
	Miami-Dade County	20,036,303
	Miramar	2,321,827
	North Miami	1,173,374
	Orange County	11,551,158
	Orlando	3,095,137
	Osceola County	3,239,646
	Palm Bay	1,764,032
	Palm Beach County	11,264,172
	Palm Coast City	1,375,071
	Pasco County	5,185,778
	Pembroke Pines	2,330,542
	Pinellas County	4,697,519
	Plantation	1,216,427
	Polk County	5,443,116
	Pompano Beach	1,500,572
	Port St Lucie	3,515,509
	Sanford	1,037,697
	Sarasota	1,038,811
	Sarasota County	3,949,541
	Seminole County	3,995,178
	St Petersburg	3,709,133
	St. Lucie County	1,947,657
	Sunrise	1,775,162
	Tamarac	1,427,857
	Tampa	4,691,857
	Titusville	1,005,731
	Volusia County	3,670,516

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant	
	West Palm Beach	2,147,327	
Georgia	Florida Total	208,437,144	
	Atlanta	4,906,758	
	Augusta-Richmond County	1,161,297	
	Carroll County	1,190,390	
	Clayton County	3,796,167	
	Cobb County	2,415,784	
	Columbus-Muscogee County	1,128,174	
	Dekalb County	5,233,105	
	Douglas County	1,628,471	
	Fulton County	3,094,885	
	State of Georgia	18,679,977	
	Gwinnett County	2,065,581	
	Henry County	1,217,736	
	Macon	1,503,897	
	Paulding County	1,372,214	
	Savannah	1,027,553	
	Georgia Total	50,421,988	
Hawaii	State of Hawaii	5,000,000	
Iowa	State of Iowa	5,000,000	
Idaho	State of Idaho	5,000,000	
Illinois	Chicago	15,996,360	
	Cook County	7,776,324	
	State of Illinois	5,000,000	
	Lake County	1,370,421	
	Illinois Total	30,143,105	
Indiana	Anderson	1,219,200	
	Elkhart	1,022,717	
	Elkhart County	1,193,194	
	Fort Wayne	2,374,450	
	Gary	2,717,859	
	Hammond	1,243,934	
	State of Indiana	8,235,625	
	Indianapolis	8,017,557	
	Kokomo	1,014,327	
	Lake County	1,613,168	
	Muncie	1,148,363	
		South Bend	1,708,707
	Indiana Total	31,509,101	
Kansas	Kansas City	1,137,796	
	State of Kansas	5,000,000	
	Kansas Total	6,137,796	
Kentucky	Commonwealth of Kentucky	5,000,000	
Louisiana	State of Louisiana	5,000,000	
Massachusetts	Commonwealth of Massachusetts	5,000,000	
	Springfield	1,197,000	
	Worcester County	1,190,994	
	Massachusetts Total	7,387,994	
Maryland	State of Maryland	5,000,000	
	Prince George's County	1,802,242	
	Maryland Total	6,802,242	
Maine	State of Maine	5,000,000	
Michigan	Dearborn	1,027,354	
	Detroit	21,922,710	
	Flint	3,076,522	
	Genesee County	2,663,219	
	Grand Rapids	1,378,788	
	Jackson County	1,162,482	
	Lansing	1,162,508	
	Macomb County	2,536,817	
	State of Michigan	5,000,000	
	Muskegon County	1,071,900	
	Oakland County	2,080,700	
		Pontiac	1,410,621

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	Saginaw	1,242,318
	Southfield	1,084,254
	St. Clair County	1,129,355
	Warren	1,735,633
	Wayne County	7,839,293
	Michigan Total	57,524,473
Minnesota	Anoka County	1,226,827
	Hennepin County	1,469,133
	Minneapolis	2,671,275
	State of Minnesota	5,000,000
	St Paul	2,059,877
	Minnesota Total	12,427,113
Missouri	Kansas City	1,823,888
	State of Missouri	5,000,000
	St Louis	3,472,954
	St. Louis County	2,813,762
	Missouri Total	13,110,604
Mississippi	State of Mississippi	5,000,000
Montana	State of Montana	5,000,000
North Carolina	State of North Carolina	5,000,000
North Dakota	State of North Dakota	5,000,000
Nebraska	State of Nebraska	5,000,000
	Omaha	1,183,085
	Nebraska Total	6,183,085
New Hampshire	State of New Hampshire	5,000,000
New Jersey	Essex County	1,851,984
	Newark	2,018,637
	State of New Jersey	5,000,000
	Paterson	1,196,877
	Union County	1,574,051
	New Jersey Total	11,641,549
New Mexico	State of New Mexico	5,000,000
Nevada	Clark County	16,156,114
	North Las Vegas	4,097,147
	Henderson	3,901,144
	Las Vegas	10,450,623
	State of Nevada	5,000,000
	Reno	1,973,724
	Washoe County	1,735,918
	Nevada Total	43,314,669
New York	Islip Town	1,429,561
	Nassau County	2,116,070
	New York	9,787,803
	State of New York	5,000,000
	Suffolk County	1,501,506
	New York Total	19,834,940
Ohio	Akron	2,674,298
	Butler County	1,327,123
	Canton	1,233,756
	Cincinnati	3,160,661
	Clark County	1,105,306
	Cleveland	6,793,290
	Columbus	4,843,460
	Cuyahoga County	2,551,533
	Dayton	3,115,780
	East Cleveland	1,068,142
	Euclid	1,031,230
	Hamilton County	1,469,242
	Lorain County	1,619,474
	Montgomery County	1,145,712
	State of Ohio	11,795,818
	Richland County	1,022,278
	Toledo	3,591,715
	Trumbull County	1,143,889

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	Youngstown	1,096,328
	Ohio Total	51,789,035
Oklahoma	State of Oklahoma	5,000,000
Oregon	State of Oregon	5,000,000
Pennsylvania	Commonwealth of Pennsylvania	5,000,000
Puerto Rico	Commonwealth of Puerto Rico	5,000,000
Rhode Island	Providence	1,309,231
	State of Rhode Island	5,000,000
	Rhode Island Total	6,309,231
South Carolina	State of South Carolina	5,615,020
	South Carolina Total	5,615,020
South Dakota	State of South Dakota	5,000,000
Tennessee	Memphis	5,195,848
	State of Tennessee	5,000,000
	Tennessee Total	10,195,848
Texas	Dallas	2,356,962
	Dallas County	1,364,426
	Harris County	1,925,917
	Hidalgo County	1,716,924
	Houston	3,389,035
	State of Texas	7,284,978
	Texas Total	18,038,242
Utah	State of Utah	5,000,000
Virginia	Richmond	1,254,970
	Commonwealth of Virginia	5,000,000
	Virginia Total	6,254,970
Vermont	State of Vermont	5,000,000
Washington	State of Washington	5,000,000
Wisconsin	Milwaukee	2,687,949
	State of Wisconsin	5,000,000
	Wisconsin Total	7,687,949
West Virginia	State of West Virginia	5,000,000
Wyoming	State of Wyoming	5,000,000
Insular Areas		300,000
	Total	970,000,000

Overview

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 provided an additional \$1 billion for the Neighborhood Stabilization Program (NSP) that was originally established under the Housing and Economic Recovery Act of 2008.

The statute calls for allocating funds to States and local governments with the greatest need, as determined by:

- (A) “The number and percentage of home foreclosures in each State or unit of general local government;
- (B) “The number and percentage of homes financed by a subprime mortgage in each State or unit of general local government; and
- (C) “The number and percentage of homes in default or delinquency in each State or unit of general local government.”

The statute also requires that a minimum of 0.5 percent of the appropriation, \$5 million be provided to each state.

The Department has determined that for NSP3, the states and local governments with the greatest need for neighborhood

stabilization funding are those communities that have high numbers of foreclosed and/or vacant properties in the neighborhoods with the highest concentrations of foreclosures, delinquent loans, and subprime loans. The basic formula allocates funds based on the number of foreclosures and vacancies in the 20 percent of U.S. neighborhoods (Census Tracts) with the highest rates of homes financed by a subprime mortgage, are delinquent, or are in foreclosure. This basic allocation is adjusted to ensure that every state receives a minimum of \$5 million. The net result is that these funds are highly targeted to communities with the most severe neighborhood problems associated with the foreclosure crisis.

Estimating Greatest Need

To target the funds to States and local communities with the greatest need, HUD estimated the number of loans 90 days delinquent or in foreclosure for each Census Tract in America. This estimate was based on a model that was comprised of three factors

that explain most foreclosures and delinquent loans (see note 1):

- Rate of Subprime Loans. This is measured with HMDA data on high cost and high leverage loans made between 2004 and 2007. These data are available at the Census Tract (neighborhood) level.
- Increase in Unemployment Rate between March 2005 and March 2010. These data are from the BLS Local Area Unemployment Statistics, at the city and county level.
- Fall in Home Value from Peak to Trough. Home value data at the Metropolitan Area level is available quarterly through March 2010 from the Federal Housing Finance Agency Home Price Index.

In addition to wanting to capture loans that are currently delinquent or in the foreclosure process, HUD sought to capture the aggregate impact of the foreclosure crisis on individual neighborhoods between 2007 and 2010. To do this, HUD estimated for each neighborhood the number of foreclosure starts between January 2007 and March 2010 as well as the number of foreclosure

completions between January 2007 and June 2010 (see note 2). Each neighborhood was assigned the larger of the two estimates.

Finally, HUD has administrative data from the United States Postal Service on addresses not picking up mail for 90 days or longer. These data are very good current indicators of neighborhood stress from vacant housing. This number is adjusted using Census 2000 tract level data to remove vacant vacation properties from the count.

The Formula

Using the estimated rate of loans in foreclosure or delinquent, HUD identified the 20 percent of neighborhoods likely to be most distressed. This equates to an estimated serious delinquency rate (90 days delinquent or in foreclosure) of greater than 17.8 percent. Using the methodology described above, the national rate was estimated at 8.9 percent.¹

For each place and balance of county in the United States we add up only from the 20 percent of neighborhoods with the greatest need the number of foreclosed homes between 2007 and 2010 and separately the number units 90 days or more vacant in March 2010.

This "jurisdiction level" file is then used to run a formula to allocate the funds available, \$969,700,000. Sixty percent of these funds are allocated based on each jurisdiction's share of foreclosures and 40 percent of the funds are allocated based on each jurisdiction's share of vacancies.

Minimum Grant Threshold

If a place gets less than HUD's established minimum grant threshold of \$1 million, its grant is rolled up into the county grant. If the county grant is less than the minimum grant threshold of \$1 million, its grant is rolled up into the state grant.

State Minimum Grant of \$5 million

For any state government that would receive less than \$5 million, its grant is increased to \$5 million with all grant amounts above the minimum grant threshold reduced on a pro-rata basis to only allocate the amounts available.

Note 1: Identifying Census Tracts with High Rates of Foreclosures, Delinquencies, and Subprime Loans:

To estimate which neighborhoods are likely to have high rates of foreclosures, delinquencies, and subprime loans, HUD used a July 2010 extract of county level serious delinquency rates from McDash Analytics to develop a predictive model using public data that was available for every Census Tract in the United States. The predictive model, which was weighted on number of mortgages in each county, was able to predict most of the variance between counties in their serious delinquency rate (R-square of 0.821). The model used is as follows:

0.523 (intercept)
+0.476 Unemployment Change 3/2005 to 3/2010 (BLS LAUS)

-0.176 Rate of low cost high leverage loans 2004 to 2007 (HMDA)
+0.521 Rate of high cost high leverage loans 2004 to 2007 (HMDA)
+0.090 Rate of high cost low leverage loans 2004 to 2007 (HMDA)
-0.188 Fall in Home Value Since Peak (FHFA Metro and Non-Metro Area)

The predictive rate of seriously delinquent mortgages was multiplied times the number of loans made between 2004 and 2007 in a Census Tract to estimate the number of seriously delinquent loans in a Census Tract.

Note 2: Calculating Number of Foreclosures at the Neighborhood Level:

To estimate the number of homes in a neighborhood that have completed, or are at risk of becoming Real Estate Owned in a Census Tract, was done by allocating the statewide total of the greater of the sum of all foreclosure completions between January 2007 and June 2010 (from RealtyTrac) or the sum of all foreclosures starts between January 2007 and March 2010 (from the Mortgage Bankers Association) based on each Tracts share of a states estimated number of seriously delinquent loans. The estimated number of seriously delinquent loans was calculated by multiplying the estimated rate of seriously delinquent loans times the number of mortgages made between 2004 and 2007 (from Home Mortgage Disclosure Act data).

Attachment C

NSP Recommended Energy Efficient and Environmentally-Friendly Green Elements

HUD strongly recommends that your proposed NSP3 program incorporate the following energy efficient and environmentally-friendly Green elements. No specific element is required. HUD encourages thoughtful, achievable consideration and implementation of energy efficient and environmentally friendly elements inside your NSP3 program.

HUD is providing the guidance below because the Department has become aware during the implementation of NSP1 that many grantees are not aware that many of their common community development practices, such as trying to help police and teachers live in the neighborhood in which they work, are also considered sustainable and environmentally friendly. Similarly, most affordable housing units are also smaller and can easily be made more energy efficient than larger units. The increased energy efficiency then serves to increase the long-term affordability of the units.

Transit Accessibility

Select NSP target areas that are transit accessible, for example those that are in a census tract with convenient bus service (local bus service every 20 minutes during rush hour or an express commuter bus); or bordering a census tract with a passenger rail stop or station (including, for example, commuter rail, subway, light rail, and streetcars).

Green Building Standards

Comply with the required NSP rehabilitation standards and also fund new construction and gut rehabilitation activities

that will exceed the Energy Star for New Homes standard. Ensure that moderate rehabilitation or energy retrofits will purchase only Energy Star products and appliances. You may go further and require NSP homes to achieve an established environmental or energy efficiency standard such as Green Communities or equivalent.

Re-Use Cleared Sites

Re-use cleared sites in accordance with a comprehensive or neighborhood plan. Plan to re-use all demolition sites within the term of your NSP grant as replacement housing, for use as a community resource, or to provide an environmental function. Examples include community gardens, pocket parks, or floodplain impoundment areas.

Deconstruction

Deconstruction means salvaging and re-using materials resulting from demolition activities. It recycles building materials, and provides employment.

Renewable Energy

1. *Passive Solar.* Orient the building to make the greatest use of passive solar heating and cooling.

2. *Photovoltaic-ready.* Site, design, engineer and wire the development to accommodate installation of photovoltaic panels in the future.

Sustainable Site Design

1. *Transportation Choices.* Locate projects within a one-quarter mile of at least two, or one-half mile of at least four community and retail facilities.

2. *Connections to Surrounding Neighborhoods.* Provide three separate connections from the development to sidewalks or pathways in surrounding neighborhoods.

3. *Protecting Environmental Resources.* Do not locate the project within 100 feet of wetlands; 1,000 feet of a critical habitat; or on steep slopes, prime farmland or park land.

4. *Erosion and Sediment Control.* Implement EPA's Best Management Practices for erosion and sedimentation control during construction.

5. *Sustainable Landscaping.* Select native trees and plants that are appropriate to the site's soils and microclimate.

6. *Energy Efficient Landscaping.* Locate trees and plants to provide shading in the summer and allow for heat gain in the winter.

Water Conservation

1. *Efficient Irrigation.* Install low volume, non-spray irrigation system (such as drip irrigation, bubblers, or soaker hose).

Energy Efficient Materials

1. *Durable Materials.* Use materials that last longer than conventional counterparts such as stone, brick or concrete.

2. *Resource Efficient Materials.* Use layouts and advanced building techniques that reduce the amount of homebuilding material required.

3. *Heat Absorbing Materials.* Use materials that retain solar heat in winter and remain cool in summer.

4. *Solar-Reflective Paving.* Use light-colored/high-albedo materials and/or open-

¹ This less than the Mortgage Bankers Association National Delinquency Survey rate of 9.54 percent for March 2010 and slightly more than the McDash Analytics rate of 8.39 percent as of July 2010.

grid pavement with a minimum Solar Reflective index of 0.6 over at least 30 percent of the site's hardscaped areas.

5. *Local Source Materials.* Use materials from local sources that are close to the job site.

6. *Green Roofing.* Use Energy Star-compliant and high-emissive roofing, and/or install a Green (vegetated) roof for at least 50 percent of the roof area; or a combination of high-albedo and vegetated roof covering 75 percent of the roof area.

Healthy Homes

1. *Green Label Certified Floor Covering.* Do not install carpets in basements, entryways, laundry rooms, bathrooms or kitchens; if using carpet, use the Carpet and Rug Institute's Green Label certified carpet and pad.

2. *Healthy Flooring Materials: Alternatives.* Use non-vinyl, non-carpet floor coverings in all rooms.

3. *Healthy Flooring Materials: Reducing Dust.* Install a whole-house vacuum system with high-efficiency particulate air filtration.

4. *Sealing Joints.* Seal all wall, floor and joint penetrations to prevent pest entry; provide rodent and corrosion proof screens (e.g., copper or stainless steel mesh) for large openings.

5. *Termite-Resistant Materials.* Use termite-resistant materials in areas known to be infested.

6. *Tub and Shower Enclosures: Moisture Prevention.* Use one-piece fiberglass or similar enclosure or, if using any form of grouted material, use backing materials such as cement board, fiber cement board, fiberglass reinforced board or cement plaster.

7. *Green Maintenance Guide.* Provide a guide for homeowners and renters that explains the intent, benefits, use and maintenance of Green building features, and encourages additional Green activities such as recycling, gardening and use of healthy cleaning materials.

8. *Resident Orientation.* Provide a walk-through and orientation to the homeowner or new tenants.

[FR Doc. 2010-26292 Filed 10-18-10; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM-2010-0052]

BOEMRE Information Collection Activity: 1010-0182, Increased Safety Measures for Energy Development on the OCS NTL, Extension of a Collection; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of an extension of an information collection (1010-0182).

SUMMARY: To comply with the Paperwork Reduction Act of 1995

(PRA), BOEMRE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in Notice to Lessees and Operators (NTL) "No. 2010-N05, Increased Safety Measures for Energy Development on the OCS."

DATES: Submit written comments by December 20, 2010.

FOR FURTHER INFORMATION CONTACT:

Cheryl Blundon, Regulations and Standards Branch at (703) 787-1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of NTL No. 2010-N05 that requires the subject collection of information.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter docket ID BOEM-2010-0052 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.

- *E-mail* cheryl.blundon@boemre.gov. Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Cheryl Blundon; 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference ICR 1010-0182 in your comment and include your name and return address.

SUPPLEMENTARY INFORMATION:

Title: Increased Safety Measures for Energy Development on the OCS, NTL No. 2010-N05.

OMB Control Number: 1010-0182.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to manage the mineral resources of the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-use and easement, and pipeline right-of-way. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; preserve and maintain free enterprise

competition; and ensure that the extent of oil and natural gas resources of the OCS is assessed at the earliest practicable time. 43 U.S.C. 1332(6) states that "operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

To carry out these responsibilities, BOEMRE issues regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protect the environment; and result in diligent exploration, development, and production of OCS leases. In addition, we also issue NTLs that provide clarification, explanation, and interpretation of our regulations. These NTLs are also used to convey purely informational material and to cover situations that might not be adequately addressed in our regulations. The latter is the case for the information collection required in the NTL. Because of the unusual nature of this information collection, issuing an NTL is the appropriate means to collect the information at the time of the event.

The subject of this ICR is an NTL based on the recommendations in the May 27, 2010, Report from the Secretary of the Interior to the President of the United States, *Increased Safety Measures for Energy Development on the Outer Continental Shelf* (Report). BOEMRE issued NTLs for operators to comply with the requirements and recommendations of the report as a result of the Deepwater Horizon oil spill in the Gulf of Mexico. This collection pertains to one NTL, covered under the regulations at 30 CFR part 250, subparts, A, D, E, and F. The primary information collections for these regulations are approved under the Office of Management and Budget (OMB) Control Numbers 1010-0114, 1010-0141, 1010-0067, and 1010-0043, respectively. However, BOEMRE believes that the paperwork burdens in the NTL are in addition to those currently approved. Only one of the requirements in the NTL has not yet been fully met; therefore, we are renewing that requirement in this collection to allow operators and/or lessees more response time than allowed by the original emergency OMB request.

BOEMRE issued this NTL for lessees and operators to comply with the requirements and recommendations of



NSP Policy Alert!

Congress Eliminates Restrictions On Properties For Low-Income Set-Aside

QUESTION: *How does the Dodd-Frank Wall Street Reform and Consumer Protection Act (Publ. L 111-203) amend the 25 percent set-aside requirement?*

The recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act (Publ. L 111-203) includes amendments to and a third appropriation for the Neighborhood Stabilization Program. HUD will establish the funding formula for new NSP funding of one billion dollars within 30 days of the law's enactment (July 21, 2010).

Public Law 111-203 amends a requirement that has caused some difficulties for NSP grantees. Previously, the Housing and Economic Recovery Act of 2008 (HERA) required NSP grantees to use not less than 25 percent of their NSP grant 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 percent of area median income. Public Law 111-203 amends this requirement by removing the restriction that allows only abandoned or foreclosed upon homes or residential properties to be used to meet this requirement. Grantees may now use vacant or demolished property to meet the set-aside as well. This language also allows non-residential property to be used if the project is undertaken under Eligible Use E, though such sites might require rezoning to allow the development of housing.

In addition, the new law states that this new flexibility "shall apply with respect to any unexpended or unobligated balances, including recaptured and reallocated funds made available" under the NSP1 and NSP2 enabling legislation. Current grantees that are developing housing for families with incomes below 50% of area median income on land that was not foreclosed or abandoned residential property may now be able to claim set-aside credit for some or all of those costs. There are three possibilities:

1. Projects for which funds have not been obligated or for which funds have been obligated with no expenditures will be able to apply all of the costs toward the set-aside.
2. Projects for which funds have been obligated and fully expended will not be able to claim this credit retroactively.
3. For projects for which funds have been obligated, but only partially expended, HUD will allow credit for any expenditures made after July 21, 2010. This option is voluntary, not required. This option will require the grantee to make some changes in the DRGR accounting for the project.

For each project under implementation option 3 for which a grantee wants to get 25% Low-income set-aside credit in DRGR, the grantee must create a duplicate of the activity in DRGR. The original activity, which will have an LMMI national objective, must be adjusted to show the share of obligations that relate

to all expenditures made before July 21, 2010, plus those disbursements and expenditures. The duplicate activity, which will have an LH25 national objective, will show the share of obligations related to all expenditures made on or after July 21, 2010, plus the counterpart disbursements and expenditures. Any grantee choosing to make such an adjustment should contact its local HUD field representative first, as this will entail an Action Plan change. The DRGR Help Desk is also available to help, as needed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5321-N-04]

**Notice of Definition Revision to Notice of Fund Availability (NOFA) for Fiscal Year 2009:
Neighborhood Stabilization Program 2 (NSP2) under the American Recovery
and Reinvestment Act of 2009; Change in Definitions**

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: On May 4, 2009, HUD posted on its website a notice of funding availability (NOFA) for the NSP2. The NOFA announced the availability of up to \$1.93 billion appropriated by the American Recovery and Reinvestment Act for NSP2. The purpose of the program is to stabilize communities by providing funds for the purchase and redevelopment of foreclosed and abandoned homes and residential properties.

This notice advises of changes to the Appendix 1 definitions for “abandoned” and “foreclosed” property to assist in better targeting NSP2 assistance for the purchase, rehabilitation, or redevelopment of abandoned and foreclosed properties. This notice only affects NSP2 grants already awarded by HUD. This notice does not reopen the application period.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. FAX inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the “800” number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On May 4, 2009, HUD posted its NSP2 NOFA at www.hud.gov/nsp. The posting of the NOFA was announced through a Federal Register notice published on May 7, 2009 (74 FR 21377). The NSP2 NOFA announced the availability of approximately \$1.93 billion available in competitive grants authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, approved February 17, 2009). The purpose of the program is to stabilize communities by providing funds for the purchase and redevelopment of foreclosed and abandoned homes and residential properties. The NSP program (NSP1) was authorized by the Housing and Economic Recovery Act (Public Law 110-289, approved July 30, 2008) (HERA), and NSP2 was authorized by the amendment to HERA made by Title XII of Division A of the Recovery Act.

Following issuance of the NSP2 NOFA, the NOFA underwent certain revisions. A notice issued on June 11, 2009 clarified, among other things, how applicants are to meet the geographic targeting requirements. A notice issued November 9, 2009, revised the NSP2 NOFA to: (1) correct an inconsistency in the NSP2 NOFA regarding when the lead member of a consortium must enter into consortium funding agreements with consortium members; and (2) extend the deadline for submission of such agreements to January 29, 2010. A notice issued on January 21, 2010, specified the NSP2 NOFA deadline date for submission of consortium funding agreements. (See Federal Register notices at 74 FR 28715, 74 FR 58973 and 75 FR 4410, and HUD's website at <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/arrafactsheet.cfm>.)

II. This Notice - Changes to Definitions of Abandoned and Foreclosed

This notice announces that HUD is revising the definitions of “Abandoned” and “Foreclosed.”

HUD determined that the definition of “Abandoned” on pages 41 and 42 of the NSP2 NOFA is too restrictive such that NSP2 funds are in some cases prevented from being employed as contemplated by the Recovery Act and HERA. HUD has received many comments from grantees and other interested parties that the current definition limits the opportunities to acquire properties in a strategic and timely manner. For example, the requirement that the property has been vacant for at least 90 days leaves out properties abandoned by owners, but where tenants are still in place. This precludes grantees from the opportunity and ability to assist these properties with NSP funds, which would in fact protect the tenants that may be occupying such properties. This limitation has been determined to be a substantial barrier to preservation of existing affordable housing. Some comments received by HUD pointed out that abandonment predictably occurs when code enforcement in a high risk market is not followed up with a property acquisition strategy, and that abandonment is a function of a weak housing market in which residential units sell for substantially less than their replacement value. To provide grantees with greater flexibility in determining which properties to acquire, and greater opportunity to acquire properties in a strategically timely manner, HUD is amending the definition of “Abandoned” in Appendix 1. HUD’s amendments are directed only to identifying program-specific eligibility criteria for using NSP2 funds to assist abandoned properties. These amendments should not be construed to supersede any state or local legal proceedings that may govern abandoned properties, as such term may be defined under state or local law, or any protection rights available to property owners or tenants under federal, state, or local law.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C.4601)(URA) applies to the acquisition of real property for a Federally-funded program or project and also when persons are displaced as a direct result of acquisition, rehabilitation or demolition for a Federally-funded program or project. Property acquisitions which satisfy the applicable requirements of the URA regulations at 49 CFR 24.101(b)(1)-(5), may be considered voluntary, whereas acquisitions subject to the threat and use of eminent domain are considered involuntary and the acquisitions are subject to the full real property acquisition requirements of 49 CFR part 24, subpart B. Typically tenant-occupants displaced in connection with voluntary acquisitions are eligible for URA relocation assistance, whereas owner-occupants are not. In cases of an involuntary acquisition, both owner-occupants and tenant-occupants are eligible for URA relocation assistance. NSP2 grantees and subrecipients should ensure their activities are in compliance with all applicable URA acquisition and relocation requirements. NSP2 funds may be used to provide relocation assistance as provided in 24 CFR 570.201(i). This includes permanent and temporary relocation assistance for eligible persons displaced by projects assisted with NSP2 funding.

Grantees need to be particularly careful when acquiring properties within the newly expanded definition of abandoned which now includes properties subject to code-enforcement actions. For instance, if a grantee has the power of eminent domain and a governmental subrecipient or contractor of that grantee uses NSP funds to acquire a property with a serious code enforcement deficiency, the grantee will likely need to approach the acquisition as an involuntary acquisition under the URA, subject to the full real property acquisition requirements of 49 CFR part 24 subpart B. For property acquisitions by other NSP-assisted entities, such as a non-governmental subrecipient, private developer, or homebuyer, the grantee is advised to carry

out due diligence to ensure that prohibited coercion of the seller is in no way involved in the transaction. For example, a unit of government that has the power of condemnation and code enforcement, and provides funds to a non-profit to purchase properties condemned or deemed uninhabitable by that unit of government may give the property owner the perception that condemnation or eminent domain action might be used coercively to enable a subrecipient to buy the property. Also illustratively, a case in which a city initiates a redevelopment project, selects the developer, controls the developer's activities by contract, commits itself to acquire by eminent domain any property that the developer fails to acquire through negotiation, and provides financing for the acquisitions, may be viewed as jointly “undertaken” by the city and the developer for acquisition and relocation purposes under the URA. The URA regulations at 49 CFR 24.102(h) prohibit agencies from advancing the time of condemnation, deferring negotiations, or condemnation or the deposit of funds with the court, or from taking any other coercive action to induce an agreement on the price to be paid for a property.

According to commenters, the definition of “Foreclosed” on page 42 is very clear, but not a good match for market conditions in many areas. HUD has received numerous expressions of concern from grantees and other interested parties that the current definition needs to be modified to permit greater flexibility in addressing local market conditions. The definition limits a grantee’s ability to intervene strategically when a lender initiates but does not complete foreclosure, or where a default is allowed to linger. Further, many lenders are transferring properties to aggregators or servicers, which then arrange for final disposition. In some of these cases, current policy does not consider the properties to retain their foreclosed status after title is transferred to the aggregator or servicer. (By “intermediary aggregators and servicers” HUD does not mean “investors”. An aggregator or servicer will typically limit the resale price to

acquisition plus a modest servicing fee; such organizations are not investors seeking to maximize the return on their capital.) For the same reasons that HUD is amending the definition of “Abandoned,” it is amending the definition of “Foreclosed.” To wait until foreclosure has been completed, as “foreclosed” was originally defined in the NSP2 NOFA, only allows the properties to further deteriorate and the neighborhoods in which such properties are located to further suffer from these deteriorating conditions, making redevelopment harder and more time consuming to do. As is the case with the amendments to the definition of “Abandoned,” the amendments to “Foreclosed” should not be construed to supersede or impact in any way state or local laws governing foreclosures or any protection rights available to property owners and tenants under federal, state, local or tribal law. An NSP2 grantee may apply these new definitions as of the effective date of its grant agreement, provided all NSP2 program requirements are met for assisted activities.

The new definition of foreclosed applies the term “current delinquency status”. This indicates the number of days (e.g., 30, 60, 90) the borrower is contractually past due. NSP grantees will use the Mortgage Banker Association (MBA) Delinquency Calculation Method to determine the current delinquency status of a mortgage. Under the MBA method, a loan would be considered delinquent if the payment had not been received by the end of the day immediately preceding the loan’s next due date (generally the last day of the month which the payment was due). Using the example above, a loan with a due date of August 1, 2009, with no payment received by the close of business on August 31, 2009, would have been reported as delinquent in September. From September 1 to September 30, 2009, the mortgage’s current delinquency status would be 30 days. On October 1, 2009, the mortgage’s current delinquency status would become 60 days.

Note that an NSP2 grantee must consult HUD prior to making an amendment to the program proposed in its application, as no amendment to an approved application may be made unless HUD rates the approved application as amended and it scores high enough to have been selected for funding under the NSP2 competition.

III. NSP2 NOFA Amendments.

For the reasons provided in this notice, HUD is making the following changes to the NSP2 NOFA:

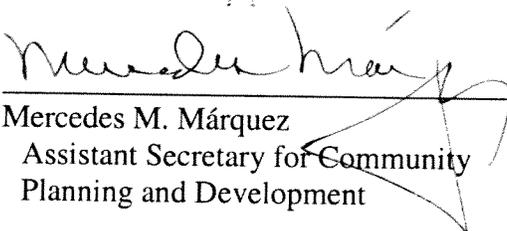
1. The definition of “Abandoned” on page 41 is revised to read as follows: “*Abandoned*. A home or residential property is abandoned if either a) mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or b) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or c) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state or local law or otherwise meets a state definition of an abandoned home or residential property.”

2. The definition of “Foreclosed” on page 42 is revised to read as follows: “*Foreclosed*. A home or residential property has been foreclosed upon if any of the following conditions apply: a) the property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or b) the property owner is 90 days or more delinquent on tax payments, or c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed, or d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, subrecipient, contractor, developer, or end user.”

Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 7th Street, SW, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

Dated: APR 2 2000


Mercedes M. Márquez
Assistant Secretary for Community
Planning and Development

[FR-5321-N--04]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5321-C-02]

Notice of Fund Availability (NOFA) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction

AGENCY: Office of the Assistant Secretary for Community Development and Planning, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009 (NSP2); correction.

SUMMARY: On May 4, 2009, HUD posted its NSP2 NOFA at www.hud.gov/nsp. This document makes corrections to the NSP2 NOFA in order to: (1) allow NSP2 applicants to use a combined index score to determine whether they meet the geographic targeting threshold requirement; (2) make a technical correction to the eligible activities table to activity (C) in accordance with the American Recovery and Reinvestment Act of 2009, Public Law 111-005, enacted February 17, 2009 (Recovery Act); (3) rescind the aggregate 5 percent purchase discount while leaving the 1 percent discount on individual purchases intact; and (4) make corrections for omitted items in the Application Checklist at Appendix 3 of the NSP2 NOFA.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. FAX inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On May 4, 2009, HUD posted the NSP2 NOFA

(Docket No. FR-5321-N-01) on its website at www.hud.gov/nsp. The NSP2 NOFA announced the availability of up to \$1.93 billion for HUD's FY2009 NSP2 Program. The purpose of the program is to stabilize communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties. NSP2 is authorized by the Housing and Economic Recovery Act, Public Law 110-289 (HERA), as amended by Title XII of Division A of the Recovery Act.

SUMMARY OF CORRECTIONS

A. Geographic Need Threshold Requirement

Background

The NSP2 NOFA requires NSP2 applicants to choose between one of two geographic need indices for their entire program to determine threshold eligibility. On consideration, HUD determined that requiring applicants to choose between the scores unnecessarily hinders flexibility in the design of programs that may operate in diverse geographies that face different challenges. Therefore, HUD will develop and provide on the foreclosure need map website a combined index score that weighs the higher of the two indices for each census tract in the program geography to determine an applicant's overall score. In addition, HUD is clarifying its intent not to bias scoring in any way related to the geographic scope—whether national, regional, or local—of an application.

Correction

Section II.B.8.a at page 14 of the NSP2 NOFA is revised to reflect the following:

“a. HUD is providing two foreclosure related needs scores at the Census Tract level, one that is based on the estimated number and percentage of foreclosures and another that combines estimated foreclosure rate with vacancy rate. Both scores rank need from 1 to

20, with 20 being census tracts with the HUD-estimated greatest need. For each census tract, the higher of the two index scores will be used to compute an average combined index score.”

Section II.B.8.b at pages 14-15 of the NSP2 NOFA is revised to reflect the following:

“b. For applicants proposing to carry out NSP2 activities, the neighborhoods identified must have an average combined index score for the identified target geography of 18 or greater, as indicated by the index.”

In Section II.B.8.c on page 15 of the NSP2 NOFA, the following sentence is added to the end of the paragraph:

“HUD will score applicants proposing to work in target geographies of different scopes (such as national, statewide, or single neighborhood) in a manner that does not inherently advantage or disadvantage one scope over another.”

B. Eligible Use Table

Background

The Recovery Act amended section 2301(c)(3)(C) (land banks) of HERA. HUD inadvertently omitted the amended statutory language in its table describing eligible use by not including the words “and operate.”

Correction

The third row under “NSP-Eligible Uses” in the first column of the table on pages 57-58 of the NSP2 NOFA is amended to read as follows:

“(C) Establish and operate land banks for homes and residential properties that have been foreclosed upon”

C. Purchase Discount

Background

In the first round of NSP, HUD initially set a requirement of a minimum 5 percent discount on individual purchases and 15 percent on aggregate purchases to comply with the statutory requirement that NSP-funded acquisitions be purchased at a discount. In response to feedback from grantees and other interested parties concerned with the inflexibility of the requirement and possible negative effects on neighborhood home values, HUD lowered the requirement for NSP2 to a minimum one percent individual purchase discount and a five percent aggregate discount for NSP2-funded properties.

Upon further consideration, HUD is removing the aggregate purchase discount requirement and leaving in place the minimum one percent individual purchase discount. The aggregate discount requirement was originally designed so that recipients would have the flexibility to make purchases at a lesser discount as long as they set it off in the aggregate. In practice, HUD recognizes that incentivizing these set offs may distort program priorities and flexibility and may exacerbate problems as expressed above related to the mandatory minimum discount. Therefore, to maintain statutory compliance while providing for maximum flexibility, HUD will require only a minimum individual purchase discount of one percent. At the same time, HUD reminds applicants that they are to seek the maximum feasible discount in the case of mortgagee foreclosed properties taking into account the carrying cost that the mortgagee would otherwise bear.

Requirement

Section Q on pages 72-73 of the NSP2 NOFA is amended to read as follows:

“Background

Section 2301(d)(1) limits the purchase price of a foreclosed home, as follows:

“Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.”

To ensure that uncertainty over the meaning of this section does not delay program implementation, HUD is defining “current market appraised value” in this notice. For mortgagee foreclosed properties, HUD is requiring that recipients 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 recipient or subrecipient. HUD has adopted an approach that requires a minimum discount of one percent for each foreclosed upon home or residential property purchased with NSP funds.

Requirements

1. Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least one percent from the current market-appraised value of the home or property.
2. An NSP2 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 necessary and reasonable costs related to the appraisal and transfer of title. If NSP2 funds are used to pay such costs when property owned by the recipient is conveyed to a subrecipient, homebuyer, developer, or other jurisdiction, the property is NSP-assisted and subject to all program requirements, such as requirements for NSP-eligible use and benefit to income-qualified persons.
3. The address, appraised value, purchase offer amount, and discount amount of each

property purchase must be documented in the recipient's program records. The address of each acquired property must be recorded in DRGR.”

D. Code of Conduct Appendix

Background

In accordance with regulations at 24 CFR 84.42 and 85.36(b)(3), applicants are required to develop and maintain a written code of conduct. HUD included a reference to the code of conduct as a required component of a complete NSP2 in Appendix 3 of the NSP2 NOFA application, but did provide applicants with any reference to the requirement. This correction refers applicants to the relevant guidance in the Notice of HUD's FY2009 Notice of Funding Availability, Policy Requirements and General Section (73 FR 79548) (Dec. 29, 2008) (General Section). Except where stated otherwise in the NSP2 NOFA, the provisions of the General Section apply to all NSP2 applicants.

Correction

In Appendix 3, d. (“Appendices”) on page 85 of the NSP2 NOFA, include the following after “A copy of your code of conduct”:

“(see Section III.C.2.d. of the General Section)”

E. Firm Commitment Appendix

Background

The NSP2 NOFA requires applicants that apply partnership with for-profits to provide a “firm commitment executed and dated by each for-profit partner with your application.” *See* NSP2 NOFA, Sec. II.A.5. However, the requirement was not included in the Application Checklist at Appendix 3. Applicants with for-profit partners must provide firm commitment documentation as appendices to their applications.

Correction

In Appendix 3, d. (“Appendices”) on page 85 of the NSP2 NOFA add a line to include the following:

“_____ Documentation of firm commitment executed and dated by each for-profit partner”

F. Definitions Appendix

Background

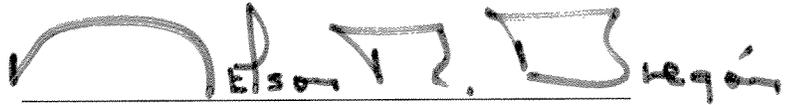
Section II.B.6 on page 13 of the NSP2 NOFA requires applicants to include the definitions of “blighted structure” and “affordable rents,” as well as a description of housing rehabilitation standards, as appendices to their applications. This requirement was inadvertently omitted from the checklist in Appendix 3.

Correction

In Appendix 3, d. (“Appendices”) on page 85 of the NSP2 NOFA add a line to include the following:

“ _____ Definitions of “blighted structure” and “affordable rents” and description of housing rehabilitation standards. (See Section II.B.6.)”

Dated: JUN 11 2009

A handwritten signature in black ink that reads "Nelson R. Bregón". The signature is stylized and written over a horizontal line.

Nelson R. Bregón, General Deputy Assistant
Secretary for Community Planning and
Development

[FR-5321-C-02]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5321-C-03]

Notice of Fund Availability (NOFA) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Neighborhood Stabilization Program 2 (NSP2) under the American Recovery and Reinvestment Act of 2009 (Recovery Act); correction.

SUMMARY: On May 4, 2009, HUD posted its NSP2 NOFA at www.hud.gov/nsp and announced the availability of the NOFA on May 7, 2009 (74 FR 21377). The NSP2 NOFA announced the availability of approximately \$1.93 billion available in competitive grants authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, approved February 17, 2009). The NSP2 NOFA was corrected by Notice posted on the HUD website and announced on June 11, 2009 (74 FR 28715). Today's Notice makes further corrections to the NSP2 NOFA to: (1) correct an inconsistency in the NSP2 NOFA regarding when the lead member of a consortium must enter into consortium funding agreements with consortium members; and (2) extend the deadline for submission of such agreements to January 29, 2010. This notice only affects applications for funding that have already been submitted to HUD by consortium applicants. HUD notes that the deadline for applications was July 17, 2009, and, as a result, will not accept new applications for funding.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or

speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. FAX inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On May 4, 2009, HUD posted the NSP2 NOFA (FR-5321-N-01) on its website at www.hud.gov/nsp. The NSP2 NOFA announced the availability of up to \$1.93 billion appropriated by the Recovery Act for NSP2 Program. The purpose of the program is to stabilize communities by providing funds for the purchase and redevelopment of foreclosed and abandoned homes and residential properties. NSP was authorized by the Housing and Economic Recovery Act, Public Law 110-289 (HERA), as amended by Title XII of Division A of the Recovery Act.

SUMMARY OF CORRECTIONS

Timing and Applicability of Requirement for Submission of Consortium Funding

Agreements

Background

The NSP2 NOFA requires that consortium applicants provide a consortium agreement with their initial application and later provide a consortium funding agreement providing greater detail about each member's role in the consortium. The NSP2 NOFA provides inconsistent instructions regarding when the lead member of the consortium must enter into consortium funding agreements with consortium members. At page 11, the NSP2 NOFA states that: ". . . after selection, but before the grant is awarded, the lead member (of the consortium) must enter into a separate consortium funding agreement with each member of the consortium." The NSP2 NOFA also provides at page 32 that: "After HUD has rated all applications and has identified fundable applications receiving at least 115 points, HUD will notify each consortium with an

application in the fundable range that the lead applicant has until December 1, 2009, to enter into a separate consortium funding agreement with each individual consortium member and to submit each executed agreement to HUD.”

Since these instructions have created confusion and are not consistent, HUD is providing this correction. To facilitate implementation of this correction, HUD is extending the date for submission of consortium funding agreements by a selected consortium from December 1, 2009, to January 29, 2010. This correction does not affect the ratability or standing of any application submitted in response to this competition. The correction eliminates the requirement printed on page 32 of the NOFA that any consortium applicant in the fundable range execute consortium funding agreements prior to announcement of results of the NSP2 competition; instead consortium funding agreements must only be submitted by those consortia selected for funding. HUD notes that this clarification eliminates an administrative burden for those applicants in the fundable range who are not ultimately selected for funding. At the time of selection, HUD will contact the selected consortia and provide instructions on making this submission. It is HUD’s intent to announce results of the NSP2 competition in a timely manner that will enable consortium applicants selected for funding to execute and submit their consortium funding agreements in advance of January 29, 2010.

Corrections

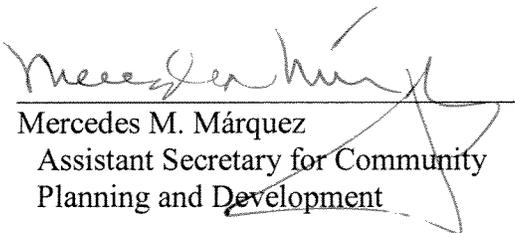
1. Section II.A.6, the last sentence of the paragraph at page 11 is deleted.
2. Section IV.B.4. at page 31 is revised by revising the date in the fourth sentence from “December 1, 2009”, to “January 29, 2010”. This sentence now reads, “If an applicant turns down an award offer or fails to submit executed consortium funding agreements by January 29, 2010, HUD will make an offer of funding to the next highest–ranking application.”

3. Section V.A. on page 32 is removed and replaced with the following language:

“HUD will make selections from the fundable applications based on ranked order based on ratings scores (after any adjustment for past performance) and funds availability. After HUD makes selections, HUD will notify each selected consortium that the lead applicant has until January 29, 2010, to enter into a separate consortium funding agreement with each individual consortium member and to submit each executed agreement to HUD. The agreement must set forth the individual consortium member’s responsibilities for carrying out the consortium’s NSP2 activities in a timely manner, including the specific activities to be carried out, timetables for completion, and applicable requirements from Appendix 1 to ensure compliance with NSP2 requirements.

“After HUD makes selections, and, if applicable, receives consortium funding agreements, HUD will provide a grant agreement together with any grant conditions to each selected applicant. The applicant shall return the executed grant agreement within 30 days to HUD.”

Dated: NOV 09 2009


Mercedes M. Márquez
Assistant Secretary for Community
Planning and Development

[FR-5321-C--03]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5321-C-04]

Notice of Fund Availability (NOFA) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Neighborhood Stabilization Program 2 (NSP2) under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act); correction.

SUMMARY: On May 4, 2009, HUD posted its NSP2 NOFA at www.hud.gov/nsp and announced the availability of the NOFA on May 7, 2009 (74 FR 21377). HUD corrected the NSP2 NOFA by Notices posted on the HUD website on June 11, 2009 and November 9, 2009, and announced by Federal Register publications published on June 17, 2009 (74 FR 28715) and November 16, 2009 (74 FR 58973), respectively. Today's Notice corrects the NSP2 NOFA to permit HUD to specify the deadline date for submission of consortium funding agreements in the transmittal letter for the NSP2 grant agreement, which allows the submission deadline to occur after obligation of grant funds.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. FAX inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On May 4, 2009, HUD posted the NSP2 NOFA

(Docket No. FR-5321-N-01) on its website at www.hud.gov/nsp and announced the availability of the NOFA on May 7, 2009 (74 FR 21377). The NSP2 NOFA announced the availability of approximately \$1.93 billion in competitive grants authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, approved February 17, 2009). HUD corrected the NSP2 NOFA by Notices posted on the HUD website on June 11, 2009 and November 9, 2009, and announced the corrections by Federal Register publications published on June 17, 2009 (74 FR 28715) and November 16, 2009 (74 FR 58973), respectively. The purpose of the NSP2 program is to stabilize communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties. NSP2 is authorized by the Housing and Economic Recovery Act, Public Law 110-289 (HERA), as amended by Title XII of Division A of the Recovery Act.

SUMMARY OF CORRECTIONS

Timing and Applicability of Requirement for Submission of Consortium Funding

Agreements

Background

The NSP2 NOFA requires that consortium applicants provide a consortium agreement with their initial application and later provide a consortium funding agreement providing greater detail about each member's role in the consortium. These consortium funding agreements must describe the consortium member's specific activities under the NSP2 program, including timetables for completion, and applicable requirements in Appendix 1, Section U.2. of the NOFA.

As a result of HUD's November 9, 2009, correction, the date by which consortium applicants were required to provide consortium funding agreements to HUD was January 29, 2010. Today's Notice extends the deadline for submitting such agreements to HUD to the date

specified by HUD in the transmittal/award letter for the NSP2 grant agreement. HUD will provide selected consortiums with instructions for submitting the consortium funding agreements by January 29, 2010. This extension will permit HUD to establish the deadline for the submission of consortium agreements to occur after obligation of grant funds.

This notice only affects applications for funding that have already been submitted to HUD by consortium applicants. HUD notes that the deadline for applications was July 17, 2009, and, as a result, will not accept new applications for funding. The notice correcting the NSP2 NOFA is available on the HUD website at <http://www.hud.gov/recovery>.

Corrections

1. Section II.A.6., the last sentence is removed and replaced with the following language:

“Second, by the date included in the transmittal letter, the lead member must enter into a separate consortium funding agreement with each member of the consortium and submit each executed consortium funding agreement to HUD.”

2. Section IV.B.4. at page 31 of the NSP2 NOFA is revised by changing the date in the fourth sentence from “January 29, 2010” to “ a date specified by HUD in the transmittal letter.”

3. The text at Section V.A. on page 32 of the NSP2 NOFA is removed and replaced with the following language:

“HUD will make selections from the fundable applications based on ranked order based on ratings scores (after any adjustment for past performance) and funds availability. After HUD makes selections, HUD will notify each selected consortium that the lead applicant has until a date specified in the transmittal letter to enter into a separate consortium funding agreement with each individual consortium member and to submit each executed agreement to HUD. The agreements

must set forth the individual consortium member's responsibilities for carrying out the consortium's NSP2 activities in a timely manner, including the specific activities to be carried out, timetables for completion, and applicable requirements from Appendix 1 to ensure compliance with NSP2 requirements.

“After HUD makes selections, HUD will provide a grant agreement together with any grant conditions to each selected applicant. The applicant shall return the executed grant agreement within 30 days to HUD and return the consortium funding agreements in accordance with the instructions and by the date specified in the award letter. ”

Dated: JAN 21 2010



Mercedes M. Márquez
Assistant Secretary for Community
Planning and Development

[FR-5321-C--04]

MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

PROGRAM ADMINISTRATION MODULE

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MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

PROGRAM ADMINISTRATION

① PROGRAM ADMINISTRATION POLICY ①

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I. INTRODUCTION

MSHDA will provide a more comprehensive Program Administration Module, but wanted to address grants management and general administration questions received from Michigan NSP2 Consortium Members, particularly:

- Tracking Employee Hours and determining if they are Administration or Activity Delivery Costs
- City serving as a Third Party Grant Administrator for the Land Bank

II. ACTIVITY DELIVERY AND ADMIN STAFF COSTS

Grantees requested clarification on the difference between Administrations and Activity Delivery Costs as it relates to staffing and tracking employee hours. MSHDA provided the *Admin and Activity Delivery Budget Template* for grantees to budget for the staffing, materials and equipment for their NSP2 award and the *NSP2 Quarterly Timesheet* that tracks an employee's weekly hours over the NSP2 reporting period by quarter.

The definitions and eligible costs for Administration and Activity Delivery Costs are found in "Policy and Program Guidelines."

III. CITY AS GRANT ADMINISTRATOR FOR LAND BANK

A. Grant Disbursement to Third Party Grant Administrator

This policy pertains to those Cities and Land Banks that choose to utilize their NSP2 Consortium Partner, or another entity, to assist in the administration of their grant. From this point forward, this policy is written as if the Land Bank is the Grantee, and their NSP2 Partner City is the Third Party Administrator. The following subjects will be explained:

- Grant Administration Management Plan
- OPAL – Giving Third-Party Administrators Access to the Grant
- Grant Disbursements
- On-Site Monitoring/Audits

1. Grant Administration Management Plan

MSHDA refers to the entity administering a grant on behalf of another as a "Third-Party Administrator". It is important to note that the Grantee is responsible for the oversight of the grant and is held accountable for all aspects of the grant, even actions performed by the Third-Party Administrator.

Land Banks using the services of their NSP2 Partner City must complete the "**Grants Administration Management Plan**" and attach it to their City and Land Bank Operations Agreement as Appendix D. This document contains a list of tasks typically performed during the life of a grant. The Land Bank, in partnership with the City, will identify persons responsible for completing these tasks and check the box identifying each person as either an employee of the Land Bank or the City.

The "Grants Administration Management Plan" also requires grantees to describe how they will monitor progress of the grant, and to explain in detail how grant funds will flow between the entities and contractors.

2. OPAL – Giving Third-Party Administrators Access to the Grant

Grantees must give their Third-Party Administrators access to their grant on OPAL. Under no circumstance will Land Banks identify City staff as Land Bank employees on OPAL; instead they are

identified as a “Consultant” with the security level of Grant Administrator. Follow the process in the Grantee User Manual, Section 7.3 - “Manage Access to a Grant”. The manual can be viewed by clicking “Downloads” at the lower right-hand corner of the OPAL Start Menu. Follow the process “to assign other people from outside of your agency access to the grant (such as a third party administrator)”.

To see a list of tasks that a Grant Administrator can perform in OPAL, whether grantee staff or a consultant, refer to Section 7.12 of the OPAL “Grantee User Manual.

NOTE: MSHDA, and therefore OPAL, will not allow Consultants to be designated as Authorized Signers for a grant. Only grantee staff persons who have been identified on the Authorized Signer form may be designated as such.

3. On-Site Monitoring/Audits

When MSHDA, HUD, or the Office of Inspector General (OIG) conduct on-site monitoring or audits of the NSP2 grants, both the Grantee and the Third-Party Administrator will need to arrange for appropriate staff, and all program/project files to be available. When contacted by MSHDA, HUD, or the OIG, be sure to inform them that the grant is administered by a third-party, and to allow for adequate time to visit with both entities. Be sure to consult with the Third-Party Administrator prior to scheduling the site-visits.

IV. LIST OF CHECKLISTS AND TEMPLATES

 Administration and Activity Delivery Budget

 NSP2 Quarterly Staff Timesheet

 Third Party Grant Management Plan

EXHIBIT XX - Key Staff and Roles

Name of City/Land Bank:

1. Please provide the names and titles of key staff who will be responsible for the identified roles.
2. If your organization is not responsible for a certain role, please insert:
3. If your organization is responsible for a certain role, but will be filling that position with a new hire or contract employee, please insert:

NOT APPLICABLE
NEW POSITION TO BE FILLED ASAP.

Key Staff	Role
Name: Title: 	<ol style="list-style-type: none"> 1. Builds coalition of support with elected officials and neighborhood stakeholders 2. Spokesperson for NSP2
Name: Title: 	<ol style="list-style-type: none"> 1. Program Administrator that manages overall NSP2 program and coordinates with MSHDA, Land Bank and partners. Scope of work includes management of: <ul style="list-style-type: none"> Program Administration, Compliance & Financial Management Community Outreach Cultivation of Program Partners & Neighborhood-based Labor Acquisition Construction Cultivation of Homebuyers and Rental Managers
Name: Title: 	<ol style="list-style-type: none"> 1. Works directly with Program Manager to collect documentation, manage files, and process any payment or compliance reports. 2. Proficient in NSP2 and CDBG Compliance
Name: Title: 	<ol style="list-style-type: none"> 1. Identifies, conducts due diligence and negotiates purchase of foreclosed, abandoned and/or vacant property for NSP2. 2. Coordinates directly with Program Manager on properties to acquire and conduct project feasibility analysis. 3. Utilizes Michigan Land Bank and Brownfield Laws to acquire tax foreclosed property that yields buildable lots for future redevelopment 4. Works with MSHDA Bulk Purchase Manager to identify and acquired property. 5. Responsible for compliance with all NSP2 and CDBG acquisition-related regulations.

Key Staff**Role**

Name: _____ Title: _____	<ol style="list-style-type: none">1. Manages and holds land banked property that yields buildable lots for future redevelopment, which includes site preparation, combining or subdividing of lots, title clearance, and environmental assessment and remediation2. Coordinates directly with City and Land Bank Program Managers and Acquisition Managers on properties to dispose as market opportunities emerge of redevelopment3. Recruits, procures and coordinates property management and maintenance providers.4. Responsible for compliance with all NSP2 and CDBG disposition-related regulations.
Name: _____ Title: _____	<ol style="list-style-type: none">1. Conducts property inspections and writes specs.2. Recruits, procures and coordinates for-profit and non-profit developers and general contractors to rehabilitate and build NSP2-assisted units.3. Oversee rehabilitation and new construction of NSP2-assisted units.4. Responsible for compliance with all NSP2 and CDBG construction-related regulations.
Name: _____ Title: _____	<ol style="list-style-type: none">1. Designs and collaborates with NSP2 management on Homebuyer Cultivation Program:<ul style="list-style-type: none">• Campaign and outreach for homebuyers ready to purchase a home• Campaign an outreach for homebuyers who need more counseling and maybe lease purchase• Curriculum of housing counseling services• Homebuyer financing: mortgage, down payment & closing cost assistance, principal buy down2. Responsible for media relations and outreach to realtors, employers, neighborhood associations, and other stakeholders that can generate interest of prospective buyers.3. Coordinate production of marketing materials that may include a website for potential homebuyers and NSP2-assisted houses.4. Responsible for compliance with all NSP2 and CDBG marketing-related regulations.

Key Staff

Role

Name:

Title:

1. Assists Marketing manager to recruit potential homebuyers
2. Certifies the income of potential buyers and renters
3. Determines if buyers are qualified for a mortgage and estimates amount of homebuyer assistance based on project feasibility analysis.
4. Works with housing counselors to refer potential buyers to counseling and ensure buyers receive minimum required amount of counseling as well as any additional counseling.
3. Responsible for compliance with NSP2 and CDBG income certification and counseling regulations.

NSP Admin Budget for Office and Overhead Expenses				
NAME	Total Year I	Total Year II	Total Year III	Total
	2010	2011	2012	2010-2013
1 Assessment of IT				\$0
2 Computer: Purchases, Software, Upgrades				\$0
3 Computer: Contracts				\$0
4 Software to track building permits				\$0
5 Other IT equipments				\$0
6 Telephone & Broadband Access				\$0
7 Cell Phones				\$0
8 Promotional/Advertisement/ Marketing				\$0
9 Printing				\$0
10 Vehicle				\$0
11 Travel Expenses				\$0
12 Cubicles				\$0
13 Filing Cabinets				\$0
14 Office Supplies, Cleaning Service, Misc				\$0
15 Postage				\$0
16 Legal Expenses, title search, filing lien				\$0
17 Office Rent				\$0
18 Office Renovations/ Expansion				\$0
19				\$0
20				\$0
21				\$0
22				\$0
23				\$0
24				\$0
25				\$0
26				\$0
27				\$0
28				\$0
Overhead and Operating Expenses billed to NSP2 Admin	\$0	\$0	\$0	\$0

Admin Funds Gap Analysis	
Allocated Administration Funds:	\$0
Actual Administration Funds:	\$0
Office and Overhead Expense:	\$0
GAP:	\$0

MICHIGAN NSP2 CONSORTIUM
QUARTERLY TIMESHEET SUMMARY FOR NSP2 REPORTING

Employer:

Employee:

NSP2 Quarter	Begin Date	End Date
<input style="background-color: yellow;" type="text"/>	<input style="background-color: yellow;" type="text"/>	<input style="background-color: yellow;" type="text"/>

Admin or Activity Delivery	Hours
Administrative Funds	0.00
Activity Delivery - Use B	0.00
Activity Delivery - Use C	0.00
Activity Delivery - Use D	0.00
Activity Delivery - Use E	0.00
Activity Delivery Subtotal:	0.00
Total Hours for Week:	0.00

MICHIGAN NSP2 CONSORTIUM
Quarterly Timesheet for Staff and Compliance Reporting

NSP2 EMPLOYEE QUARTERLY TIMESHEET - WEEK 1

Employer:

Employee:

NSP2 Quarter: 0	
Begin Date	End Date

Instructions:

1. Select Staffing Time on either Administration or Activity Delivery by NSP2 Eligible Use
2. Calculate hours by quarter hours in Column E - hours (e.g. 2.75 hours)

	Admin or Activity Delivery Category	Hours
MON	Administration	
	Activity Delivery - Use B	
	Activity Delivery - Use C	
	Activity Delivery - Use D	
	Activity Delivery - Use E	
		0.00

TUE	Administration	
	Activity Delivery - Use B	
	Activity Delivery - Use C	
	Activity Delivery - Use D	
	Activity Delivery - Use E	
		0.00

WED	Administration	
	Activity Delivery - Use B	
	Activity Delivery - Use C	
	Activity Delivery - Use D	
	Activity Delivery - Use E	
		0.00

THU	Administration	
	Activity Delivery - Use B	
	Activity Delivery - Use C	
	Activity Delivery - Use D	
	Activity Delivery - Use E	
		0.00

FRI	Administration	
	Activity Delivery - Use B	
	Activity Delivery - Use C	
	Activity Delivery - Use D	
	Activity Delivery - Use E	
		0.00

TOTAL HOURS FOR WEEK:	0.00
------------------------------	-------------

I hereby certify and approve that the hours stated are true and accurate.

Employee Signature	Date
--------------------	------

Employee's Supervisor Signature	Date
---------------------------------	------



NSP Admin Budget for Office and Overhead Expenses				
NAME	Total Year I	Total Year II	Total Year III	Total
	2010	2011	2012	2010-2013
1 Assessment of IT				\$0
2 Computer: Purchases, Software, Upgrades				\$0
3 Computer: Contracts				\$0
4 Software to track building permits				\$0
5 Other IT equipments				\$0
6 Telephone & Broadband Access				\$0
7 Cell Phones				\$0
8 Promotional/Advertisement/ Marketing				\$0
9 Printing				\$0
10 Vehicle				\$0
11 Travel Expenses				\$0
12 Cubicles				\$0
13 Filing Cabinets				\$0
14 Office Supplies, Cleaning Service, Misc				\$0
15 Postage				\$0
16 Legal Expenses, title search, filing lien				\$0
17 Office Rent				\$0
18 Office Renovations/ Expansion				\$0
19				\$0
20				\$0
21				\$0
22				\$0
23				\$0
24				\$0
25				\$0
26				\$0
27				\$0
28				\$0
Overhead and Operating Expenses billed to NSP2 Admin	\$0	\$0	\$0	\$0

Admin Funds Gap Analysis	
Allocated Administration Funds:	\$0
Actual Administration Funds:	\$0
Office and Overhead Expense:	\$0
GAP:	\$0



MICHIGAN NSP2 CONSORTIUM

PROGRAM ASSESSMENT TOOL

I. OVERVIEW AND ROLES

	Production	Administration	Total
City Allocation			
Land Bank Allocation			
TOTAL			

A. VISION OF NSP2

1. What is the City's overall vision for their NSP2 Allocation?
2. What are their long-term neighborhood economic development goals?
3. What are the long-term goals of the City and Land Bank Delivery System?

B. ROLE OF THE CITY

1. What is the role of the City?		
2. City Roles, Responsibilities and Staffing		
Task	Lead and Decision-maker <small>(Name, Title, and Department)</small>	Staff <small>(Name, Title and Department)</small>

C. ROLE OF THE LAND BANK

1. What is the role of the Land Bank?		
2. Land Bank Roles, Responsibilities and Staffing		
Task	Lead and Decision-maker (Name, Title, and Department)	Staff (Name, Title and Department)

D. RELATIONSHIP BETWEEN CITY AND LAND BANK

1. If applicable, have the City and Land Bank executed the City and Land Bank Operations Agreement?
2. When are the regular meetings held between the City and Land Bank?

II. SUMMARY OF MARKET CONDITIONS

A. <u>PRICE RANGES</u>	Low	High
1. Range of As-is Acquisition Costs		
2. Range of After-improved Sales Price		
3. Range of Rents		
B. <u>HOUSING PRODUCT AND AMENITIES</u>		
1. What are the housing product and amenities for Target Homebuyers?		
2. What are the housing product and amenities for Target Renters?		
3. How do these Market Preferences inform the NSP2 Investment Strategy?		

III. TARGET AREAS

A. LIST OF CENSUS TRACTS

B. DESCRIPTION AND BOUNDARIES OF NSP2 TARGET AREA(S)

1. Tipping Point Stabilization Area(s)
2. Long-term Redevelopment Area(s)

C. PARCEL MAP OF TARGET AREA(S)

1. Do you have a parcel map of the Target Area(s)?		
___ YES ___ NO		
2. Have you surveyed the existing condition, occupancy and ownership of the targeted blocks and neighborhoods based on the following criteria?		
___ YES ___ NO		
<u>Condition</u>	<u>Occupancy</u>	<u>Ownership</u>
Habitable	Owner-occupied	City-owned
Significant Rehab	Renter-occupied	Land Bank-owned
Blighted	Vacant	County Tax Foreclosure
Vacant Lot	Side Lot	Privately-owned
3. Attach a map of the parcel map and, if available, overlaid with existing condition and occupancy.		

D. OPPORTUNITIES AND NEEDS OF TARGET AREA(S)

1. What are the needs of the Target Area(s)?
2. What are the opportunities of the Target Area(s)?
3. What are the neighborhood anchors? Neighborhood anchors are employment, educational and community centers, such as business districts, medical centers, colleges and universities, transit and corridors, employment centers, and schools.

IV. NSP2 INVESTMENT STRATEGY

A. NEIGHBORHOOD PLAN FOR EACH OF YOUR TARGET AREA(S)

1. Target Area 1:
2. Target Area 2:
3. Target Area 3:
4. Target Area 4:

B. COMMUNITY ENGAGEMENT

1. Describe the City and Land Bank plan to engage neighborhood residents and stakeholders and elected officials to build a coalition of support for the Plan.
2. Describe the City and Land Bank plan to engage neighborhood residents and local business concerns to employee residents on NSP2 projects.

C. IDENTIFY YOUR SCHEDULE OF PROJECTS

1. Demolition				
a). Describe your demolition strategy				
b). What are the criteria for selecting demolition projects that support the stabilization of tipping point blocks and land assembly & site preparation of redevelopment areas?				
c). If applicable, provide the explanation as to why the City and Land Bank will increase their demolition budget.				
d). Schedule of Projects – Demolition				
<u>Target Area</u>	<u>Planned Completion Date</u>	<u># of Units</u>	<u>NSP2 Budget (Original)</u>	<u>NSP2 Budget (Amended)</u>
2. 25% Low-income Set-aside (LISA)				
a). Describe your LISA Strategy				
b). What is the minimum amount required with the NSP2 award to meet LISA?				

c). Schedule of Projects – Low-income Set-aside				
<u>Target Area</u>	<u>Planned Completion Date</u>	<u>Development Type and Occupancy*</u>	<u># of Units</u>	<u>NSP2 Budget</u>
*Single Family (1-4 Units) or Multi-family 5+ units *Homebuyer or Rental				
3. Immediate Rehabilitation and New Construction to Stabilize Tipping Point Blocks – Completed by February 10, 2013				
a). Are the rehabilitation and new construction specifications designed to incorporate code compliance, energy efficiency and marketability to “a move up home at a starter price” that is the “nicest house on the block?”				
b). Schedule of Projects – Immediate Rehabilitation & New Construction				
<u>Target Area</u>	<u>Planned Completion Date</u>	<u>Development Type and Occupancy*</u>	<u># of Units</u>	<u>NSP2 Budget</u>
*Single Family (1-4 Units), Multi-family (5+ units) or Mixed Use Development *Homebuyer or Rental				

4. Long-term Redevelopment Plans – Completed by February 10, 2020				
a). Describe the transformational redevelopment projects planned that will help define the New Michigan Urban Neighborhood?				
b). Schedule of Projects – Long-term Redevelopment Plans				
<u>Target Area</u>	<u>Planned Completion Date</u>	<u>Development Type and Occupancy*</u>	<u># of Units</u>	<u>NSP2 Budget</u>
*Single Family (1-4 Units), Multi-family 5+ units or Mixed Use Developments				
*Homebuyer or Rental				

V. DELIVERY AND COMPLIANCE SYSTEMS

A. PROCUREMENT AND CONTRACTING

1. Acquisition and Demolition	
<u>Service Provider</u>	<u>Have they been procured?</u> Next to each provider, please input: Yes No I don't know. I need assistance to determine.
Appraiser	
Lead-based Inspector	
Asbestos Inspector	
Specification Writer	
Architect	
Real Estate Agent	
Demolition Facilitator	
Lead Abatement Contractors	
Asbestos Abatement Contractors	
Demolition Contractors	
2. Low-income Set-aside	
<u>Service Provider</u>	<u>Have they been procured?</u> Next to each provider, please input: Yes No I don't know. I need assistance to determine. If Yes, list date RFP written and issued, submissions evaluated, and name(s) of provider/contractor selected.
Housing Counselor	
Rental and Homebuyer Intake Specialist and Income Certification	

Specification Writer/Architect	
Developers	
Construction Manager	
Marketing & Sales	
3. Land Banking for Future Redevelopment	
<u>Service Provider</u>	<u>Have they been procured?</u> Next to each provider, please input: Yes No I don't know. I need assistance to determine. If Yes, list date RFP written and issued, submissions evaluated, and name(s) of provider/contractor selected.
Property Manager	
Property Maintenance	

B. SECTION 3

<p>1. Does the City and/or Land Bank have a Section 3 Plan? If YES, describe. If NO, describe where they need assistance.</p>
<p>2. Does the City and/or Land Bank have a Strategy to employ neighborhood residents to benefit from the NSP2 investment? If YES, describe. If NO, describe where they need assistance and/or plan to develop a strategy.</p>

C. ENVIRONMENTAL REVIEW

<p>1. What is the process for the City and Land Bank to complete the Environmental Review and receive SHPO or any other approvals?</p>
<p>2. Are there any challenges causing the City and Land Bank to complete the Environmental Review and receive SHPO or any other approvals?</p>

VI. PROGRESS STATUS REPORT

A. FINANCIAL MANAGEMENT

1. What is the process for the City and Land Bank to set up projects and submit draws in OPAL?	
2. NSP2 Funds Management Update	
Amount Set-up in OPAL:	
Amount Expended in OPAL:	
Amount Obligated, but not Set-up in OPAL:	
Amount Expended, but not Set-up/Draw Request in OPAL:	

B. ACQUISITION

1. Units of Production	
Number of Units Acquired:	
Number of Units Set-up in OPAL for Acquisition:	
Number of Units Under Contract for Acquisition:	
Number of Tax Foreclosed Units Scheduled for Acquisition:	
Number of Units being reviewed/ in due diligence for Acquisition:	
2. What is the process between the City and Land Bank to select and approve projects and complete due diligence?	
3. Describe any issues delaying and/or preventing acquisition of property.	

C. DEMOLITION

1. Units of Production	
Number of Units Demolished:	
Number of Units Set-up in OPAL for Demolition:	
Number of Units Under Contract for Demolition:	
Number of Units Awaiting Approval/Permits for Demolition:	
Number of Units being reviewed/in due diligence for Demolition:	
2. What is the process between the City and Land Bank to select and approve projects and complete due diligence?	
3. Describe any issues delaying and/or preventing demolition of property.	

D. LOW-INCOME SET-ASIDE (LISA)

1. Units of Production	
Number of Units Targeted for LISA:	
Number of Units Acquired for LISA:	
2. Project Selection and Construction Management	
<p>a). Have the City and Land Bank identified, procured and cultivated Developers to complete the Low-income Set-aside? If YES, describe. If NO, develop and describe the plan. The plan includes tasks, timeline and responsible staff person.</p>	
<p>b). Have the City and Land Bank identified, certified and cultivated buyers and/or renters at or below 50% AMI? If YES, describe. If NO, develop and describe the plan. The plan includes tasks, timeline and responsible staff person.</p>	



WORK PLAN

December 15 – March 31, 2010 • City of and Land Bank

I. NSP2 INVESTMENT STRATEGY

A. PRODUCTION BUDGET

Production	Administration	Total	20% Expenditure
City Allocation			
Land Bank Allocation			
TOTAL			

B. SUMMARY OF MARKET CONDITIONS

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Collect and Analyze Price Ranges			
Summarize Housing Products and Amenities to meet or move Market forward			

C. TARGET AREAS

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Identify Target Areas: Tipping Point and Redevelopment Areas that will receive investment			

Parcel Map of Target Areas			
Parcel-by-Parcel Survey of Existing Conditions: Condition, Ownership and Occupancy			
Enter Survey Information in Database			
Develop Existing Conditions Map			
Identify Anchors and Amenities on Existing Conditions Map			
Print Existing Conditions Map on Foam Core Poster for City			

D. IDENTIFY TARGET PROPERTIES

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
List of Properties for Acquisition and Strategy to Acquire			
List of Properties for Demolition and Strategy to Demolish			
List of Properties for LISA and Strategy for LISA			
Update Existing Conditions Map and Database as Progress on Acquisition, Demo & LISA			

E. SCHEDULE OF PROJECTS

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Calculate Units of Production for Demolition, Acquisition and LISA			
Conduct Due Diligence on Per Unit Costs of Production			
Complete Budget based on Project Type, Units of Production and Cost Estimates			
Compare Schedule of Projects with Budget in OPAL			
Complete Budget Workbook <i>(coming soon!)</i>			
Submit Budget Amendment in OPAL			

F. SCHEDULE OF EXPENDITURES

Total Award Amount: [REDACTED] 20% Expenditure Amount by March 31, 2011: [REDACTED]

How many units will the City and Land Bank acquire by?

	January 31, 2011	February 28, 2011	March 31, 2011	TOTAL
Planning Amount (Projects in Due Diligence):				
Obligation Amount (Projects Set-up in OPAL or Under Contract):				
Expenditure Amount:				

II. GET YOUR TEAM IN PLACE

A. PROCUREMENT AND CONTRACTING

1. Joint and Sharing Procurement

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Schedule of what City and partner Land Bank have procured. What can they share and jointly procure?			
Schedule of what Professional Service Providers the City and Land Bank can share and jointly procure			
City and Land Bank enter into Agreement to jointly procure and share professional service providers <i>(coming soon!)</i>			

2. Acquisition and Demolition

Include the Date Completed / Deadline and Responsible Party / Person for each of the following Professional Service Providers that apply to your NSP2 Program

<u>Service Provider</u>	RFP Drafted, Reviewed and Published	Scoring and Evaluation Criteria Developed	Complete Cost Analysis (as applicable)	RFPs from Professional Service Provider due and collected	Score and Evaluate Submissions	Notify Professional Service Providers of Selection	Contracts and Agreement Developed, including Legal Review	Filed
Real Estate and Contract Attorney								
Appraiser								
Lead-based Inspector								
Asbestos Inspector								
Specification Writer								
Architect								
Real Estate Agent								
Demolition Facilitator								
Lead Abatement								

Contractors								
Asbestos Abatement Contractors								
Demolition Contractors								

3. Low-income Set-aside

<u>Service Provider</u>	Outreach	RFP/RFQ Drafted, Reviewed and Published	Scoring and Evaluation Criteria Developed	Complete Cost Analysis (if applicable)	RFPs from Professional Service Provider due and collected	Score and Evaluate Submission (s)	Notify Professional Service Providers of Selection	Contracts and Agreement Developed, including Legal Review	Filed
Housing Counselor									
Rental and Homebuyer Intake Specialist and Income Certification									
Specification Writer/Architect									
Developers									
Construction									

Manager									
Marketing & Sales									

4. Land Banking for Future Redevelopment

<u>Service Provider</u>	Outreach	RFP/RFQ Drafted, Reviewed and Published	Scoring and Evaluation Criteria Developed	Complete Cost Analysis (if applicable)	RFPs from Professional Service Provider due and collected	Score and Evaluate Submission(s)	Notify Professional Service Providers of Selection	Contracts and Agreement Developed and Finalized	Filed
Property Manager									
Property Maintenance									

III. COMPLIANCE SYSTEMS

A. PROCUREMENT AND CONTRACT TEMPLATES

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Schedule of Procurement and Contract Templates needed			
Schedule of Construction Mortgage and Liens needed			

B. SECTION 3 PLAN

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Develop Section 3 Plan			

C. ENVIRONMENTAL REVIEW

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Overlay of Cleared SHPO Target Areas on Existing Conditions Map			
Contact MSHDA on Receiving Technical Assistance for List of Target Properties outside of Cleared Areas			

IV. PRODUCTION SYSTEMS

A. ACQUISITION

How many units will the City and Land Bank acquire by?

January 31, 2011	February 28, 2011	March 31, 2011	TOTAL

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Prioritize List of Target Properties			
Conduct Due Diligence based on NSP2 Property Type and Complete Acquisition Analysis Tool			
Develop System and Schedule Regular Meetings to receive Acquisition "Go/No Go" from Decision Makers			
Negotiations for Purchase			
Prepare and Attend Closings			
Stabilize Structure for Immediate Rehabilitation			
Record Liens (as applicable)			

B. DEMOLITION

How many units will the City and Land Bank demolish by?

January 31, 2011	February 28, 2011	March 31, 2011	TOTAL

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Prioritize List of Target Properties			
Conduct Due Diligence based on NSP2 Property Type, Existing Ownership and Demolition Type (e.g. stand alone, privately-owned, land banking, new construction)			
Develop System and Schedule Regular Meetings to receive approval for Demolitions			
Complete Pre-demolition Due Diligence (permits, utility shut-off, etc.)			
Enter Agreement with Demolition Contractor			
Demolition Oversight			
Demolition Close-out and Record Liens			

V. FUNDS MANAGEMENT SYSTEMS

A. FILE AND DOCUMENTATION MANAGEMENT

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
Develop File System based on Required Document Checklists (and Community Central when available) for: <ul style="list-style-type: none"> • Procurement and Contracting • Property Files 			
Manage Files and Collect Documents			

B. OPAL SET-UP AND DRAW REQUEST

Task	Responsible Party / Person(s)	Deadline / Date Completed	Status & Notes
City & Land Bank Chart of Accounts within Local Financial Management System			
Develop Systems of Checks and Balances for City to review NSP2 Project Manager Work			
Input Projects into OPAL			
Request Draw into OPAL			
Distribute Funds to Vendor			

City: 0
 Land Bank: 0

City NSP2 Production Award: \$0
 Land Bank NSP2 Production Award: \$0

LISA Requirement: \$ - 25.0%
 LISA Schedule of Projects: \$ - #DIV/0!

Total NSP2 Allocation - PRODUCTION: \$0 LISA Units: 0 #DIV/0!

CITY	ORIGINAL / CURRENT AWARD				AMENDED AWARD				Budget Changes
	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	Total Units	Average Subsidy / Unit*	Total Amount	Percent of Total Award	
Use B - Acquire & Rehab Foreclosed Units	*Includes ADC								
Acquisition		#DIV/0!					\$0		\$0
Rehab & Preserve (i.e., Rehabilitation or Reconstruction of Foreclosed or Abandoned Property)		#DIV/0!					\$0		\$0
Housing Counseling		#DIV/0!					\$0		\$0
Homebuyer Assistance		#DIV/0!					\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
									No Change in Eligible Use B Amount.
	ORIGINAL AWARD				AMENDED AWARD				Budget Changes
Use C - Land Banking of Foreclosed Units									
Acquisition		#DIV/0!					\$0		\$0
Disposition		#DIV/0!					\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
									No Change in Eligible Use C amount.
	ORIGINAL AWARD				AMENDED AWARD				Budget Changes
Use D - Demolition of Blighted Properties									
Demolition		#DIV/0!					\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
									No change in Eligible Use D amount
	ORIGINAL AWARD				AMENDED AWARD				Budget Changes
Use E - Redevelopment of Vacant and/or Blighted Properties									
Acquisition		#DIV/0!					\$0		\$0
Rehab & Preserve (i.e., New Construction or Rehabilitation of Vacant Property)		#DIV/0!					\$0		\$0
Housing Counseling		#DIV/0!					\$0		\$0
Homebuyer Assistance		#DIV/0!					\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
									No Change in Eligible Use E amount
TOTAL PRODUCTION AMOUNT:			\$0				\$0		\$0
									Okay. Budget Amendment Balanced with Award Amount.

City: 0
 Land Bank: 0

City NSP2 Production Award: \$0 LISA Requirement: \$ - 25.0%
 Land Bank NSP2 Production Award: \$0 LISA Schedule of Projects: \$ - #DIV/0!
Total NSP2 Allocation - PRODUCTION: \$0 LISA Units: 0 #DIV/0!

LAND BANK	ORIGINAL / CURRENT AWARD				AMENDED AWARD				Budget Changes	
	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award		
Use B - Acquire & Rehab Foreclosed Units										
Acquisition		#DIV/0!					\$0		\$0	
Rehab & Preserve (i.e., Rehabilitation or Reconstruction of Foreclosed or Abandoned Property)		#DIV/0!					\$0		\$0	
Housing Counseling		#DIV/0!					\$0		\$0	
Homebuyer Assistance		#DIV/0!					\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0	
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0	
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0	
									No Change in Eligible Use B Amount.	
Use C - Land Banking of Foreclosed Units										
Acquisition		#DIV/0!					\$0		\$0	
Disposition		#DIV/0!					\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0	
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0	
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0	
									No Change in Eligible Use C amount.	
Use D - Demolition of Blighted Properties										
Demolition		#DIV/0!					\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0	
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0	
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0	
									No change in Eligible Use D amount	
Use E - Redevelopment of Vacant and/or Blighted Properties										
Acquisition		#DIV/0!					\$0		\$0	
Rehab & Preserve (i.e., New Construction or Rehabilitation of Vacant Property)		#DIV/0!					\$0		\$0	
Housing Counseling		#DIV/0!					\$0		\$0	
Homebuyer Assistance		#DIV/0!					\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0	
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0	
TOTAL:	0	#DIV/0!		#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0	
									No Change in Eligible Use E amount	
TOTAL PRODUCTION AMOUNT:				\$0				\$0	\$0	Okay. Budget Amendment Balanced with Award Amount.

City: 0
 Land Bank: 0

City NSP2 Production Award: \$0 LISA Requirement: \$ - 25.0%
 Land Bank NSP2 Production Award: \$0 LISA Schedule of Projects: \$ - #DIV/0!
Total NSP2 Allocation - PRODUCTION: \$0 LISA Units: 0 #DIV/0!

TOTAL AWARD	ORIGINAL / CURRENT AWARD				AMENDED AWARD				Budget Changes
	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	
Use B - Acquire & Rehab Foreclosed Units									
Acquisition	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Rehab & Preserve (i.e., Rehabilitation or Reconstruction of Foreclosed or Abandoned Property)	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Housing Counseling	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Homebuyer Assistance	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!	\$0	#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
Use C - Land Banking of Foreclosed Units									
Acquisition	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Disposition	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!	\$0	#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
Use D - Demolition of Blighted Properties									
Demolition	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!	\$0	#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
Use E - Redevelopment of Vacant and/or Blighted Properties									
Acquisition	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Rehab & Preserve (i.e., New Construction or Rehabilitation of Vacant Property)	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Housing Counseling	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Homebuyer Assistance	0	#DIV/0!	\$0		0	#DIV/0!	\$0		\$0
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0
TOTAL:	0	#DIV/0!	\$0	#DIV/0!	0	#DIV/0!	\$0	#DIV/0!	\$0
TOTAL PRODUCTION AMOUNT:			\$0				\$0		\$0

No Change in Eligible Use B Amount.

No Change in Eligible Use C amount.

No change in Eligible Use D amount

No Change in Eligible Use E amount

Okay. Budget Amendment Balanced with Award Amount.

City: **Battle Creek (Sample ONLY)**
 Land Bank: **Calhoun Co. Land Bank (Sample ONLY)**

City NSP2 Production Award: \$4,501,000
 Land Bank NSP2 Production Award: \$3,218,839
Total NSP2 Allocation - PRODUCTION: \$7,719,839

LISA Requirement: \$ 2,144,400 25%
 LISA Schedule of Projects: \$ 3,680,533 42.9%
 LISA Units: *Okay, Adequate Pipeline of Projects.*

PRODUCTION GOALS	20% Expend. Deadline			50% Expend. Deadline			75% Expend. Deadline			90% Expend. Deadline			100% Expend. Deadline		
	March 31, 2011			September 30, 2011			March 31, 2012			September 30, 2012			December 31, 2012		
	City	Land Bank	Total	City	Land Bank	Total	City	Land Bank	Total	City	Land Bank	Total	City	Land Bank	
			\$0			\$1,800,000			\$6,479,372			\$6,808,689			\$81,600
					Previous Deadline Amount:	\$1,800,000			Previous Deadline Amount:	\$6,479,372			Previous Deadline Amount:	\$6,808,689	Previous Deadline Amount:
Acquisition		\$400,000	\$400,000		\$237,500	\$237,500			\$0			\$0			\$0
Demolition		\$1,400,000	\$1,400,000		\$941,339	\$941,339			\$0			\$0			\$0
Rehab/New Construction	\$0	\$0	\$0	\$3,500,533	\$0	\$3,500,533	\$250,117	\$0	\$250,117	\$500,233	\$0	\$500,233	\$250,117	\$0	\$0
Low-income Set-aside (LISA)			\$0	\$3,500,533		\$3,500,533			\$0			\$0			\$0
Moderate & Middle Income (MMI)			\$0			\$0	\$250,117		\$250,117	\$500,233		\$500,233	\$250,117		\$0
Land Banking			\$0			\$0		\$79,200	\$79,200		\$79,200	\$79,200			\$81,600
Production Goal:	\$0	\$1,800,000	\$1,800,000	\$3,500,533	\$1,178,839	\$6,479,372	\$250,117	\$79,200	\$6,808,689	\$500,233	\$79,200	\$7,388,122	\$250,117		\$81,600
Minimum Expend. Requirement:			\$1,543,968			\$3,859,919			\$5,789,879			\$6,947,855			\$0
Balance:	0%	23%	\$256,032	45%	15%	\$2,619,453	3%	1%	\$1,018,810	6%	1%	\$440,267	3%	1%	\$0
			<i>Okay, Exceeds Expenditure Performance Requirement.</i>			<i>Okay, Exceeds Expenditure Performance Requirement.</i>			<i>Okay, Exceeds Expenditure Performance Requirement.</i>			<i>Okay, Exceeds Expenditure Performance Requirement.</i>			<i>Okay, Exceeds Expenditure Performance Requirement.</i>
Actual Expenditure	20% Expend. Deadline			50% Expend. Deadline			75% Expend. Deadline			90% Expend. Deadline			100% Expend. Deadline		
	March 31, 2011			September 30, 2011			March 31, 2012			September 30, 2012			December 31, 2012		
	City	Land Bank	Total	City	Land Bank	Total	City	Land Bank	Total	City	Land Bank	Total	City	Land Bank	
			\$0			\$0			\$0			\$0			\$0
					Previous Deadline Amount:	\$0			Previous Deadline Amount:	\$0		Previous Deadline Amount:	\$0		Previous Deadline Amount:
Acquisition			\$0		\$0	\$0			\$0			\$0			\$0
Demolition			\$0		\$0	\$0			\$0			\$0			\$0
Rehab/New Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Low-income Set-aside (LISA)			\$0	\$0		\$0			\$0			\$0			\$0
Moderate & Middle Income (MMI)			\$0			\$0	\$0		\$0	\$0		\$0	\$0		\$0
Land Banking			\$0			\$0		\$0	\$0		\$0	\$0			\$0
Production Goal:	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Minimum Expend. Requirement:			\$1,543,968			\$3,859,919			\$5,789,879			\$6,947,855			\$0
Balance:	0%	0%	(\$1,543,968)	0%	0%	(\$3,859,919)	0%	0%	(\$5,789,879)	0%	0%	(\$6,947,855)	0%	0%	\$0
			<i>NO, Below Expenditure Performance Requirement. Increase Production.</i>			<i>NO, Below Expenditure Performance Requirement. Increase Production.</i>			<i>NO, Below Expenditure Performance Requirement. Increase Production.</i>			<i>NO, Below Expenditure Performance Requirement. Increase Production.</i>			<i>NO, Below Expenditure Performance Requirement. Increase Production.</i>

LISA Balance	
\$	2,144,400
\$	1,964,400
\$	1,964,400
\$	1,964,400
\$	1,964,400
\$	(47,334)
\$	(76,134)
\$	(436,134)
\$	(436,134)
\$	(436,134)
\$	(1,536,134)
\$	(1,536,134)
\$	(1,536,134)
\$	(1,536,134)
Good. Pipeline exceeds Minimum LISA Requirement	

Total
\$7,388,122
\$0
\$0
\$250,117
\$0
\$250,117
\$81,600
\$7,719,839
\$7,719,839
\$0
Okay, Exceeds Expenditure Performance Requirement.
Total
\$0
\$0
\$0
\$0
\$0
\$0
\$0
\$0
\$0
\$7,719,839
(\$7,719,839)
NO, Below Expenditure Performance Requirement. Increase Production.

City: **Battle Creek (Sample ONLY)**
 Land Bank: **Calhoun Co. Land Bank (Sample ONLY)**

City NSP2 Production Award: \$4,501,000
 Land Bank NSP2 Production Award: \$3,218,839
Total NSP2 Allocation - PRODUCTION: \$4,501,000

LISA Requirement: \$ 2,144,400 25.0%
 LISA Schedule of Projects: \$ 3,680,533 42.9%
 LISA Units: 0

Okay. Adequate Pipeline of Projects.

CITY	ORIGINAL / CURRENT AWARD				AMENDED AWARD				Budget Changes	
	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	Total Units	Average Subsidy / Unit*	Total Amount	Percent of Total Award		
Use B - Acquire & Rehab Foreclosed Units	*Includes ADC									
Acquisition	0	#DIV/0!	\$0		0	\$4,500	\$0		\$0	
Rehab & Preserve (i.e., Rehabilitation or Reconstruction of Foreclosed or Abandoned Property)	45	\$48,000	\$2,160,000		45	\$83,822	\$3,017,600		\$857,600	
Housing Counseling	45	\$1,200	\$54,000		45	\$1,200	\$43,200		-\$10,800	
Homebuyer Assistance	45	\$7,040	\$316,800		45	\$15,000	\$540,000		\$223,200	
Activity Delivery Costs for Feasible Projects		15%	\$474,525			15%	\$675,150		\$200,625	
Activity Delivery Costs for Infeasible Projects		5%	\$158,175			5%	\$225,050		\$66,875	
TOTAL:	45	\$70,300	\$3,163,500	70%	45	\$100,022	\$4,501,000	100%	\$1,337,500	
									Eligible Use B Increase. Amend Budget by Decreasing another Eligible Use.	
Use C - Land Banking of Foreclosed Units	ORIGINAL AWARD				AMENDED AWARD				Budget Changes	
Acquisition	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Disposition	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0	
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0	
TOTAL:	0	#DIV/0!	\$0	0%	0	#DIV/0!	\$0	0%	\$0	
									No Change in Eligible Use C amount.	
Use D - Demolition of Blighted Properties	ORIGINAL AWARD				AMENDED AWARD				Budget Changes	
Demolition	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$0			15%	\$0		\$0	
Activity Delivery Costs for Infeasible Projects		5%	\$0			5%	\$0		\$0	
TOTAL:	0	#DIV/0!	\$0	0%	0	#DIV/0!	\$0	0%	\$0	
									No change in Eligible Use D amount	
Use E - Redevelopment of Vacant and/or Blighted Properties	ORIGINAL AWARD				AMENDED AWARD				Budget Changes	
Acquisition	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Rehab & Preserve (i.e., New Construction or Rehabilitation of Vacant Property)	17	\$53,647	\$912,000		0	\$0	\$0		-\$912,000	
Housing Counseling	17	\$1,200	\$20,400		0	\$0	\$0		-\$20,400	
Homebuyer Assistance	17	\$8,094	\$137,600		0	\$0	\$0		-\$137,600	
Activity Delivery Costs for Feasible Projects		15%	\$200,625			15%	\$0		-\$200,625	
Activity Delivery Costs for Infeasible Projects		5%	\$66,875			5%	\$0		-\$66,875	
TOTAL:	17	\$78,676	\$1,337,500	30%	0	#DIV/0!	\$0	0%	-\$1,337,500	
									Eligible Use E decrease. Amend Budget by increasing another Eligible Use	
TOTAL PRODUCTION AMOUNT:	\$4,501,000				\$4,501,000				\$0	Okay. Budget Amendment Balanced with Award Amount.

City: **Battle Creek (Sample ONLY)**

City NSP2 Production Award: \$4,501,000

LISA Requirement: \$ 2,144,400 25.0%

Land Bank: **Calhoun Co. Land Bank (Sample ONLY)**

Land Bank NSP2 Production Award: \$3,218,839

LISA Schedule of Projects: \$ 3,680,533 42.9%

Total NSP2 Allocation - PRODUCTION: \$3,218,839

LISA Units: 0

Okay. Adequate Pipeline of Projects.

LAND BANK	ORIGINAL / CURRENT AWARD				AMENDED AWARD				Budget Changes	
	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award		
Use B - Acquire & Rehab Foreclosed Units										
Acquisition	53	\$4,257	\$225,600		45	\$7,500	\$270,000		\$44,400	
Rehab & Preserve (i.e., Rehabilitation or Reconstruction of Foreclosed or Abandoned Property)	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Housing Counseling	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Homebuyer Assistance	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$42,300			15%	\$50,625		\$8,325	
Activity Delivery Costs for Infeasible Projects		5%	\$14,100			5%	\$16,875		\$2,775	
TOTAL:	53	\$5,321	\$282,000	9%	45	\$7,500	\$337,500	10%	\$55,500	
									Eligible Use B Increase. Amend Budget by Decreasing another Eligible Use.	
Use C - Land Banking of Foreclosed Units										
Acquisition	100	\$5,168	\$516,800		40	\$7,500	\$240,000		-\$276,800	
Disposition	100	\$11,927	\$1,192,671		40	\$6,000	\$192,000		-\$1,000,671	
Activity Delivery Costs for Feasible Projects		15%	\$320,526			15%	\$81,000		-\$239,526	
Activity Delivery Costs for Infeasible Projects		5%	\$106,842			5%	\$27,000		-\$79,842	
TOTAL:	100	\$21,368	\$2,136,839	66%	40	\$13,500	\$540,000	17%	-\$1,596,839	
									Eligible Use C decrease. Amend Budget by increasing another Eligible Use	
Use D - Demolition of Blighted Properties										
Demolition	62	\$8,000	\$496,000		137	\$17,090	\$1,873,071		\$1,377,071	
Activity Delivery Costs for Feasible Projects		15%	\$93,000			15%	\$351,201		\$258,201	
Activity Delivery Costs for Infeasible Projects		5%	\$31,000			5%	\$117,067		\$86,067	
TOTAL:	62	\$10,000	\$620,000	19%	137	\$17,090	\$2,341,339	73%	\$1,721,339	
									Eligible Use D increase. Amend Budget by decreasing another Eligible Use.	
Use E - Redevelopment of Vacant and/or Blighted Properties										
Acquisition	9	\$16,000	\$144,000		0	\$0	\$0		-\$144,000	
Rehab & Preserve (i.e., New Construction or Rehabilitation of Vacant Property)	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Housing Counseling	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Homebuyer Assistance	0	#DIV/0!	\$0		0	\$0	\$0		\$0	
Activity Delivery Costs for Feasible Projects		15%	\$27,000			15%	\$0		-\$27,000	
Activity Delivery Costs for Infeasible Projects		5%	\$9,000			5%	\$0		-\$9,000	
TOTAL:	9	\$20,000	\$180,000	6%	0	#DIV/0!	\$0	0%	-\$180,000	
									Eligible Use E decrease. Amend Budget by increasing another Eligible Use	
TOTAL PRODUCTION AMOUNT:	\$3,218,839				\$3,218,839				\$0	Okay. Budget Amendment Balanced with Award Amount.

City: **Battle Creek (Sample ONLY)**
 Land Bank: **Calhoun Co. Land Bank (Sample ONLY)**

City NSP2 Production Award: \$4,501,000
 Land Bank NSP2 Production Award: \$3,218,839
Total NSP2 Allocation - PRODUCTION: \$7,719,839

LISA Requirement: \$ 2,144,400 25.0%
 LISA Schedule of Projects: \$ 3,680,533 42.9%
 LISA Units: 0

Okay. Adequate Pipeline of Projects.

TOTAL AWARD	ORIGINAL / CURRENT AWARD				AMENDED AWARD				Budget Changes
	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	Total Units	Average Subsidy / Unit	Total Amount	Percent of Total Award	
Use B - Acquire & Rehab Foreclosed Units									
Acquisition	53	\$4,257	\$225,600		45	\$6,000	\$270,000		\$44,400
Rehab & Preserve (i.e., Rehabilitation or Reconstruction of Foreclosed or Abandoned Property)	45	\$48,000	\$2,160,000		45	\$67,058	\$3,017,600		\$857,600
Housing Counseling	45	\$1,200	\$54,000		45	\$960	\$43,200		-\$10,800
Homebuyer Assistance	45	\$7,040	\$316,800		45	\$12,000	\$540,000		\$223,200
Activity Delivery Costs for Feasible Projects		15%	\$516,825			15%	\$725,775		\$208,950
Activity Delivery Costs for Infeasible Projects		5%	\$172,275			5%	\$241,925		\$69,650
TOTAL:	53	\$65,009	\$3,445,500	45%	45	\$107,522	\$4,838,500	63%	\$1,393,000
Use C - Land Banking of Foreclosed Units									
Acquisition	100	\$5,168	\$516,800		40	\$6,000	\$240,000		-\$276,800
Disposition	100	\$11,927	\$1,192,671		40	\$4,800	\$192,000		-\$1,000,671
Activity Delivery Costs for Feasible Projects		15%	\$320,526			15%	\$81,000		-\$239,526
Activity Delivery Costs for Infeasible Projects		5%	\$106,842			5%	\$27,000		-\$79,842
TOTAL:	100	\$21,368	\$2,136,839	28%	40	\$13,500	\$540,000	7%	-\$1,596,839
Use D - Demolition of Blighted Properties									
Demolition	62	\$8,000	\$496,000		137	\$13,672	\$1,873,071		\$1,377,071
Activity Delivery Costs for Feasible Projects		15%	\$93,000			15%	\$351,201		\$258,201
Activity Delivery Costs for Infeasible Projects		5%	\$31,000			5%	\$117,067		\$86,067
TOTAL:	62	\$10,000	\$620,000	8%	137	\$17,090	\$2,341,339	30%	\$1,721,339
Use E - Redevelopment of Vacant and/or Blighted Properties									
Acquisition	9	\$16,000	\$144,000		0	#DIV/0!	\$0		-\$144,000
Rehab & Preserve (i.e., New Construction or Rehabilitation of Vacant Property)	17	\$53,647	\$912,000		0	#DIV/0!	\$0		-\$912,000
Housing Counseling	17	\$1,200	\$20,400		0	#DIV/0!	\$0		-\$20,400
Homebuyer Assistance	17	\$8,094	\$137,600		0	#DIV/0!	\$0		-\$137,600
Activity Delivery Costs for Feasible Projects		15%	\$227,625			15%	\$0		-\$227,625
Activity Delivery Costs for Infeasible Projects		5%	\$75,875			5%	\$0		-\$75,875
TOTAL:	17	\$89,265	\$1,517,500	20%	0	#DIV/0!	\$0	0%	-\$1,517,500
TOTAL PRODUCTION AMOUNT:			\$7,719,839				\$7,719,839		\$0

Eligible Use B Increase. Amend Budget by Decreasing another Eligible Use.

Eligible Use C decrease. Amend Budget by increasing another Eligible Use

Eligible Use D increase. Amend Budget by decreasing another Eligible Use.

Eligible Use E decrease. Amend Budget by increasing another Eligible Use

Okay. Budget Amendment Balanced with Award Amount.



GRANTS ADMINISTRATION MANAGEMENT PLAN

In addition to the information presented in the Grants Administration section of their City and Land Bank Operations Agreement, it is important that Land Bank understand their oversight responsibilities for grant implementation by the City, serving as a Third Party Grants Administration. Please complete this Management Plan and attach to the City and Land Bank Operations Agreement as Appendix D.

Date:

Grant #:

Land Bank:

Land Bank Contact
Person:

A. List names and titles of Land Bank staff responsible for overall grant management and compliance.

Name	Title

B. List names and titles of the City Staff, as Third Party Administrator, responsible for various grant implementation duties.

Name	Title

C. Name the individual that will have primary responsibility for all the following tasks that apply to your NSP2 grant and indicate if the person is a Land Bank staff member or City staff person.

Task	Name of Person Responsible	Land Bank	City
1. Housing Needs Assessment		<input type="checkbox"/>	<input type="checkbox"/>
2. Public Hearings		<input type="checkbox"/>	<input type="checkbox"/>
3. Civil Rights / EEO		<input type="checkbox"/>	<input type="checkbox"/>
4. Complaint Procedure		<input type="checkbox"/>	<input type="checkbox"/>
5. Davis Bacon and Related Act (labor standards)		<input type="checkbox"/>	<input type="checkbox"/>
6. Environmental Review		<input type="checkbox"/>	<input type="checkbox"/>
7. Fair Housing		<input type="checkbox"/>	<input type="checkbox"/>
8. Uniform Relocation Act (relocation and acquisition)		<input type="checkbox"/>	<input type="checkbox"/>
9. Financial Management		<input type="checkbox"/>	<input type="checkbox"/>
10. Household Income Eligibility		<input type="checkbox"/>	<input type="checkbox"/>
11. Processing Applications for Assistance		<input type="checkbox"/>	<input type="checkbox"/>
12. Program Guidelines (preparation of)		<input type="checkbox"/>	<input type="checkbox"/>
13. Outreach and Public Information		<input type="checkbox"/>	<input type="checkbox"/>
14. Property Selection for Acquisition		<input type="checkbox"/>	<input type="checkbox"/>
15. Contractor Selection Process		<input type="checkbox"/>	<input type="checkbox"/>
16. Cost Estimates		<input type="checkbox"/>	<input type="checkbox"/>
17. Inspections		<input type="checkbox"/>	<input type="checkbox"/>
18. Lead Based Paint Requirements		<input type="checkbox"/>	<input type="checkbox"/>
19. Specifications		<input type="checkbox"/>	<input type="checkbox"/>
20. Grant Status updates (from CITY to Land Bank)			X
21. Construction Supervision		<input type="checkbox"/>	<input type="checkbox"/>
22. Homeownership Counseling		<input type="checkbox"/>	<input type="checkbox"/>
23. Marketing Units		<input type="checkbox"/>	<input type="checkbox"/>
24. Mortgage/Lien Documents		<input type="checkbox"/>	<input type="checkbox"/>
25. Project Bid Awards		<input type="checkbox"/>	<input type="checkbox"/>
26. Other:		<input type="checkbox"/>	<input type="checkbox"/>
27. Other:		<input type="checkbox"/>	<input type="checkbox"/>
28. Other:		<input type="checkbox"/>	<input type="checkbox"/>
29. Other:		<input type="checkbox"/>	<input type="checkbox"/>
30. Other:		<input type="checkbox"/>	<input type="checkbox"/>

D. Describe Land Bank’s internal controls and monitoring procedures to ensure City accountability for program progress, compliance and financial management. If an update or report will be used (see #20 above), indicate contents and frequency of submission to the Land Bank.

E. Describe the “money flow”. Who and how will grant funds be requested from MSHDA and payments made to contractors? Who has authority to approve payments? What documentation is reviewed? Who will write checks and who will sign them? Give as much detail as necessary to show that required financial management practices are understood and followed.

I understand that the individuals listed above have responsibility for ensuring various tasks and grant management duties are completed; however, it is the ultimate responsibility of Land Bank for meeting the terms of the NSP2 Funding Agreement with MSHDA, including all program and compliance requirements, HUD and Michigan NSP2 Consortium guidelines and policy bulletins, and local ordinances and codes.

Land Bank has put in place the necessary agreements, policies, procedures and training to ensure that the City named above understands their contractual obligations and has the capacity to effectively implement this NSP2 Grant.

Authorized Official Name
Authorized Official Title

Date

MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

CULTIVATION & PROCUREMENT OF DEVELOPERS AND PROGRAM PARTNERS MODULE

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3. Contractor Eligibility Process
4. Federal Contract Provisions

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MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

CULTIVATION & PROCUREMENT OF PROGRAM PARTNERS

❶ PROCUREMENT PROCEDURES ❶

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I. INTRODUCTION

When a Grantee elects to hire a contractor, whether to administer a program, complete a task or do construction, those contractors must be procured competitively. This chapter outlines the requirements for using federal funds to purchase materials, products or services under the NSP2 program and includes:

- Methods of Procurement
- Contractor Selection and Construction Management
- Procurement of Administrative Services
- Selection Process for Subrecipients
- Completing Procurement in Cost Effective and Streamlined Manner

To date, this chapter focuses on procuring program partners for:

- Program Set-up, i.e. procuring office supplies, materials and administrative services
- Acquisition

Over time, as MSHDA introduces modules, they will provide the respective process, checklists and templates for the procurement and cultivation of developers and program partners that align with the real estate development process and Policy and Procedures Manual Module.

A. Federal Regulations

Both Grantees and subrecipients must follow federal procurement rules when purchasing services, supplies, materials, or equipment. The applicable federal regulations are contained in:

1. CFR Part 85 (located at <http://www.access.gpo.gov/nara/cfr/>)
2. OMB Circular A-102 (located at <http://www.whitehouse.gov/omb/>)
3. OMB Circular A-87 (located at <http://www.whitehouse.gov/omb/>)

B. Procurement Responsibility

When it comes to spending taxpayer's money, no matter how little the amount, it is important to ensure that the prices paid are reasonable and necessary, and that Grantees and /or subrecipients are getting a good value. The essence of good procurement can be summarized as follows:

1. Identify and clearly specify standards for the goods or services the Grantee or subrecipient wants to obtain;
2. Seek competitive offers to obtain the best possible quality at the best possible price;
3. Use a written agreement that clearly states the responsibilities of each party;
4. Keep good records; and
5. Have a quality assurance system that helps Grantee or subrecipient get what it pays for.

II. DEFINITIONS OF PROGRAM PARTNERS

Grantee: Cities, Land Banks and MSHDA as the public agency recipients of NSP2 from HUD.

Developer: Non-profit or for-profit organization that arranges and completes housing projects.

General Contractor: Non-profit or for-profit organization hired by Grantee to manage demolition and/or construction of NSP2-assisted unit. Often, General Contractors may also be a Developer, but the

distinction is that the Grantee maintains ownership of the property and hires the General Contractor/Developer only for their professional services in managing demolition and/or construction. General Contractor would adhere to the Competitive Sealed Bid Procurement process.

Professional Service Provider: Non-profit or for-profit organization hired by Grantee to provide professional services to support NSP2-assisted projects. Services include, but not limited to, pre-development, site preparation and marketing activities, such as appraisals, housing and lead-based paint inspections, title services, specification writing, housing counseling, marketing and technical assistance consultants.

Subrecipient: Public agency or non-profit organization that administers program for Grantee. A Grantee may provide these subrecipients with NSP2 funds for their use in carrying out agreed upon eligible activities. There must be a contractual agreement between the Grantee and the not-for-profit. For example, a not-for-profit organization could operate the entire scattered-site rental rehab program as a subrecipient. The Grantee does not have to procure the subrecipient.

Beneficiary: Homebuyer or Tenant of NSP2-assisted unit or in the case of Low-, Moderate- and Middle-income Area Benefit (LMMA) then Neighborhood.

III. JOINT PROCUREMENT BETWEEN CITY AND PARTNER LAND BANK

Cities and their partner Land Banks have the opportunity to jointly procure goods and services in an effort to streamline activities and prevent duplication of services. CFR 24 85.36 (b)(5) states “ To foster greater economy and efficiency, Grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.”

For example, if the Land Bank is managing acquisition for a local NSP2 program, Land Bank may procure for Appraisal Services on behalf of both themselves and their partner City. Then both the City and Land Bank may use those Appraisal Service Providers for the purposes of NSP2. The City may do the same for Developers on behalf of both themselves and their partner Land Bank.

If they chose to do so, Cities and their partner Land Banks will negotiate joint procurement policies and guidelines in the City and Land Bank Operations Agreement. In cases where they do jointly procure, they will want to cite the City and Land Bank Operations Agreement and Procurement Process documentation in the respective Procurement File.

IV. AMENDING EXISTING PROCUREMENT AGREEMENTS FOR USE OF NSP2 FUNDS

If a Grantee wants to perform work of a similar nature and has an existing, active contract for administrative services that was:

- Competitively procured in compliance with 24 CFR 85.36
- Contains the federal contract provisions (*See Federal Contract Provisions*)
- Contractor performed satisfactorily and demonstrates the ability to perform additional work,

Then the Grantee may amend the contract to include administrative services for the NSP program.

HUD recommends the existing procured contract agreement be broadly stated, i.e. procurement not limited to funding sources, target area, and dates of contract term, that follow NSP2 program definitions. For example, a CDBG appraisal services contract procured by Berrien County Land Bank for appraisal services in St. Joseph’s, Berrien County that expired December 31, 2008 may not be used for NSP2 Appraisal Services in Benton Harbor. However, a HOME, CDBG and NSP appraisal services contract procured by the City of Saginaw that serves all of Saginaw City and expires on December 31, 2010 may be used for the Saginaw NSP2 Program through December 31, 2010. However, the City of Saginaw will

need to reissue a Request for Proposal for Appraisal Services prior to December 31, 2010 to cover NSP2 Appraisal Services from January 1, 2011 through February 10, 2013.

V. SOLICITATION OF MBE AND WBE BUSINESSES

To meet NSP2 procurement requirements, grantee must solicit the participation and make good faith efforts to award contracts to and hire professional service providers, developers, and contractors who are women and minority owned businesses. Efforts to encourage minority and female owned businesses in NSP2 should be made on a regular basis and documented. Methods of solicitation should include:

- Research and contact of MBE/WBE through contact of local professional organizations, Chamber of Commerce, and Better Business Bureau
- Research and contact of MBE/WBE by identifying and mapping them with NSP2 Target Areas
- Solicitation to be part of a directory through formal advertising, mailing and telephone contact
- Invitations to public meetings sent to MBE/WBE
- Mailings and telephone contacts, with documentation of such activities placed in the file.

A list of all contractors (names, addresses, phone and e-mail, if applicable) participating in the program must be kept by the grantee. Professional Service Providers, Developers and General Contractors will be selected for participation in the NSP2 program regardless of race, color, religion, familial status, age, national origin, sex, or disability.

The Fair Housing logo must be utilized in this and in all other advertisements pertaining to the grantee's NSP2 program.

The grantee must keep records and, when applicable, submit reports to MSHDA, documenting the good faith efforts taken and the results of these actions.

Directories for Minority Owned Enterprises and Women Owned Enterprises are found on MSHDA website under Policy Guidance at:

http://www.michigan.gov/mshda/0,1607,7-141-5564_46919-171308--,00.html

The Directories are titled:

- 7A – Minority Owned Business Directory
- 7B – Women Owned Business Directory.

Grantee will attempt to reach their local goal for participation by such firms in NSP2-funded projects.

VI. SECTION 3

Local grantee must have a minimum annual contracting goal to award 10% of their NSP2 funds for building trades to Section 3 business concerns. Local Grantees must also have a minimum annual contracting goal to award 3% of their NSP2 funds for non-construction contracts to Section 3 business concerns. Construction Contracts awarded in amounts over \$100,000 must include provisions requiring a minimum numerical goal in which 30% of the new hires annually will be section 3 residents.

HUD includes safe harbor and compliance determinations with the regulation. In the absence of evidence to the contrary (i.e., evidence that efforts to the "greatest extent feasible" were not expended), if a Consortium member or contractor meets the minimum numerical goals shown above, the Consortium member or contractor is considered to be in compliance with Section 3 preference requirements.

When goals cannot be met, grantees and their contractors will be expected to demonstrate why it was not feasible to meet them. HUD evaluates compliance based on the grantee's ability to describe the efforts that it took to meet the training, hiring and contracting requirements and the impediments that incurred despite actions taken. At a minimum, a grantee that is unable to meet its Section 3 goals should sponsor or participate in upward mobility programs, hire eligible residents in trainee positions, or form Section 3 joint ventures with various local employment agencies.

The relative terms that assist Grantee in determining if they are identifying, soliciting and meet Section 3 Business requirements are:

Section 3 Area Resident is an individual that meets the following criteria::

1. A public housing resident;
2. An individual who resides in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended, and who is a;
 - a). Low-income person – any person with a gross household income less than 80% of the area median income (adjusted for household size) as established by HUD
 - b). Very low income person – any person with a gross household income less than 50% of the area median income (adjusted for household size) as established by HUD
3. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing the evidence (if requested) that the person is eligible for the preference.

Section 3 Business Concern is a business that meets the following criteria:

1. 51 percent or more owned by section 3 residents; or
2. Whose permanent or full-time employees include persons, at least 30 percent of whom are currently section 3 residents or within three years of the date of first employment with the business concern were section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

Section 3 Service Area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The priority service area should not extend beyond the NSP2 Census Tracts, but may be expanded to City first and then County, if necessary to meet Section 3 goals.

For more information on meeting Section 3 Requirements, please review the Section 3 Policy in the Cultivation and Procurement of Developers and Program Partners Module.

VII. METHODS OF PROCUREMENT

AN UPFRONT COST PRICE ANALYSIS MUST BE CONDUCTED PRIOR TO INCURRING ANY NSP COSTS AND/OR ISSUING BIDS OR AN RFP/RFQ!

Outlined below are the procedures for performing an upfront cost-price analysis.

1. **Create/obtain an initial cost estimate that contains a breakdown of the labor costs, material costs, and profit based on current market prices.** This information will allow the

procuring agency to evaluate reasonableness of the amount of profit built into the bid and the appropriateness of the material and labor costs. The federal regulations do not establish any maximums for these three categories; however, a reasonableness test should be made in relation to the scope of work being bid.

2. **Research and document the current industry standards for professional services, supplies, and materials.** This information will allow the procuring agency to evaluate the reasonableness of proposals that are received and/or material costs that are incurred including office supplies, equipment, materials, etc. Maintain analysis backup documentation in file.

Two or more responsible vendors must be willing and able to compete for each contract. **If only one bid is received, the Grantee must submit to their CDS a copy of the upfront cost price analysis, a copy of the bid received, and the solicitation process used.**

METHODS OF PROCUREMENT CONTINUED

There are four (4) allowable methods of procurement: A) small purchases B) competitive sealed bids C) competitive proposal D) noncompetitive and sole source purchases. A synopsis of the methods and requirements follows; however, this information should not be considered a substitute for reviewing the applicable state laws and federal circulars.

A. Small Purchase Procedures

Small Purchase Procurement for:	Purchase of Office Supplies, Materials and Equipment to administer NSP2 Examples include, but are not limited to: Printing, Copying, and Computer Equipment, File Cabinets, Office Supplies, and Vehicle to inspect property and work directly in NSP2 target area
--	---

Small purchase procedures are those relatively simple and informal procurement methods appropriate for procurement of services, supplies, or other property, costing not more than \$100,000 or local threshold, whichever is less. This method is only to be used for services and supplies, not construction contracts. In the event that an administrator is purchasing materials that will exceed \$100,000 or local threshold, whichever is less, they must use the sealed bid process. Administrators shall comply with any local small purchase dollar limits \$100,000 or less.

1. Requirements

Under the small purchases method, administrators send a request for quotes to potential vendors with a detailed description of the goods or services needed. In return, they receive competitive written quotations from an adequate number of qualified sources.

Process for SERVICES under \$100,000

- Each quote should include pricing information that allows the Grantee to compare costs across bidders and ensure cost reasonableness.
- At a minimum, two quotes shall be reviewed from qualified, reasonable firms.
- At a minimum, one quote attempt must be documented from an MBE/ WBE firm.
- Documentation of the quotes shall be maintained in the Grantee's files
- The award should be made to the lowest responsive and responsible source.

- If a firm is selected on a basis other than price, the reason for the selection must be well documented and maintained by the Grantee.

Process for SUPPLIES & MATERIALS under \$100,000

When the small purchases method is used for procuring supplies and materials, the Grantee may purchase on the **open market** or may **invite formal quotes** from no less than two vendors. If the Grantee purchases on the **open market**, at least two informal price quotations should be obtained using an informal price quote. (*See Informal Price Quote Template*) If the Grantee chooses to **invite formal quotes**, a request for quotation form should be completed (*See Formal Price Quote Template*).

B. Competitive Sealed Bids

Competitive Sealed Bids for:	Property acquired and held by Grantee for demolition and rehabilitation Grantee will acquire property and: <ul style="list-style-type: none">• Schedule blighted property for demolition• Procure Developer/General Contractor to rehabilitate or build property per the specifications written by Grantee or its spec writing service provider. Note: After awarding bid to Developer/General Contractor, Grantee maintains ownership of property through rehabilitation and construction phase. Grantee will market and sell property• Procure Developer to rehabilitate or build property per the specifications written by Grantee or its spec writing service provider. Note: After awarding bid to Developer, Grantee conveys ownership to Developer to rehabilitate and construct property. Developer will market and sell property.
-------------------------------------	--

Sealed bids (Formal Advertising) should be used for all construction contracts or for goods costing more than \$100,000.

Competitive sealed bids are solicited through formal advertising. A fixed price contract is awarded to the lowest responsible bidder whose bid conforms to all the material terms and conditions of the bid invitation, technical specifications, and price. The contract award may be a fixed sum, or a unit price with ceiling, but it **cannot be a cost plus percentage of cost contract**. Such contracts are not allowed under federal regulations.

When using competitive sealed bids, the Grantee must provide all prospective bidders with a competitive description of the items or services to be purchased. This description should avoid specific brand requirements, although “brand name or equal” descriptions may be used as an example of functional or quality requirements. The procurement must lend itself to a firm fixed price contract that allows selection of a successful bidder primarily on price.

In addition, two or more responsible vendors must be willing and able to compete for the contract. If only one bid is received the Grantee must re-bid or perform a “cost-price analysis” to substantiate the reasonableness of the bid price received (See Subsection “Cost-Price Analysis” of this Chapter). Grantees should consult MSHDA about requirements for cost-price analysis.

The steps in the Competitive Sealed Bid process are:

1. **Preparation of the technical bid specifications.** These specifications should provide complete and accurate descriptions of materials, products, and services to be provided.

The specifications should address any concerns identified during the environmental review. A copy of all plans or diagrams showing the location of underground utilities must be included in the bid and contract documents.
2. **Prepare the NSP2 bid terms and conditions.**
3. **If the project has been determined to require Davis-Bacon wages, secure the applicable wage rate decision(s)** and include them in the bid documents and construction contracts.
4. The **Grantee's attorney should review the bid documents** for the following:
 - Technical specifications.
 - City, town, or county, as well as federal and state requirements.
 - NSP2 related requirements.
 - Cost and pricing information.
 - Method of payment.
 - Advertisement for bid (as required by state law).
 - Bidders information specifying method of bidding, bid evaluation, and contract award.
 - Bid proposal form – including required financial statements
 - Bonding forms (bid, performance, and payment bonds), if applicable
5. **Bid requests must be published at least 14 days before the bid is due.** The bid must be published in a newspaper of general local circulation at least 14 days prior to bid due date.
 - Include the date and place fixed for receiving bids.
 - It should also include bonding and certification requirements and the place where plans and specifications are available for public review.
 - For Davis-Bacon projects, the current prevailing federal wage publication must be incorporated on the notice for all applicable procurement.
 - Require all bidders to submit a statement(s) of experience, proposed plans for performing the work, and equipment available.
 - **Include the date, place and time fixed for opening bids.**
6. **Preparation of a Bidder's List** - Grantees, in order to alleviate the publication requirement each time projects go out to bid, may want to create a bidders list. To create a bidders list, the Grantee must publish at least twice in a newspaper of general local circulation. The advertisements must be at least seven days apart, with the second publication made at least seven (7) days before the deadline for submitting a request to be placed on the bidder's list. The advertisement must specify any requirements contractors must satisfy in order to be placed on the bidders list. These requirements may include, but are not limited to, statements of experience, proposed plans for performing the work, documentation of insurance, licensing, and/or bonding (**obtain legal counsel**), **not being on HUD's debarred list**, and equipment available.

Each time an NSP2 activity goes out to bid, the Grantee must notify all contractors on the bidders list, as well as document efforts to solicit MBE/WBE **and** Section 3 business

enterprises. The notification should inform contractors where bid documents are available for review. At any point in time, a contractor may request to be placed on or deleted from the bidders list. Additionally, the **bidders list should be updated every year**. To update the bidders list, the recipient should follow the publication requirements as well as contact non-responsive contractors that are on the bidders list to see if they would like to remain on the bidders list.

7. Efforts must be made (and documented) to attract proposals from **small businesses, minority-owned businesses, and women's business enterprises** on a continuous basis. At a minimum MSHDA can provide a directory of such enterprises. Grantee will attempt to reach their local goal for participation by such firms in NSP2-funded projects.
8. **Maintain a log of bidders** who were sent **and/or** submitted bid documents.
9. **Amendments to the bid documents**, including revisions of wage rate decisions must be sent to all potential bidders who obtained the original bid documents. 10 days prior to the bid opening, the grantee checks wage determination to determine if it has been updated since publication of request for bid. If the wage determination has been updated, then the grantee must provide an addendum to the bid documents.
10. **All bids received during the bidding period must be logged** with the name of the bidder and the time and date of receipt. The sealed bids must be secured unopened in a safe place. **No bid should be accepted if it is late.**
11. **A public meeting must be held to open all bids except for projects on privately owned property.** All bids should be read aloud during this meeting. Maintain minutes of the meeting to document the project, time, and date of the bid opening, and the bidders and bid amounts in the order they were opened. A bid tabulation sheet must be completed showing the name and bid price of each bidder, and whether the bid was responsive.
12. **Review all bids to determine if they are legally and technically responsive.** Bidders must be evaluated on their ability to perform. The Grantee should consider the integrity, experience, performance history, and capacity of the contractor to perform within the stated time period, as well as cost, when making the decision.

The Grantee must award the contract per their local procurement process. The contract must be awarded to the lowest, most responsive and responsible bidder. Notice to proceed must also be provided to the successful bidder per the local procurement process. If the Grantee awards a contract to any vendor other than the lowest bidder, the Grantee must document in detail the reasons for not accepting the lowest bid price submitted.

If all the bids exceed the amount budgeted for the project, the Grantee cannot negotiate with bidders to bring the contract within the budget limits. If the Grantee has reason to believe that available funds are likely to be inadequate for the full scope of work proposed, the Grantee should ask all bidders to submit deductible alternatives so the project can proceed without a second bid solicitation. If deductible alternatives are requested, the document must specify the method and order in which deductible alternatives will be applied in determining the low bid. **Plans and specifications** must clearly show the deductible alternative(s).

The Grantee can reject all bids, provide needed funds from other sources, or re-allocate NSP2 funds. However, prior to a re-allocation of NSP2 funds, the Grantee may need to submit a budget modification request to MSHDA for approval.

13. Prior to contract award, the Grantee must complete the **Verification of Contractor/ Subcontractor eligibility** process. (*See Contractor and Sub-contractor Eligibility Process* for instructions on completing this process.)

14. Prior to contract award, the Grantee must ensure **all compliance and environmental clearances have been met.**
15. **Award the contract.** The contract must be awarded to the lowest, most responsive and responsible bidder. If the contract was not awarded to the lowest bidder, a detailed, written explanation must be prepared.
16. The **contract prepared** must include the following general administrative provisions:
 - a). Effective date of contract.
 - b). Names and addresses of Grantee and Contractor.
 - c). Names of representatives of Grantee and contractor who will act as liaison for administration of the contract.
 - d). Citation that Grantee has authority to enter into the contract.
 - e). Conditions and terms under which the contract may be terminated by either party and remedies for violation or breach of contract.
 - f). All required conditions under NSP2 and federal regulations for third-party contracts.
17. **All contracts** must include the following scope of services:
 - a). Detailed description of the extent and character of the work to be performed.
 - b). Time for performance and completion of contract services, including project milestones, if any.
 - c). Specification of materials or other services to be provided by both parties, (e.g., maps, reports, printing, etc.).
 - d). Access to Records Clause.
 - e). Conflict of Interest Clause.
 - f). Equal Employment Opportunity (E.O. 11246) clause.
 - g). Copeland "Anti-Kickback" Act clause.
 - h). Davis-Bacon Act clause.
 - i). Contractor Work House and Safety Standards Act clause.
 - j). Rights to Inventions Made Under a Contract or Agreement clause.
 - k). Clean Air Act clause.
 - l). Byrd Anti-Lobbying Amendment clause.
 - m). Debarment and Suspension clause.
 - n). Drug Free Workplace Requirements clause.
18. Contracts must incorporate **provisions for compensation**, including the basis for submission of billings and specification of the total contract amount.
19. **The contract must be executed by both the Grantee and the successful bidder.** Unsuccessful bidders must be promptly notified **in writing**. The successful bidder must meet all bonding requirements prescribed by Federal law. Grantees should seek the assistance of legal counsel in regard to bonding requirements.

20. Where the project is covered by Davis-Bacon wage rates (8 or more units), the Grantee must send a “Notice of Contract Award” to Grantee Labor Standards Officer within ten (10) days of contract award, if applicable. Copies should also be retained by the Grantee in its project files.
21. **For Davis-Bacon projects, a pre-construction conference must be held** to acquaint the contractor with federal requirements. Grantee staff will brief the contractor on the payment process, federal wage requirements, minority/women business development goals, Section 3 goals, forms to be used and how the Grantee may use this meeting, or a similar one, to review the contractor’s records and accounting systems. Pre-construction conference minutes must be prepared to document the subjects discussed at the meeting. A list of federal regulations pertinent to procuring and managing NSP2 construction contracts can be found in the Construction Management and Standards Chapter. This list may serve as the agenda for the pre-construction conference. *Pre-construction conferences are also recommended, but not required, for non-Davis-Bacon projects.*
22. **Establish a contract file** containing the following:
- Description of contractor selection method.
 - All bids received.
 - Bid tabulation.
 - Verification of contractor eligibility.
 - Contract for services.
 - Records of progress payments, including retainage.
 - Contract change orders, if any.
- The Grantee should use this file to monitor the contractor throughout the construction period.
23. Send a “**Notice to Proceed**” to the contractor. This document notifies the contractor that construction may begin.
24. For Davis-Bacon projects, send a “**Notice of Start of Construction.**” to Grantee Labor Standards Officer (See Construction Management and Standards Chapter).

C. Competitive Proposal

Competitive Proposal for:

All procurement of professional services, which includes, but not limited to:

- Pre-development and Site Preparation Activities: Appraisals, Title Services, Licensed Real Estate Professional, Housing and Environmental Risk Assessment, Specification Writing, Demolition Facilitation Services
- Construction Services: Contracted Construction Manager
- Land Banking Services: Vacant Building Board-up and Maintenance and Vacant Lot Maintenance
- Marketing: Housing Counseling, Intake Specialist for Income, Buyer/Renter Affordability, and Financial Structuring, and Professional Sales and Rental Marketing
- Administrative Activities: Grants Management, Technical Assistance, and Consulting

The Grantee prepares a formal Request for Proposals (RFP) and requests proposals from at least two (2) or more qualified firms or individuals. Negotiations should be conducted with minimum of two of the responding sources.

If competitive negotiation is used, the following requirements apply:

1. **Preparation of Request for Proposals (RFP).** The RFP should include these elements, at a minimum:
 - a). Scope of Services - detailed description of the extent and type of work to be performed.
 - b). Time Requirements - performance period.
 - c). Considerations for Bidding - any additional requirements not pertaining to the scope of services that should be considered when preparing a proposal.
 - d). Proposal Instructions - the format of the proposal.
2. **Evaluation Criteria of Proposals.** Grantee must identify all significant evaluation factors (and their relative importance), including price or cost where required, technical expertise, past experience, price, staffing, etc. and how the proposals received will be scored. Evaluation criteria commonly used include the following, at a minimum:
 - a). Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
 - b). Past record of performance and a list of other clients served including type of work, timeliness, quality requirements, and cost control. References submitted by interested bidders should be contacted.
 - c). Capacity of the firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
 - d). Familiarity of the firm with the type of problems applicable to the project.
 - e). Price. (The method, where price is not used as a selection factor, can only be used in procurement of architectural and engineering professional services. It cannot be used to purchase other types of services, even though architectural and engineering firms may be a potential source to perform the proposed work.)
3. Federal, state, and local regulations applicable to the award.
4. **The RFP must not be prepared or solicited by those firms or individuals who will be submitting proposals.**
5. Proposals must be solicited from at least two qualified sources to permit reasonable competition.
6. Efforts must be made (and documented) to attract proposals from **small businesses, minority-owned businesses, and women's business enterprises**. Grantee must meet their local goal for participation by such firms in NSP2-assisted projects.
7. **RFP must be publicized at a minimum on grantee website.** Grantee must retain documentation of the RFP distribution process.
8. **Evaluation of Proposals.** When proposals or statements of qualification are received, they should be evaluated by the Grantee based upon pre-established criteria. The review process for both statements of qualification and proposals in response to a Request for Proposal should be thorough, uniform, and well-documented. The review process is to be conducted by a

committee or board which, to the greatest extent possible, includes persons with the appropriate technical skills. Reviewers must have no conflicts of interest with the firms or individuals under review, such as family relationships, close friendships, or business partnerships.

9. **Negotiations** may be conducted with more than one of the sources submitting proposals, if awarding contracts to multiple proposals. Retain verifiable documentation recording the negotiations process.
10. **Award(s) must be made to the responsible offeror(s)** whose proposal will be the most advantageous to the project, considering price and other factors. Unsuccessful proposals must be promptly notified. When the award is made to a responsible proposal(s) not having the lowest price, the Grantee must document its reasons for not selecting the lowest proposed price.
11. The Grantee must then **establish a contract file** that contains the following:
 - a). A description of the method used to select architect, engineer, or consultant.
 - b). Qualification statements or proposals received.
 - c). Negotiation methods.
 - d). Cost and pricing data supporting the contract.
 - e). Verification of contractor eligibility.
 - f). Contract for services.
 - g). Records of progress payments, including retainage withheld.
 - h). Contract change orders, if any.

D. Non-Competitive and Sole Source Purchases

Competitive procurement should be used whenever possible. Non-competitive proposals may be used only when the other three methods are not feasible; award files must document such a determination. This method shortens the procurement process; however, there must still be written bid specifications for construction and scope of services for professional service contracts.

Non-competitive negotiation may only be used in one of the following circumstances:

1. Public urgency will not permit a delay for competitive solicitation.
2. The item desired is available from only one source.
3. After solicitation of a number of sources, competition is determined inadequate.

Any community wishing to utilize sole source procurement must first obtain approval from MSHDA. This can be accomplished by sending a letter that details the efforts undertaken to obtain multiple bids and the reason sole source procurement was selected. Sole source procurement is discouraged and must be well documented to avoid denial or disallowance by MSHDA.

VIII. REQUIRED CONTRACT PROVISIONS

A. All NSP2-funded Contracts

All NSP2-funded contracts must include the following provisions:

1. Effective date of contract.
2. Names and addresses of Grantee or subrecipient and contractor.

3. Names of representatives of Grantee or subrecipient and contractor who will act as liaison for administration of the contract.
4. A citation of Grantee's authority to enter the contract.
5. Contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
6. Provisions for termination by the Grantee, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
7. Scope of Services:
 - a). Detailed description of extent and character of the work to be performed.
 - b). Time for performance and completion of contract services, including project milestones, if any.
 - c). Specification of materials or other services to be provided by both parties, (e.g., maps, reports, printing, etc.).
 - d). An access to records clause including a provision that all negotiated contracts awarded by recipients shall include a provision to the effect that the state, the recipient, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the contractor which are pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.
 - e). Conflict of Interest Clause.
 - f). Provisions for compensation of services, including the basis for submission of billings as the work progresses and specification of the total contract amount.
8. Bonding and Insurance Requirements, if applicable
9. Federal Standards Provisions
 - a). Equal Employment Opportunity - Executive Order 11246: Equal Opportunity Clause, goals for female and minority participation and implementing regulations
 - b). Rights to Inventions Made Under a Contract or Agreement
 - c). Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended
 - d). Byrd Anti-Lobbying Amendment (31 U.S.C.1352)
 - e). Debarment and Suspension (Executive Orders 12549 and 12689)
 - f). Statement of Assurances

B. Construction Contracts and Subcontracts for Davis-Bacon Projects

All contracts for Davis Bacon Projects must include the following provisions:

10. Federal Wage Determination with modifications
11. Federal Labor Standards Provisions (HUD 4010)

- a). Davis-Bacon Act
 - b). Contract Work Hours and Safety Standards Act
 - c). Copeland “Anti-Kickback Act”
12. Contractors and Subcontractors Certifications (HUD 1421 and 1422)
 13. HUD 2516 – HUD Contractor Subcontractor Activity Form
 14. OFCCP Subcontractor Notification
 15. EEO-1 Report
 16. CC-257 Monthly Utilization Report
 17. U.S. Department of Labor Notices (jobsite): WH 1321, WH 1462, and OSHA 2203 publications

IX. BONDING REQUIREMENTS

Federal requirements at 24 CFR Part 85 require payment and performance bonds for construction contracts in excess of \$150,000 (note that the federal “simplified acquisition threshold” was recently increased from \$100,000 to \$150,000, resulting in changes to the point at which bonding is required. However, some references on the HUD website still refer to the \$100,000 figure.)

However, 24 CFR 85.36(a) also requires that states follow their own standards when those standards are more stringent than the federal requirements.

Furthermore, state law (MCL 129.201) require payment and performance bonds for all construction contracts of \$50,000 or more in the case of publicly owned buildings—which would include an NSP funded project where title is held by an local unit of government or land bank. Notably, contractors, subcontractors, and suppliers cannot place construction liens on publicly owned properties either.

There is no specific state law requirement for payment and performance bonds in the case of construction contracts for privately held buildings. In such cases the construction lien act helps protect subcontractors and suppliers.

So, the trigger payment and performance bonding differs depending on who owns the property:

When a unit of government (including both Cities and Land Banks) holds title to the property, payment and performance bonds will be required for all construction contracts of \$50,000 or more. (Note that this analysis holds true regardless of whether the project is funded with NSP2, NSP1 other HUD funding, or even state funding, so grantees may need to evaluate their non-NSP programs that involved real estate development to ensure they are in compliance with state law.)

When NSP funds are being provided to a developer that holds title to the assisted property, payment and performance bonds are required for all construction contracts of \$150,000 or more.

For construction contracts or subcontracts exceeding \$50,000 on publicly owned properties or for construction contracts or subcontracts exceeding \$150,000 on developer owned properties with NSP2 funds in the project, the following is required:

1. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other

negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Where bonds are required, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

OR

In lieu of acquiring the payment and performance bonds, Grantee will accept an irrevocable line of credit listing Grantee as the sole beneficiary and equal to (a) the greater of the contract award amount or (b) 25% of the total construction contract. The line of credit must be issued for the entire construction period plus one (1) year following construction completion.

X. CONFLICT OF INTEREST

The grantee must comply with federal Conflict of Interest regulations when awarding contracts assisting households. This Section addresses the following:

- General Prohibitions
- Penalties for Violations Include Repayment and/or Ineligibility
- Who is Covered
- Exception for the Preceding Persons
- Provisions for Owners, Developers, or Sponsors

The Conflict of Interest guidelines are based on Community Development Block Grant (CDBG) and HOME regulations found in 24 CFR 570.489 and 24 CFR 570.611 (CDBG) and 24 CFR 92.356 (HOME). In addition, these Conflict of Interest rules must be adhered to when purchasing supplies, equipment, construction, and other related services. [See 24 CFR 85.36 and 24 CFR 85.42 (the Common Rule).]

A. General Prohibitions

None of the employees, officers, agents, or subrecipients of NSP2 funds shall participate in the selection, award, or administration of a contract involving NSP2 funds if a Conflict of Interest, either real or apparent, would be involved.

None of the employees, officers, agents, or subrecipients of NSP2 funds shall accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to any subagreement.

B. Penalties for Violations Include Repayment and/or Ineligibility

The penalty for violations of these provisions could include repayment of NSP2 funds and/or ineligibility for future participation. The penalty, sanction, or other disciplinary action will be determined by MSHDA.

C. Who is Covered

Any person who is an employee, agent, consultant, officer, or elected official or appointed official of the grantee, state recipient, or subrecipient are covered by the Conflict of Interest provisions if they currently or in the past:

- Have any functions or responsibilities regarding NSP2-assisted activities; or
- Are in a position to participate in a decision-making process, or gain inside information with regard to these activities; or
- Have a financial interest in any contract, subcontract, or agreement with respect to an NSP2-assisted project or the proceeds of the contract, subcontract, or agreement, either for themselves or for those with whom they have family or business ties.

This prohibition is in effect during their tenure and for one year thereafter.

D. Exception for the Preceding Persons

Upon written request to MSHDA and approval by HUD, employees of the grantee receiving NSP2 funds, their agents, consultants, officers, elected officials, or appointed officials and their immediate families may be granted an exception to these provisions on a case-by-case basis.

The designated signatory of the Grant Agreement must submit to your MSHDA CD Specialist in writing the request for exception. When the conflict involves NSP2 funds, MSHDA will forward the request to HUD and HUD will make the determination.

1. Requests for an Exception

The request for an exception must include the following information:

- The name, title, and classification of the person, and a brief description of the person's position as it relates to the NSP2-assisted project or contract award;
- A disclosure of the nature of the Conflict of Interest and proof that the disclosure has been made public; and,
- A legal opinion from the grantee, or if the recipient of NSP2 funds is not a unit of local government, the attorney representing the recipient, stating that there would be no violation of state or local law if the exception were granted.

2. Factors to be Considered for Exception

In determining whether to grant the requested exception, HUD and MSHDA shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the **cumulative effect** of the following factors as applicable, so please address all factors in making your request for exception.

- a). Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- b). Whether an opportunity was provided for open competitive bidding or negotiation;
- c). Whether the person is a member of a group or class of low and moderate income persons intended to be the beneficiaries of the NSP2-assisted activity, and the exception would permit the person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- d). Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- e). Whether the interest or benefit was present before the affected person was in their position as an employee, agent, consultant, officer, or elected official or appointed official of the grantee, state recipient, or subrecipient of NSP2 funds;
- f). Whether undue hardship would result either to the state, recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- g). Any other relevant considerations.

E. Provisions for Owners, Developers, or Sponsors

There are additional Conflict of Interest provisions that cover nonprofit or for-profit owners, developers, or sponsors of NSP2-assisted projects.

- No owners, developers, or sponsors of an NSP2-assisted project (or officer, employee, agent or consultant of the owner, developer, sponsor) whether private, for-profit, or nonprofit may occupy an NSP2-assisted unit in a project.
- This provision does not apply to an owner-occupant of a single-family home or to an employee or agent of the owner or developer of a rental housing project who occupies an NSP2-assisted unit in a project as a project manager or maintenance worker.

1. Request for Exceptions

Upon written request from a housing owner, developer, or sponsor, MSHDA and/or HUD may grant an exception to the preceding provisions on a case-by-case basis when it determines that the exception will serve to further MSHDA and/or HUD's purposes and the effective and efficient administration of the owner's or developer's NSP2-assisted project.

2. Factors to be Considered for Exception

- a). Whether the person is a member of a group or class of low and moderate income persons intended to be the beneficiaries of the NSP2-assisted activity, and the exception would permit the person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- b). Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- c). Whether the provisions cited in the Recovery Act regulations regarding tenant protections (prohibited lease terms, termination of tenancy, and tenant selection) are being observed;
- d). Whether the required affirmative marketing requirements are being observed and followed; and
- e). Any other factor relevant to the determination, including the timing of the requested exception.

Any questions regarding this policy bulletin should be directed to your CD Specialist.

XI. GRANTEE AND CONTRACTOR DEBARMENT PROCEDURES

1. A person and/or contractor may be debarred if any of the following have occurred within a reasonable period of time before institution of debarment proceedings:

- a). Serious or repetitive violation of any federal or state law, or MSHDA or grantee program regulation or instruction.
 - b). Serious or repetitive failure to perform contractual obligations or carry out representations or warranties to MSHDA or to any Grantee under any program administered by MSHDA or grantee.
 - c). Acts of misconduct indicating a lack of business integrity directly affecting responsibility to participate in MSHDA programs, including but not limited to false representation, embezzlement, theft, forgery, fraud, negligent service, bribery, falsification of records, and receipt of stolen property.
 - d). Serious or repetitive violation of any non-discrimination or equal opportunity requirements in connection with any program administered by MSHDA.
 - e). Debarment from any agency of the federal government or of any state government.
2. Grantees and contractors receiving awards or compensation under Michigan NSP2 program who commit serious or repetitive violations of NSP2 regulations or this *Policy and Procedures Manual* are subject to such debarment proceedings. Those Grantees and/or contractors who are debarred by MSHDA from further participation in Michigan NSP2 program will be given the right to appeal such debarment.
 3. The U.S. Department of Housing and Urban Development (HUD) has also established debarment procedures. Contractors receiving awards or compensation under Michigan NSP2 program who commit serious or repetitive violations of NSP2 regulations may also be debarred by HUD.

XII. REQUIRED COVERAGE

Grantees, subrecipients and developers will be required to provide proof of adequate builder's risk insurance during construction and property insurance following construction for the assisted property throughout the affordability period of the award. The following requirements are listed under each program type:

- For new construction, builders risk and/or property insurance that includes coverage for work done by the contractors is required throughout the construction period.
- For rehabilitation, builders risk, contractor liability, and/or property insurance that includes coverage for work done by the contractors is required throughout the construction period.
- For rental, activities, adequate property insurance must be maintained throughout the affordability period.

A. Policy Requirements

- If a contractor liability policy is used, it must name grantee as additionally insured.
- If a builders risk policy is used, it must name grantee as both loss payable and additionally insured.
- If a homeowner policy is used, nothing needs to be added to the policy. Once the lien is placed on the home, the entity placing the lien automatically becomes a loss payable.
- The builder's risk or contractor liability policy can be in the name of the grantee, contractor, owner of the property, subgrantee, or subrecipient.

- The builders risk coverage must be for the replacement value of the property, increasing as appropriate throughout the construction period to the full replacement value at construction completion.
- The value of the contractor liability must be, at a minimum, for the replacement value of the property. Additionally, if the contractor employs persons, the policy must also include workers compensation.
- The value of the property insurance must be, at a minimum, for the replacement value of the property.

XIII. NSP2 RETENTION AND CUSTODIAL REQUIREMENTS

1. Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three (3) years from award close-out or end of affordability period, whichever date is later, with the following qualifications:
 - a). If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
 - b). Records for nonexpendable property acquired with federal funds shall be retained for three (3) years after final disposition.
 - c). When records are transferred to or maintained by MSHDA, the three-year retention requirement is not applicable to the Grantee.
 - d). Records for real property and equipment acquired with federal funds shall be retained for three (3) years after final disposition.
2. MSHDA shall request transfer of certain records to its custody from Grantees when it determines that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, MSHDA may make arrangements with Grantees to retain any records that are continuously needed for joint use.
3. MSHDA, HUD, Office of Inspector General, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of Grantees and sub recipients to make audits, examinations, excerpts, and transcripts.
4. Unless otherwise required by law, no federal grantor agency shall place restrictions on Grantees that will limit public access to the records of Grantees that are pertinent to an award except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 USC 552) if the records had belonged to the grantor agency.

XIV. LIST OF CHECKLISTS AND TEMPLATES

-  Informal Quote Template (Word)
-  Formal Quote Template (Word)
-  Contractor Eligibility Process
-  Federal Contract Provisions

 Grants Administration Plan

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">REQUISITION #: _____</td> </tr> <tr> <td style="padding: 5px;">P.O. #: _____</td> </tr> <tr> <td style="padding: 5px;">DEPARTMENT: _____</td> </tr> </table>	REQUISITION #: _____	P.O. #: _____	DEPARTMENT: _____	INFORMAL PRICE QUOTATION FORM DATE: _____
REQUISITION #: _____				
P.O. #: _____				
DEPARTMENT: _____				

Item Description	Unit of Measure	Quotation 1	Quotation 2	Quotation 3
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Check box to the right of quotation if quotation is lowest bid.
Complete information below for successful bidders.

	Bidder No. 1	Bidder No. 2	Bidder No. 3
Vendor:			
Vendor Address:			
Vendor Contact:			
Discount:			
Delivery Date:			
F.O.B.:			

CONTRACTOR AND SUB-CONTRACTOR ELIGIBILITY PROCESS

Recipients of NSP2 funds must ensure that all contractors/sub-contractors are eligible to participate in federally funded projects. A contractor/sub-contractor is eligible to participate as long as they do not appear as debarred or suspended from contracting on Federal programs. The following exhibit outlines the process that must be followed to verify the eligibility of contractors/sub-contractors and the documentation that must be maintained in the project file.

There are two web-based searches that must be conducted and documented: (1) HUD's Limited Denials of Participation list; and (2) Excluded Parties List System. Both of these processes must be completed for each contractor/sub-contractor prior to entering into a contract.

When you have completed the process you will have in your project file, the following for each contractor:

1. Printed copy from HUD's Limited Denials of Participation List for the Company Name
2. Printed copy from HUD's Limited Denials of Participation List for the Principal's Name
3. Printed copy from the Excluded Parties List System for both the Company and Principal's name

Part 1: HUD's Limited Denials of Participation List

Limited Denials of Participation can be found at: <http://www.hud.gov/offices/enforce/ecldp.cfm>.

Select the Limited Denial of Participation List

Use the Search by Name function and search individually by:

1. Company name; and
2. Principal's name

HOME

FAQ

SEARCH / INDEX

E-MAIL

U.S. Department of Housing and Urban Development

Limited Denial of Participation, HUD Funding Disqualifications
and Voluntary Abstentions List as of 10/27/2006

Search by Name

Records Found:30

[All LDPs](#)

Part 2: Excluded Parties List System

Excluded Parties List System can be found at:

<http://www.epls.gov/>

Basic Search

This type of search finds all exclusions by performing a partial name search, and it is recommended that the user search by the last name of the individual or the first word of the company's name.

1. At the Main Page, enter the name that you would like to search for (Smith in this example) in the field at the top left, as shown in Figure 2.

The screenshot shows the EPLS (Excluded Parties List System) main page. At the top, the EPLS logo is on the left and the full name 'Excluded Parties List System' is on the right. Below the header is a banner with images of the American flag, the White House, scales of justice, a classical building, and the U.S. Capitol. The main content area is divided into several sections:

- Search - Current Exclusions:** A search box contains the text 'Smith', followed by a 'GO' button. Below the search box are links for '> Advanced Search', '> Exact Name and SSN/TIN', and '> MyEPLS'.
- View Cause and Treatment Code Descriptions:** Links for '> Reciprocal Codes', '> Procurement Codes', and '> Nonprocurement Codes'.
- Agency & Acronym Information:** Links for '> Agency Contacts', '> Agency Descriptions', and '> State/Country Code Descriptions'.
- OFFICIAL GOVERNMENT USE ONLY:** Links for '> Debar Maintenance', '> Administration', and '> Upload Login'.
- Resources:** Links for '> Search Help', '> Public User's Manual', '> FAQ', '> Acronyms', '> Privacy Act Provisions', and '> News'.
- Reports:** A search box with a 'GO' button and a link for '> Advanced Reports'.
- Archive Search - Past Exclusions:** A search box with a 'GO' button and a link for '> Advanced Archive Search'.
- Contact Information:** Links for '> Email' (support@epls.gov, eplscomments@epls.gov) and '> Phone' (1-866-GSA-EPLS, 1-866-472-3757).

In the center of the page, there are two notices:

- WARNING:** This is a U.S. Federal Government information system that is "FOR OFFICIAL USE ONLY". Unauthorized access is a violation of U.S. Law and may result in criminal or administrative penalties. Users shall not access other users' or system files without proper authority. Absence of access controls IS NOT authorization for access! Information systems and equipment related to EPLS systems and equipment are intended for communication, transmission, processing, and storage of U.S. Government information. These systems and equipment are subject to monitoring by law enforcement and authorized officials. Monitoring may result in the acquisition, recording, and analysis of all data being communicated, transmitted, processed, or stored in this system by law enforcement and authorized officials. Use of this system constitutes consent to such monitoring.
- PRIVACY ACT NOTICE:** This system contains information protected under the provisions of the privacy act of 1974 (Public Law 93-579). Any privacy information displayed on the screen or printed must be protected from unauthorized disclosure. Employees who violate privacy safeguards may be subject to disciplinary actions, a fine of up to \$5,000, or both.

At the bottom of the page, there are logos for E-GOV, Integrated Acquisition Environment, and AAA Bobby Approved.

Figure 1: Basic Search

2. Hit the **Go** button to the right of the field.

3. Search results will be displayed in a screen similar to Figure 3.

The screenshot shows the EPLS Excluded Parties List System interface. The main content area displays search results for 'Parties Excluded by' with a partial name of 'Smith'. The results are paginated, showing 'Results 1 - 5 of 90'. The first five results are listed:

- AI Smith Construction Company**
Classification: Firm; Exclusion Type: NonProcurement; Address 1: { Street: Kearns, UT; DUNS: none }; Action 1 { CT Code: Y, Agency: VA }; Description: none
- George, Karen Smith**
Classification: Individual; Exclusion Type: Reciprocal; Address 1: { Street: 291 Thomas Dr., Gettysburg, PA, 17325; DUNS: none }; Action 1 { CT Code: Z2, Agency: OPM }; Description: none
- Jones, Callie Adams a/k/a Callie Daniel Jones a/k/a Callie Smith Jones**
Classification: Individual; Exclusion Type: Reciprocal; Address 1: { Street: 3433 US Highway 117, Dudley, NC, 28333; DUNS: none }; Action 1 { CT Code: A, Agency: AF }; Action 2 { CT Code: R, Agency: AF }; Description: none
- Jorge Emilio SMITH CORTES**

The interface includes a search bar with a 'GO' button, navigation links for 'Advanced Search', 'Exact Name and SSN/TIN', and 'MyEPLS'. There are also sections for 'View Cause and Treatment Code Descriptions', 'Agency & Acronym Information', and 'OFFICIAL GOVERNMENT USE ONLY'. The right sidebar contains 'Resources', 'Reports', 'Archive Search - Past Exclusions', and 'Contact Information'.

Figure 2: Basic Search Results

This search should be a “Search by Multiple Names with “Partial Name” selected.

Use the Search by Multiple Names function and search the following:

1. Company name; and
2. Principal’s name

If there are no possible matches, you will see the following:

The screenshot shows the EPLS Search Results page for a search with a partial name of 'xktwq'. The main content area displays the following text:

Search Results for Parties Excluded by
Partial Name : xktwq
[Save to MyEPLS](#)

Your search returned no results.

[Back](#) [New Search](#)

FEDERAL CONTRACT PROVISIONS

All contracts (including small purchases), awarded with Michigan Neighborhood Stabilization Program 2 (NSP2) funds must contain the following provisions:

1. *Equal Employment Opportunity*

The contractor and any subcontractors shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. *Rights to Inventions Made Under a Contract or Agreement*

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Invention Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

3. *Clean Air Act (42 U. S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*

For contracts and subcontracts of amounts in excess of \$100,000 the contractor or subcontractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Agency (EPA).

4. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

5. *Debarment and Suspension (E.O.s 12549 and 12689)*

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.



MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

CULTIVATION & PROCUREMENT OF PROGRAM PARTNERS

SECTION 3 POLICY & PROCEDURES

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I. INTRODUCTION

A. What is Section 3?

Section 3 of the Housing and Urban Development Act of 1968 recognizes that the normal expenditure of certain HUD funds typically results in new jobs, contracts, and other economic opportunities. When these opportunities are created, Section 3 requires that low and very low income persons residing in the community in which the funds are spent (regardless of race and gender), and the business that substantially employ them, will receive priority consideration.

Section 3 is a tool for fostering local economic development, neighborhood economic improvement, and individual self-sufficiency. It ensures that the expenditure of local funds has a multiplier effect by targeting local low and very low income persons and qualified businesses for jobs, training, and contracting opportunities.

B. Definitions

Section 3 Area Resident is defined as follows:

1. A public housing resident; or
2. An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and who is:
 - a). a low-income person – any person with a gross household income less than 80% of the area median income (adjusted for household size) as established by HUD; or
 - b). a very low income person – any person with a gross household income less than 50% of the area median income (adjusted for household size) as established by HUD
3. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing the evidence (if requested) that the person is eligible for the preference.

Section 3 Business Concern is a business that meets the following criteria:

1. 51% or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include, persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “Section 3 business concern.”

Section 3 Service Area: The geographical area in which the persons benefiting from the Section 3 covered project reside. The service area shall not extend beyond the unit of local government in which the Section 3 covered assistance is expended.

C. Who is Required to Meet Section 3?

Section 3 applies to jobs created as a result of projects receiving NSP2 funding through MSHDA, whether those opportunities are generated by the grantee, a sub-recipient, and/or a contractor. The requirements of Section 3 apply to all projects/activities with NSP funds- regardless of the actual amount that is spent on each individual unit/property. Section 3 applies to the entire covered project regardless of whether the activity was fully or partially funded with NSP2 assistance. Responsible parties involve:

1. Grantees that receive \$200,000 or more of NSP2 funding must meet the Section 3 requirement for all projects/ activities involving housing construction, demolition, rehabilitation, or other public construction. Therefore, all members of the Michigan NSP2 Consortium – MSHDA, City and Land Banks – must meet Section 3 requirements.
2. Contractors or sub-contractors that are awarded contracts for the construction and rehabilitation activities that exceed \$100,000 share the responsibility of Section 3 with the grantee.

Section 3 is only triggered when a grantee, subrecipient, contractor, or subcontractor meets the funding threshold AND projects require “new hires” or contracting opportunities. Section 3 regulations do not require hiring or contracting unless it is necessary to complete a project.

II. SECTION 3 REQUIREMENTS FOR NSP2

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 as defined in 24 CFR Part 135.32 for new employment, training, or contracting opportunities that are created during the expenditure of covered funding. Section 3 must be executed in a manner consistent with Federal, State, and local laws and does not supersede these laws, nor do these laws cancel or override the Section 3 obligation.

Section 3 is race neutral and is directed at low-income and very-low income persons. Responsibilities of Grantees, Sub-recipient, Contractor and/or Sub-Contractor include:

1. **Making an effort to the greatest extent feasible to meet** the minimum numerical goals found at 24 CFR Part 135.30.
 - a). 30 percent of the aggregate number of new hires will be Section 3 residents; and
 - b). 10 percent of all covered construction contracts will be awarded to Section 3 business concerns; and
 - c). **3 percent of all non-construction covered contracts will be awarded to Section 3 business concerns**

Recipients that fail to meet the numerical goals above bear the burden of demonstrating why it was not possible. Describe the efforts that were taken, barriers encountered, and any other relevant information that will allow auditors to make a determination regarding compliance.

2. Implementing procedures to notify Section 3 residents and business concerns about training and employment opportunities generated by Section 3 covered assistance;
3. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
4. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
5. Incorporating the Section 3 Clause (verbatim) into all covered solicitations and contracts. The Section 3 Clause may be found as **Exhibit A – Section 3 Clause for Contracts**;
6. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
7. Assisting and actively cooperating with the department in obtaining the compliance of contractors and subcontractors;
8. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;
9. Documenting actions taken to comply with Section 3; and

10. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

III. SAFE HARBOR AND COMPLIANCE DETERMINATIONS

The law requires that grantees, subrecipients, contractors and subcontractors to, the greatest extent feasible, use area residents as trainees and employees and to award contracts to local businesses while being consistent with existing federal, state, and local laws.

A. Section 3 Residents

A grantee, sub-recipient, or contractor must take definite steps to expand resident training and employment opportunities. This includes making efforts to inform residents and make them aware of available training and employment positions, encouraging residents to participate in the job application process, and actually employing Section 3 area residents.

B. Section 3 Businesses

Making an effort to the greatest extent feasible to award contracts to Section 3 businesses means:

1. Identifying Section 3 businesses located within the boundaries of the Section 3-covered project area;
2. Making these Section 3 businesses aware of contracting opportunities;
3. Encouraging the participation of these businesses in the procurement process and submitting qualifications, proposals and bids during the procurement process; and
4. Awarding contracts to these Section 3 business concerns.

An example of a grantee and its awarded contractor of making an effort to the greatest extent feasible to meet Section 3 would be:

1. Identify the number and type of positions that are needed to undertake the program or project, and of those identifying the number and type of positions that are vacant;
2. Recruit Section 3 residents for all vacant positions through methods such as advertising through local media, PHAs, community organizations, employment development agencies and job training centers, and homeless shelters. Prominently display notices at the project site or other locations where they are likely to be seen by low- and very low-income residents.
3. Use trainees on the project, where feasible.
4. Hire Section 3 residents and Section 3 business concerns.
5. Keep records of any Section 3 residents hired and the positions for which they were hired.

IV. IMPLEMENTATION OF SECTION 3

The Grantee must implement policies during procurement and contracting that comply with Section 3. Despite the method of procurement used, the solicitation of bids/proposals and the final contract documents must include notice of Section 3 obligations. The Grantee must develop and grant preferences to those contractors that provide economic opportunities to Section 3 residents and business concerns. Note that preference requirements only apply to the Grantee. The Grantee should attach **Exhibit B – Section 3 Certification Form** to all requests for qualifications, proposals and bids and required and ensure that all contractors complete and submit the form with their responses to the procurement process.

1. MSHDA recommends that the Grantees complete the following to implement and comply with Section 3 requirements:
2. Require Notice of Section 3 requirements in any and all solicitations for qualifications, proposals, bids and quotes.
3. Identify and target solicitations to all Section 3 eligible small local businesses via mail, phone call, meetings and advertisements.
4. Ensure that the Section 3 clause is included in all contract documents awarded as part of NSP2.
5. Develop and implement a business outreach plan to continue and expand efforts to hire local Section 3 eligible businesses.
6. Require any and all bidders to indicate how they will comply with Section 3.
7. Award contracts to businesses that provide economic opportunities to low- and very low-income persons and are located in NSP2 target areas.
8. Establish certification procedures that ensure that contractors meet Section 3 requirements
9. Provide a mandatory Section 3 workshop in conjunction with a state or local workforce development agency, that assists contractors to recruit, hire and retain Section 3 residents and businesses
10. Provide copies of your Section 3 plan, review the plan with contractors, and have contractors certify receipt.
11. Develop and enforce penalties for noncompliance and incentives for good performance of meeting or exceeding Section 3 requirements.

V. SECTION 3 REPORTING REQUIREMENTS

Throughout NSP2 to the end of the award period, you will be required to report on Section 3 information to MSHDA. Therefore, it is imperative and required that the grantee and its contractors have procedures, process and required forms and documentation to track for the following:

1. Efforts made to direct employment and other economic opportunities generated by the NSP2-assisted project and grant.
2. Total number of employees working on the job/housing award
3. Total number of employees working on the job/the-housing award that are Section 3 residents and trainees.

MSHDA will provide templates and training to assist grantees in meeting the requirements. (For your information, see attached templates as initial reporting and guidance requirements.) The grantee, sub-recipient and each applicable contractor or sub-contractor working on the NSP2 project will have to track and report the following:

1. The efforts made to direct employment and other economic opportunities generated by NSP2 to Section 3 residents and businesses.
2. Total number of employees working on the NSP2-assisted project.
3. Total number of employees working on the NSP2-assisted project that meet Section 3 requirements.
4. Total number of new hires/trainees hired to work on the NSP2-assisted project and grant.

5. Total number of new hires/trainees hired to work on the NSP2-assisted project and grant that meet Section 3 requirements listed by trade/profession.
6. Number of hours worked on the NSP2-assisted project and grant by all employees.
7. Number of hours worked on the NSP2-assisted project and grant by all employees that meet Section 3 requirements.
8. Number of hours worked on NSP2-assisted project and grant by new hires/trainees
9. Number of hours worked on NSP2-assisted project and grant by new hires/trainees that meet Section 3 requirements.

VI. LIST OF CHECKLISTS AND TEMPLATES

-  Section 3 Clause for Contracts
-  Sample Certification Form for Residents
-  Sample Certification Form for Businesses
-  Section 3 Summary Report

SECTION 3 CLAUSE

All Section 3 covered contracts shall include the following clause (referred to as the “Section 3 Clause”):

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, [12 U.S.C. 1701u](#) (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**CERTIFICATION FOR RESIDENT SEEKING SECTION 3 PREFERENCES IN
TRAINING AND EMPLOYMENT:**

Section 3 Covered Project:

I, _____, am a legal resident of the City of _____, County of _____, State of Michigan, and meet the income eligibility guidelines for a low- or very-low-income person as set out in the most current Income Figures provided by The Secretary of Housing and Urban Development ("HUD").

My permanent residence address is: _____

I have attached the following documentation as evidence of my status:

- | | |
|---|---|
| _____ Copy of Lease (if with public housing authority) | _____ Copy of receipt of public assistance |
| _____ Copy of Evidence of participation in a public assistance program | _____ Other evidence: Please state
_____ |
| _____ Proof of Household Income (last W-2s or tax returns with social security numbers blacked out) | _____ |

A Section 3 resident seeking the preference in training and employment provided by this part must submit evidence to the general contractor or subcontractor, that the person is a Section 3 resident, as defined in Section 135.5.

I hereby certify the information provided by me to be true and correct, and understand any falsification of any of the information could subject me to punishment under the law.

Signature

Print Name

Date

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business _____

Address of Business _____

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- | | |
|--|---|
| <input type="checkbox"/> Copy of resident lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation
in a public assistance program | <input type="checkbox"/> Other evidence |

For business entity as applicable:

- | | |
|---|---|
| <input type="checkbox"/> Copy of Articles of Incorporation | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate | <input type="checkbox"/> Partnership Agreement |
| <input type="checkbox"/> List of owners/stockholders and
% ownership of each | <input type="checkbox"/> Corporation Annual Report |
| <input type="checkbox"/> Organization chart with names and titles
and brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
| | <input type="checkbox"/> Additional documentation |

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- | | |
|--|--|
| <input type="checkbox"/> List of all current full-time employees | <input type="checkbox"/> List of employees claiming Section 3 status |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3
years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3
years from date of employment |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

Authorizing Name and Signature

(Corporate Seal)

Attested by: _____

Part II: Contracts Awarded

1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

2. Non-Construction Contracts:

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other; describe below.

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD-60002, **Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.**

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian housing programs** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts, which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F). Part II of the form relates to **contracting**, and Part III summarizes recipients' **efforts** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

- HUD Field Office: Enter the Field Office name .
1. Recipient: Enter the name and address of the recipient submitting this report.
 2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
 3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
 - 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
 6. Reporting Period: Indicate the time period (months and year) this report covers.
 7. Date Report Submitted: Enter the appropriate date.

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Column B: (Mandatory Field) Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column C: (Mandatory Field) Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column D: Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

Column E: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Column F: (Mandatory Field) Enter the number of Section 3 residents that were trained in connection with this award.

Part II: Contract Opportunities

Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts – Self -explanatory

Submit one (1) copy of this report to the HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in item 8. PHAs/IHAs are to report all contracts/subcontracts.

* The terms "low-income persons" and very low-income persons" have the same meanings given the terms in section 3 (b) (2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that

The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

NSP2 Procurement Due Diligence & File Checklist - Small Purchases

Use Small Purchases Procurement With:	1. Purchase of Office Supplies, Materials and Equipment to administer NSP2 2. Examples include, but are not limited to: Printing, Copying, and Computer Equipment, File Cabinets, and Office Supplies
--	--

Services or Materials Requested: _____
Issuer: _____

SUPPLIES & MATERIALS AND SERVICES Under \$100,000

Responsible Party	Date Completed		Notes															
		<p>1. G: Gather and Invite Quotes</p> <p>Check Method Used:</p> <p><input type="checkbox"/> Open Market → Use Informal Price Quote Template</p> <p><input type="checkbox"/> Invite Quote → Use Formal Price Quote Template</p> <p>Solicit at least one quote from an MBE/ WBE vendor</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;">MBE/WBE Vendor</th> <th style="width: 30%;">Solicitation Method</th> <th style="width: 40%;">Date</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table> <p style="color: red; margin-top: 10px;">Attach a copy of the price quote template</p>	MBE/WBE Vendor	Solicitation Method	Date													See MSHDA website for directory of MBE/ WBE Michigan companies
MBE/WBE Vendor	Solicitation Method	Date																
		<p>2. List and attach quotations received</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;">Vendor</th> <th style="width: 30%;">Quote*</th> <th style="width: 40%;">MBE/ WBE?</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table> <p style="font-size: small; margin-top: 10px;">* Each quote received should include pricing information that allows the Grantee to compare costs across bidders and insure cost reasonableness</p>	Vendor	Quote*	MBE/ WBE?													
Vendor	Quote*	MBE/ WBE?																
		<p>3. Review Quotations and Award Vendors</p> <p>At minimum, two quotes should be reviewed from qualified and reasonable firms.</p> <p>Select vendor based on the lowest responsive and responsible source.</p> <p>Awarded Vendor (s):</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table> <p style="font-size: small; margin-top: 10px;">If a firm is selected on a basis other than price it must be well documented. Documentation of justification must be maintained by the grantee.</p>																



NSP2 Procurement Due Diligence & File Checklist - Competitive Proposal (for Services over \$100,000)

Competitive Proposal:	<p>All procurement of professional services, which includes, but not limited to:</p> <ol style="list-style-type: none"> Pre-development and Site Preparation Services: Appraisals, Title Services, Licensed Real Estate Professional, Housing and Environmental Risk Assessment, Specification Writing, Demolition Facilitation Services Construction Services: Contracted Construction Manager Land Banking Services: Vacant Building Board-up and Maintenance and Vacant Lot Maintenance Marketing Services: Housing Counseling, Intake Specialist for Income, Buyer/Renter Affordability, and Financial Structuring, and Professional Sales and Rental Marketing
------------------------------	---

Services Requested: _____
Issuer: _____

SERVICES OVER \$100,000

Responsible Party	Date Completed	Description	Notes																																																																						
		<p>1. Prepare RFP</p> <p>Attach a copy of the original RFP</p>																																																																							
		<p>2. Solicitation & Publication Methods (One Required, Others Optional)</p> <p>Type of Solicitation: _____ Type of Solicitation: _____ Name of Solicitation: _____ Name of Solicitation: _____ Date(s) Solicited: _____ Date(s) Solicited: _____ # of MBE/ WBE firms solicited: _____ # of MBE/ WBE firms solicited: _____</p>	See MSHDA website for directory of MBE/ WBE Michigan companies																																																																						
		<p>3. List Proposals Received *</p> <p>*Must receive at least two proposals</p> <p>Attach all proposals received</p> <p>List of Service Providers:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Agency</th> <th>Address</th> <th>MBE/ WBE</th> <th>Price</th> <th>Debarred List</th> <th>Conflict of Interest</th> <th>Contract Eligible</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	Agency	Address	MBE/ WBE	Price	Debarred List	Conflict of Interest	Contract Eligible																																																																
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		<p>4. Complete Evaluation</p> <p>Attach predetermined criteria/ description of the selection method</p> <p>List Evaluation Committee Members: _____ _____ _____</p> <p>Attach evaluation process</p> <p>Contract Awarded to:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Agency</th> <th>Price</th> <th>Other Deciding Factors</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table> <p>Attach verification of agency eligibility</p>	Agency	Price	Other Deciding Factors																																																																				
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		<p>5. Negotiation Method (if applicable)</p> <p>List Negotiating Parties (must be between at least two submitting sources)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Agency</th> <th>Negotiation Factors</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Agency	Negotiation Factors																																																																					
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		<p>6. Contract</p> <p>Attach a Copy of the final Contract</p> <p>Attach supporting cost or pricing information</p>																																																																							
		<p>Records of Invoices and Payments</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Date</th> <th>Invoice #</th> <th>Amount Due</th> <th>Amount Paid</th> <th>Retainage</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table> <p>Attach copy of invoice(s)</p>	Date	Invoice #	Amount Due	Amount Paid	Retainage																																																																		
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		<p>Contract Change Orders</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Date</th> <th>Description of Change</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> </tbody> </table> <p>Attach copy of change order(s)</p>	Date	Description of Change																																																																					
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City of CITY

Neighborhood Stabilization Program 2

Request for Proposal: Appraisal Services

BID NUMBER: XXXX

DATE ISSUED

As part of the Michigan NSP2 Consortium, a partnership between:

Michigan State Housing Development Authority

The City of ISSUER

ISSUER County Land Bank

Para una versión en Español, por favor llamar a NAME PHONE

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This sample document from Mercy Portfolio Services, Chicago, Illinois.



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Bid Number: **XXXX**



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REQUEST FOR PROPOSALS – APPRAISERS

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by **ISSUER** in its capacity as manager of the Neighborhood Stabilization Program 2 (NSP2) for the City of **CITY** and **LBNAME Land Bank**. **ISSUER** invites the submission of proposals from appraisal firms with expertise and experience in appraising on an:

- “As is”
- “As completed”, and
- Rental comparison basis

The firms must also have expertise and experience for appraising the following property types:

- Single-family
- 2-4 unit properties
- 5 or more unit multi-family properties

All appraisals shall conform to current standards set forth by the Uniform Standards of Professional Appraisal Practice (USPAP).

Companies with demonstrated experience in appraising properties and with an interest in making their services available to **ISSUER** are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) and capable of providing the specified services. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

ISSUER is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises and has a goal for minimum MBE/WBE participation of at least **XX%** MBE and **XX%** WBE participation.

Nothing in this RFP shall be construed to create any legal obligation on the part of **ISSUER** or any respondents. **ISSUER** reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall **ISSUER** be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from **ISSUER** for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the **ISSUER**. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

Bid Number: **XXXX**



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The ISSUER follows LOCAL PROCUREMENT DEPARTMENT policies and procedures for procurement process. For further information on this requirement, contact the NAME, ADDRESS, CITY, STATE, phone PPP-PPP-PPPP; fax FFF-FFF-FFFF.

B. Time of Completion

Any contract awarded pursuant to this RFP solicitation shall have appraisal services completed within a mutually agreed upon expedited timeframe.

C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up to 18 months, with the possibility of an extension.

D. Background

Under the Recovery Act, Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. The Michigan State Housing Development Authority (MSHDA), as lead applicant, 12 city governments, and eight county land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative fund for MSHDA, Cities and Lands Banks to share.

The City of CITY received \$AWARDAMOUNT and the LBNAME Land Bank received \$AWARDAMOUNT for a total award amount of \$TOTALAWARDAMOUNT to assist the targeted census tracts in CITY.

E. Federal Regulations

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding [Title XII of Division A of the American Recovery and Reinvestment Act of 2009](#), which is posted on

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP2 funds must be spent on specific eligible activities no later than February 10, 2013 and 50% of NSP2 funds must be spent no later than February 10, 2012.

PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

Bid Number: XXXX



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ISSUER seeks sealed proposals from appraisers who are State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) and capable of providing appraisals for properties located in targeted neighborhoods and census tracts in the City of **CITY**. *See Appendix A – NSP2 Boundaries and Map.*

ISSUER is interested in facilitating the acquisition of vacant/foreclosed properties from various mortgage loan servicers, private sellers, and through the State of Michigan tax foreclosure process for the purpose of rehabilitation, new construction, land banking and demolition to foster neighborhood stabilization. During the program period, which ends February 10, 2013, **ISSUER** anticipate up to **[INSERT NUMBER OF UNITS ACQUIRED TIMES FIVE]** assignments and will require completed appraisals within three days of inspection. Arrangements will be made by **ISSUER** to schedule entry to the respective properties.

The property type will vary from single-family properties to 2-4 unit rental properties to 5 or more unit multi-family properties. Appraisals will require “as is” and “as completed” values. **ISSUER** will provide specifications so that an “as completed value” may be determined. In addition, a rental appraisal may be required.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations (49 CFR Part 24) set forth minimum requirements for real property acquisition appraisals for Federal and federally-assisted programs. The appraiser must at a minimum:

1. Provide an appraisal meeting the definition of an appraisal found at 49 CFR 24.2 (a) (3) (*See Appendix B*) and conforms to all USPAP standards.
2. Afford the property owner or the owner’s designated representative the opportunity to accompany the appraiser on the inspection of the property.
3. Perform an inspection of the subject property. The inspection should be appropriate for the appraisal problem, and the scope of work should address:
 - Extent of the inspection and description of the neighborhood and proposed project area;
 - Extent of the subject property inspection, including interior and exterior areas; and,
 - Level of detail of the description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, the remaining property).
4. In the appraisal report, include an adequate description of the physical characteristics of the property being appraised (i.e., sketch of the property and provide the location and dimensions of any improvements), and a description of comparable sales. The appraisal report should also include adequate photographs of the subject property and comparable sales, and provide location maps of the property and comparable sales.
5. In the appraisal report, include items required by the acquiring agency, including but not limited to the following:
 - Property right(s) to be acquired, e.g., fee simple, easement, etc.,
 - Value being appraised (usually fair market value), and its definition;
 - Appraised as if free and clear of contamination (or as specified),
 - Date of the appraisal report and the date of valuation,
 - A realty/personality report as required by 49 CFR 24.103(a)(2)(i),

Bid Number: **XXXX**



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- Known and observed encumbrances, if any,
 - Title information,
 - Location,
 - Zoning,
 - Present use, and
 - At least a 5-year sales history of the property.
6. In the appraisal report, identify the highest and best use. If highest and best use is in question or different from the existing use, provide an appropriate analysis identifying the market-based highest and best use.
 7. Present and analyze relevant market information.
 8. In developing and reporting the appraisal, disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project. *(If necessary, the appraiser may cite the Jurisdictional Exception or Supplemental Standards Rules under USPAP to ensure compliance with USPAP while following this and other Uniform Act requirements.)*
 9. Report his or her analysis, opinions, and conclusions in the appraisal report.

B. Additional Requirements

1. Intended Use

This appraisal is to estimate the fair market value of the property, as of the specified date of valuation, for the proposed acquisition of the property rights specified (i.e., fee simple, etc.) for a federally assisted project.

2. Intended User

The intended user of this appraisal report is primarily **ISSUER**; however, its funding partners may review the appraisal as part of their program oversight activities.

3. Definition of Fair Market Value

This is determined by State law. Fair market value, however, is generally defined as the price that a seller is willing to accept and a buyer is willing to pay on the open market in an arm's length transaction, and usually includes the following:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, each acting in what he or she considers his or her own best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Bid Number: **XXXX**



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4. Certification

The appraisal shall include a certification of the appraiser (*See Appendix C*)

5. Assumptions and Limiting Conditions:

The appraiser shall state all relevant assumptions and limiting conditions. In addition, the acquiring agency may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

- Data search requirements and parameters that may be required for the project.
- Identification of the technology requirements, including approaches to value, to be used to analyze the data.
- Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.
- Instructions to appraiser to appraise the property "As Is" or subject to repairs or corrective action.
- As applicable include any information on property contamination to be provided and considered by the appraiser in making the appraisal.

6. Licensing and Certification Requirements

The Issuers seek appraisers that are state-licensed or state-certified (in accordance with the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989) to appraise properties under consideration by **ISSUER** for acquisition. The appraiser must note his or her license or certification number on the individual appraisal report forms. In addition, Respondents must not be listed on GSA's Excluded Parties List System (EPLS), HUD's Limited Denial of Participation (LDP) list, or HUD's Credit Alert System (CAIVRS).

Bid Number: **XXXX**



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EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, **ISSUER** will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

A. Experience and Capacity

The point system is to evaluate the experience and capacity of the Respondent.

1. Experience in providing appraisals services.

Up to one (1) year of experience in completing property appraisals.	5 Points
One (1) to three (3) years of experience in completing property appraisals.	10 Points
Greater than three (3) years of experience in completing property appraisals.	20 Points

2. Capacity to Produce Appraisals in accordance with 49 CFR 24.2 (a) (3) and conforms to all USPAP Standards on Weekly Basis.

Demonstrated capacity and experience to complete up to ten (10) “as is”, “as completed”, and “rental” appraisals per week.	5 Points
Demonstrated capacity and experience to complete up to twenty (20) “as is”, “as completed”, and “rental” appraisals per week.	10 Points
Demonstrated capacity and experience to complete greater than twenty (20) “as is”, “as completed”, and “rental” appraisals per week.	20 Points

3. Pricing Proposal

Pricing proposals that are in the highest cost 1/3 of proposals	5 Points
Pricing proposals that are in the middle cost 1/3 of proposals	10 Points
Pricing proposals that are in the lowest cost 1/3 of proposals	20 Points

4. Respondents will be awarded up to 20 points for their experience in appraising various housing types, 1- 4 units, 5 or more units multi-family properties coupled with expertise in the following areas: Rental Properties, Homes in Need of Extensive Rehabilitation, Historic Preservation, Homes Sales in Weak Markets, Energy Retrofits, and Green Technologies.

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SUBMITTAL REQUIREMENTS

RFP responses must be submitted **both** via hard copy and scanned e-mail copy sent to **EMAILADDRESS**. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. **Responses not submitted both via hard copy and e-mail will not be considered.** Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

ISSUER reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.
2. A brief summary of the qualifications of the Respondent and team.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
4. The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
5. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest.

B. Threshold Requirements

These documents must be submitted and acceptable before XXXX will review the Experience and Capacity proposal:

1. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000.

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3. State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
4. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and **ISSUER** in determining the Respondent’s financial condition. **ISSUER** is seeking this information to ensure that the proposer’s have the financial stability and wherewithal to assure good faith performance.
5. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
6. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the **ISSUER**. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

C. Main Proposal

Please provide the following information:

1. Years of experience and detailed qualifications in performing the range of appraisal services on various property types in compliance with 49 CFR 24.2 (a) (3) and all USPAP standards, including team’s resumes.
2. Capacity to complete multiple appraisals within **three** days.
3. Pricing proposal to complete “as-is”, “as-completed”, and rental appraisals, for single-family, 2-4 unit, and 5 or more unit multi-family properties.
4. Experience in appraising various housing types - single family, 2- 4 units and 5 or more unit multi-family - coupled with expertise in the following areas: Rental Properties, Homes in Need of Extensive Rehabilitation, Historic Preservation, Home Sales in Weak Markets, Energy Retro Fits, and Green Technologies.
5. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of **ISSUER** staff will review qualifications in accordance with the evaluation criteria set forth herein and Michigan NSP2 Consortium objectives and policies. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to **INSERT EMAIL ADDRESS**.

Bid Number: **XXXX**



Although MSHDA CD Staff and its contractors designed and reviewed this document to meet NSP2 and federal regulations. This document has not received a full legal review by MSHDA for applicability, legality or compliance. MSHDA recommends that locality conducts such legal review before public use. Therefore, MSHDA is held harmless

SUBMITTAL DUE DATE

Responses to this RFP are due by **TIME** on **MONTH DAY, YEAR**. Responses to this RFP must be e-mailed to: **NAME, INSERT EMAIL ADDRESS**. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

NAME
ENTITY
ADDRESS
CITY, STATE ZIP

Bid Number: **XXXX**



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Therefore, MSHDA is held harmless

CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the “Respondent”), that the information provided in this RFP submittal to **ISSUER** is accurate and complete, and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

Bid Number: **XXXX**



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RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- State License and or Certification
- Evidence of Financial Stability
- References
- Conflict of Interest Statement & Supporting Documentation:
- Description of Company
- Capacity of Company
- Pricing Proposal
- Historic Preservation, Weak Markets Sales, Energy Retrofits, and Green Technologies
- MBE/WBE, Local Hiring, HUD Section 3, if applicable
- RFP Submittal Requirements Checklist

Bid Number: XXXX



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APPENDIX A: MAP AND BOUNDARIES OF NSP2 TARGET AREA

Insert NSP2 Target Area Map and Boundaries

Bid Number: **XXXX**



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APPENDIX B: DEFINITION OF AN APPRAISAL

URA regulations at 24.2- definition of appraisal. The term appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

A. Scope of an Appraisal – From an Appraisal

The scope of this assignment entails the collection, verification and analysis of data pertinent to the “Sales Comparison” approach.

- Inspect the subject property, noting its physical features;
- Examine the immediate neighborhood surrounding the property to ascertain trends of development and uses;
- Review FEMA FIRM Map and any other data for environmental hazards or issues;
- Research market activity (sales/rentals) from MLS, RE agent files and public records for comparable units recently sold on the open market;
- Confirm data (public records and interviews with pertinent parties to the transaction);
- Analyze data and prepare appraisal report;
- Illustrate, with adequate photographs, the subject property and comparable sales

Bid Number: XXXX



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APPENDIX C: CERTIFICATE OF APPRAISER – SAMPLE

I hereby certify:

That on _____ date(s), I personally made a field inspection of the property herein appraised and have afforded the owner or a designated representative the opportunity to accompany me on this inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The property being appraised and the comparable sales relied upon in making this appraisal were as represented in the appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with the acquisition of property for a project utilizing U.S. Department of Housing and Urban Development funds.

That such appraisal has been made in conformity with appropriate laws, regulations, and policies and procedures applicable to appraisal of property for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established law of said State.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the project for which such property is acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner, was disregarded in determining the compensation for the property.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency or officials of the U.S. Department of Housing and Urban Development and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That I have not given consideration to, or included in my appraisal, any allowance for relocation assistance benefits.

That my opinion of the fair market value of the property to be acquired as of the _____ day of _____ 20 _____ is \$ _____ based upon my independent appraisal and the exercise of my professional judgment.

Name _____ Signature _____

Bid Number: **XXXX**



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Date _____

(Note: Other statements, required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal may be inserted where appropriate.)

Bid Number:  **XXXX**



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City of CITY

Neighborhood Stabilization Program 2

Request for Proposal: Title Services

BID NUMBER: XXXX

DATE ISSUED

As part of the Michigan NSP2 Consortium, a partnership between:

Michigan State Housing Development Authority

The City of ISSUER

ISSUER County Land Bank

Para una versión en Español, por favor llamar a NAME PHONE

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This sample document from Mercy Portfolio Services, Chicago, Illinois.



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REQUEST FOR PROPOSALS – TITLE SERVICES

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by **ISSUER** in its capacity as manager of the Neighborhood Stabilization Program 2 (NSP2) for the City of **CITY and Land Bank**. **ISSUER** invites the submission of proposals from title companies with expertise and experience in providing a range of title services.

Title companies with demonstrated experience in conducting title searches/ examinations, loan closings, and issuing title policies and with an interest in making their services available to **ISSUER** are invited to respond to this RFP. “**Respondents**” means the companies or individuals that submit proposals in response to this RFP.

ISSUER is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises and has a goal for minimum MBE/WBE participation of at least **XX%** MBE and **XX%** WBE participation.

The work contemplated is professional in nature. The Respondent shall be financially solvent and each of its members (if a joint venture), its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

Nothing in this RFP shall be construed to create any legal obligation on the part of **ISSUER** or any respondents. **ISSUER** reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall **ISSUER** be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from **ISSUER** for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the **ISSUER**. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

The **ISSUER** follows **LOCAL PROCUREMENT DEPARTMENT** policies and procedures for procurement process. For further information on this requirement, contact the NAME, ADDRESS, CITY, STATE, phone **PPP-PPP-PPPP**; fax **FFF-FFF-FFFF**.

B. Time of Completion

Any contract awarded pursuant to this RFP solicitation shall provide title services within a mutually agreed upon expedited timeframe.

C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up to 18 months, with the possibility of an extension.

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D. Background

Under the Recovery Act, Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. The Michigan State Housing Development Authority (MSHDA), as lead applicant, 12 city governments, and eight county land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative fund for MSHDA, Cities and Lands Banks to share.

The City of **CITY** received **\$AWARDAMOUNT** and the **LBNNAME** Land Bank received **\$AWARDAMOUNT** for a total award amount of **\$TOTALAWARDAMOUNT** to assist the targeted census tracts in **CITY**.

E. Federal Regulations

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding [Title XII of Division A of the American Recovery and Reinvestment Act of 2009](#), which is posted on

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP2 funds must be spent on specific eligible activities no later than February 10, 2013 and 50% of NSP2 funds must be spent no later than February 10, 2012.

PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

ISSUER seeks sealed proposals from title companies interested in providing title services for properties located in targeted neighborhoods and census tracts in the City of **CITY**. *See Appendix A – NSP2 Boundaries and Map.*

ISSUER is interested in facilitating the acquisition of vacant/foreclosed properties from various mortgage loan servicers, private sellers, and through the State of Michigan tax foreclosure process for the purpose of rehabilitation, new construction, demolition and land banking to foster neighborhood stabilization. During the program period, which ends February 10, 2013, **ISSUER** anticipate up to **[INSERT NUMBER OF UNITS ACQUIRED TIMES FIVE]** assignments across the respective NSP2 areas. Further, **ISSUER** anticipates multiple requests within a short timeframe.

The title company will conduct title searches and examinations, and issue title abstracts, title commitments, and owner's policies pursuant to the current standards of the American Land Title Association, in connection with the conveyance of single family, 2-4 unit buildings, and 5 or more unit multi-family properties located in the City of **CITY**. The scope of work will include determining the condition of title to be insured and to evaluate the risk to be undertaken in the issuance of a title

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insurance policy. Title companies must establish a separate escrow account specifically for transactions involving NSP2 assisted properties.

Prior to the issuance of a title policy, the title company will determine proper execution, acknowledgment and delivery of all conveyance documents, including deeds, required to consummate transactions involving the sale of the properties. The scope of work will include a determination that proper consideration has passed, confirmation of title clearance, preparation of settlements statements, and proper disbursement of all proceeds. The title company will also be required to coordinate with lenders in conjunction with the issuance of loan policies

EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, **ISSUER** will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

A. Experience and Capacity

The point system is to evaluate the experience and capacity of the Respondent.

1. Experience in Providing Title Services:

Up to five (5) years of experience	5 Points
Five (5) to ten (10) years of experience	10 Points
Greater than ten (10) years of experience	15 Points

2) Capacity to Conduct NSP Title Searches/Examinations:

Capacity to conduct up to 100 NSP title searches/examinations per week	5 Points
Capacity to conduct 101 to 300 NSP title searches/examinations per week	10 Points
Capacity to conduct more than 300 NSP title searches/examinations per week	15 Points

3) Capacity to Conduct NSP2 Real Estate Closings:

Capacity to conduct up to ten (10) NSP2 closings per week	5 Points
Capacity to conduct eleven (11) to twenty (20) NSP2 closings	10 Points

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per week	
Capacity to conduct more than twenty (20) NSP closings per week	15 Points

4) Pricing Proposal:

Pricing proposals that are in highest cost 1/3 of proposals	5 Points
Pricing proposal that are in the middle 1/3 of proposals	10 Points
Pricing proposals that are in the lowest cost 1/3 of proposals	15 Points

SUBMITTAL REQUIRMENTS

RFP responses must be submitted **both** via hard copy and scanned e-mail copy sent to **EMAILADDRESS**. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. **Responses not submitted both via hard copy and e-mail will not be considered.** Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

ISSUER reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.
2. A brief summary of the qualifications of the Respondent and team.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
4. The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
5. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest.

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B. Threshold Requirements

These documents must be submitted and acceptable before XXXX will review the Experience and Capacity proposal:

1. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000.
3. State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
4. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and ISSUER in determining the Respondent's financial condition. ISSUER is seeking this information to ensure that the respondent's have the financial stability and wherewithal to assure good faith performance.
5. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
6. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the ISSUER. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

C. Main Proposal

Please provide the following information:

1. Years of experience and detailed qualifications including resumes of the transaction team and their experience in handling affordable housing transactions.
2. Capacity to conduct title searches/examinations on a weekly basis.
3. Capacity to conduct closings on a weekly basis.
4. Pricing proposal associated with completing range of title services.
5. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of ISSUER staff will review qualifications in accordance with the evaluation criteria set forth herein and Michigan NSP2 Consortium objectives and policies. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will not

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necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to **INSERT EMAIL ADDRESS**.

SUBMITTAL DUE DATE

Responses to this RFP are due by **TIME** on **MONTH DAY, YEAR**. Responses to this RFP must be e-mailed to: **NAME, INSERT EMAIL ADDRESS**. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

NAME
ENTITY
ADDRESS
CITY, STATE ZIP

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CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the “Respondent”), that the information provided in this RFP submittal to **ISSUER** is accurate and complete, and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

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RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- State License and or Certification
- Evidence of Financial Stability
- References
- Conflict of Interest Statement & Supporting Documentation:
- Description of Company
- Capacity of Company
- Pricing Proposal
- Historic Preservation, Weak Markets Sales, Energy Retrofits, and Green Technologies
- MBE/WBE, Local Hiring, HUD Section 3, if applicable
- RFP Submittal Requirements Checklist

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APPENDIX A: MAP AND BOUNDARIES OF NSP2 TARGET AREA

Insert NSP2 Target Area Map and Boundaries

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Bid Number: **XXXX**



City of CITY

Neighborhood Stabilization Program 2

Request for Proposal: Licensed Real Estate Professionals

BID NUMBER: XXXX

DATE ISSUED

As part of the Michigan NSP2 Consortium, a partnership between:

Michigan State Housing Development Authority

The City of ISSUER

ISSUER County Land Bank

Para una versión en Español, por favor llamar a NAME PHONE

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This sample document from Mercy Portfolio Services, Chicago, Illinois.



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REQUEST FOR PROPOSALS – LICENSED REAL ESTATE PROFESSIONALS

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by **ISSUER** in its capacity as manager of the Neighborhood Stabilization Program 2 (NSP2) for the City of **CITY and Land Bank**. **ISSUER** invites the submission of proposals from Licensed Real Estate Professionals to facilitate the execution of purchases, specifically foreclosed properties, in targeted areas.

Licensed Real Estate Professionals with community development experience are invited to respond to this RFP. Community development experience may be demonstrated by the following: aiming to improve communities through collaborative efforts, having an extensive knowledge of, and expertise on, issues of importance to the community, and having established working relationships with nonprofit organizations and local stakeholders in specific NSP2 areas of greatest need (areas noted at the end of this RFP). “Respondents” means the companies or individuals that submit proposals in response to this RFP.

ISSUER is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises and has a goal for minimum MBE/WBE participation of at least **XX%** MBE and **XX%** WBE participation.

Nothing in this RFP shall be construed to create any legal obligation on the part of **ISSUER** or any respondents. **ISSUER** reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall **ISSUER** be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from **ISSUER** for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the **ISSUER**. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

The **ISSUER** follows **LOCAL PROCUREMENT DEPARTMENT** policies and procedures for procurement process. For further information on this requirement, contact the NAME, ADDRESS, CITY, STATE, phone **PPP-PPP-PPPP**; fax **FFF-FFF-FFFF**.

B. Time of Completion

Any agreement awarded pursuant to this RFP solicitation shall be in accordance with the scope of work and compensation as outlined below, and, within a mutually agreed upon expedited timeframe.

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C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up to 18 months, with the possibility of an extension.

D. Background

Under the Recovery Act, Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. The Michigan State Housing Development Authority (MSHDA), as lead applicant, 12 city governments, and eight county land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative fund for MSHDA, Cities and Lands Banks to share.

The City of **CITY** received **\$AWARDAMOUNT** and the **LBNAME** Land Bank received **\$AWARDAMOUNT** for a total award amount of **\$TOTALAWARDAMOUNT** to assist the targeted census tracts in **CITY**.

E. Federal Regulations

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding [Title XII of Division A of the American Recovery and Reinvestment Act of 2009](#), which is posted on

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP2 funds must be spent on specific eligible activities no later than February 10, 2013 and 50% of NSP2 funds must be spent no later than February 10, 2012.

PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

ISSUER seeks sealed proposals from Licensed Real Estate Professionals to facilitate the execution of purchases, specifically abandoned and foreclosed properties (see NSP Notice Definition below), located in **CITY** community areas identified as NSP2 areas of greatest need in the City's NSP2 Substantial Amendment (see areas at the end of this RFP). Licensed Real Estate Professionals will be needed for each targeted area and must agree to collaborate and work cooperatively to achieve the scope of work.

NSP Notice Definition: Abandoned.—A home or residential property is abandoned if either a) mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or b) a code

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enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or c) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state, local or tribal law or otherwise meets a state definition of an abandoned home or residential property.

NSP Notice Definition: Foreclosed.— A home or residential property has been foreclosed upon if any of the following conditions apply: a) the property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or b) the property owner is 90 days or more delinquent on tax payments, or c) under state, local, or tribal law foreclosure proceedings have been initiated or completed, or d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, contractor, subrecipient, developer, or end user.

ISSUER is interested in facilitating the acquisition of vacant/foreclosed properties from various mortgage loan servicers and through the State of Michigan tax foreclosure process for the purpose of rehabilitation, new construction, and demolition to foster neighborhood stabilization.

During the program period, which ends February 10, 2013, **ISSUER** anticipate up to **[INSERT NUMBER OF UNITS ACQUIRED]** purchases across the respective NSP areas. It is important to note that all purchase transactions must comply with the Federal Register Notice: Section 2301(d)(1), which limits the purchase price of a foreclosed home, as follows: Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property. Specifically, an individual purchase discount of one percent (1%).

The following services are requested of the Licensed Real Estate Professional under this RFP:

- Identify the best course of action for acquisition of NSP eligible properties (and anticipated NSP eligible properties) within the targeted areas and offer the most comprehensive services in identifying properties within these communities including, but not limited to, block-by-block property indexing with photos;
- Provide accurate information for the decision making process to determine which properties are best-suited for rehabilitation vs. demolition and homeownership vs. rental;
- Cooperate fully with listing agents and educate them about the Neighborhood Stabilization Program and what the process will entail as you represent **ISSUER** in the transaction;
- Assist in monitoring all the components of a real estate transaction;
- Write, negotiate, and submit all offers for **ISSUER** as the client and in keeping with the expectation of NSP regulations (i.e. achieve property discount based on appraised value);
- Have all disclosures prepared once the offer is accepted with any seller /buyer addendums;
- Ensure all required signatures are obtained from the buyer within 24 hours and delivered/uploaded to the listing agent; and,

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- Ensure and coordinate access to the property for developers, appraiser, specification writer, and for any environmental inspections.

B. Compensation

Compensation for the scope of work requested will be in the form of a percentage commission, a flat fee, or an hourly rate, earned as the selling agent, as agreed to by the selling and listing agents, and paid by the listing real estate broker.

EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, ISSUER will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

A. Experience and Capacity

The point system is to evaluate the experience and capacity of the Respondent.

1. Experience in facilitating the execution of real estate purchases.

One (1) to five (5) years of experience.	5 Points
Five (5) to ten (10) years of experience.	10 Points
Greater than ten (10) years of experience.	15 Points

2. Number of listings and sales by Respondent in the respective NSP areas of greatest need.

Bottom 1/3 of proposals	5 Points
Middle 1/3 of proposals	10 Points
Top 1/3 of proposals	15 Points

3. Number of listings and sales by Responded of foreclosed properties in all areas of the City of CITY

Bottom 1/3 of proposals	5 Points
Middle 1/3 of proposals	10 Points
Top 1/3 of proposals	15 Points

4. Respondents will be awarded up to 40 points for their community development experience in the respective CITY's targeted census tracts as outlined in the City's NSP2 Funding Agreement (*Appendix A – Target census tracts and Map*)

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5. Respondents will be awarded up to 15 points for their plan to address the scope of work.

SUBMITTAL REQUIREMENTS

RFP responses must be submitted **both** via hard copy and scanned e-mail copy sent to **EMAILADDRESS**. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. **Responses not submitted both via hard copy and e-mail will not be considered.** Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

ISSUER reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.
2. A brief summary of the qualifications of the Respondent and team.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
4. The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
5. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest.

B. Threshold Requirements

These documents must be submitted and acceptable before XXXX will review the Experience and Capacity proposal:

1. Copy of Respondent’s Real Estate License
2. Copy of Respondent’s Real Estate Broker’s License (If sponsored by a broker, provide copy of sponsoring broker’s license)
3. Copy of Real Estate Broker’s Business License
4. Letter of support from Licensed Real Estate Broker (If sponsored by a broker)

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5. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
6. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000.
7. State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
8. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and ISSUER in determining the Respondent's financial condition. ISSUER is seeking this information to ensure that the proposer's have the financial stability and wherewithal to assure good faith performance.
9. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
10. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the ISSUER. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

C. Main Proposal

Please provide the following information:

1. Experience in facilitating the execution of real estate purchases.
2. Number of listings and sales by Respondent in the respective NSP area (s) in which you wish to be considered (provide supporting documentation).
3. Number of listings and sales by Respondent of foreclosed properties (provide supporting documentation).
4. A narrative (limited to two pages) identifying the target area(s) of the NSP2 census tracts in which the Respondent is interested in working; and, a history of community development activities and relationships established in the respective area(s). Please provide specific examples and be concise in your response.
5. Outline of plan to address the scope of work (i.e. Include technology tools, databases, collaborating with community partners and other real estate professionals, etc.)
6. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of ISSUER staff will review qualifications in accordance with the evaluation criteria set forth herein and Michigan NSP2 Consortium objectives and policies.

Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will

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not necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to **INSERT EMAIL ADDRESS**.

SUBMITTAL DUE DATE

Responses to this RFP are due by **TIME** on **MONTH DAY, YEAR**. Responses to this RFP must be e-mailed to: **NAME, INSERT EMAIL ADDRESS**. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

NAME
ENTITY
ADDRESS
CITY, STATE ZIP

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Bid Number: XXXX



CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the “Respondent”), that the information provided in this RFP submittal to **ISSUER** is accurate and complete, and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

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RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- State License and or Certification
 - Copy of Real Estate Broker's License
 - Copy of Real Estate Broker's Business License
 - Letter of support from Licensed Real Estate Broker
- Evidence of Financial Stability
- References
- Conflict of Interest Statement & Supporting Documentation:
- Description of Company
- Capacity of Company
- Pricing Proposal
- Historic Preservation, Weak Markets Sales, Energy Retrofits, and Green Technologies
- MBE/WBE, Local Hiring, HUD Section 3, if applicable
- RFP Submittal Requirements Checklist

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APPENDIX A: MAP AND BOUNDARIES OF NSP2 TARGET AREA

Insert NSP2 Target Area Map and Boundaries

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Bid Number: XXXX



City of CITY

Neighborhood Stabilization Program 2

Request for Proposal: Licensed Housing Inspectors and Specification Writing Services

BID NUMBER: XXXX

DATE ISSUED

As part of the Michigan NSP2 Consortium, a partnership between:

Michigan State Housing Development Authority

The City of ISSUER

ISSUER County Land Bank

Para una versión en Español, por favor llamar a NAME PHONE

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This sample document from Mercy Portfolio Services, Chicago, Illinois.



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REQUEST FOR PROPOSALS – SPECIFICATION WRITING SERVICES

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by **ISSUER** in its capacity as manager of the Neighborhood Stabilization Program 2 (NSP2) for the City of **CITY**. **ISSUER** invites the submission of proposals from Specification Writers with expertise and experience in specification writing for property rehabilitation and preservation planning.

Specification Writers with demonstrated experience in these areas and an interest in making their services available to **ISSUER** are invited to respond to this RFP. “**Respondents**” means the companies or individuals that submit proposals in response to this RFP.

It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) and capable of providing the specified services. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

ISSUER is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises and has a goal for minimum MBE/WBE participation of at least **XX%** MBE and **XX%** WBE participation.

Nothing in this RFP shall be construed to create any legal obligation on the part of **ISSUER** or any respondents. **ISSUER** reserves the right, in its sole discretion, to amend, suspends, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall **ISSUER** be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from **ISSUER** for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the **ISSUER**. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

The **ISSUER** follows **LOCAL PROCUREMENT DEPARTMENT** policies and procedures for procurement process. For further information on this requirement, contact the NAME, ADDRESS, CITY, STATE, phone **PPP-PPP-PPPP**; fax **FFF-FFF-FFFF**.

B. Time of Completion

Any contract awarded pursuant to this RFP solicitation shall have property rehabilitation specifications, completed within a mutually agreed upon expedited timeframe.

Bid Number: XXXX



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C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up to 18 months, with the possibility of an extension.

D. Background

Under the Recovery Act, Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. The Michigan State Housing Development Authority (MSHDA), as lead applicant, 12 city governments, and eight county land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative fund for MSHDA, Cities and Lands Banks to share.

The City of **CITY** received **\$AWARDAMOUNT** and the **LBNAME** Land Bank received **\$AWARDAMOUNT** for a total award amount of **\$TOTALAWARDAMOUNT** to assist the targeted census tracts in **CITY**.

E. Federal Regulations

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding [Title XII of Division A of the American Recovery and Reinvestment Act of 2009](#), which is posted on

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP2 funds must be spent on specific eligible activities no later than February 10, 2013 and 50% of NSP2 funds must be spent no later than February 10, 2012.

PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

ISSUER seeks sealed proposals from Respondents to inspect houses targeted for acquisition or already acquired for the purposes of NSP2 and provide specification writing for properties located in targeted neighborhoods and census tracts in the City of **CITY**. *See Appendix A – NSP2 Boundaries and Map.*

ISSUER is interested in facilitating the acquisition of vacant/foreclosed properties from various mortgage loan servicers and through the State of Michigan tax foreclosure process for the purpose of rehabilitation, new construction, and demolition to foster neighborhood stabilization. During the program period, which ends February 10, 2013, **ISSUER** anticipate up to **[INSERT NUMBER OF UNITS ACQUIRED TIMES FIVE]** assignments across the respective NSP2 areas. Further, **ISSUER** anticipates multiple requests within a short timeframe. Properties are foreclosed, and anticipated to be

Bid Number: **XXXX**



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vacant. Arrangements will be made by **ISSUER** to schedule entry to the respective properties.

Respondents will inspect targeted properties and provide housing inspection and specification reports for properties in need of a range of rehabilitation from minor to extensive. The housing types and scope of specification work will range from single-family units to multifamily units, to historic preservation, marketability upgrades to enhance weak market sales, energy retrofits, and homes that would benefit from “green” technologies.

At a minimum, the City of **CITY** adheres to HUD Quality Standards (24 CFR, Subtitle B, Chapter IX, Part 982, Subpart I). In addition, rehabilitation standards must also adhere to all aspects of the Municipal Code of **CITY**, specifically Title 7 (Health and Safety), and 13 (Buildings and Construction).

Selected Respondents will be required to upload the NSP2 housing inspection and specification template electronically and be able to export the completed specification report to **ISSUER** via Excel or CSV file.

B. Licensing and Certification Requirements

ISSUER requires a Housing Inspection by an inspector certified under the State certification program.

ISSUER requires a Lead-Based Paint Inspection by an inspector certified under the Federal certification program or under a federally accredited State certification program. Lead-based Paint Inspection is defined as: (1) A surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302 (c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822], and (2) The provision of a report explaining the results of the investigation.

EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, **ISSUER** will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

A. Experience and Capacity

The point system is to evaluate the experience and capacity of the Respondent.

1. Experience in providing housing inspection and specification writing services

Less than one (1) year of experience in housing and lead-based paint inspection and specification writing for rehabilitation projects	5 Points
One (1) to three (3) years of experience in housing and lead-based paint inspection and specification writing for rehabilitation projects.	10 Points
Greater than ten (3) years of experience in housing and lead-based paint inspection and specification writing for rehabilitation projects or a state license as a state certified engineer or architect.	20 Points

2. Capacity to provide inspection and specification writing services and ability of the firm to meet timelines.

Bid Number: XXXX



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Demonstrated capacity and experience to produce less than ten housing and lead-based paint inspection and specification reports per week.	5 Points
Demonstrated capacity and experience to produce up to twenty housing and lead-based paint inspection and specification reports per week.	10 Points
Demonstrated capacity and experience to produce greater than twenty-one housing and lead-based paint inspection and specification reports per week.	20 Points

3. Pricing Proposal

Pricing proposals that are in highest cost 1/3 of proposals	5 Points
Pricing proposals that are in the middle cost 1/3 of proposals	10 Points
Pricing proposals that are in the lowest cost 1/3 of proposals	20 Points

SUBMITTAL REQUIREMENTS

RFP responses must be submitted **both** via hard copy and scanned e-mail copy sent to **EMAILADDRESS**. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. **Responses not submitted both via hard copy and e-mail will not be considered.** Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

ISSUER reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.
2. A brief summary of the qualifications of the Respondent and team.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
4. The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization,

Bid Number: **XXXX**



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identify the parent organization and describe the nature and extent of the parent organization's approval rights, if any, over the activities of the Respondent.

5. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest.

B. Threshold Requirements

These documents must be submitted and acceptable before **XXXX** will review the Experience and Capacity proposal:

1. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000.
3. Non-For-Profit Documentation
 - IRS 501(c)(3) determination
 - Articles of Incorporation
 - Corporate By-Laws
 - Listing of Board Members
4. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and **ISSUER** in determining the Respondent's financial condition. **ISSUER** is seeking this information to ensure that the proposer's have the financial stability and wherewithal to assure good faith performance.
5. Evidence of Housing Inspection Certification under State certification program.
6. Evidence of Lead-Based Paint certification under the Federal certification program or under a federally accredited State certification program.
7. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
8. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the **ISSUER**. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

C. Main Proposal

Please provide the following information:

1. Years of experience and detailed qualifications in housing and lead-based paint inspection and specification writing for rehabilitation projects in compliance with HUD Quality Standards (24 CFR, Subtitle B, Chapter IX, Part 982, Subpart I); and, all aspects of the Municipal Code of

Bid Number: XXXX



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CITY, specifically **SPECIFICCODES**.

2. Capacity to produce housing and lead-based paint inspection and specification reports in an electronic format on a weekly basis.
3. Pricing proposal associated with completing inspections and specifications on a per property basis.
4. Experience in handling various housing types coupled with expertise in the following areas: Marketability in Weak Markets, Historic Preservation, Energy Retro Fits, and Green Technologies.
5. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of **ISSUER** staff will review qualifications in accordance with the evaluation criteria set forth herein and Michigan NSP2 Consortium objectives and policies. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to **INSERT EMAIL ADDRESS**.

SUBMITTAL DUE DATE

Responses to this RFP are due by **TIME** on **MONTH DAY, YEAR**. Responses to this RFP must be e-mailed to: **NAME, INSERT EMAIL ADDRESS**. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

NAME
ENTITY
ADDRESS
CITY, STATE ZIP

Bid Number: XXXX



Although MSHDA contractors designed and reviewed this document to meet NSP2 and federal regulations; this document has not received a full legal review by MSHDA for applicability, legality or compliance. MSHDA recommends that locality conducts such legal review before public use; Therefore, MSHDA is held harmless.

CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the “Respondent”), that the information provided in this RFP submittal to **ISSUER** is accurate and complete, and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

Bid Number: XXXX



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RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- Housing Inspection State License and or Certification
- Lead-based Paint Certification
- Evidence of Financial Stability
- References
- Conflict of Interest Statement & Supporting Documentation:
 - Description of Company
 - Capacity of Company
 - Pricing Proposal
 - Historic Preservation, Weak Markets Sales, Energy Retrofits, and Green Technologies
 - MBE/WBE, Local Hiring, HUD Section 3, if applicable
 - RFP Submittal Requirements Checklist

Bid Number: XXXX



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APPENDIX A: MAP AND BOUNDARIES OF NSP2 TARGET AREA

Insert NSP2 Target Area Map and Boundaries

Bid Number: XXXX



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City of CITY

Neighborhood Stabilization Program 2

Request for Qualifications: Professional Demolition Facilitator

BID NUMBER: XXXX

DATE ISSUED

As part of the Michigan NSP2 Consortium, a partnership between:

Michigan State Housing Development Authority

The City of ISSUER

ISSUER County Land Bank

Para una versión en Español, por favor llamar a NAME PHONE

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This sample document from Michigan Land Bank Fast Track Authority, Detroit, Michigan.



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This sample document from Michigan Land Bank Fast Track Authority, Detroit, Michigan.

Bid Number: **XXXX**



REQUEST FOR PROPOSALS – DEMOLITION/ DECONSTRUCTION CONTRACTORS

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by **ISSUER** in its capacity as manager of the Neighborhood Stabilization Program 2 (NSP2) for the City of **CITY and Land Bank**. The purpose of this notice is to solicit qualifications from a Professional Demolition Facilitator for demolition assistance for properties located in targeted neighborhoods and census tracts in the City of **CITY**. *See Appendix A – NSP2 Boundaries and Map*. Most of the parcels contain residential structures in abandoned and derelict condition. Demolition facilitation will also be required for a small number of commercial structures.

The Demolition Facilitator will assist the **ISSUER** in several organizational and management tasks associated with obtaining utility shutoffs, clearances, governmental clearances, and demolition permits. The Demolition Facilitator will hold environmental investigation and abatement contracts as well as a title research and clearance contract on behalf of the State of Michigan. The **ISSUER** will prepare, bid for, hold and manage the actual demolition contracts.

Companies with demonstrated experience in demolition preparation and facilitation of properties and with an interest in making their services available to **ISSUER** are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) and capable of providing the specified services. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

ISSUER is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises and has a goal for minimum MBE/WBE participation of at least **XX%** MBE and **XX%** WBE participation.

Nothing in this RFP shall be construed to create any legal obligation on the part of **ISSUER** or any respondents. **ISSUER** reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall **ISSUER** be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from **ISSUER** for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the **ISSUER**. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

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This sample document from Michigan Land Bank Fast Track Authority, Detroit, Michigan.

Bid Number: **XXXX**



The ISSUER follows LOCAL PROCUREMENT DEPARTMENT policies and procedures for procurement process. For further information on this requirement, contact the NAME, ADDRESS, CITY, STATE, phone PPP-PPP-PPPP; fax FFF-FFF-FFFF.

B. Time of Completion

The City must have secured commitments to demolish/deconstruct up to XX (XX) properties prior to DATE XXX.

C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up to 18 months, with the possibility of an extension. Compensation to be made on a per-property basis for residential structures, with additional requested services, general conditions, and reimbursable expenses compensated per the provisions of the attached sample Design and Construction Consultant Services contract. The contract will be made on the basis of ### residential structures scheduled for demolition and will be amended to include additional structures.

D. Background

Under the Recovery Act, Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. The Michigan State Housing Development Authority (MSHDA), as lead applicant, 12 city governments, and eight county land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative fund for MSHDA, Cities and Lands Banks to share.

The City of CITY received \$AWARDAMOUNT and the LBNAME Land Bank received \$AWARDAMOUNT for a total award amount of \$TOTALAWARDAMOUNT to assist the targeted census tracts in CITY.

E. Federal Regulations

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding Title XII of Division A of the American Recovery and Reinvestment Act of 2009, which is posted on

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP2 funds must be spent on specific eligible activities no later than February 10, 2013 and 50% of NSP2 funds must be spent no later than February 10, 2012.

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Bid Number: XXXX



PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

ISSUER seeks sealed proposals from qualified respondents to provide Demolition Facilitation services in compliance with NESHAP standards.

ISSUER is interested in facilitating the acquisition of vacant/foreclosed properties from various mortgage loan servicers and through the State of Michigan tax foreclosure process for the purpose of rehabilitation, new construction, and demolition to foster neighborhood stabilization. During the program period, which ends February 10, 2013, **ISSUER** anticipate up to **[INSERT NUMBER OF UNITS DEMOLISHED]** schedules demolitions of blighted structures. Further, **ISSUER** anticipates multiple requests within a short timeframe.

Scope of work will include, but not be limited to:

1. Obtain copies of **ISSUER** ownership and parcel documents and coordinate **ISSUER** parcels through each aspect of demolition preparation.
2. Hold a title research and clearance on behalf of the **ISSUER**.
3. Prepare “statutory worksheet” environmental review documents (24 CFR 58.5) for each parcel.
4. Locate properties on maps and compile lists of proposed demolitions within existing historic districts. Prepare Section 106 clearance information for all parcels.
5. Identify size of each residential structure for demolition, and identify which structures have basements.
6. If the property is safe for entry, hold a hazardous material investigation and abatement contract on behalf of the **ISSUER**. If property is unsafe for entry, request a Notification of Ordered Demolition for use in compliance with NESHAP.
7. Coordinate utility shutoffs and clearances for **ISSUER** parcels and correspond with utility companies and local municipalities, including water, gas and other clearances.
8. Track the status of shutoffs and clearances in a shared spreadsheet or database. Provide the billing information and recommend payments to the Land Bank to allow payment. Payment for utility shutoffs will be made by the Land Bank.
9. Prepare permit sketch plans from existing maps. Provide permit applications for **ISSUER**'s use.
10. Assist **ISSUER** in assembling information packages on each parcel with copies of permits, shutoffs. These packages will be provided to each demolition contractor.
11. Coordinate preparation and posting of required demolition notice on each structure.

B. Additional Requirements

This project will comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (MIOSHA, DNR, and DCH), and any other local regulations and standards that may apply.

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EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, ISSUER will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

A. Experience and Capacity

The point system is to evaluate the experience and capacity of the Respondent.

1. Respondents will be awarded up to 20 points for Experience in providing demolition services.
2. Respondents will be awarded up to 20 points for their Capacity to meet timelines. Consideration will be given to applicants who have familiarity with the area, including knowledge of and experience working with City Staff.
3. Respondents will be awarded up to 20 points for Pricing.
4. Respondents will be awarded up to 20 points for their experience in meeting MBE/WBE, City of CITY Local Hiring, Davis-Bacon, and HUD Section 3 requirements.
5. Innovation: Respondents will be awarded up to 20 points for their experience and proposed practices regarding the following:
 - Community hiring
 - Engaging community stakeholders and building effective community partnerships and collaborations
 - Utilizing local suppliers and retailers
 - Sustainability practices

EFFECTIVE SCHEDULE AND BUDGET MANAGEMENT THROUGHOUT THE DEMOLITION PROCESS SUBMITTAL REQUIREMENTS

RFP responses must be submitted **both** via hard copy and scanned e-mail copy sent to EMAILADDRESS. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. **Responses not submitted both via hard copy and e-mail will not be considered.** Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

ISSUER reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.

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2. A brief summary of the qualifications of the Respondent and team.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
4. The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
5. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest.

B. Threshold Requirements

These documents must be submitted and acceptable before **ISSUER** will review the Experience and Capacity proposal:

1. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000.
3. State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
4. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and **ISSUER** in determining the Respondent’s financial condition. **ISSUER** is seeking this information to ensure that the proposer’s have the financial stability and wherewithal to assure good faith performance.
5. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
6. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the **ISSUER**. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

C. Main Proposal

Please provide the following information:

1. Years of experience and detailed qualifications in facilitating demolition services on various property types in compliance with **NESHAP standards**, including team’s resumes. Past projects will be reviewed to determine if the respondent has successfully completed projects similar in nature

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This sample document from Michigan Land Bank Fast Track Authority, Detroit, Michigan.

and scope. Respondents should provide narrative examples of three (3) projects that are similar in nature to projects described in the RFQ.

2. Capacity to complete multiple demolitions within **a short period of time**.
3. Pricing proposal.
4. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of **ISSUER** staff will review qualifications in accordance with the evaluation criteria set forth herein and Michigan NSP2 Consortium objectives and policies. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to **INSERT EMAIL ADDRESS**.

SUBMITTAL DUE DATE

Responses to this RFP are due by **TIME** on **MONTH DAY, YEAR**. Responses to this RFP must be e-mailed to: **NAME, INSERT EMAIL ADDRESS**. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

NAME
ENTITY
ADDRESS
CITY, STATE ZIP

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Bid Number: XXXX



CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the “Respondent”), that the information provided in this RFP submittal to **ISSUER** is accurate and complete, and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

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Bid Number: **XXXX**



RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- State License and or Certification
- Evidence of Financial Stability
- 20XX Certificate to do Business with LOCAL GOVERNMENT ENTITY
- References
- Conflict of Interest Statement & Supporting Documentation:
 - Description of Company
 - Capacity of Company
 - Pricing Proposal
 - Historic Preservation, Weak Markets Sales, Energy Retrofits, and Green Technologies
 - MBE/WBE, Local Hiring, HUD Section 3, if applicable
- RFP Submittal Requirements Checklist

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Bid Number: XXXX



APPENDIX A: MAP AND BOUNDARIES OF NSP2 TARGET AREA

Insert NSP2 Target Area Map and Boundaries

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Bid Number: **XXXX**



City of CITY

Neighborhood Stabilization Program 2

Request for Qualifications: Demolition/ Deconstruction Contractors

BID NUMBER: XXXX

DATE ISSUED

As part of the Michigan NSP2 Consortium, a partnership between:

Michigan State Housing Development Authority

The City of ISSUER

ISSUER County Land Bank

Para una versión en Español, por favor llamar a NAME PHONE

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REQUEST FOR PROPOSALS – DEMOLITION/ DECONSTRUCTION CONTRACTORS

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by **ISSUER** in its capacity as manager of the Neighborhood Stabilization Program 2 (NSP2) for the City of **CITY and Land Bank**. The purpose of this notice is to solicit qualifications from Demolition/Deconstruction Contractors to create an official “Bidders List”. The Bidders List, as may be updated from time to time, will be used to solicit sealed bids for demolition services for deconstruction of properties located in targeted neighborhoods and census tracts in the City of **CITY**. *See Appendix A – NSP2 Boundaries and Map*

Deconstruction is defined as the systematic dismantling of a structure for the purpose of salvaging or recycling the maximum amount of materials to divert them from a landfill.

Companies with demonstrated experience in deconstructing properties and with an interest in making their services available to **ISSUER** are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) and capable of providing the specified services. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

ISSUER is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises and has a goal for minimum MBE/WBE participation of at least **XX%** MBE and **XX%** WBE participation.

Nothing in this RFP shall be construed to create any legal obligation on the part of **ISSUER** or any respondents. **ISSUER** reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall **ISSUER** be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from **ISSUER** for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the **ISSUER**. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

The **ISSUER** follows **LOCAL PROCUREMENT DEPARTMENT** policies and procedures for procurement process. For further information on this requirement, contact the NAME, ADDRESS, CITY, STATE, phone **PPP-PPP-PPPP**; fax **FFF-FFF-FFFF**.

B. Time of Completion

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The City must have secured commitments to demolish/deconstruct up to XX (XX) properties prior to DATE XXX.

C. Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up to 18 months, with the possibility of an extension. The contract will be made on the basis of a proposal for XX (XX) residential parcels. Additional residential structures will be awarded at the established unit price up to an upper limit of \$XXX,XXX. Depending on contractor performance, the contract will be amended to a new upper limit when the \$XXX,XXX limit is reached.

D. Background

Under the Recovery Act, Congress established the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned. NSP2 provides grants to states, local governments, nonprofits and a consortium of public and or private nonprofit entities on a competitive basis.

The Michigan NSP2 Consortium received \$223,875,339. The Michigan State Housing Development Authority (MSHDA), as lead applicant, 12 city governments, and eight county land banks will work together to remove blight, address vacancy and foreclosures, and reposition neighborhoods in targeted NSP2-eligible census tracts. MSHDA allocated \$201,487,805 to place properties back in productive use and \$22,387,534 in administrative fund for MSHDA, Cities and Lands Banks to share.

The City of CITY received \$AWARDAMOUNT and the LBNAME Land Bank received \$AWARDAMOUNT for a total award amount of \$TOTALAWARDAMOUNT to assist the targeted census tracts in CITY.

E. Federal Regulations

Award recipients implementing the Michigan NSP2 Consortium must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the May 4, 2009 of the Federal Register Notice [Docket No. FR-5321-N-01] regarding Title XII of Division A of the American Recovery and Reinvestment Act of 2009, which is posted on

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP2 funds must be spent on specific eligible activities no later than February 10, 2013 and 50% of NSP2 funds must be spent no later than February 10, 2012.

PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

ISSUER seeks sealed proposals from qualified respondents to provide Demolition, recycling, proper waste disposal, site protection, and site restoration for properties located in targeted neighborhoods and census tracts in the City of CITY. See Appendix A – NSP2 Boundaries and Map. Nearly all parcels contain abandoned and derelict residential structures. All structures on a parcel will be demolished,

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This sample document from Michigan Land Bank Fast Track Authority, Detroit, Michigan.

including garages and/or outbuildings. All footings and foundations are to be removed and the site backfilled, compacted, graded, and seeded. The contractors will provide a plan for deconstruction and/or recycling of demolished material.

Utility shutoffs will be arranged for by the State’s demolition facilitator consultant and paid by the **ISSUER**. Permits will be obtained through the **State of Michigan Department of Energy, Labor and Economic Growth OR LOCAL DEPARTMENT**, whichever applies.

Some structures will be treated as “ordered demolitions” since their condition prohibits safe entry. Others will be tested and abated by others prior to demolition. NESHAP compliance is mandatory.

Prospective demolition contractors must complete a qualifications questionnaire. This questionnaire will be reviewed by an Ad-Hoc Selection Committee and proposals will be requested from contractors with sufficient qualifications and experience at similar work.

ISSUER is interested in facilitating the acquisition of vacant/foreclosed properties from various mortgage loan servicers and through the State of Michigan tax foreclosure process for the purpose of rehabilitation, new construction, and demolition to foster neighborhood stabilization. During the program period, which ends February 10, 2013, **ISSUER** anticipate up to **[INSERT NUMBER OF DEMOLITIONS]** demolitions/deconstructions across the respective NSP2 areas. Further, **ISSUER** anticipates multiple requests within a short timeframe.

B. Additional Requirements

This project will comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (MIOSHA, DNR, and DCH), and any other local regulations and standards that may apply.

EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, **ISSUER** will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

A. Experience and Capacity

The point system is to evaluate the experience and capacity of the Respondent.

1. Respondents will be awarded up to 20 points for Experience in providing demolition services.
2. Respondents will be awarded up to 20 points for their Capacity to meet timelines. Consideration will be given to applicants who have familiarity with the area, including knowledge of and experience working with City Staff.
3. Respondents will be awarded up to 20 points for Pricing.
4. Respondents will be awarded up to 20 points for their experience in meeting MBE/WBE, City of **CITY** Local Hiring, Davis-Bacon, and HUD Section 3 requirements.
5. Innovation: Respondents will be awarded up to 20 points for their experience and proposed practices regarding the following:
 - Community hiring

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- Engaging community stakeholders and building effective community partnerships and collaborations
- Utilizing local suppliers and retailers
- Sustainability practices
- Effective schedule and budget management throughout the demolition process

SUBMITTAL REQUIREMENTS

RFP responses must be submitted **both** via hard copy and scanned e-mail copy sent to **EMAILADDRESS**. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. **Responses not submitted both via hard copy and e-mail will not be considered.** Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

ISSUER reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.
2. A brief summary of the qualifications of the Respondent and team.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
 - The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
4. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest

B. Threshold Requirements

These documents must be submitted and acceptable before **ISSUER** will review the Experience and Capacity proposal:

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1. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000.
3. State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
4. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and **ISSUER** in determining the Respondent's financial condition. **ISSUER** is seeking this information to ensure that the proposer's have the financial stability and wherewithal to assure good faith performance.
5. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project.
6. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the **ISSUER**. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.

C. Main Proposal

Please provide the following information:

1. Years of experience and detailed qualifications in performing the range of demolition services on various property types in compliance with **NESHAP standards**, including team's resumes. Past projects will be reviewed to determine if the respondent has successfully completed projects similar in nature and scope. Respondents should provide narrative examples of three (3) projects that are similar in nature to projects described in the RFQ.
2. Capacity to complete multiple demolitions within **a short period of time**.
3. Pricing proposal. The contractor should show the new cost to the **ISSUER** after consideration for any recycled materials. New cost the **ISSUER** will include all labor and materials needed to complete the work. Labor will include payments of prevailing wage rates as determined by the Department of Labor and Industries. The Contractor will sign a fixed price contract to include all work and services.
4. Plan for deconstruction and /or recycling of demolished materials in a timely manner.
5. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of **ISSUER** staff will review qualifications in accordance with the evaluation criteria set forth herein and Michigan NSP2 Consortium objectives and policies. Proposals

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that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to **INSERT EMAIL ADDRESS**.

SUBMITTAL DUE DATE

Responses to this RFP are due by **TIME** on **MONTH DAY, YEAR**. Responses to this RFP must be e-mailed to: **NAME, INSERT EMAIL ADDRESS**. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

NAME
ENTITY
ADDRESS
CITY, STATE ZIP

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Bid Number: XXXX



CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the “Respondent”), that the information provided in this RFP submittal to **ISSUER** is accurate and complete, and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

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Bid Number: **XXXX**



RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- State License and or Certification
- Evidence of Financial Stability
- 20XX Certificate to do Business with LOCAL GOVERNMENT ENTITY
- References
- Conflict of Interest Statement & Supporting Documentation:
- Description of Company
- Capacity of Company
- Pricing Proposal
- Historic Preservation, Weak Markets Sales, Energy Retrofits, and Green Technologies
- MBE/WBE, Local Hiring, HUD Section 3, if applicable
- RFP Submittal Requirements Checklist

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Bid Number: XXXX



APPENDIX A: MAP AND BOUNDARIES OF NSP2 TARGET AREA

Insert NSP2 Target Area Map and Boundaries

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Bid Number: XXXX





MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

NEIGHBORHOOD STABILIZATION AND REDEVELOPMENT PLANNING AND MARKET ANALYSIS MODULE

TABLE OF CONTENTS – DECEMBER 14, 2010

-  PARCEL SURVEY SHEET – PROPERTY CONDITION

-  SAMPLE EXISTING CONDITIONS MAP

DATE: _____ SURVEYOR: _____ PAGE #: _____

Address	_____				Targeted Block:	YES	NO
Block Type:	Stabilization/Tipping Point (0-20% Blighted)		Revitalization Area (20-70% Blighted)				
	Redevelopment Area (70-100% Blighted)						
Property Type:	Vacant Lot	Single Family	Duplexes (2-4 Unit)				
	Multi-family (5+ Units)	Mixed Use	Commercial				
	Industrial	Institutional	Other _____				
Existing/Prior Use*:	Residential	Mixed Use	Commercial	Institutional	Industrial		
*If Lot, guess prior use	Side Lot to Adjacent Address, which is: _____			Other: _____			
Condition:	Habitable	Significant Rehab	Blighted	Vacant Lot			
Occupancy:	Vacant	Occupied					
Circle if the property is any of the following:							
Problem Property	Rooming House	Architectural Significance	Arson / Burn Out				
If any circled, describe: _____							
Estimated # Units:	_____	Notes/Business Name: _____					
Front View Photo # on camera:	_____	Rear Photo # on camera: _____					

Address	_____				Targeted Block:	YES	NO
Block Type:	Stabilization/Tipping Point (0-20% Blighted)		Revitalization Area (20-70% Blighted)				
	Redevelopment Area (70-100% Blighted)						
Property Type:	Vacant Lot	Single Family	Duplexes (2-4 Unit)				
	Multi-family (5+ Units)	Mixed Use	Commercial				
	Industrial	Institutional	Other _____				
Existing/Prior Use*:	Residential	Mixed Use	Commercial	Institutional	Industrial		
*If Lot, guess prior use	Side Lot to Adjacent Address, which is: _____			Other: _____			
Condition:	Habitable	Significant Rehab	Blighted	Vacant Lot			
Occupancy:	Vacant	Occupied					
Circle if the property is any of the following:							
Problem Property	Rooming House	Architectural Significance	Arson / Burn Out				
If any circled, describe: _____							
Estimated # Units:	_____	Notes/Business Name: _____					
Front View Photo # on camera:	_____	Rear Photo # on camera: _____					

Phase 3

Phase 1



S Jefferson Ave

Owen St

Cherry St

Businesses and Institutions:
 Long Fellow Elementary School
 Green House Gathering Place
 Saginaw County Youth Protection

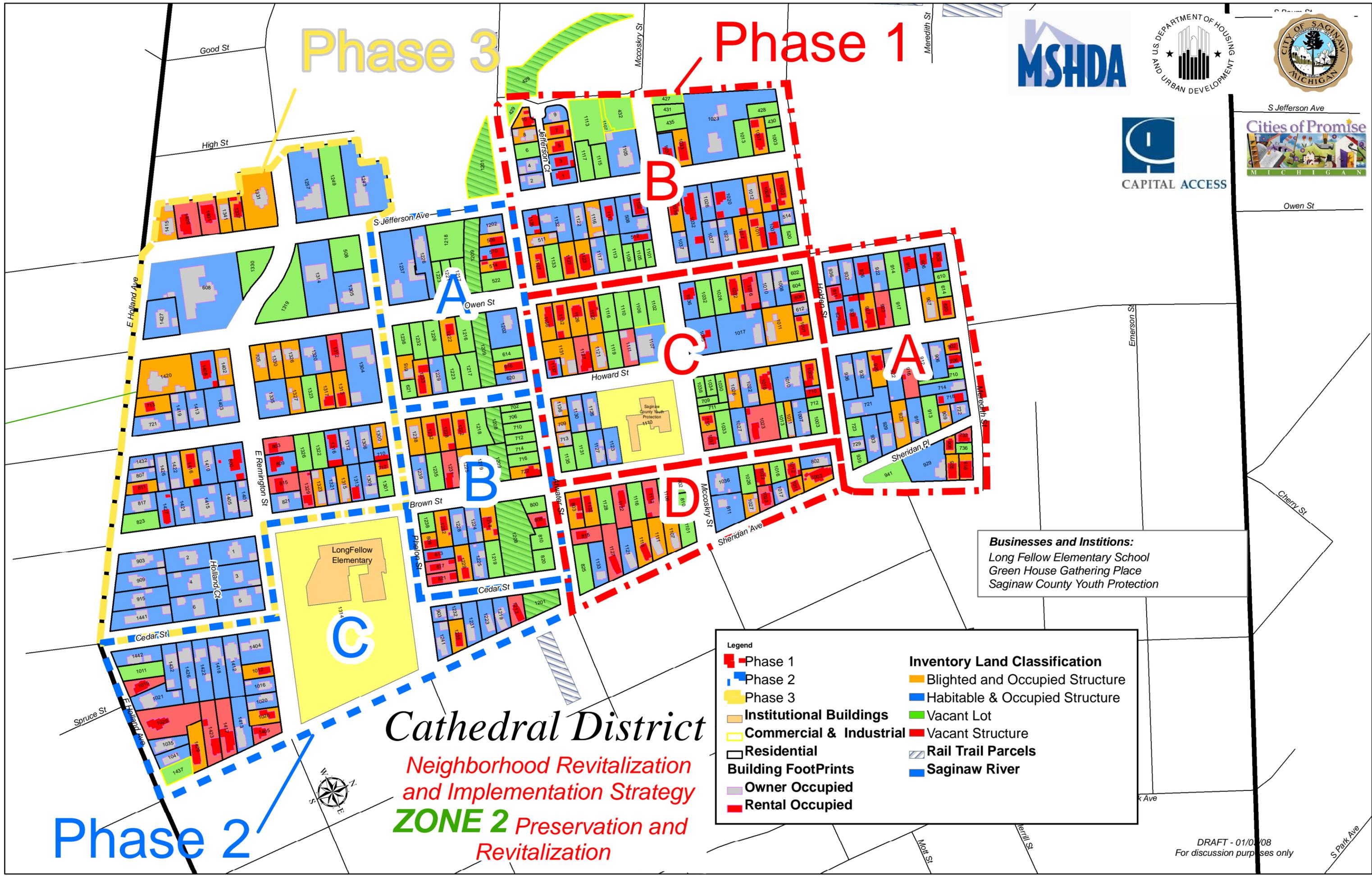
Cathedral District

Neighborhood Revitalization and Implementation Strategy

ZONE 2 Preservation and Revitalization

Legend		Inventory Land Classification	
	Phase 1		Blighted and Occupied Structure
	Phase 2		Habitable & Occupied Structure
	Phase 3		Vacant Lot
	Institutional Buildings		Vacant Structure
	Commercial & Industrial		Rail Trail Parcels
	Residential		Saginaw River
	Owner Occupied		
	Rental Occupied		

Phase 2



MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

ACQUISITION MODULE

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2. Tax Assessor Certification of True Estimated Cash Value, based on State Equalized Value.
3. Sample URA Voluntary Acquisition Document
4. General NSP2 Guidelines for Acquisition
5. NSP2 Documentation Requirements of Foreclosed and Abandoned Properties
6. NSP Tenant Protections at Foreclosure Under the Recovery Act
7. Questionnaire on Compliance with NSP Tenant Protection Requirements Under the Recovery Act
8. Environmental Review Project Checklist for Michigan NSP2 Consortium Sites
9. Conditional Commitment of Federal Funds prior to Environmental Release of Funds
10. Legal Status of a County Land Bank Authority
11. SHPO Consultation Form - NSP2 Acquisition

☆ CITY AND LAND BANK ACQUISITION FLOW CHART

x ACQUISITION FEASIBILITY AND DUE DILIGENCE ANALYSIS TOOL

ACQUISITION DUE DILIGENCE AND FILE CHECKLIST

MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

ACQUISITION MODULE

❶ ACQUISITION POLICY AND PROCEDURES ❶

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I. INTRODUCTION

This Chapter provides NSP2 policy and guidance within the context of how members of the Michigan NSP2 Consortium may acquire NSP2-eligible property, specifically:

- Mortgage Foreclosed
- Tax Foreclosed
- Abandoned
- Vacant or Demolished

MSHDA will work with Cities and Land Banks to ensure their acquisitions comply with regulations, but also allow Cities and Land Banks to compete with private investors in the mortgage and tax foreclosure process.

A. Key Terms

Abandoned: A home or residential property is abandoned if either a) mortgage, tribal, leasehold, or tax payments are at least 90 days delinquent, or b) a code enforcement inspection has determined that property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or c) the property is subject to a court-ordered receivership or nuisance abatement related abandonment pursuant to state or local law or otherwise meets a state definition of an abandoned home or residential property.

Appraisal: NSP-assisted acquisitions of foreclosed upon homes valued at or more than \$25,000 require appraisals that meet the URA appraisal requirements of 49 CFR 24.102 (even in cases of voluntary acquisitions.) *See attached “Guidance on NSP Appraisals – Voluntary Acquisitions”*

April 9, 2010: MSHDA received the NSP2 Release of Funds from HUD on April 9, 2010. Grantees, therefore, may conduct their site-specific Environmental Review for identified projects using their local process. Any property acquired prior to April 9, 2010 is not eligible to be reimbursed for acquisition, but NSP2 funds may be used to rehabilitate, redevelop, demolish or land bank such properties. If the property is sold, the grantee may use proceeds of sale to recoup documented expenses they incurred at acquisition. (This will reduce their Program Income.)

Bona Fide Lease or Tenancy: A lease or tenancy shall be considered bona fide only if:

- Mortgagor under the contract is not the tenant
- Lease or tenancy was the result of an arm’s length transaction
- Lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property
- Lease does not have to be written, but the lease or tenancy must meet the requirements of ARRA

Deed in Lieu of Foreclosure: A Deed in Lieu of foreclosure is a disposition option in which a mortgagor voluntarily deeds collateral property in exchange for a release from all obligations under the mortgage. If the grantee can document that the mortgagor was at least 60 days delinquent at the time that the lender took title, then residential property and homes that were transferred via a deed in lieu of foreclosure could be considered “foreclosed.”

Delinquency Status: The new definition of foreclosed applies the term “current delinquency status.” This indicates the number of days (e.g. 30, 60, 90) the borrower is contractually past due. Grantees will use the Mortgage Bank Association (MBA) Delinquency Calculation Method to determine the current delinquency status of a mortgage. Under the MBA method, a loan would be considered delinquent if the payment had not been received by the end of the day immediately preceding the loan’s next due date

(generally the last day of the month which the payment was due). Using the example above, a loan with a due date of August 1, 2009, with no payment received by the close of business on August 31, 2009, would have been reported as delinquent in September. From September 1 to September 30, 2009, the mortgage's current delinquency status would be 30 days. On October 1, 2009, the mortgage's current delinquency status would become 60 days and, therefore, be "foreclosed" as defined by NSP2.

Fair Market Value (FMV): An estimate of the market value of a property, based on what a knowledgeable, willing, and unpressured buyer would probably pay to a knowledgeable, willing, and unpressured seller in the real estate market. For the purposes of NSP2, FMV is based on property type and method of valuation:

- **Foreclosed: URA-compliant As-is Appraisal documenting current market-appraised value**
- Abandoned, vacant or demolished: Documentation citing reasonableness

Foreclosed: A home or residential property has been foreclosed upon if any of the following conditions apply: a) the property's current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or b) the property owner is 90 days or more delinquent on tax payments, or c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed, or d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not as NSP grantee, subrecipient, contractor, developer, or end user.

Initial Successor in Interest (ISII): ISII in property acquired through foreclosure is the successful purchaser at foreclosure, such as the lender or trustee for holders of obligations secured by mortgage or tax liens. The County Treasurer is the ISII for tax foreclosed property. The Lender is the ISII for mortgage foreclosed property. The Grantee is the ISII for foreclosed property acquired through short sale.

Minimum Bid: Amount of delinquent taxes, penalties and fees, administrative costs or sale in Michigan Tax Foreclosure Statutory Auction Process.

Mortgagee: Lender of the mortgage loan.

Mortgagor: Borrower of the mortgage loan and owner of the property.

Notice of Foreclosure: Under the Frank Dodd Act that allocated funds for Neighborhood Stabilization Program 3 (NSP3), they clarified the definition of Notice of Foreclosure regarding Tenant Protections. The date of a Notice of Foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

Purchase Discount: Each foreclosed-upon home or residential property shall be purchased at a discount of at least one percent from the current market-appraised value of the home or property.

Real Estate-owned (REO): Property owned by a bank or lender as the result of a foreclosure.

Reasonable Transaction Costs: Costs that may be paid for with NSP2 that are necessary to effect the acquisition or conveyance that include the cost of surveys to identify the property to be acquired or conveyed, appraisals, preparation of legal documents, recordation fees, and other reasonable and necessary costs.

Short Sale: A short sales involves a sale of real property in which a lender agrees to accept the proceeds of sale in satisfaction of an outstanding mortgage loan when the sale amount is less than the amount the borrower owes on the loan. Note that the lender's acceptance of the offered short sale price may not release the mortgagor from all other obligations.

State Equalized Value (SEV): One half (1/2) of your property's true cash value based on a valuation of the County Tax Assessor.

Statutory Auction Process: After the title has transferred to the Foreclosing Governmental Unit, often the County Treasurer, the Statutory Auction Process begins and grantees are then eligible to acquire tax foreclosed property. The Statutory Auction Process has four phases:

- Right of First Refusal – Exercised by State, City and County (in that order) by first Tuesday in July.
- First Public Auction – Managed by County Treasurer in July, August or September, depending on County.
- Second Government Opportunity – City and County receive second chance to acquire property that did not sell at public auction. State does not get second chance.
- Second Public Auction – Managed by County Treasurer and held at least a month after first auction but prior to November. There is no minimum bid, but County Treasurer may establish a reasonable opening bid to recover costs.
- Remaining Properties – County Treasurer conveys property not sold in auctions to City, but City can object to transfer of one or more properties in writing by December 30. County Treasurer retains possession of all non-conveyed properties.

URA Tenant Protections: ARRA imposes requirements on NSP2 grantees to ensure that bona fide tenants in certain foreclosed and NSP2 targeted property receive proper treatment, i.e. receiving proper notification of foreclosure, time and notice to vacate, and, if applicable, URA relocation assistance.

URA Voluntary Acquisition: NSP2-assisted acquisitions are expected to be “voluntary” and must comply with requirements specifically set out at 49 CFR 24.101(b). (*See Sample URA Voluntary Acquisition Document*). The requirements of 48 CFR 24.101(b) are as follows:

1. 24.101(b)(1) Agencies with eminent domain authority, but will not use: Must meet all conditions of 24.101(b)(1)(i)-(iv), especially (i) & (ii), which are the following:
 - a). Agency will not acquire property if negotiations fail, and owner is so informed in writing (24.101 (b)(1)(iii))
 - b). Agency informs in writing of property’s estimated market value (24.101(b)(iv))
 - c). Owner(s) and owner occupants not eligible for relocation assistance, but displaced tenants may be eligible (24.2(a)(9)(ii))
 - d). URA Voluntary Acquisition Letter for those with powers of eminent domain will be presented and certified by Seller
2. 24.101(b)(2) Agencies or persons without eminent domain authority: Must meet all of the following conditions:
 - e). Prior to offer, inform owner unable to acquire if negotiations fail (24.101 (b)(2)(i))
 - f). Inform owner of property’s estimated market value (24.101(b)(2)(ii))
 - g). Owner(s) and owner occupants not eligible for relocation assistance, but displaced tenants may be eligible (24.2(a)(9)(ii))
3. 24.101(b)(3) Federal agency, State, or State agency without eminent domain authority:
 - h). Owner(s) and owner occupants not eligible for relocation assistance/displaced tenants may be eligible (24.2(a)(9)(ii))

II. GENERAL GUIDELINES FOR NSP2 ACQUISITIONS

HUD has several requirements for NSP2 acquisitions to be compliant, that include, but are not limited to:

- 1% Purchase Discount for Foreclosed Property based on current market-appraised value
- Zoning to determine Residential or Non-residential Property

- Appraisal Requirements of Foreclosed Property
- Tenant Protections of Foreclosed Property
- Environmental Review

The attached matrix “*General NSP2 Policy Guidelines for Acquisition*” seeks to clarify the requirements of properties by NSP2 Eligible Use, Property Type and Acquisition Due Diligence.

A. Abandoned or Foreclosed: Which Is It?

In April 2010, HUD updated the definitions of “Foreclosed and Abandoned.” When both definitions are met, HUD is requiring that grantees follow the “stricter of the two.” Foreclosed has more stringent due diligence, such as tenant protections, purchase discount and appraisal requirements, and, therefore, is “stricter of the two.” Grantees should categorize a property that is both “abandoned” and “foreclosed” as “foreclosed.” The matrix below assists with determining foreclosure status and necessary due diligence:

Status of Property	Foreclosed Definition	Abandoned Definition	Which is it?
Mortgage payments 90 days or more delinquent	Meets definition: “The property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and owner has been notified of this delinquency	Meets definition: “Mortgage, tribal, leasehold, or tax payments are at least 90 days delinquent”	Foreclosed
County foreclosed on property and, therefore, tax payments are 90 days or more delinquent	Meets the following definitions: <ul style="list-style-type: none"> • Property owner is 90 days or more delinquent on tax payments, • Under state, local, or tribal law, foreclosure proceedings have been initiated or completed, • Foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not as NSP grantee, subrecipient, contractor, developer, or end user. 	Meets definition: “Mortgage, tribal, leasehold, or tax payments are at least 90 days delinquent”	Foreclosed
Tax payments 90 days or more delinquent 90 days or more with no corrective action on code enforcement inspection	Meets the following definition: <ul style="list-style-type: none"> • Property owner is 90 days or more delinquent on tax payments, 	Meets definition: “Code enforcement inspection determines property is not habitable and owner has taken no corrective action within 90 days of notification of the deficiencies”	Foreclosed

Refer to “*NSP2 Documentation Requirements of Foreclosed and Abandoned Properties*” for assistance with documenting the foreclosure status of targeted NSP2 property for acquisition

B. Tenant Protections

NSP tenant protection requirements under ARRA affect acquisitions of foreclosed properties under the NSP2 program and specifically those properties that were foreclosed and title was transferred after

February 17, 2009. Grantees may use the following methods to determine compliance with the NSP tenant protection requirements under ARRA.

Summary of NSP Tenant Protection Requirements Under ARRA		
Persons Affected	Any bona fide tenant occupying certain residential property under a lease in effect on or before the date of notice of foreclosure	Any bona fide tenant occupying certain residential property without a lease or with a lease terminable at will under state law at the time of foreclosures
Implications	Initial successor in interest (ISII) must allow such tenants to remain to end of the lease term* and provide a minimum 90 days notice to vacate. These periods may overlap but cannot be less than 90 days	ISII must provide such tenants a minimum 90 days notice to vacate.
Exception	*An ISII selling the property to a person occupying the home as the primary place of residence MAY terminate the lease, but MUST allow at least 90 days to vacate.	

NSP Tenant Protections are separate and apart from the obligations imposed on grantees by the URA and do not supersede or affect in any way protections available to property owners or tenants under the URA. URA applies to any person displaced as a direct result of acquisition for rehabilitation and/or demolition of real property for a federally-assisted project. Eligibility determinations under the URA and the required notices and relocation assistance requirements are separate and distinct from the NSP tenant protections in ARRA. ***(In the near future, MSHDA will publish guidance on Uniform Relocation Act Policy and Procedures.)*** Any tenant lawfully occupying the property evicted by the owner/mortgagor in order to facilitate an acquisition under the NSP program (including short sales) is most likely eligible for URA relocation assistance and payments as a displaced person.

Under the Frank Dodd Act that allocated funds for Neighborhood Stabilization Program 3 (NSP3), they clarified the definition of Notice of Foreclosure regarding Tenant Protections. The **Date of a Notice of Foreclosure** shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

For strategies on how to comply with URA Tenant Protections, *see “NSP Tenant Protections at Foreclosure under the Recovery Act,”* HUD Policy Guidance on NSP Tenant Protections. HUD also requires grantees to complete the Tenant Protections Checklist for all targeted properties for acquisition. *(See “Questionnaire on Compliance with NSP Tenant Protection Requirements under ARRA”)*

C. Appraisal Requirements

The following NSP2 properties must meet the following appraisal, valuation or reasonableness criteria:

Property Type/Foreclosure Status	Appraisal Requirement	Documentation
Foreclosed, residential property with an estimated fair market value at or exceeding \$25,000	URA-compliant As-is Appraisal conducted within 60 days prior to entering purchase agreement If Appraisal older than 60 days, then request an Appraisal Update	Appraisal Update (as applicable)

Foreclosed, residential property with an estimated fair market value below \$25,000	Market-appraised value of the home or property is required. If Appraisal older than 60 days, then request an Appraisal Update	Appraisal Update (as applicable)
Abandoned, residential property	Market valuation to demonstrate reasonable purchase price.	No appraisal required, but documentation demonstrating reasonableness, MLS listing or doubling SEV Tax.
Vacant or demolished property as defined under Eligible Use E	Market valuation to demonstrate reasonable purchase price.	No appraisal required, but documentation demonstrating reasonableness, e.g. MLS listing or doubling SEV tax.

D. Purchase Discount

The 1% Purchase Discount is required for all foreclosed property acquired with NSP2 funds. Documentation verifying that each foreclosed-upon home or residential property is purchased at a one percent discount from the current market-appraised value of the home or property is required. It is not required for properties that are abandoned or “vacant or demolished” per the definitions provided by HUD and those acquired as “vacant or demolished” under “Eligible Use E – Redevelopment of vacant or demolished property as housing.”

Tax Foreclosed Property that will be acquired annually during the Tax Reversion Statutory Auction Process from April 9, 2010 through February 10, 2013 will also need to meet the 1% Purchase Discount.

See the matrix “NSP2 Scenarios” on potential ways to acquire property to meet the discount through the Statutory Auction Process with NSP2 funds.

E. Meeting the 25% Low-income Set-aside Requirement

HUD requires that each NSP2 grantee expend 25% of their total award to provide housing for households earning at or below 50% AMI.

The Dodd-Frank Act struck language that specified that funds meeting the 25 percent requirement must be used specifically for the purchase and redevelopment of abandoned and foreclosed homes or residential properties. This means that any NSP2 eligible activity used to house individuals or families at or below 50 percent AMI may be used to satisfy this requirement.

III. FEDERAL CROSS-CUTTING REGULATIONS FOR ACQUISITION

A. Uniform Relocation Act

The tenant protection requirements in the Recovery Act are separate and apart from the obligations imposed on grantees by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). The URA applies to any person displaced as a direct result of acquisition for rehabilitation and/or demolition of real property for a Federal or federally-assisted project. Eligibility determinations under the URA and the required notices and relocation assistance requirements are different and separate from the tenant protections in the Recovery Act. Grantees cannot assume that a person entitled to the tenant protections under the Recovery Act is also eligible for assistance under the URA (or vice versa). MSHDA will provide further guidance on URA at a later date.

MSHDA recommends that local grantees only acquire property that is vacant. In the event that local grantee seeks to acquire an occupied property, they should contact MSHDA to discuss the project before proceeding.

B. Environmental Risk Assessment

1. Lead-based Paint

As part of the NSP2 requirements, local grantees are required to certify and ensure that their activities comply with the same lead regulatory requirements that apply to Community Block Grant Development programs. These requirements are in the Lead Disclosure Rule (24 CFR part 35, subpart A), and the Lead Safe Housing Rule's provisions for rehabilitation (subpart J), and for acquisition, leasing, support services, or operation (subpart K), and the accompanying procedural requirements in subparts B and R.

Local grantees need to complete an Environmental Risk Assessment for Lead-based Paint on the NSP2-funded activities or projects when the planned end use is:

- Rehabilitation of Rental and Homebuyer Housing Units
- Deconstruction of Blighted Structures

For activities or projects where the end use is Demolition of Blighted Structures, no Environmental Risk Assessment is required to meet compliance.

For more information regarding compliance with the Lead rules, visit the OHHLHC's web site at: www.hud.gov/offices/lead/enforcement/regulations.cfm. MSHDA will provide further guidance on lead-based paint at a later date.

2. Asbestos

DEQ's NESHAP requirements for asbestos may apply to residential activities, depending on the type of activity. All consortium partners must contact the Michigan NESHAP Program for asbestos notification and reporting requirements: http://www.michigan.gov/deq/0,1607,7-135-3310_4106-11856--,00.html

C. Environmental Review Checklist

The environmental review process for NSP2 projects follows the existing guidance outlined at 24 CFR Part 58, Environmental Review Procedures for Entities assuming HUD Environmental Responsibilities.

Local grantees shall not undertake any NSP2 activities until it has been environmentally cleared – and therefore they **must not** expend any public or private funds (HUD, other Federal, or non-Federal funds) or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. If a local grantee uses any portion of Federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before completing the environmental review process, then HUD will require the denial of any Federal funds for that project.

1. Structure of the Environmental Review for NSP2

Since local grantees will not be able to identify immediately specific project sites at the beginning of the program period, a *tiered environmental review* (24 CFR 58.15) will be the most effective way to organize environmental compliance.

A tiered environmental review consists of two distinct steps:

- General Tier 1 Review

MSHDA conducted the Tier 1 environmental review, which involves a broad analysis of relevant, general environmental conditions in the NSP2 eligible census tracts. The Tier 1 also provides structure for the Tier 2 review by establishing procedures for site-specific environmental compliance. **MSHDA received Release of Funds effective April 9, 2010 from HUD.**

- Site Specific Tier 2 Review

The Tier 2 review focuses on site-specific environmental conditions that cannot be adequately evaluated at the Tier 1 level. Local grantees will complete the Tier 2 site-specific reviews and do the following:

- a). Complete the “*Environmental Review Project Checklist for Michigan NSP2 Consortium Sites*” (see **Attached**) for site-specific clearance to comply with Phase II of the NSP2 Environmental Assessment.
- b). If all the answers to the following questions are **no**, then this project is cleared from further environmental action.
- c). However, if you answer **yes** to any of the following, additional compliance requirements must be met and actions documented. Attach comments and rationale for actions taken and letters, permits, or other documentation signed by the regulating agency to show compliance requirements have been met.

2. Conditional Commitment of Funds

Local grantee cannot commit any funds to this project until all environmental procedures are completed and documented. However, responsible entities may provide a **conditional commitment of funds** for a specific project, pending environmental clearance, *provided* the conditional commitment does not provide the state recipient, subrecipient or contractor any legal claim to any amount of Federal funds to be used for the specific project or site unless and until the site has received environmental clearance. The language found in “*Conditional Commitment of Federal Funds prior to Environmental Release of*

Funds, HUD CPD 01-11” (see attached) is acceptable to include in an otherwise appropriately drafted purchase agreement.

D. SHPO Review and Clearance

HUD requires a site-specific environmental review be performed on every property prior to expending grant dollars on that site. Part 58 Environmental Review regulations require aggregation, meaning the Environmental Review takes into account the entire scope of work to be performed, including the rehabilitation or development of the site.

MSHDA strongly discourages deviations from the Environmental Review process required by HUD.

Consultation with the State Historic Preservation Office (SHPO) is one piece of the federally required Part 58 Environmental Review process. SHPO has announced that Land Banks are NOT required to consult with SHPO prior to the **acquisition** of foreclosed residential properties since the act of acquiring and land banking property has no adverse affect on the property. However, this does NOT remove the obligation to meet environmental review process for properties that will result in rehabilitation, demolition, or other potentially adverse affects.

To accommodate SHPO’s decision, MSHDA is amending the SHPO Consultation Form to allow **LAND BANKS** to indicate that NSP2 will be used to acquire and hold foreclosed residential properties without consulting SHPO.

Many Land Banks are planning to apply SHPO’s decision to the purchase of foreclosed residential properties they will transfer to their consortium partner who will demolish and/or redevelop. Land Banks will acquire these properties without SHPO consultation and then transfer the property to their consortium partner who will then consult with SHPO prior to redevelopment of the site.

MSHDA strongly advises grantees to consult SHPO regarding the full scope of the work PRIOR to acquiring property. Absent the SHPO approval/guidance on the full scope of the planned redevelopment grantees can not officially complete the Environmental Review Process, and are unable to determine if the project is economically viable.

Reminder: Each NSP2 grant budget contains a line item for “Activity Delivery Costs for Infeasible Activities”. This line item should be used to cover costs incurred by grantee staff to perform due diligence on sites that are then deemed infeasible. NOTE: Acquisition costs cannot be charged against this line item.

MSHDA realizes that some grantees are confident that the properties they acquire and transfer will result in the completion of an NSP2 eligible activity and are willing to accept the risks. Therefore, the SHPO Consultation Form will include an option for **LAND BANKS** to indicate that they will acquire without SHPO consultation and transfer the property to their consortium partner for redevelopment. The form must be signed by BOTH the Land Bank and their Consortium Partner indicating their understanding and acceptance of the risks (as follows).

IF the Land Bank uses NSP2 to acquire property with the intent to transfer it to their consortium partner to demolish or redevelop, one of three things will happen:

1. The property will be redeveloped as planned and result in an eligible end use.
2. The property is NOT redeveloped as planned and is transferred back to the Land Bank for future redevelopment (within 10 years). If NSP2 dollars were used to acquire under “B – Redevelopment of Abandoned/Foreclosed Property, those dollars would need to be returned to “B” and instead drawn from “C – Land Banking”.

3. If the property is NOT redeveloped as planned and the Land Bank opts **NOT** to take back the property for future redevelopment, ALL NSP2 dollars expended by ALL parties will be repaid to MSHDA. This includes the dollars the Land Bank used to acquire the property.

In the near future, MSHDA will publish instructions regarding the completion and review of the SHPO Consultation Form. *(See attached “SHPO Consultation Form.”)*

IV. ELIGIBLE PROPERTY TYPES AND PREVIOUS OWNERSHIP

The Michigan NSP2 Consortium received HUD Release of Funds on April 9, 2010. This means NSP2 funds may be used to acquire any property after April 9, 2010 that meets NSP2 eligible property definitions and due diligence requirements. The definitions and due diligence requirements are found in the matrix outlining “General NSP2 Policy Guidelines for Acquisition”.

The eligibility of property acquired **prior to April 9, 2010** depends on the foreclosure status and current owner. This outlines guidelines and policy on how to assess property acquired prior to April 9, 2010 and considers the following property types:

- Tax Foreclosed
- Mortgage Foreclosed
- Vacant or Demolished

A. Acquired a Foreclosed Property on or after April 9, 2010

Grantees should use the following matrix to determine the eligibility of property acquired on or after April 9, 2010 and assume that all property is vacant.

Property Type	Current Ownership	End Use	NSP2 Eligible Uses	Eligible Costs
Tax Foreclosed	City or Land Bank	Rehabilitate House for Sale or Rental*	Use B – Purchase, Rehab and Preserve	<u>Use B</u> - 100% financing of costs for all total development costs
Tax Foreclosed	City or Land Bank	Land Banking for Future Redevelopment	Use C – Land Banking	<u>Use C</u> - 100% financing for all costs for acquisition and land bank maintenance
Mortgage Foreclosed	City or Land Bank	Rehabilitate House for Sale or Rental*	Use B – Purchase, Rehab and Preserve	<u>Use B</u> - 100% financing of costs for all total development costs
Mortgage Foreclosed	City or Land Bank	Land Banking for Future Redevelopment	Use C – Land Banking	<u>Use C</u> - 100% financing for all costs for acquisition and land bank maintenance

Mortgage or Tax Foreclosed	For-profit or non-profit with grantee NSP2 agreement	Rehabilitate House for Sale or Rental*	Use B – Purchase, Rehab and Preserve	<u>Use B</u> - 100% financing of costs for all total development costs
Mortgage or Tax Foreclosed	For-profit or non-profit with grantee NSP2 agreement	Land Banking for Future Redevelopment	Use C – Land Banking	<u>Use C</u> - 100% financing for all costs for acquisition and land bank maintenance
Mortgage or Tax Foreclosed	For-profit or non-profit that does <u>not have</u> an NSP2 agreement with grantee	Housing for Sale or Rental	Use E – Redevelop vacant or demolished property as housing**	100% financing of costs for all total development costs

**Loses foreclosure status and, therefore, categorized as “vacant or demolished”

B. Acquired Foreclosed Property prior to April 9, 2010

Grantees should use following matrix to determine the eligibility of property acquired before April 9, 2010 and assume that all property is vacant.

Property Type	Current Ownership	End Use	NSP2 Eligible Uses	Eligible Costs
Tax Foreclosed prior to April 9, 2010	City or Land Bank	Rehabilitate House for Sale or Rental*	Use B – Rehab and Preserve	No reimbursement for acquisition, except reasonable transaction costs if City conveys to Land Bank of visa versa 100% costs for rehabilitation 100% costs for land bank maintenance
Tax Foreclosed prior to April 9, 2010	City or Land Bank	Land Banking for Future Redevelopment	Use C – Land Banking	No reimbursement for acquisition, except reasonable transaction costs if City conveys to Land Bank or visa versa 100% costs for land bank maintenance
Tax Foreclosed prior to April 9, 2010	For-profit or non-profit acquired it during a tax foreclosure sale	Housing for Sale or Rental	Use E – Redevelop vacant or demolished property as housing**	No reimbursement for acquisition, except reasonable transaction costs if Entity conveys to City or Land Bank 100% costs for redevelopment
Mortgage Foreclosed and acquired prior to April 9, 2010	City of Land Bank	Housing for Sale or Rental	Use E – Redevelop vacant or demolished property as housing**	No reimbursement for acquisition, except reasonable transaction costs if City conveys to Land Bank or visa versa 100% costs for redevelopment
Mortgage Foreclosed and acquired prior to April 9, 2010	For-profit or non-profit acquired	Housing for Sale or Rental	Use E – Redevelop vacant or demolished property as housing**	No reimbursement for acquisition, except reasonable transaction costs if Entity conveys to City or Land Bank 100% costs for redevelopment

**Loses foreclosure status and, therefore, categorized as “vacant or demolished”

V. REQUIREMENTS OF ACQUISITION ANALYSIS TOOL

For a City or Land Bank to receive an advance or be reimbursed for a NSP2 eligible acquisition through OPAL, the following requirements need to be completed and documented on the Acquisition Analysis

Tool. The Acquisition Analysis Tool will identify what items are required and what are optional at the time of acquisition. Below are the minimum requirements. The City or Land Bank may need to conduct further due diligence to determine feasibility and whether to move forward and approve the acquisition for their NSP2 program.

A. Acquisition Analysis Tool Requirements

The following sections of the Acquisition Analysis and corresponding Checklist tabs need to be completed:

- A. Property Information and Neighborhood Assessment
- B. Property Type, Condition and Characteristics
- C. Property Ownership Assessments
- D. Tenant Protections Assessment
- E. Environmental and Historic Review
- F. Cost Analysis Requirements
- G. Anticipated End Use
- H. Approval for Acquisition
- I. Title Insurance Commitment (if an Acquisition Reimbursement or OPAL Project Completion)
- J. Project Cost Estimates and Subsidy Analysis
- K. Negotiations and Settlement

B. Executed Mortgage Copy and Original Note

Grantees are required to execute the Neighborhood Stabilization Program Mortgage and Note for the full set-up amount less counseling. For NSP2, MSHDA must receive a copy of the executed Mortgage and original note prior to approving a Financial Status Report (FSR) except for in the following circumstances: 1) funds are being advanced or 2) a land bank is acquiring a property that will be transferred to their consortium partner for redevelopment with NSP2 funds. If funds are advanced and it is not a property that meets circumstance #2 above, then the executed Mortgage and original note will need to be sent into MSHDA prior to showing the expenditure of the dollars on the OPAL system. MSHDA will enter the date it was received into OPAL.

NOTE: MSHDA has determined that NSP Mortgages and Notes will not be required to secure acquisition dollars expended by Land Banks on properties that will be transferred to their consortium partner for redevelopment. Changes to OPAL are forthcoming.

VI. ACQUISITION BETWEEN CITIES AND LAND BANKS

A. Defining Land Banks as Separate Governmental Authorities and the Impact on Acquisitions

HUD regulations state that a grantee cannot use NSP2 funds to pay themselves for acquiring property. However, a grantee may use NSP2 funds to pay another entity. MSHDA received a legal opinion on June 25, 2010 through the Center for Community Progress that determines that a Land Bank is a separate governmental authority from its city, county or state government, e.g. Michigan Land Bank Fast Track Authority is separate from the State of Michigan; Berrien County Land Bank Authority is separate from Berrien County; and Detroit Land Bank Authority is separate from the City of Detroit. (*See attached "Legal Status of a County Land Bank Authority."*)

1. Tax Reversion Statutory Auction Process

Land Bank acquiring property in the Tax Reversion Statutory Auction Process, where the County Treasurer is the Foreclosing Governmental Unit (FGU), aligns with the intention of the NSP2 program. Per Michigan Law, all back taxes are cleared after the FGU forecloses on the property and receives title. The Minimum Bid for the Property is the sum of the costs for the County Treasurer to foreclose on a property and receive title, usually the sum of back taxes and assessments owed to governmental entities. In the Tax Reversion Statutory Auction Process, Minimum Bid is not actual back taxes and a County Treasurer does not have the authority to waive back taxes.

The Land Bank may pay costs of sale where proceeds go to the County Treasurer, so long as the acquisition meets NSP2 compliance standards. Therefore, to meet NSP2 compliance standards, a Tax Foreclosed Property acquired by a Land Bank from a County Treasurer must meet the following standards:

Tax Foreclosed Property

1. Appraisals and Other Acquisition Due Diligence: Land Bank must receive a URA Appraisal for any foreclosed properties. They also are required to complete the necessary due diligence as required for all acquisitions for foreclosed properties, including but limited to Site-specific Environmental Review Checklist, Tenant Protections, etc. Please refer to Acquisition Policy to determine the specific due diligence requirements.
2. Acquisition Costs for County Land Banks: Because the County Land Bank is a separate entity from the County Treasurer and the County Treasurer cannot waive back taxes nor re-establish the Minimum Bid Price, Eligible NSP2 Acquisition Costs include Land Bank's Cost of Sale to County Treasurer, so long as purchase price does not exceed 99% of Fair Market Value (FMV) **as determined by the current market-appraised value of the home or property**, the Land Bank will have complied with NSP2 and HUD regulations.
3. Acquisition Costs for Michigan Land Bank Fast Track Authority (MLB): Because the MLB is not only a separate entity from the County Treasurer, but also functions at the state level instead of the County Level, the MLB would have similar acquisition costs for tax foreclosed properties as a County Land Bank acquiring from a County Treasurer similar to the County Land Bank.

2. Mortgage Foreclosed and Other Property Types

A Land Bank may acquire mortgage foreclosed, abandoned and vacant or demolished property with NSP2 funds. If the Land Bank acquires a property with back taxes, liens or other acquisition costs owed to its city, county, or state government, please contact your CD Specialist and CAI Field Support Director. The Center for Community Progress is also available to provide a strategy on how a Land Bank may acquire such properties, as one option is the County Treasurers may waive back taxes on properties already owned by the Land Bank.

Examples are:

- Saginaw County Land Bank purchases an abandoned property through a voluntary acquisition with back taxes from the City, County, State and the School District. The Land Bank could pay the back taxes from the City, State and School District, but MSHDA is waiting for the legal opinion to see if they can pay back taxes owed to the County.
- Michigan State Land Bank Fast Track Authority purchases a REO listing in Grand Rapids. There are no liens from the State. The State Land Bank may proceed with the transaction.

B. Value Added of Property in the Land Bank

The Michigan Land Bank, Tax Reversion and Brownfield Laws provide legal and financial tools to the Land Bank in order to strategically assemble, maintain and redevelop property in the NSP2 Targeted Areas. These mechanisms include:

- **Quiet Title**: Land Banks can clear title within a 90-day period of any property held by them, which means all liens and past claims on a property are eliminated. Land Bank can clear title within a 90-period. This can also be done in a bulk process, where the land bank would clear title of hundreds of properties with one legal action, which is very efficient and cost-effective.
- **Brownfield Plan and Tax Increment Financing (TIF)**: All land bank owned properties become eligible for Brownfield incentives by a matter of definition. Land bank property taxable value drops to zero (if held over the December 31st to January 1st period of time), which allows all of the tax to be captured for eligible activities. Although this may not be necessary for NSP2 due to

the urgency to the HUD expenditure requirements, Land Bank can use TIF to finance acquisition and create scattered-site, multi-jurisdictional TIF plans, which can bring resources to development projects.

C. Eligible Tax Reverted Property Specific Tax (a.k.a. 5/50 tax)

A former land bank parcel cannot be combined with non-land bank parcel until 5 years after the date of the conveyance, as it sits on a different tax role at the assessors' office pursuant to state law.

When a Land Bank transfers a parcel of property from its inventory the ad valorem taxes are exempt and a specific tax is assessed for 5 years, pursuant to the Tax Reverted Clean Title Act. That specific tax is called the Eligible Tax Reverted Property Specific Tax (also known as the 5/50 tax).

When a land bank parcel is conveyed out of inventory, the parcel stays on that separate tax role (the specific tax role) for the next five years. A parcel on the specific tax role cannot be combined with a parcel on the ad valorem tax role as there is no physical method for the Assessors to combine two parcels from separate tax roles.

The solution is to transfer any parcels that are to be combined into the land bank. The parcels can be combined by the land bank under one new tax ID number and transferred out of the land bank's inventory as one parcel. That new (combined) parcel will be placed onto the specific tax role for 5 years.

D. Public Purpose

There are NSP2 requirements that impact the grantee's ability to acquire property through Tax Foreclosure that will need to be discussed with the County Treasurer, especially those cities who partnered with the Michigan Land Bank Fast Track Authority.

During the Right of First Refusal, cities, after the state, have the option of acquiring a property at minimum bid before the properties go to the first public auction. If the city decides to exercise their Right of First Refusal and acquire property from the County, they must demonstrate that the property will be used for a "public purpose." Prior to exercising their right, the cities and their partner land bank must inform the County Treasurer that NSP2 funds serves a "Public Purpose" because it is:

- Federal community development and affordable housing funds
- Meets the goals of the Michigan NSP2 Consortium and the collaboration between the state, cities and land banks to develop and implement neighborhood plans
- Using NSP2 funds to strategically assemble and prepare land to future long-term redevelopment that assists with the economic recovery of target neighborhoods and cities

E. Subsequent Sales

During the Right of First Refusal and if the city exercises their option, the tax foreclosed properties acquired, redeveloped and resold must send "subsequent sales" proceeds back to the County Treasurer. "Subsequent Sales" Proceeds are Sales Price less Total Development Costs. Due to the NSP2 requirements that the maximum sales price of a homebuyer unit is total development costs or appraised as-improved fair market value, whichever is less, there will be no "Subsequent Sales" Proceeds. The cities and their partner land bank must inform the County Treasurer that any property acquired with NSP2 funds at this point of the Statutory Auction Process will not receive "Subsequent Sales" Proceeds.

F. Strategic Acquisition and Conveyance Process with NSP2

Cities and their partner Land Banks will want to identify and assess the properties in the NSP2 target areas to determine their strategic, importance and value:

- If a rehabilitation project on a tipping point block, their due diligence will include not only NSP2 compliance, but understanding their target markets and examining quality of the neighborhood, existing housing stock, and marketability of property to sell or lease up by February 10, 2013
- If a long-term, future redevelopment project, ability to leverage the neighborhood amenities and anchors to prepare for the “New Michigan Urban Neighborhood.” A neighborhood that houses, employs, and serves businesses and residents-that assist in the sustained, economic recovery of Michigan.

The City and their partner Land Bank should develop a strategy and process for identifying, assessing and implementing a conveyance or acquisition strategy that maximizes NSP2 and the acquisition, holding, financing and conveyance mechanisms of the Land Bank. They will need to develop a strategy for property that is:

- **Currently-owned by the City:** What properties in their inventory should they rehabilitate immediately with NSP2? What properties should they convey to the Land Bank for strategic assembly of property in redevelopment areas?

Note: If property in City inventory were acquired or conveyed prior to April 9, 2010 and the Land Bank will land bank with NSP2, the Land Bank can only pay reasonable transaction costs. In no event, may the City reimburse or pay itself for acquisition.

- **Currently-owned by the Land Bank:** What properties in their inventory should be land banked, held and maintained with NSP2 funds that support the future long-term redevelopment plans of an NSP2 target area? Do they own any properties in tipping point blocks for rehabilitation or demolition to assist with neighborhood stabilization?

Note: If property in Land Bank inventory were acquired or conveyed prior to April 9, 2010 and the City will rehabilitate/redevelop with NSP2, the City can only pay reasonable transaction costs. In no event, may the City reimburse or pay itself for acquisition.

- **Tax foreclosed:** What properties should they target in the Statutory Auction Process? When should they acquire the property in the process and what method to ensure compliance with NSP2?
- **Mortgage foreclosed:** Who is Initial Successor in Interest (ISII)? What is the strategy to acquire –MSL Listing and Sales Agent, Bulk Purchase, Negotiations with Lender or Representative?
- **Privately-owned:** Who is the owner? What is the negotiation strategy?

VII. APPENDIX AND ATTACHMENTS

- ① Guidance on NSP Appraisals – Voluntary Acquisitions
- ☰ Tax Assessor Certification of True Estimated Cash Value, based on State Equalized Value.
- ☰ Sample URA Voluntary Acquisition Document
- ① General NSP2 Guidelines for Acquisition
- ① NSP2 Documentation Requirements of Foreclosed and Abandoned Properties
- ① NSP Tenant Protections at Foreclosure Under the Recovery Act
- ☰ Questionnaire on Compliance with NSP Tenant Protection Requirements Under the Recovery Act
- ☑ Environmental Review Project Checklist for Michigan NSP2 Consortium Sites
- ☑ SHPO Consultation Form
- ☰ Conditional Commitment of Federal Funds prior to Environmental Release of Funds

Guidance on NSP Appraisals – Voluntary Acquisitions

Acquisitions financed with NSP grant funds are subject to the URA, and its implementing regulations at 49 CFR Part 24, and the requirements set forth in the NSP Notice that was published in the Federal Register on October 6, 2008. HUD anticipates that most of these transactions will qualify as voluntary acquisitions under the applicable regulations of 49 CFR 24.101(b). The URA regulations do not specifically require appraisals in connection with voluntary acquisitions under 49 CFR 24.101(b). However, the NSP Notice requires appraisals to be performed with respect to the NSP funded acquisition of foreclosed upon homes and residential properties, even though they may be considered voluntary under the URA. In those cases, the URA appraisal requirements of 49 CFR 24.103 must be met. The following guidance on appraisals pertains to acquisitions of foreclosed upon homes and residential properties which meet the applicable voluntary acquisition requirements of 49 CFR 24.101(b) and reflects applicable URA requirements and the NSP requirements, including the URA appraisal requirements of 49 CFR 24.103.

1. The NSP grantee must ensure that the owner is informed in writing of what the grantee believes to be the market value of the property; and that the NSP grantee will not acquire the property if negotiations fail to result in a an amicable agreement (see 49 CFR 24.101(b)(1) & (b)(2)).
2. If NSP funds are to be used to acquire a foreclosed upon home or residential property (other than through donation), the grantee must ensure that the purchase price includes a discount from the value established by an appraisal that meets the following requirements:
 - a. The appraisal must have been completed within 60 days of the offer made for the property (we have advised that an initial offer can be made, subject to the completion of the appraisal within 60 days of a final offer).
 - b. The appraisal must meet the URA definition of an appraisal (see 49 CFR 24.2(a)(3) and the five following requirements (see 49 CFR 24.103(a)(2)):
 - i. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.
 - ii. All relevant and reliable approaches to value. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.

- iii. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
 - iv. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.
 - v. The effective date of valuation, date of appraisal, signature, and certification of the appraiser.
 - c. The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.
 - d. If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at §24.2(a)(24)) of the retained improvement.
3. The NSP grantee has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem. HUD's guide to preparing an appraisal scope of work under the URA is available in HUD Handbook 1378-Appendix 19 or through the following link:

<http://www.hud.gov/offices/adm/hudclips/handbooks/cpdh/1378.0/1378x19CPDH.pdf>
4. The NSP grantee shall establish criteria for determining the minimum qualifications and competency of appraisers. Qualifications shall be consistent with the scope of work for the assignment. The NSP grantee shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and use only those determined by the NSP grantee to be qualified.
5. If the NSP grantee uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 *et seq.*).

Questions:

1. Can the lender's appraisal be used if it is reviewed for compliance with the URA requirements?

Yes, if it meets the requirements in 2-5 above.

2. Must appraisals for the voluntary acquisition of NSP funded foreclosed upon homes and residential properties have a review appraisal performed?

No. Although the URA criteria for appraisals refer to qualifications for review appraisers, the NSP grantee is not required to have a review appraisal performed in connection with voluntary acquisitions under 49 CFR 24.101(b).

3. Must a scope of work be developed?

Yes, if the NSP grantee is procuring the services of an appraiser (or requires someone else to procure those services) or is relying on a lender's (the owner of the foreclosed upon property) appraisal that is determined by the NSP grantee to meet above requirements. No, if the appraisal is performed by otherwise qualified in-house appraisal staff, although it is still advisable in such cases.

1003 N. WESTNEDGE AVE.
06-16-239-001
Kalamazoo, Michigan

Property Value Less Than \$25,000

I certify that the City of Kalamazoo's Assessor's records indicate that the **Total Estimated True Cash Value** of the above property is **\$9,375**.

Signed: Connie Darling

Connie Darling
City Assessor

Date: 3-29-10

SAMPLE VOLUNTARY ACQUISITION

(Make two copies. Leave one with the seller and keep the other copy in project file.)

This is a guide-form. It should be revised to reflect the circumstances.

Used for Homebuyer Assistance Programs - Acquisition and Down Payment Assistance
Complete prior to acceptance of Purchase Agreement

NOTIFICATION TO SELLER

Grantee or Agency Letterhead

Date

Dear Owner:

The purchaser of your property located at _____ is being assisted with funding from the Neighborhood Stabilization Program (NSP) provided through the (city or county) of _____. The purpose of this letter is to inform you of your rights under Federal law when Federal funds are involved in property acquisition.

This is a **voluntary sale**. Activities funded by the NSP Program are covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, commonly called "the Uniform Act or URA". URA protects persons whose property is taken **involuntarily** or who are forced to move as a direct result of a Federally-funded project.

However, because this is a **voluntary sale** negotiated between you and the (buyer, city, or county) and there is no threat of eminent domain or condemnation to take your property, this sale is **not regulated** by URA except for the following notifications which we must present to you:

Use if the city or county is acquiring the property:

1. The (city or county) will not use its power of eminent domain to take your property if we cannot reach an agreement through negotiation.
2. The fair market value of the property located at _____ has been estimated at \$_____. The purchase price we are offering is \$_____. You have the authority to accept or reject our offer just as you would in a private transaction.

Use if a nonprofit or individual is acquiring the property:

1. The purchaser does not have power of eminent domain to take your property if we cannot reach an agreement through negotiation.
2. The fair market value of the property located at _____ has been estimated at \$_____. The purchase price we are offering is \$_____. You have the authority to accept or reject our offer just as you would in a private transaction.

You, as the seller, are not eligible for relocation assistance under the URA because the proposed sale is considered voluntary, and the above information is being provided to you prior to executing a purchase agreement or sales contract. If you have any questions or require additional information, please contact _____ at _____ between the hours of _____ and _____.

Sincerely,

Name and Title

(Note following page and document.)

(Use this portion of form for seller's signature, if seller receives Notification after Purchase Agreement was completed.)

Owner Receipt of Information

Grantee or Agency Letterhead

I, _____, the owner of the property located at _____ certify that I have received and understood the above information. I further certify that this notice was received:

_____ Prior to executing a purchase agreement.

_____ After the purchase agreement was executed; however, I **do not** wish to terminate this voluntary sale.

Signed: _____

Date: _____

General NSP2 Policy Guidelines for Acquisition, updated November 30, 2010

NSP2 ELIGIBLE USE	Eligible Use 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	Eligible Use C - Establish land banks for homes and residential properties that have been foreclosed upon	Eligible Use D - Demolish blighted structures	Eligible Use E - Redevelop demolished or vacant properties as housing
NSP2 Foreclosure Status	Foreclosed Abandoned If meets both definition of Abandoned or Foreclosed, Property defined as Foreclosed	Foreclosed	Not Applicable because acquisition ineligible cost	Foreclosed of Non-residential Property Abandoned of Non-residential Property Non-Foreclosed Non-Abandoned
Zoning / Property Type for Acquisition	Homes Residential Properties	Homes Residential Properties	Not Applicable because acquisition ineligible cost	Any Demolished or Vacant Property as long as Planned End Use is housing
Planned Use	Residential rehabilitation or redevelopment from Feb 11, 2010 through Feb 10, 2013	Site Assembly and Land Banking for Future Redevelopment, most likely after Feb 10, 2013	Not Applicable because acquisition ineligible cost	Residential rehabilitation or redevelopment from Feb 11, 2010 through Feb 10, 2013
Maximum Sales Price for Houses to be sold to Homebuyer	Total Development Costs (TDC) or Appraised As-Improved Fair Market Value, whichever is less. Examples: TDC is \$120,000, but Appraised FMV is \$80,000. Maximum Sales Price is \$80,000 TDC is \$60,000, but Appraised FMV is \$80,000. Maximum Sales Prices is \$60,000.	Not Applicable	Not Applicable because acquisition ineligible cost	Total Development Costs (TDC) or Appraised As-Improved Fair Market Value, whichever is less. Examples: TDC is \$120,000, but Appraised FMV is \$80,000. Maximum Sales Price is \$80,000 TDC is \$60,000, but Appraised FMV is \$80,000. Maximum Sales Prices is \$60,000.
Occupancy at Acquisition	Vacant or Occupied, but recommend Vacant	Vacant or Occupied, but recommend Vacant	Not Applicable because acquisition ineligible	Vacant

General NSP2 Policy Guidelines for Acquisition (continued), updated November 30, 2010

NSP2 USE	ELIGIBLE USE B	ELIGIBLE USE C	ELIGIBLE USE D	ELIGIBLE USE E
<p>Recommended Acquisition Strategy</p>	<p>Foreclosed: REO Mortgage Listings, Short Sales, Deed in Lieu of Foreclosure, Bulk Purchase, and Tax Foreclosures.</p> <p>Tax Foreclosures are those currently owned by City or Land Bank or To Be Acquired. To Be Acquired are those acquired from April 9, 2010 through February 10, 2013</p>	<p>Foreclosed: REO Mortgage Listings, Short Sales, Deed in Lieu of Foreclosure, Bulk Purchase, and Tax Foreclosures.</p> <p>Tax Foreclosures are those currently owned by City or Land Bank or To Be Acquired. To Be Acquired are those acquired from April 9, 2010 through February 10, 2013</p>	<p>Not Applicable because acquisition ineligible</p>	<p>Currently owned by City or Land Bank but do not meet definition of Foreclosed or Abandoned</p> <p>Negotiated voluntary sale with private seller</p>
<p>25% Low-income Set-aside Requirement</p>	<p>Eligible for Set-aside Requirement</p>	<p>Not Eligible</p>	<p>Not Eligible if Demolition ONLY or Demolition with Land Banking</p> <p>However, meets Set-aside and included in TDC if redeveloped as housing under Use E by Feb 10, 2013.</p>	<p>Eligible for Set-aside Requirement</p>
<p>ACQUISITION DUE DILIGENCE</p>				
<p>URA Voluntary Acquisition</p>	<p>City acquires then URA Voluntary Acquisition Letter Form for those with power of eminent power</p> <p>Land Bank acquires then URA Voluntary Letter Form for those without power of eminent power</p>	<p>City acquires then URA Voluntary Acquisition Letter Form for those with power of eminent power</p> <p>Land Bank acquires then URA Voluntary Letter Form for those without power of eminent power</p>	<p>Not Applicable because acquisition ineligible</p>	<p>City acquires then URA Voluntary Acquisition Letter Form for those with power of eminent power</p> <p>Land Bank acquires then URA Voluntary Letter Form for those without power of eminent power</p>
<p>Purchase Discount</p>	<p>1% Discount from FMV of Foreclosed Residential Property or Homes</p> <p>No Discount for Abandoned Residential Property or Homes</p>	<p>1% Discount from FMV of Foreclosed Residential Property or Homes</p>	<p>Not Applicable because acquisition ineligible</p>	<p>No Discount Required</p>
<p>Environ. Review</p>	<p>Site-specific Environmental Review Record</p>	<p>Site-specific Environmental Review Record</p>	<p>Not Applicable because acquisition ineligible</p>	<p>Site-specific Environmental Review Record</p>

General NSP2 Policy Guidelines for Acquisition (continued), updated November 30, 2010

NSP2 USE	Eligible Use B	Eligible Use C	Eligible Use D	Eligible Use E
Vacant Property	None required, but complete Tenant Protections Checklist	None required, but complete Tenant Protections Checklist	Not Applicable because acquisition ineligible	None required, but complete Tenant Protections Checklist
Appraisal	<p>Foreclosed: Must be completed within 60 days prior to entering Final Purchase Agreement</p> <p>Foreclosed: URA-compliant, As-is Appraisal for Residential Property or Homes at or exceeding \$25,000 in fair market value</p> <p>Foreclosed: Market Valuation (Sales Comparables or Double State Equalized Value (SEV)) of Homes or Residential Property</p> <p>Abandoned: No Appraisal or Market Valuation requirements, but demonstrate reasonableness</p>	<p>Must be completed within 60 days prior to entering Final Purchase Agreement</p> <p>URA-compliant, As-is Appraisal for Foreclosed Residential Property or Homes at or exceeding \$25,000 in fair market value</p> <p>Market Valuation (Sales Comparables or Double State Equalized Value (SEV)) of Foreclosed Homes or Residential Property</p>	Not Applicable	No Appraisal or Market Valuation requirements, but documentation demonstrating reasonableness, for acquisition of vacant or demolished property to be redeveloped as housing.

TENANT PROTECTIONS

<u>Foreclosed prior to Feb 17, 2009</u>	<p>Tenant Protections Checklist</p> <p>Deed of Foreclosure demonstrating <u>foreclosed</u> prior to Feb 17, 2009</p>	<p>Tenant Protections Checklist</p> <p>Deed of Foreclosure demonstrating <u>foreclosed</u> prior to Feb 17, 2009</p>	Not Applicable	None required, but complete Tenant Protections Checklist to demonstrate property is vacant and non-foreclosed
<u>Foreclosed on or after Feb 17, 2009 and homeowner/ mortgagor is only occupant</u>	<p>Tenant Protections Checklist</p> <p>Only acquire vacant property, but if <u>foreclosed</u> property occupied, then document proving that former Homeowner/ Mortgagor is only one occupying unit</p>	<p>Tenant Protections Checklist</p> <p>Only acquire vacant property, but if <u>foreclosed</u> property occupied, then document proving that former Homeowner/ Mortgagor is only one occupying unit</p>	Not Applicable	None required, but complete Tenant Protections Checklist to demonstrate property is vacant and non-foreclosed
<u>Foreclosed on or after Feb 17, 2009 and Bona Fide Tenant Occupancy</u>	<p>Tenant Protections Checklist</p> <p>Only acquire vacant, but if <u>foreclosed</u> and occupied, then document:</p> <p>Bona Fide Lease of Tenant</p> <p>Notice of Foreclosure to Tenants (see Acquisition Policy on how to determine date)</p> <p>Notice to Vacate after End of Lease Term or at least 90 days to vacate (whichever is greater)</p>	<p>Tenant Protections Checklist</p> <p>Only acquire vacant, but if <u>foreclosed</u> & occupied, then document:</p> <p>Bona Fide Lease of Tenant</p> <p>Notice of Foreclosure to Tenants (see Acquisition Policy on how to determine date)</p> <p>Notice to Vacate at End of Lease Term or 90 days to vacate (whichever is greater)</p>	Not Applicable	None required, but complete Tenant Protections Checklist to demonstrate property is vacant and non-foreclosed

NSP2 Documentation Requirements of Foreclosed and Abandoned Properties

Property Status	Definition	Required Language in Documentation	URA Tenant Protections, if foreclosed after February 17, 2009
Foreclosed	<p>Property's current mortgage delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency</p> <p>Acquisition via Short Sale, Deed in lieu of Foreclosure, or URA Voluntary Acquisition with Property Owner</p>	<p>Official/Certified Written Notice from Lender to Property owner stating:</p> <ul style="list-style-type: none"> • 60 days delinquent in mortgage payments with calculation and date <p>Certified delivery and receipt</p>	<p><u>Owner-occupied</u>: Written Notice from Lender to Property Owner</p> <p><u>Tenant-occupied</u>: Written Notice from Lender/Property Owner to Tenant indicating Notice of Foreclosure and 90-day Notice to Vacate or end of lease term, whichever is later</p>
Foreclosed	<p>Property owner is 90 days or more delinquent on <u>tax</u> payments</p> <p>Acquisition via URA Voluntary Acquisition with Property Owner</p>	<p>Official Written Notice/Document from County Treasurer stating to Property Owner:</p> <ul style="list-style-type: none"> • 90 days delinquent in tax payments with calculation and date <p>Certified delivery and receipt</p>	<p><u>Owner-occupied</u>: Written Notice from County Treasurer to Property Owner</p> <p><u>Tenant-occupied</u>: Written Notice from County Treasurer/Property Owner to Tenant indicating Notice of Foreclosure and 90-day Notice to Vacate or end of lease term, whichever is later</p>
Foreclosed	<p>Under state, local, or tribal law, foreclosure proceedings have been initiated or completed</p> <p>If initiated only, acquisition via Short Sale, Deed in lieu of Foreclosure, or URA Voluntary Acquisition with Property Owner</p> <p>If completed, acquisition via listings from REO, HUD, FHA/VA, Freddie Mac/Fannie Mae and County Statutory Auction Process</p>	<p>Deed of Foreclosure:</p> <ul style="list-style-type: none"> • Foreclosure proceedings are complete • Title has transferred from mortgagor to mortgagee <u>or</u> property owner to county treasurer <p>Date of foreclosure</p>	<p><u>Owner-occupied</u>: Deed of Foreclosure</p> <p><u>Tenant-occupied</u>: Written Notice from Lender/Property Owner to Tenant indicating Notice of Foreclosure and 90-day Notice to Vacate or end of lease term, whichever is later</p>

<p>Abandoned</p>	<p>Code enforcement inspection has determined that property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies</p> <p>Acquisition via URA Voluntary Acquisition with Property Owner</p>	<p>Process must follow Local Ordinance and Proceedings and include, but not limited to:</p> <p>Formal Code Enforcement Inspection write-up deeming “not habitable” with corrective action requirements</p> <p>Formal Notice to Take Corrective Action with dates to complete work</p> <p>Formal Notice of No Corrective Action with follow-up inspection and calculation showing more than 90 days</p> <p>Contact MSHDA for assistance to ensure compliance and before proceeding with acquisition</p>	<p><u>Owner-occupied</u>: Written Notice from County Treasurer to Property Owner</p> <p><u>Tenant-occupied</u>: Written Notice from County Treasurer/Property Owner to Tenant indicating Notice of Foreclosure and 90-day Notice to Vacate or end of lease term, whichever is later</p>
<p>Abandoned</p>	<p>Property is subject to a court-ordered receivership or nuisance abatement related abandonment pursuant to state or local law or otherwise meets a state definition of an abandoned home or residential property</p>	<p>Process must follow Local Ordinance and Proceedings and include, but not limited to:</p> <p>Court documents demonstrate that property meets current definition of abandoned home and under court-ordered receivership or nuisance abatement</p> <p>Contact MSHDA for assistance to ensure compliance and before proceeding with acquisition</p>	<p><u>Owner-occupied</u>: Written Notice from County Treasurer to Property Owner</p> <p><u>Tenant-occupied</u>: Written Notice from County Treasurer/Property Owner to Tenant indicating Notice of Foreclosure and 90-day Notice to Vacate or end of lease term, whichever is later</p>



August 12, 2010
Community Planning and Development

NSP Policy Alert!

Guidance on NSP Tenant Protection Requirements under the Recovery Act

Note: *This is a revision to the guidance issued in May 2010.*

QUESTION: *What methods should grantees use to determine compliance with the NSP tenant protection requirements under the Recovery Act?*

Overview

Congress has expressed concern about evictions of tenants from foreclosed properties. New laws have been passed recently to address this issue. The American Recovery and Reinvestment Act of 2009 (Recovery Act), Pub. L. No. 111-5, imposes requirements on Neighborhood Stabilization Program (NSP) grantees to ensure that bona fide tenants in NSP-affected properties receive proper treatment.¹ Additional amounts made available for NSP pursuant to Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, are subject to Recovery Act tenant protection requirements. Please note that the Recovery Act tenant protection requirements do not preempt any federal, tribal, state or local law that provides greater protections for tenants, including, but not limited to the Protecting Tenants at Foreclosure Act of 2009 (PTFA) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). See the "Resource Links" section of this guidance document for links to more information on PTFA and URA.

NSP recipients have requested information on complying with the Recovery Act tenant protections, which are included in the NSP Bridge Notice of June 19, 2009 and the NSP2 Notice of Fund Availability of May 4, 2009.² The revised definition of "foreclosed" published in the Federal Register on April 9, 2010 expands the properties considered acquired through foreclosure for NSP purposes. NSP grantees, subrecipients, developers or homebuyers need to be mindful of the NSP

¹ Another law, the Protecting Tenants at Foreclosure Act of 2009 (PTFA), Pub. L. No. 111-22, also provides protections for tenants facing eviction as a result of foreclosure on virtually all mortgaged rental properties in the US. PTFA requirements, though similar to Recovery Act requirements in some respects, are **separate and distinct** obligations that are not affected *in any way* by the revised definition of "foreclosed" or this guidance document. PTFA may provide greater protection in certain instances. PTFA requirements, where applicable, must be fully satisfied independently of any obligations arising under the Recovery Act. HUD has published a notice in the Federal Register providing additional information on PTFA. See 74 FR 30,106 (Jun. 24, 2009). PTFA is not discussed further in this guidance document.

² Please note that links to all Notices cited are available in the "Resource Links" section of this document.

tenant protection requirements under the Recovery Act (and, where applicable, the PTFA) in acquiring foreclosed properties under the NSP program. The following highlights methods grantees can use to determine compliance with the NSP tenant protection requirements under the Recovery Act. Grantees should direct questions on these requirements to NSP-Questions@hud.gov, not to HUD Regional Relocation Specialists.

SUMMARY OF NSP TENANT PROTECTION REQUIREMENTS UNDER THE RECOVERY ACT

PERSONS AFFECTED	Any <i>bona fide</i> tenant occupying certain residential property under a lease in effect on or before the date of notice of foreclosure.	Any <i>bona fide</i> tenant occupying certain residential property without a lease or with a lease terminable at will under state law at the time of foreclosure
IMPLICATIONS	Initial successor in interest (ISII) (see key terms) must allow such tenants to remain to end of the lease term* and provide a minimum 90 days notice to vacate. These periods may overlap but cannot be less than 90 days.	ISII (see key terms) must provide such tenants a minimum 90 days notice to vacate.
EXCEPTION	*An ISII selling the property to a person occupying the home as the primary place of residence MAY terminate the lease, but MUST allow at least 90 days to vacate.	

Grantees need to be aware that the NSP tenant protection requirements under the Recovery Act are separate and apart from the obligations imposed on grantees by the URA. The revised NSP definitions do not supersede or affect in any way protections available to property owners or tenants under the URA. The URA applies to any person displaced as a direct result of acquisition, rehabilitation, and/or demolition of real property for a federally-assisted project. Eligibility determinations under the URA and the required notices and relocation assistance requirements are separate and distinct from the NSP tenant protections in the Recovery Act. Grantees cannot assume that a person entitled to the NSP tenant protections under the Recovery Act is also eligible for assistance under the URA (or vice versa). Any tenant lawfully occupying the property evicted by the owner/mortgagor in order to facilitate an acquisition under the NSP program (including short sales) is most likely eligible for URA relocation assistance and payments as a displaced person.

Key Terms

Bona Fide lease or tenancy: For purposes of this section, a lease or tenancy shall be considered *bona fide* only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm’s-length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property. A “lease” does not have to be written, but either the lease or tenancy must meet the requirements of the Recovery Act.

Foreclosed: A home or residential property has been foreclosed upon if any of the following conditions apply: (a) the property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or (b) the property owner is 90 days or more delinquent on tax payments, or (c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed, or (d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, subrecipient, contractor, developer, or end user.

Initial Successor in Interest (ISII): Typically, the ISII in property acquired through foreclosure is the successful purchaser at foreclosure, such as the lender or trustee for holders of obligations secured by mortgage liens. Grantees should note that the revised NSP definition of “foreclosed” now includes the beginning stages of the foreclosure process as well as the end. For example, when a NSP grantee purchases a rental property directly from the mortgagor via a short sale as a “foreclosed” property, the grantee may become the ISII for NSP purposes.

Options for grantees to document compliance with NSP tenant protection requirements under the Recovery Act:

1. Purchase properties that were foreclosed and title transferred on or before February 17, 2009, and obtain evidence of the date of foreclosure; such properties are not covered by the NSP tenant protection provisions of the Recovery Act.
2. If purchasing properties after February 17, 2009, that meet the revised NSP definition of foreclosed, keep adequate documentation of compliance (or inapplicability) of NSP tenant protection requirements under the Recovery Act, such as:
 - a. Information that only the former mortgagor currently occupies and/or occupied the property at the time of the notice of foreclosure (NSP Recovery Act Tenant Protections do not apply);
 - b. Copies of the tenant’s lease and any notice to vacate to substantiate compliance;
 - c. Where a tenancy existed without a written lease or at will, information on the tenancy and any notice to vacate to substantiate compliance;
 - d. Documentation of compliance with the NSP Recovery Act tenant protection provisions (or their inapplicability) from the ISII.
3. If the ISII will not or cannot demonstrate compliance with the NSP tenant protections under the Recovery Act, abandon the transaction.
4. If the property is still desired, and no documentation of compliance can be obtained from the ISII, perform due diligence to determine whether any *bona fide* tenant occupied the property on or before the date of the notice of foreclosure. If so, determine if they were allowed to remain through the end of the lease term or tenancy (as applicable) and received any required notices.
5. Grantees that purchase tenant-occupied property can choose to assume the Recovery Act tenant protection obligations and/or may continue to operate occupied units as rental properties.
6. If the grantee knows that the ISII did not comply with the NSP tenant protection requirements under the Recovery Act and vacated the property contrary to the NSP requirements, abandon the transaction. NSP funds cannot be used for such properties.
7. In structuring its NSP acquisition and homebuyer assistance programs, grantees should educate potential subrecipients, developers, and homebuyers (and/or their real estate agents or other representatives) on the broader implication of how the NSP program defines “foreclosed” and the NSP tenant protection requirements under the Recovery Act (as well as tenant protection requirements arising under PTFA). The grantee may also adopt other procedures designed to minimize displacement of bona fide tenants.

NOTE: There is no assurance that these steps will eliminate potential lawsuits or other liability. These steps do not address compliance with tenant protection requirements under PTFA.

Notice of Foreclosure

Consistent with the NSP Bridge Notice of June 19, 2009, the grantee's determination whether the ISII complied with the NSP Tenant Protection requirements under the Recovery Act includes identifying the notice of foreclosure. Pursuant to Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

Resource Links

- "Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008," 73 FR 58339 (Oct. 6, 2008).
<http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspnotice.pdf>
- NSP2 Notice of Funding Availability, 74 FR 21377 (May 7, 2009).
http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_nofa.pdf
- NSP Bridge Notice, 74 FR 29223 (June 19, 2009).
http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp1_bridgenotice.pdf
- "Protecting Tenants at Foreclosure: Notice of Responsibilities Placed on Immediate Successors in Interest Pursuant to Foreclosure of Residential Property," 74 FR 30106 (June 24, 2009).
<http://www.hud.gov/offices/adm/hudclips/notices/pih/files/09-17pihn.pdf>
- Notice of Change in Definitions and Modification to Neighborhood Stabilization Program, 75 FR 18228 (Apr. 9, 2010). <http://edocket.access.gpo.gov/2010/pdf/2010-8131.pdf>
- Eligibility for URA assistance and payments must be determined in accordance with the URA statute and regulations on a case by case basis. Questions on the URA requirements should be directed to the nearest HUD Regional Relocation Specialist. See "Contacts" at www.hud.gov/Relocation.
- Bulletin published by the Office of the Comptroller of the Currency regarding PTFA, Aug. 13, 2009. <http://www.occ.treas.gov/ftp/bulletin/2009-28.html>

The following materials are optional and were designed to assist grantees.

**Questionnaire on Compliance with NSP Tenant Protection Requirements
under the Recovery Act[‡]**

(To be completed on each property prior to acquisition.
Proceed down the list unless directed otherwise.)

Date of NSP grantee's inquiry regarding status of the property: _____

1. On _____ (date), _____ became the Initial Successor in Interest (ISII)[§] of foreclosed** residential property located at: _____

(If property became foreclosed under state, tribal or local law on or before 02/17/09, Tenant Protections under the Recovery Act do not apply.)

-
2. On or after the date of notice of foreclosure^{††}, was the property occupied? Yes No
(If property was NOT occupied, Tenant Protections under the Recovery Act do not apply.)
3. If the property was occupied, is the lease or tenancy "bona fide"?
- A. The occupant was the former mortgagor? Yes No
(If occupant IS or WAS the current or former mortgagor, stop here. Tenant Protections under the Recovery Act do NOT apply.)
- B. The occupant was a tenant (that was NOT the former mortgagor)? Yes No
Name: _____
- C. Was lease or tenancy the result of an arms-length transaction? Yes No

[‡] Another law, the Protecting Tenants at Foreclosure Act of 2009 (PTFA), Pub. L. No. 111-22, also provides protections for tenants facing eviction as a result of foreclosure on virtually all mortgaged rental properties in the US. PTFA requirements, though similar to Recovery Act requirements in some respects, are **separate and distinct** obligations that are not affected *in any way* by the revised definition of "foreclosed" or this guidance document. PTFA may provide greater protection in certain instances. PTFA requirements, where applicable, must be fully satisfied independently of any obligations arising under the Recovery Act. HUD has published a notice in the Federal Register providing additional information on PTFA. See 74 FR 30,106 (Jun. 24, 2009). PTFA is not discussed further in this guidance document.

[§] Please note that under the NSP definition of foreclosed, as revised on April 9, 2010, ISII can now refer to a wider group of persons, including NSP program participants acquiring foreclosed properties from mortgagors through short sales.

** "Foreclosed" as used in this Questionnaire, is defined under the revised NSP definition of "foreclosed."

†† The date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

- D. Was the rent required in an amount that is not substantially less than fair market rent for the property^{##}? Yes No
(If ANY answer to B-D is NO, Tenant Protections under the Recovery Act do NOT apply.)
(If ALL answers to B-D are YES, you have a bona fide tenant. Continue.)
-

4. Was the tenant occupying the property under a lease in effect on or before the date of notice of foreclosure? Yes No

A. **If YES:**

- i. What was the remaining term? _____ (end date)
- ii. Has tenant vacated the property? Yes No Date tenant moved: _____
- iii. Did the ISII allow the tenant to stay until the end of the lease term? Yes No
(If YES, skip to v. If NO, answer iv.)
- iv. If ISII did not allow tenant to stay through lease term, are they selling the property to an NSP-assisted purchaser who will occupy the unit as a primary residence?
 Yes No
(If YES, go to v. If NO, abandon transaction; ineligible for NSP funding.)
- v. Did the ISII provide tenant at least 90 days notice to move? Yes No
When did/will that 90-day notice expire? _____
- vi. Based on these facts, did ISII comply with NSP tenant protection requirements under the Recovery Act? Yes No
- vii. If the ISII did not comply and the tenant is still in occupancy will the grantee assume this responsibility? Yes No

B. **If NO:**

- i. Has tenant vacated the property? Yes No
Date tenant moved: _____
- ii. Did the ISII provide tenant at least 90 days notice to move? Yes No
When did/will that 90-day notice expire? _____
- iii. Based on these facts, did ISII comply with NSP tenant protection requirements under the Recovery Act? Yes No
- iv. If the ISII did not comply and the tenant is still in occupancy will the grantee assume this responsibility? Yes No

5. The use of NSP funds is subject to a determination by the grantee that the ISII complied with the tenant protection requirements of the Recovery Act, that the grantee will assume this responsibility if they did not, or that the tenant protections are not applicable. If the grantee

^{##} If rent was subsidized, determine market rate as total of the tenant's portion and the subsidy paid on their behalf.

learns that the ISII did not comply with the NSP tenant protection requirements under the Recovery Act and a bona fide tenant was required to vacate the property contrary to the NSP requirements, abandon the transaction. NSP funds cannot be used for such properties.

6. If the property is occupied, or was vacated for the NSP-assisted project, the grantee must also determine if the tenant occupant would be eligible as a displaced person under the URA. (Note: Owner-occupants, who are displaced as a result of voluntary acquisitions under the URA, are not generally eligible for URA relocation assistance and payments.)

Peer Experiences: How Other Grantees Are Managing This Requirement

NSP grantees have asked what they can do to meet the tenant protection provisions of the Recovery Act. Grantee practices and tenants' rights laws vary from state to state. Not all solutions will work in every situation, but several NSP grantees have informed HUD of their practices. No amount of due diligence can eliminate the possibility that an improperly evicted bona fide tenant will appear later.

A Northeastern city with strong tenant laws follows these procedures:

This problem is especially difficult if there is a "tenant at will," that is a legal tenant but with no lease. In this state, lenders who have purchased a property at sheriff's sale have the right to evict tenants in 30 days, so the new law is more restrictive. We get a list of evictions from the Housing Court on a regular basis in order to track activity should we acquire the property. Some owners carry out evictions that may be illegal in this state, known as "Cash for keys", paying tenants \$500 to leave; this can be done by the prior owner or by the lender. Our city has worked with lenders and explicitly asked them not to evict tenants. We try to intervene at the point of the foreclosure petition by tracking legal notices and responding quickly. This gives us a chance to prevent problems at an early stage. When acquiring a property, the city sends a notice to the former owner and also to any residents by addressing it to the property. This does not guarantee that we will find out about protected tenants, but does show good faith should problems arise later.

Other suggestions include:

Contacting the local public housing authority to determine whether a tenant receiving Section 8 or Housing Choice Voucher assistance is occupying the property.

Asking the local Legal Aid Office to determine whether any of its clients might have a claim involving the property.

NOTE: Simply because a property has been vacant for 90 days does not mean that it satisfies these requirements. The law protects bona fide tenants occupying the foreclosed property. Any bona fide tenant must receive at least 90 days notice to vacate. In addition, any bona fide tenant occupying residential property under a lease in effect on or before the date of notice of foreclosure must be allowed to stay for the remainder of the lease term. The only exception occurs in the case of a sale to a purchaser who will occupy the property as a primary residence, although the tenant still must have at least 90 days to vacate.

QUESTIONNAIRE ON COMPLIANCE WITH NSP TENANT PROTECTION REQUIREMENTS

To be completed on each property prior to acquisition. Proceed down the list unless directed otherwise.

Date of NSP Grantee inquiry regarding status of property _____

Name of ISSI _____

Property Address _____

- 1 Date ISSI became initial Successor In Interest (ISII) pursuant to a foreclosure on above property _____
IF DATE IS BEFORE 02/17/2009, STOP HERE Tenant Protections do not apply.
- 2 Date of Notice of Foreclosure _____
On or after the date of notice of foreclosure, was the property occupied? Yes No
IF NO, STOP HERE Tenant Protections do not apply.
- 3 If the property was occupied, is the lease or tenancy "*bona fide*"?
A. The occupant was the former mortgagor? Yes No
IF YES, STOP HERE Tenant Protections do not apply.
B. The occupant was a tenant (that was NOT the former mortgagor)? Yes No
Tenant Name: _____
C. Was lease or tenancy the result of an arms-length transaction? Yes No
D. Was the rent in an amount that is not substantially less than the fair market rent for the property?
If rent was subsidized, determine market rate as total of the tenant's portion and the subsidy paid on their behalf. Yes No
IF ANY answer to B-D is NO, STOP HERE Tenant Protections do not apply.
IF ALL answers to B-D are YES, you have a bona fide tenant, Continue.
- 4 Was the tenant occupying the property under a lease in effect **on or before the date of notice of the foreclosure?** Yes No
IF YES, proceed to #5. IF NO, proceed to #6.
- 5 What was the remaining term (end date)?
A. Has tenant vacated the property? Yes No
IF YES, date tenant moved. _____
B. Did the ISII allow the tenant to stay until the end of the lease term? Yes No
IF YES, skip to D. IF NO, answer C.
C. If ISII did not allow tenant to stay through lease term, did the ISII sell the property to a purchaser who will occupy the unit as a primary residence? Yes No
IF YES, go to D. IF NO, abandon transaction; ineligible for NSP funding.
D. Did the ISII provide at least 90 days notice to move? Yes No
When will that 90-day notice expire? _____
E. Based on these facts, did ISII comply with NSP tenant protection requirements? Yes No
F. If the ISII did not comply and the tenant is still in occupancy, will the grantee assume the responsibility? Yes No
- 6 If the property was occupied under a bona fide lease or tenancy effective after the date of notice of foreclosure, without a lease, or under lease terminable at will:
A. Has tenant vacated the property? Yes No
IF YES, date tenant moved. _____
B. Did the ISII provide at least 90 days notice to move? Yes No
When did/will that 90-day notice expire? _____
C. Based on these facts, did ISII comply with NSP tenant protection requirements? Yes No
D. If the ISII did not comply and the tenant is still in occupancy, will the grantee assume the responsibility? Yes No
- 7 The use of NSP funds is subject to a determination by the grantee that the ISII complied with the tenant protection requirements of the Recovery Act, that the grantee will assume this responsibility if the ISII did not, or that the tenant protections are not applicable. If the grantee learns that the initial successor in interest did not comply with the NSP tenant protection requirements and a bona fide tenant was required to vacate the property contrary to the NSP requirements, abandon the transaction. NSP funds cannot be used for such properties.
- 8 If the property is occupied, or was vacated for the NSP-assisted project, the grantee must also determine if the occupant would be eligible as a displaced person under the URA.

Recovery Act, that the grantee will assume this responsibility if the ISII did not, or that the tenant protections are not applicable. If the grantee learns that the initial successor in interest did not comply with the NSP tenant protection requirements and a bona fide tenant was required to vacate the property contrary to the NSP requirements, abandon the transaction. NSP funds cannot be used for such properties.

- 9 If the property is occupied, or was vacated for the NSP-assisted project, the grantee must also determine if the occupant would be eligible as a displaced person under the URA.

Questionnaire created by ICF International, formatted by MSHDA

Project Checklist for Michigan NSP2 Consortium Program Sites

(This form is to be used ONLY for NSP2 projects funded through the Michigan NSP2 Consortium Program. Completion of this site-specific clearance constitutes Tier II of the NSP2 Environmental Assessment. All questions on the original Statutory Checklist and Environmental Assessment Checklist that needed a site-specific review are listed here.)

Consortium Partner:
 Project Address:

Grant #:

If all the answers to the following questions are **no**, then this project is cleared from further environmental action. However, if you answer **yes** to any of the following, additional compliance requirements must be met and actions documented. Attach comments and rationale for actions taken and letters, permits, or other documentation signed by the regulating agency to show compliance requirements have been met. Contact your CD Specialist if you have questions.

Do not commit any funds to this project until all environmental procedures are completed and documented.

- | | Yes | No |
|--|--------------------------|--------------------------|
| 1. Does the project involve a property 50 years or older, demolition, or new construction? If "yes", the State Bureau of History must be consulted.
Date SHPO review is <u>completed</u>: | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Is the property in a 100 year flood plain?
Record the panel #: ; and date of panel:
If yes, Compliance with Part 55 is required, Community must participate in FEMA's National Flood Insurance Program and owner must purchase flood insurance. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Is the project located on one of Michigan's Coastal Zone Boundary Maps and subject to Michigan's Coastal Zone Management Authority? Berrien and Wayne are the only two counties with Coastal Zone Boundaries.
Attach the Michigan CZM map with project site noted. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Is the project located in a non-attainment or maintenance area <u>and</u> subject to the General Conformity Rule of the Clean Air Act?

Is NESHAP reporting required? If yes, attach documentation of compliance. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Is the project located within 1,000 ft. of a busy road or highway, 3,000 ft. of a railroad, or 15 miles of a civil airport or military airfield?
If yes, Noise Assessment must be conducted. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Is the property located within 2,500 ft. of the end of a civil airport runway or 15,000 ft of the end of a military airfield? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Are there any hazardous or toxic materials on or near the site?
<input type="checkbox"/> Project acquired contingent on completion of this clearance for lead and asbestos. No additional activities will be undertaken until clearance is completed with documentation. | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Is the project located near hazardous industrial operations handling, processing or manufacturing substances of fire-prone or explosive nature? | <input type="checkbox"/> | <input type="checkbox"/> |

Signature/Preparer Name:

Date

Instructions for Completing Site-Specific Review

1. **State Historic Preservation Office.** In addition to structures that are 50-years and older, SHPO reviews demolition and new construction sites. See: <http://mishporehab.wordpress.com/> for Guidelines for Consulting with SHPO, HUD/SHPO Memo, September 2002.
2. **Floodplain Management.** Projects located within a floodplain: 1) are subject to Executive Order 11988 (Floodplain Management) and HUD's implementing regulations at 24 CFR Part 55--Floodplain Management; 2) the community must participate in FEMA's National Flood Insurance Program and 3) the property owner must maintain flood insurance. See: <http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm>

Note: Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for "substantial improvement" are not subject to EO 11988 or Part 55 (See: Sec. 55.12). Substantial improvement means any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before rehab (See: Sec. 55.2(b)(8)). Documentation of Part 55 process, FEMA participation and flood insurance premium required. See: FEMA's Mandatory Purchase of Flood Ins Guidelines: <http://www.fema.gov/library/viewRecord.do?id=2954>.

3. **Coastal Zone Management (CZM).** Berrien and Wayne counties have designated coastal zones. For projects in a coastal zone, grantee must provide MSHDA with a finding made by the State CZM agency that the proposed project is consistent with the approved State Coastal Zone Management Program. See DEQ's site for maps: http://www.michigan.gov/deq/0,1607,7-135-3313_3677_3696-90802--,00.html.
4. **Clean Air Act.** Maps showing "non-attainment" or "maintenance" areas for air pollutants are found through the EPA or DEQ. Search for "Michigan NAAQS Attainment Status." Regardless of any area's attainment status, no NSP2 are sources of these pollutants, and all partners can safely answer "NO."
Asbestos: DEQ's NESHAP requirements for asbestos do not apply to residential activities unless there is a demolition "program" that involves a number of units that, taken together, may impact the environment. All consortium partners with demolition programs must contact the Michigan NESHAP Program for asbestos reporting requirements: http://www.michigan.gov/deq/0,1607,7-135-3310_4106-11856--,00.html
5. Use HUD's **Noise** Abatement and Control Checklist.
6. **Runway Clear Zones (RCZ)** – civil airports; Clear Zones and Accident Potential Zones -- military airfields. Selfridge Air National Guard Base is the only military base in Michigan. See attached list of Civil Airports. In RCZ/CZ: new construction, major rehabilitation (cost = 75% after rehab value), and activities that significantly prolong physical or economic life of the property are **prohibited**. In APZ: HUD assistance is discouraged and project must be compatible with US Dept Of Defense land use guidelines for APZs.

Maps are available from airport operations authorities. The Airport Layout Plan shows Runway clear Zones at civil airports. The Air Installation Compatible Use Zone (AICUZ) Study shows the CZ and APZ for military bases.

If answer is yes, follow process for compliance given in HUD's Fact Sheet #D1: Siting HUD-Assisted Projects (attached). <http://www.hud.gov/offices/cpd/environment/review/airport.cfm>.

7. **Contamination/Toxic Substances.** Particular attention to be given to any site located on or in general proximity to landfills, dumps, industrial sites, gas stations, or other locations that contain hazardous wastes or materials. Phase I Environmental will probably be required. Grantee must contact Bruce Jeffries, MSHDA's Certifying Officer at 517-335-0183 or jeffriesb@michigan.gov.
8. **Explosive and Flammable Hazards.** If yes, calculate the acceptable separation distance per guidebook (HUD-1060-CPD), "Siting of HUD-Assisted Projects Near Hazardous Facilities" and apply appropriate mitigation measures or reject the site. (<http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/>)

Fact Sheet #D1

Siting HUD-Assisted Projects in Accident Potential Zones

Military Airfields and Civilian Airports

A. Where does the regulation apply?

- Civilian, commercial service airports designated in the National Plan of Integrated Airport Systems (NPIAS).
 - Available at http://www.faa.gov/airports_airtraffic/airports/planning_capacity/npias/reports/
- All military air installations.

B. What is the area of concern?

- The area at each end of the runway(s) where aircraft accidents are most likely to occur. Civilian aviation calls it the Runway Protection Zone (RPZ), and the military services call it the Accident Potential Zone (APZ).
- The dimensions of the RPZs or APZs are in their respective guides (military: DODI 4165.57, civilian: Airport Design Advisory Circular 150/5300-13).
 - 2,500 feet is the RPZ maximum length in the airport design advisory circular.
 - 15,000 feet is the APZ maximum length at military air installations.
- Existing airports should include planned expansions at least ten years into the future.

C. What is the process for compliance?

1. Locate the site on a map of the vicinity.
2. Determine if there is an airfield within 15,000 feet of the subject property.
3. **If NO**, the assessment is done. Document findings in the Environmental Review Record (ERR).
4. **If YES**, determine if it is civilian or military and go to Step 5.
5. Look at the runway configuration. Is the property within 15,000 feet (military) or 2,500 feet (civilian) of the end of the runway?
6. Contact the airport manager.
 - Confirm your determination of the property's relationship to the RPZ/APZ.
 - Are there plans to expand the runway or the airport which would change the current RPZ/APZ at least ten years into the future? (This concern is in the notification requirements under 51.303(a)(3).)
7. Contact the appropriate FAA Airports District Office (per 51.305(b)).
8. Confirm your determination of the property's relationship to the RPZ/APZ. Go to Step 9.
9. **If the site IS NOT** in a Runway Protection or Accident Potential Zone, the assessment is done. Document findings in the ERR.
10. **If the site IS** in a Runway Protection or Accident Potential Zone, notify the buyer of the implication of the location. (They must sign a statement of acknowledgement of the information. Use the standard notification form.) Document findings and file the signed acknowledgement in the ERR.

Authority: 24CFR 51 Subpart D

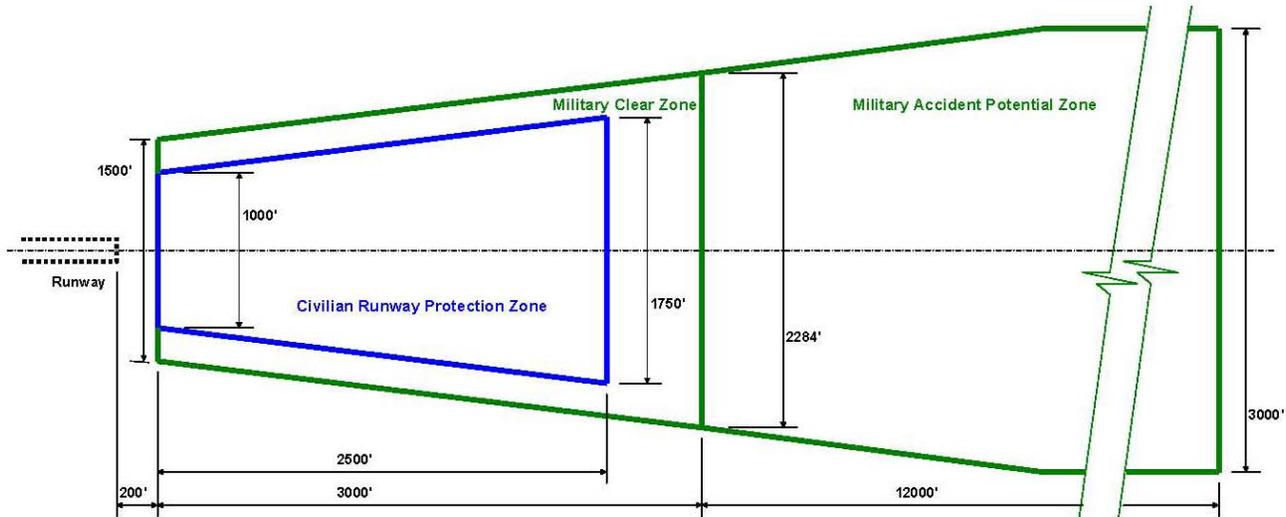
Purpose: Promote compatible land uses at air fields, define standards for providing HUD assistance, and notify buyers of potential safety and airport acquisition.

Basic Rule: HUD policy is not to provide any assistance to projects and actions in Runway Protection, Accident Potential, or Clear Zones unless the project is not to be frequently used or occupied by people. HUD-assisted buyers of such properties shall be notified of the implications and limitations of the site.

Fact Sheet #D1

Siting HUD-Assisted Projects in Accident Potential Zones Military Airfields and Civilian Airports

Figure RPZ1—Significant Dimensions and Comparison of Civilian to Military Zones



Airport Type	Runway Protection Zone/Clear Zone Length	Runway Protection Zone/Clear Zone Inner Width	Runway Protection Zone/Clear Zone Outer Width	Accident Potential Zone Length	Accident Potential Zone Inner Width	Accident Potential Zone Outer Width
Civilian	2,500'	1,000'	1,750'	NA	NA	NA
Military	3000'	1,500'	2,284'	12,000'	2,284'	3,000'

For Your Information:

- The 517 Commercial Service Airports account for:
- 100% of Commercial Service enplanements
 - 22% of General Aviation aircraft and
 - 74% of NPIAS costs.

65% of the U.S. population lives within 20 miles of these airports

Source: National Plan for Integrated Airport Systems, (2007-2011)

All MI airports. See Sheet 2 for MI commercial airports w/ 2,500 or more enplanements per year.

ST	City	Airport	Locid	NPIAS Number	Hub	Svc Lvl	5 Year Svc Lvl	5 Year Enplanements	5 Year Based Aircraft	2009-2013 Development Cost
MI	Adrian	Lenawee County	ADG	26-0001		GA	GA	0	41	2,321,843
MI	Allegan	Padgham Field	35D	26-0002		GA	GA	0	22	889,474
MI	Alma	Gratiot Community	AMN	26-0003		GA	GA	0	39	1,848,947
MI	Alpena	Alpena County Regional	APN	26-0004		CS	CS	8,321	31	38,917,421
MI	Ann Arbor	Ann Arbor Municipal	ARB	26-0005		GA	GA	0	151	2,847,631
MI	Atlanta	Atlanta Municipal	Y93	26-0132		GA	GA	0	8	1,216,668
MI	Bad Axe	Huron County Memorial	BAX	26-0006		GA	GA	0	18	2,246,342
MI	Battle Creek	W K Kellogg	BTL	26-0008		GA	GA	295	168	17,062,132
MI	Bay City	James Clements Municipal	3CM	26-0010		GA	GA	0	57	3,054,736
MI	Beaver Island	Beaver Island	SJX	26-0090		GA	GA	0	1	1,413,159
MI	Bellaire	Antrim County	ACB	26-0011		GA	GA	0	22	1,232,106
MI	Benton Harbor	Southwest Michigan Regional	BEH	26-0012		GA	GA	0	50	20,094,756
MI	Big Rapids	Roben-Hood	RQB	26-0013		GA	GA	0	14	1,010,526
MI	Cadillac	Wexford County	CAD	26-0015		GA	GA	0	41	1,157,896
MI	Caro	Tuscola Area	CFS	26-0016		GA	GA	0	55	2,915,790
MI	Charlevoix	Charlevoix Municipal	CVX	26-0017	N	P	P	14,300	24	9,583,449
MI	Charlotte	Fitch H Beach	FPK	26-0018		GA	GA	0	39	4,581,579
MI	Cheboygan	Cheboygan County	SLH	26-0019		GA	GA	0	15	842,106
MI	Clare	Clare Municipal	48D	26-0020		GA	GA	0	24	1,273,685
MI	Coldwater	Branch County Memorial	OEB	26-0021		GA	GA	0	27	1,522,632
MI	Detroit	Coleman A. Young Municipal	DET	26-0027		GA	GA	6	175	33,323,685
MI	Detroit	Detroit Metropolitan Wayne County	DTW	26-0026	L	P	P	19,916,268	16	321,481,504
MI	Detroit	Willow Run	YIP	26-0024		R	R	1,282	424	65,360,399
MI	Detroit/Grosse Ile	Grosse Ile Municipal	ONZ	26-0025		R	R	0	88	1,964,737
MI	Dowagiac	Dowagiac Municipal	C91	26-0029		GA	GA	0	18	1,112,105
MI	Drummond Island	Drummond Island	DRM	26-0100		GA	GA	0	7	1,631,579
MI	Escanaba	Delta County	ESC	26-0031	N	P	P	10,799	27	8,635,804
MI	Ewart	Ewart Municipal	9C8	26-0141		GA	GA	0	5	847,369
MI	Flint	Bishop International	FNT	26-0032	S	P	P	558,304	167	35,190,952
MI	Frankfort	Frankfort Dow Memorial Field	FKS	26-0102		GA	GA	0	11	1,121,053
MI	Fremont	Fremont Municipal	3FM	26-0035		GA	GA	0	50	1,499,562
MI	Gaylord	Gaylord Regional	GLR	26-0036		GA	GA	0	37	3,869,738
MI	Gladwin	Gladwin Zettel Memorial	GDW	26-0037		GA	GA	0	10	1,155,264
MI	Grand Haven	Grand Haven Memorial Airpark	3GM	26-0038		GA	GA	0	42	1,336,581
MI	Grand Ledge	Abrams Municipal	4D0	26-0103		GA	GA	0	155	2,373,158
MI	Grand Rapids	Gerald R. Ford International	GRR	26-0039	S	P	P	1,154,784	118	62,867,724

MI	Grayling	Grayling AAF	GOV	26-0133		GA	GA	0	1	1,797,369
MI	Greenville	Greenville Municipal	6D6	26-0040		GA	GA	0	46	1,563,157
MI	Hancock	Houghton County Memorial	CMX	26-0041	N	P	P	29,316	18	10,484,579
MI	Harbor Springs	Harbor Springs	MGN	26-0105		GA	GA	0	17	1,210,525
MI	Hart/Shelby	Oceana County	C04	26-0154		GA	GA	0	29	1,210,526
MI	Hastings	Hastings	9D9	26-0043		GA	GA	0	43	2,065,857
MI	Hillsdale	Hillsdale Municipal	JYM	26-0044		GA	GA	0	13	9,449,895
MI	Holland	Tulip City	BIV	26-0045		GA	GA	0	57	1,366,053
MI	Houghton Lake	Roscommon County - Blodgett Memorial	HTL	26-0046		GA	GA	0	14	456,974
MI	Howell	Livingston County Spencer J. Hardy	OZW	26-0047		R	R	0	148	4,060,527
MI	Ionia	Ionia County	Y70	26-0048		GA	GA	0	81	1,400,000
MI	Iron Mountain Kingsford	Ford	IMT	26-0049		CS	CS	9,096	22	1,057,895
MI	Ironwood	Gogebic-Iron County	IWD	26-0050		CS	CS	3,241	13	1,015,790
MI	Jackson	Jackson County- Reynolds Field	JXN	26-0051		GA	GA	0	108	45,793,047
MI	Kalamazoo	Kalamazoo/Battle Creek International	AZO	26-0052	N	P	P	198,757	156	19,317,857
MI	Lakeview	Lakeview Airport- Griffith Field	13C	26-0054		GA	GA	0	39	1,025,526
MI	Le	Toledo Suburban	DUH	26-0107		GA	GA	0	73	0
MI	Lansing	Capital City	LAN	26-0055	N	P	P	299,387	89	46,038,238
MI	Lapeer	Dupont-Lapeer	D95	26-0056		GA	GA	0	62	851,802
MI	Ludington	Mason County	LDM	26-0057		GA	GA	0	30	926,315
MI	Mackinac Island	Mackinac Island	MCD	26-0058		GA	GA	0	1	2,502,633
MI	Manistee	Manistee County- Blacker	MBL	26-0059		CS	CS	3,447	11	2,397,369
MI	Manistique	Schoolcraft County	ISQ	26-0060		GA	GA	0	6	898,684
MI	Marlette	Marlette	77G	26-0062		GA	GA	0	31	1,914,128
MI	Marquette	Sawyer International	SAW	26-0153	N	P	P	81,530	49	10,979,158
MI	Marshall	Brooks Field	RMY	26-0064		GA	GA	0	34	939,474
MI	Mason	Mason Jewett Field	TEW	26-0106		GA	GA	0	74	1,052,632
MI	Menominee	Menominee- Marinette Twin	MNM	26-0065		GA	GA	0	37	1,302,632
MI	Midland	Jack Barstow	3BS	26-0066		GA	GA	0	65	834,210
MI	Mio	Oscoda County	51M	26-0156		GA	GA	0	10	1,804,500
MI	Monroe	Custer	TTF	26-0067		GA	GA	0	41	1,057,895
MI	Mount Pleasant	Mount Pleasant Municipal	MOP	26-0069		GA	GA	0	38	1,007,894
MI	Muskegon	Muskegon County	MKG	26-0071	N	P	P	37,099	110	11,989,474
MI	New Hudson	Oakland Southwest	Y47	26-0152		R	R	0	117	2,773,684
MI	Newberry	Luce County	ERY	26-0042		GA	GA	0	6	1,060,526
MI	Niles	Jerry Tyler Memorial	3TR	26-0073		GA	GA	0	34	692,105
MI	Ontonagon	Ontonagon County - Schuster Field	OGM	26-0074		GA	GA	0	8	1,418,684
MI	Oscoda	Oscoda-Wurtsmith	OSC	26-0151		GA	GA	0	12	1,839,474
MI	Owosso	Owosso Community	RNP	26-0075		GA	GA	0	57	921,810
MI	Pellston	Pellston Regional Airport of Emmet County	PLN	26-0076	N	P	P	31,146	36	20,931,970

MI	Plymouth	Canton-Plymouth-Mettetal	1D2	26-0077		R	R	0	140	1,184,210
MI	Pointe Aux Pins	Bois Blanc	6Y1	26-0155		GA	GA	0	13	1,781,580
MI	Pontiac	Oakland County International	PTK	26-0079		R	R	1,286	835	16,825,576
MI	Port Huron	St Clair County International	PHN	26-0080		R	R	0	93	1,347,420
MI	Rogers City	Presque Isle County	PZQ	26-0135		GA	GA	0	2	941,458
MI	Romeo	Romeo State	D98	26-0082		R	R	0	57	842,105
MI	Saginaw	MBS International	MBS	26-0083	N	P	P	195,287	30	22,934,106
MI	Saginaw	Saginaw County H.W. Browne	HYX	26-0114		GA	GA	0	67	3,341,842
MI	Sandusky	Sandusky City	Y83	26-0084		GA	GA	0	19	1,849,122
MI	Sault Ste. Marie	Chippewa County International	CIU	26-0139	N	P	P	15,258	21	6,967,840
MI	South Haven	South Haven Area Regional	LWA	26-0087		GA	GA	0	29	1,052,633
MI	Sparta	Paul C. Miller-Sparta	8D4	26-0088		GA	GA	0	67	1,336,842
MI	St. Ignace	Mackinac County	83D	26-0089		GA	GA	0	23	1,388,773
MI	Sturgis	Kirsch Municipal	IRS	26-0092		GA	GA	0	30	838,684
MI	Three Rivers	Three Rivers Municipal Dr Haines	HAI	26-0093		GA	GA	0	52	1,421,052
MI	Traverse City	Cherry Capital	TVC	26-0094	N	P	P	223,988	112	16,920,296
MI	Troy	Oakland/Troy	VLL	26-0118		R	R	0	135	1,052,631
MI	West Branch	West Branch Community	Y31	26-0097		GA	GA	0	19	978,947
MI	White Cloud	White Cloud	42C	26-0137		GA	GA	0	11	2,577,684

Michigan Commercial Service Airports with 2,500 or more Enplaned Passengers Per Y

ST	City	Airport	Locid	NPIAS Number	Hub	Svc Level	5 Year Svc Level	5 Year Enplane-ments	5 Year Based Aircraft
MI	Alpena	Alpena County Regional	APN	26-0004		CS	CS	8,321	31
MI	Charlevoix	Charlevoix Municipal	CVX	26-0017	N	P	P	14,300	24
MI	Detroit	Detroit Metropolitan Wayne County	DTW	26-0026	L	P	P	19,916,268	16
MI	Escanaba	Delta County	ESC	26-0031	N	P	P	10,799	27
MI	Flint	Bishop International	FNT	26-0032	S	P	P	558,304	167
MI	Grand Rapids	Gerald R. Ford International	GRR	26-0039	S	P	P	1,154,784	118
MI	Hancock	Houghton County Memorial	CMX	26-0041	N	P	P	29,316	18
MI	Iron Mountain Kingsford	Ford	IMT	26-0049		CS	CS	9,096	22
MI	Ironwood	Gogebic-Iron County	IWD	26-0050		CS	CS	3,241	13
MI	Kalamazoo	Kalamazoo/Battle Creek International	AZO	26-0052	N	P	P	198,757	156
MI	Lansing	Capital City	LAN	26-0055	N	P	P	299,387	89
MI	Manistee	Manistee County-Blacker	MBL	26-0059		CS	CS	3,447	11
MI	Marquette	Sawyer International	SAW	26-0153	N	P	P	81,530	49
MI	Muskegon	Muskegon County	MKG	26-0071	N	P	P	37,099	110
MI	Pellston	Pellston Regional Airport of Emmet County	PLN	26-0076	N	P	P	31,146	36
MI	Saginaw	MBS International	MBS	26-0083	N	P	P	195,287	30
MI	Sault Ste. Marie	Chippewa County International	CIU	26-0139	N	P	P	15,258	21
MI	Traverse City	Cherry Capital	TVC	26-0094	N	P	P	223,988	112

*NPIAS Report to Congress, 2009-2013

ear*

2009-2013 Development Cost
38,917,421
9,583,449
321,481,504
8,635,804
35,190,952
62,867,724
10,484,579
1,057,895
1,015,790
19,317,857
46,038,238
2,397,369
10,979,158
11,989,474
20,931,970
22,934,106
6,967,840
16,920,296

Noise Abatement and Control Checklist for HUD or Responsible Entity
Maintain, in your ERR, a map that identifies the location of any noise sources.

Grant #: Project Address:

General requirements	Legislation	Regulation
Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources	Noise Control Act of 1972; The Quiet Communities Act of 1978 as amended; OMB Circular 75-2, "Comparable Land Uses at Federal Airfields"	24 CFR Part 51 Subpart B Noise Guidebook

1. Is project new construction, purchase or resale of existing, modernization, or rehabilitation of noise sensitive use (i.e., housing, mobile home parks, nursing homes, hospitals, and other non-housing uses where quiet is integral to the project's function, e.g., libraries)?

- No: STOP here. The project is not subject to the noise standards. Record your determination that the project is not subject to the noise standards in your ERR.
- Yes: PROCEED to #2

2. Is the project located within 1,000 feet of a busy road or highway, 3,000 feet of a railroad, or 15 miles of a civil airport or military airfield? Are there any other potential noise sources in the project vicinity that could produce a noise level above HUD's acceptable range, including but not limited to concert halls, night clubs, event facilities, etc.... ?

- No: STOP here. Record your determination. You do not need to calculate a specific noise level.
- Yes: Assess the noise level using HUD's Noise Guidebook. You must complete a desk calculation for roads, rail, and airports but will need a sound level meter to measure other noise sources. PROCEED to #3

3. Determine the actions to take based on the project and HUD Acceptability Standards

HUD General Acceptability Standards	
<i>HUD determination</i>	<i>Day night average sound level in decibels (dB)</i>
Acceptable	Not exceeding 65 dB
Normally Unacceptable	Above 65 dB but not exceeding 75dB
Unacceptable	Above 75 dB +

Is the activity for:

- Construction of new noise sensitive use? PROCEED to 3.a
- Purchase or resale of otherwise acceptable existing buildings (existing buildings are either more than 1 year old or buildings for which this is the second or subsequent purchaser)? Proceed to 3.b
- Modernization? Proceed to 3.c
- Major or substantial rehabilitation (75% of after-rehab value)? Proceed to 3.d

a. New Construction

Is the Day-Night average sound level:

- Above 75 dB. **Construction of new noise sensitive uses is generally prohibited**, an EIS is required prior to the approval. The Assistant Secretary or Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor sensitive activity will take place on the site. (Under § Part 50 approval is required of the Assistant Secretary for CPD, under § Part 58 the Certifying Officer must provide approval). Document the ERR.

- Above 65 dB but not exceeding 75 dB. Construction of new noise sensitive uses is discouraged – all new projects require special environmental reviews and may require special approvals prior to construction (except when the threshold has been shifted to 70 dB as described below). Information is provided at 51.104 (b)(1). Document ERR include the special review and approval. Document attenuation if approved.
- Not exceeding 65 dB. (this threshold may be shifted to 70 dB on a case-by-case basis when 6 specific conditions are satisfied as described at Section 51.105(a)). Noise levels are acceptable. Document the ERR

b. Purchase or Resale of Existing Building

Is the Day-Night average sound level above the acceptable level?

- Yes. Consider environmental noise as a marketability factor when considering the amount of insurance or assistance that will be provided to the project? Noise exposure by itself will not result in the denial of HUD support for the resale and purchase of otherwise acceptable existing buildings. Record your determination in the ERR.
- No. Record your determination in the ERR

c. Modernization

Is the Day-Night average sound level above the acceptable level?

- Yes. Encourage noise attenuation features in alterations. Record your determination in the ERR.
- No. Record your determination in the ERR

d. Major or Substantial Rehabilitation (75% of after-rehab replacement cost)

Is the Day-Night average sound level:

- Above 75 dB. HUD or the RE shall actively seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level of exterior noise exposure and will strongly encourage conversion of the noise exposed sites to land uses compatible with the high noise levels. Document the ERR.
- Above 65 dB but not exceeding 75 dB. HUD or the RE shall actively seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level of exterior noise exposure Document ERR.
- Not exceeding 65 dB. (this threshold may be shifted to 70 dB on a case-by-case basis when 6 specific conditions are satisfied as described at Section 51.105(a)). Noise levels are acceptable. Document the ERR.

Determination:

Preparer Signature: _____

Date: _____

Name/Title/Agency:

Conditional Commitment of Federal Funds Prior to Environmental Release of Funds (ROF)
(Taken from HUD CPD Notice 01-11.)

PJs, insular areas, state recipients, subrecipients, contractors, owners, and developers shall not undertake any activities that would adversely impact or limit the choice of reasonable alternatives for a project until it has been environmentally cleared – and therefore they **must not** expend any public or private funds (HUD, other Federal, or non-Federal funds) or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. Using any portion of Federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before completing the environmental review process requires the denial of **any** Federal funds for that project.

However, responsible entities may provide a **conditional commitment of funds** for a specific project, pending environmental clearance, *provided* the conditional commitment does not provide the state recipient, subrecipient or contractor any legal claim to any amount of Federal funds to be used for the specific project or site unless and until the site has received environmental clearance. The following language is acceptable in an otherwise appropriately drafted agreement:

“Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by [the participating jurisdiction, insular area or state recipient] of a release of funds from the U.S. Department of Housing and Urban Development [or the State of.....] under 24 CFR Part §58. The parties further agree that the provision of any funds to the project is conditioned on the [participating jurisdiction, insular area or state recipient's] determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.”

The agreement must also contain a provision prohibiting the state recipient, subrecipient or contractor from undertaking or committing any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement. The agreement should not contain provisions requiring the execution of a construction contract unless the provision requires prior completion of the environmental clearance and advice from the PJ, insular area or state recipient to proceed with the project and/or proceed with execution of the contract. Provisions such as specific work descriptions and plans or specifications should not be included in a conditional commitment. Grantees are encouraged to keep any conditional commitments short and, if necessary, include more detailed provisions relating to project execution in an unexecuted attachment to avoid the appearance of permission or encouragement to begin undertaking choice-limiting actions.

Peter Goodstein

Attorney at Law
452 S. Saginaw Street, Suite 302
Flint, Michigan 48502
(810) 232-0553
Facsimile (810) 232-0554
Email: petergoodstein@hotmail.com

June 25, 2010

Mr. Rick Ballard
Director
Office of Community Development
Michigan State Housing Development Authority
735 East Michigan Avenue
P O Box 30044
Lansing, MI 48909

RE: LEGAL STATUS OF A COUNTY LAND BANK AUTHORITY

Dear Mr. Ballard,

The Center for Community Progress on behalf of the NSP2 Michigan Consortium asked whether a county land bank authority is an entity distinct from the county which approves the intergovernmental agreement between the county treasurer acting as foreclosing governmental unit and the State land bank authority. I was also asked to address the response to you. In my opinion a county land bank authority is distinct from the county.

A county land bank authority is formed pursuant to an intergovernmental agreement between a county treasurer acting as the county's foreclosing governmental unit¹ and the State land bank authority.² The agreement, to which the county is not a party, requires the approval of the county board of commissioners and the concurrence of the county executive if one exists.³ The intergovernmental agreement must provide, *inter alia*, for the incorporation of the county land bank authority as a public body corporate.⁴ As an incorporated body it has a legal existence distinct from that of the foreclosing governmental unit and State authority which created it and also distinct from the county that approved its creation.

¹ MCL 124.753(f)

² MCL 124.765

³ MCL 124.773(5)

⁴ MCL 124.773(6)(a)

Mr. Rick Ballard
RE: Legal status of a county land bank authority
June 25, 2010
Page Two

This distinction is recognized in the intergovernmental agreement which invariably contains language to the effect that "The County Authority is established as a separate legal entity and public body corporate to be known as the "_____" for the purposes of acting as an authority under the Land Bank Act and administering and executing this Agreement."

If you wish to discuss this matter further please feel contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Peter Goodstein', with a stylized flourish at the end.

Peter Goodstein

Cc: Amy Hovey

Project Evaluation for Consultation with SHPO

This form is a pre-requisite for project set up and must be uploaded on OPAL.

Grantee: [] OCD Grant No.: []
Project Address: []

For the project address identified above, please indicate which one of the following statements applies:

1. Consultation with SHPO is required. Grantee will upload SHPO's written response identified below prior to project set up.

This project involves one or more of the following activities or undertakings and therefore requires consultation with SHPO (check all that apply):

- Demolition or deconstruction
- Streetscape improvements
- Infrastructure projects
- New build/infill projects
- Construction of public housing units
- Commercial rehabilitation or development
- The project meets any or all of the following criteria (check those that apply):
 - The project affects a property that is 50 years of age or older.
 - The project affects/has the potential to affect a property that has historic significance or is included in/is eligible for inclusion in: 1) State Register of Historic Sites; and/or 2) National Register of Historic Places.
 - The project or buildings in the project's area of potential effects are located in: 1) a locally-designated historic district; 2) a historic district included in, or eligible for inclusion in the State Register of Historic Sites; and/or 3) a historic district included in, or eligible for inclusion in, the National Register of Historic Places.
 - Any property in the project, fifty years of age or older, will be altered, removed, abandoned, or demolished to accommodate the project.
 - The project is in an established neighborhood (fifty years of age or older) where trees, sidewalks, or other streetscape features may be added, altered, removed, or demolished to accommodate the project.

SHPO has determined this project to have:

- No historic properties affected (date);
- No adverse effect (date); or
- Adverse effect. Project has since met all SHPO requirements and SHPO review is completed on date.

2. Consultation with SHPO is not required.

This project does not require consultation with SHPO because:

- None of the activities in statement one above applies to this project.
- Project activities are comprised solely of undertakings that HUD and SHPO have determined do not require consultation with the SHPO. Check all activities that will apply to this project on the attached form, taken from "Guidelines for consulting with the State Historic Preservation Office (SHPO)."
- Property is located in an NSP2 target area that SHPO has determined has "No adverse effect."
- NSP2 Land Banks ONLY** – funds are being used to acquire foreclosed property in an LMMA target area for the purpose of Land Banking under Eligible Use C.

3. NSP2 Land Banks ONLY – Land Bank will use funds to acquire property that will be transferred to the Consortium Partner for redevelopment under B, D and/or E. Consultation with SHPO will not take place prior to acquisition.

We certify our understanding that SHPO consultation must take place prior to demolition, rehabilitation or new construction and a second SHPO Consultation form must be submitted for the B, D and/or E activities. We also acknowledge and accept the financial risk associated with purchasing property prior to full SHPO consultation and compliance. Should the project fail to meet an NSP2 eligible end use, all NSP2 funds from all parties will be returned.

(If this activity will be completed jointly by consortium partners, both parties must sign this form.)

Certified By:

Name of Grantee representative responsible for site-specific environmental review

Date: _____

Name of Consortium Partner representative responsible for site-specific environmental review
(Required for Option 3 only.)

Date: _____

HUD PROJECT TYPES NOT REQUIRING CONSULTATION WITH THE SHPO

HUD, in consultation with the SHPO, has determined that the following activities do not meet the definition of undertaking since they do not have the potential to cause effects on historic properties per 36 CFR sec. 800.3(a) or they have limited potential to affect historic properties and therefore *no historic properties will be affected* by these undertakings per 36 CFR sec. 8000.4(d). Therefore, you are not required to initiate consultation with the SHPO for the following federally-funded undertakings if permanent impacts upon original interior elements or surface treatments, particularly those elements of the historic property that contribute to its historic or architectural significance, are avoided. **You should document your decision in the event that you are requested to provide justification for your actions.**

Community Improvement Projects:

- Reconstruction of roads where no change in width, surface materials, surface treatments, or vertical alignments of drainage is to occur
- Repair or replacement of water, gas, storm, and/or sewer lines if it occurs within the dimensions of the original trench and permanent impacts upon surface treatments (sidewalks, curbs, raised planters, benches, streetlights, etc.) or landscape features (trees, shrubs, lawns, etc.) which contribute to the historic or architectural significance of the resource are avoided
- Tree planting or landscaping adjacent to the right-of-way
- Repainting parking spaces or streets

General Activities:

- Administration overhead, including salaries
- Code enforcement
- Drug abuse resistance educational programs
- Emergency services programs
- Equipment purchases
- Home health care
- Outreach programs
- Public safety programs
- Planning activities and programs
- Recreational activities and services
- Relocation assistance
- Section 108 principal and interest payments
- Senior activities and services
- Senior transportation and programming
- Vector control programs

Interior Rehabilitation:

- Electrical work
- Installation of new kitchen and bath appliances, cabinets, counters, tubs, sinks and toilets
- Installation of insulation provided it is restricted to attics, crawl spaces, the upper surfaces of existing ceilings when the ceilings are not dropped ceilings, and proper vapor barriers are used
- Installation of smoke or carbon monoxide alarms.
- Interior surface treatments (floors, walls, ceilings, and woodwork) provided the work is restricted to repainting, refinishing, repapering, or laying carpet or linoleum and the feature is not significant to the historic character of the property
- Plumbing rehabilitation work and replacement, including pipes and fixtures
- Repair or replacement, including pipes and fixtures
- Repair or replacement of concrete basement floors and interior basement walls
- Repair, replacement or cleaning of existing water heaters, heating systems (including duct work and piping) or other appliances
- Replacement of door locks
- Restroom improvements for handicapped access provided that the work is contained within the existing restroom

Exterior Rehabilitation:

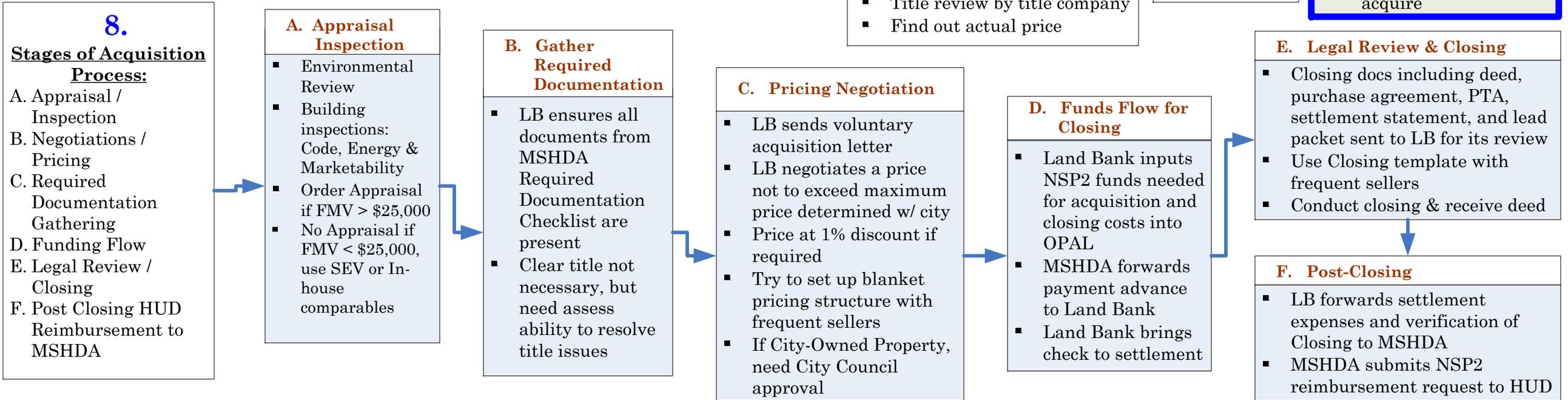
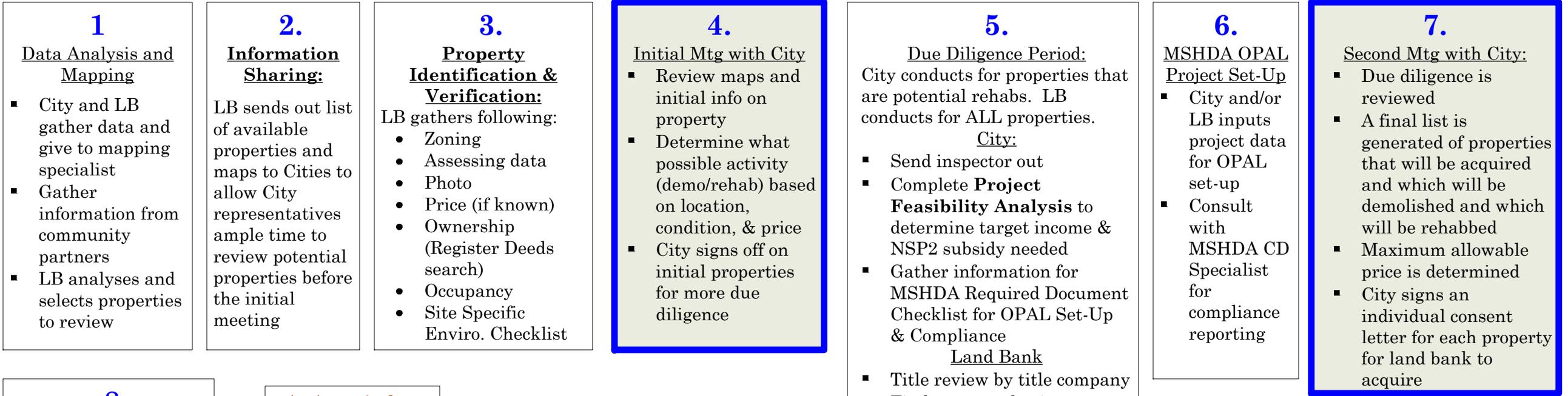
- Caulking, weather stripping or replacement of missing or damaged window glass with glass of the same surface qualities (color, texture, and reflectivity)
- Installation or replacement of gutters and downspouts (if the color is historically appropriate for the period and style of the historic resource)
- Flat or shallow pitch roof repair or replacement (shallow pitch is understood to have a rise-to-run ratio equal to or less than 3" to 12"), with no part of the surface of the roof visible from the ground
- Painting previously painted surfaces in color(s) historically appropriate for the period and style of the historic resource
- In-kind replacement of asphalt shingles
- Repair of existing wheelchair ramps
- Repair or replacement of existing siding if done with siding that matches the existing siding in dimension, profile and material
- Repair, replace or install new sidewalks or driveways that match the existing sidewalk or driveway in materials and dimensions
- Repair or replacement of chimneys with the same material and dimensions
- Repair of porch ceilings, steps, floors or railing if done in-kind to match existing original materials, configuration and dimensions
- Repair or repainting of existing storm windows

NSP2 Acquisition Delivery System for Michigan State Land Bank and its City Partners



* Boxes in bold outline are “Decision Points” where City determines how to proceed

** Each week, when City and LB meet, both an “initial mtg” and “second mtg” will take place during that timeslot. This is a continuous timeline that various “batches” of properties will be reviewed.



✘ NSP2 ACQUISITION SET-UP IN OPAL

OPAL ACTIVITY INFORMATION

Activity/Funding Agreement Number:	
Main Contact:	
Address:	0
City:	0
State:	Michigan
Zip Code:	0
County:	0
HUD County Code:	N/A Applicable - Autofill on OPAL

Funds Per Unit Information

Total NSP Funds Requested	\$0.00	
Total Project Costs*:	\$0.00	*includes all NSP & non NSP funds
Other Funds Committed to this Activity:	\$0.00	

Census Tract

Census Tract Risk Score:	19.47
Census Tract:	0
Census Block Group:	Not Applicable

Property Type (Select all that Apply):

Foreclosed:	NO
Abandoned:	NO
Vacant Structure:	NO
Vacant Land, not a Greenfield:	NO
In City/Land Bank Portfolio prior to Apr 9, 2010:	NO
Blighted via Certification Letter:	

Property Use

What was the prior use of the property?	Non-residential
Intended Use: What will be the intended use of the property?	0
Residential Property Type*:	0
*(Please enter this field if Intended Use is "Residential Only" or "Mixed Use")	
At the time of set-up, are there structures on this property?:	YES

Acquisition Detail

Value of property when acquired by Grantee:	\$ -
Date Value was determined:	01/00/00
Non-NSP2 Funds Used to Acquire	\$ -
Grantee Purchase Price:	\$ -
Discount Rate:	#DIV/0!
Recorded Deed Date:	01/00/00
# of Residential Parcels acquired:	0
# of Non-residential Parcels acquired:	1
Total Parcels acquired:	1

OPAL ACTIVITY BUDGET

CDBG Activity	NSP2 ELIGIBLE USE				TOTAL BY CDBG ACTIVITY
	Use B Redevelop Abandoned/ Foreclosed Residential Properties	Use E Redevelop Vacant/ Demolished Residential Properties	Use C Land Banking	Use D Demolition of Blighted Structures	
Acquisition	\$0	\$0	\$0		\$0
Rehab & Preserve	\$157,250	\$0			\$157,250
Disposition			\$0		\$0
Demolition				\$12,000	\$12,000
Housing Counseling	\$8,000	\$0			\$8,000
Land Bank Activity Delivery	\$8,000	\$0	\$0	\$0	\$8,000
City Activity Delivery	\$10,000	\$0	\$0	\$0	\$10,000
TOTAL BY NSP2 USE	\$183,250	\$0	\$0	\$12,000	\$195,250

✂ NSP2 ACQUISITION ANALYSIS TOOL

Please refer to "Requirements of Acquisition Analysis Tool" under "Acquisition Policy" of the Michigan NSP2 Consortium Policy and Procedures Manual.

A. Property Information and Neighborhood Assessment - REQUIRED

Address:			
City:	Zip:	Parcel ID:	
County:	Census Tract:	HUD Risk Score: 19.47	
Income Level of Census Tract:	Neighborhood:		
Block Type:	Designated Target Block?		
	County Code:		CUSTOMIZE

If not within designated cluster or target block, explain why targeting for acquisition:

B. Property Type, Condition and Characteristics - REQUIRED

Property Type:	Condition:
Existing/Prior Use:	Bedrooms:
Zoning:	Baths:
Year Built:	Lot Size:
Occupancy:	Structure Square Footage:

Other Amenities &/or Concerns:

C. Property Ownership Assessment - REQUIRED

Date of Ownership Search:	Ownership Search Conducted:
Ownership Type:	
Owner Name:	Contact:
Owner/Contact Address:	
Owner/Contact Phone:	Owner/Contact E-mail:

URA Notice of Voluntary Acquisition (if applicable):

Foreclosure Process Stage:

NSP2 Foreclosure Type:

D. Tenant Protections Assessment - Complete only if determine property is foreclosed - REQUIRED

Date Foreclosed:
Occupancy at Foreclosure:
Tenant Protections ¹ :

¹ Only applicable if foreclosed after February 17, 2009 and property occupied by bona-fide tenants

E. Environmental and Historic Review - REQUIRED

Date of Environmental Site-specific Checklist:	
Is the Property is a SHPO-designated Historic District?	SHPO Clearance. No further action, but map & place in file.
Date submitted to SHPO on Site-specific Historic Review:	
Date of Response from SHPO:	
Have received Environmental Review clearance?	
Received Historic Review Clearance on Acquisition Activity?	
Received Historic Review Clearance on Demo or Rehab Activity?	
If conditional approval, is acquisition still feasible?	
If adverse effect, is acquisition still feasible?	
Please explain further, if needed:	
SHPO Contact:	
Phone & E-mail:	

Date of MSHDA Approval on Site-specific Environmental Assessment for Non-residential Property: INSERT DATE

F. Cost Analysis Requirements - Complete only section/row that applies based on Property Type & Appraisal Requirement - REQUIRED

Property Type & Appraisal Requirement	Appraised or FMV	Initial Offer Price	Local Maximum Offer Price	Maximum NSP Allowable Price	Purchase Price Discount per Local Max. Offer	Purchase Price within Limits?
---------------------------------------	------------------	---------------------	---------------------------	-----------------------------	--	-------------------------------

Foreclosed: APPRAISAL						
Abandoned, Vacant or Demolished: DOCUMENTATION OF REASONABLE COSTS						

Name who conducted: _____
 Company/Agency: _____
 Phone/E-mail: _____
 Order Date: _____ Review Date: _____
 Date Conducted/Signed: _____

G. Anticipated End Use - REQUIRED

Proposed End Use: _____ Beneficiary for Housing: _____
 OPAL Intended Use: _____
 OPAL Grant Budget Category, select all that apply: _____
 National Objective: _____
 Targeted Income: _____

H. Approval for Acquisition - REQUIRED

Do the City and Land Bank hereby approve or disapprove of property with NSP2 funds? _____
 Which party will be responsible to acquire the property - City or Land Bank?: _____

Minimum Price (Initial Offer Price)	\$	-
Maximum Price (If Seller negotiations)	\$	-
NSP2 Maximum Allowable Price	\$	-

City Attest: _____
 Signature: _____
 Print Name _____ Title _____ Date _____

Land Bank Attest: _____
 Signature: _____
 Print Name _____ Title _____ Date _____

I. Title Insurance Commitment Report - REQUIRED IF ACQUISITION A REIMBURSEMENT

Name who conducted: _____
 Title Company: _____
 Phone/E-mail: _____
 Order Date: _____ Title Report Number: _____
 Title Report Received: _____ Review Date: _____

Title Report Findings and Info		Date:
Listing of Major Adverse Conditions:		Amount
		Date of Conditions
1		
2		
3		
4		
5		
6		
7		
8		
Total Lien Amount:		\$ -

J. Project Cost Estimates and Subsidy Analysis - REQUIRED

Step 1. Development Budget		NSP2 Use	CDBG Activity
Acquisition	\$0	Use B	Acquisition
Demolition	\$12,000	Use D	Demolition
Property Maintenance or Carry Costs	\$2,000	Use B	If B/E, Rehab & Preserve
Board Up & Stabilize	\$0	Use B	If B/E, Rehab & Preserve
Hard Construction Costs	\$135,000	Use B	Rehab & Preserve
Land Bank Activity Delivery Costs	\$8,000	Use B	Activity Delivery Costs
City Activity Delivery Costs	\$10,000	Use B	Activity Delivery Costs
Developer Fee <i>(based on Construction Costs ONLY)</i>	\$20,250	Use B	Rehab & Preserve
Housing Counseling	\$8,000	Use B	Housing Counseling
Total Development Costs	\$195,250		
FMV Sales Price to Buyer	\$60,000		
Development Gap	(\$135,250)		

Step 2. Homebuyer Affordability	
Sales Price	\$60,000
Closing Costs	\$5,000
Total Settlement Costs	\$65,000
First Mortgage: 80% LTV	\$48,000
Buyer Cash	\$720
Closing Cost Gap	(\$4,280)
Mortgage Gap	(\$12,000)
Buyer Affordability Gap	(\$16,280)

Step 3. Final Subsidy	
Total Development Costs	\$195,250
TOTAL NSP2 PROJECT COSTS	\$195,250
less First Mortgage (80% LTV)	\$48,000
less Buyer Cash	\$720
Final Development Subsidy	\$146,530

Step 4. Program Income	
First Mortgage	\$48,000
Buyer Cash	\$720
Buyer's Closing Costs	\$200
less Seller Equity	\$0
less Seller's Closing Costs	\$4,800
Program Income	\$44,120

K. Negotiations and Settlement - REQUIRED IF ACQUISITION A REIMBURSEMENT

URA Notification of Voluntary Acquisition:

Purchase Agreement:

	Amount	Date
Initial Offer Letter/Option to Purchase:	<input type="text"/>	<input type="text"/>
Final Purchase Agreement:	<input type="text"/>	<input type="text"/>
Appraised FMV:	\$ -	01/00/00

Discount	# of Days Appraisal conducted prior
0%	0
NO. Lower Purchase Price.	OK. Conducted withing 60 days prior to Final Offer

Settlement and Closing

Agent Name:

Title Company:

Address:

Phone/E-mail:

Settlement Date:

Purchase Price: \$ -

Closing Costs:

Final Sales Price: \$ -

Appraised FMV: \$ -

Discount: #DIV/0!

<input checked="" type="checkbox"/> NSP2 Acquisition Due Diligence & File Checklist - <u>FORECLOSED</u> PROPERTY
Use this Checklist if Property Type is: Foreclosed Listings of REO, HUD, FHA/VA, Freddie Mac and Fannie Mae, Lender Bulk Purchase Foreclosed, Tax Foreclosed, or Current Tax Foreclosed owned by City- or Land Bank

Property Address:	0
Buyer Agency:	0

Acquisition Analysis by Section	REQUIRED DOCUMENTATION	Responsible Party	Date Completed / Executed	Notes
TOOL	1 Acquisition Analysis			
A. Location	2 Map of Property in Target Area and Census Tract			
B. Type and Condition	3 Front View Photo of Property 4 Rear View Photo of Property 5 Proof of Vacancy, i.e. Utility Shut-off, Site Inspection, etc.			
C. Ownership Assessment	6 Documentation to Determine Ownership (e.g. Initial Register of Deeds) 7 Proof for Foreclosure, select ONE (1): Notice to Owner that property's current delinquency status is at least 60 days (based on Mortgage Bankers of America delinquency calculation) Notice to Owner that property's taxes are at least 90 days delinquent Any Notice with Date demonstrating that Foreclosure proceedings initiated Any Notice with Date demonstrating that Foreclosure proceedings completed Short Sale Deed in lieu of Foreclosure Deed of Foreclosure			
D. Tenant Protections	8 Tenant Protections Checklist Per Tenant Protections Checklist provide following applicable documentation: 9 Deed of Foreclosure with date showing on or prior to Feb 17, 2009 10 Documentation that former Homeowner/Mortgagor is only one occupying unit			
E. Enviro & Historic Review	11 Site-specific Environmental Review Record (ERR) Checklist 12 If in SHPO-designated Historic District, Historic Review Approval Letter (at least approval for Acquisition activity) 13 Phase I Environmental Site Assessment			
F. Cost Analysis Requirements	14 Appraisal Requirements, select ONE (1): URA-compliant, As-Is Appraisal Appraisal Update (if applicable)			
G. End Use	See Analysis Tool Worksheet			
H. Acquis. Approv.	See Analysis Tool Worksheet			
I. Title	15 Title Search and Report (via Commitment of Title Insurance)			
J. Project Costs	See Analysis Tool Worksheet			
K. Negotiations and Settlement	16 URA Notice of Voluntary Acquisition 17 Purchase Agreement/Final Offer 18 Settlement Statement/Closing Documents 19 Recorded Deed 20 Commitment of Title Insurance <u>or</u> Proof of Quiet Title Authority If Structure, Keys received			

NSP2 Acquisition Due Diligence & File Checklist - ABANDONED PROPERTY

Use this Checklist if Property Type is:

Property with at least 90 days delinquent in Property Taxes, Inhabitable Property with Code Inspection and no corrective action in 90 days, and Property subject to court-ordered receivership or nuisance abatement related to abandonment pursuant to state or local law, Property meets state or local law definition of Abandoned

Property Address: 0

Buyer Agency: 0

Acquisition Analysis by Section	REQUIRED DOCUMENTATION	Responsible Party	Date Completed / Executed	Notes
TOOL	1 Acquisition Analysis			
A. Location	2 Map of Property in Target Area and Census Tract			
B. Type and Condition	3 Front View Photo of Property			
	4 Rear View Photo of Property			
	5 Proof of Vacancy, i.e. Utility Shut-off, Site Inspection, etc.			
C. Ownership Assessment	6 Documentation to Determine Ownership (e.g. Initial Register of Deeds)			
	7 Proof of Abandonment (select one)			
	Notice to Owner that at least 90 days delinquent on Property Tax Payments			
	Notice of No Corrective Action within 90 days along with Code Enforcement Inspection demonstrating no habitable property and providing corrective action			
	Notice of Court-ordered Receivership or Nuisance Abatement			
	Notice that Property is Abandoned			
D. Tenant Protections	8 Tenant Protections Checklist - NOT APPLICABLE			
E. Enviro & Historic Review	9 Site-specific Environmental Review Record (ERR) Checklist			
	10 Historic Review Approval Letter (at least Tier 1, Acquisition ONLY)			
	11 Phase I Environmental Site Assessment			
F. Cost Analysis	12 Documentation of Reasonable Acquisition Costs			
G. End Use	See Analysis Tool Worksheet			
H. Acquis. Approv.	See Analysis Tool Worksheet			
I. Title	13 Title Search and Report (via Commitment of Title Insurance)			
J. Project Costs	See Analysis Tool Worksheet			
K. Negotiations and Settlement	14 URA Notice of Voluntary Acquisition			
	15 Purchase Agreement/Final Offer			
	16 Settlement Statement/Closing Documents			
	17 Recorded Deed			
	18 Commitment of Title Insurance <u>or</u> Proof of Quiet Title Authority			
	If Structure, Keys received			

NSP2 Acquisition Due Diligence & File Checklist - VACANT RESIDENTIAL PROPERTY

Use this Checklist if Property Type is:

Vacant, Privately-owned Residential Property that does not meet NSP2 definition of foreclosed or abandoned; any mortgage foreclosed property acquired by City or Land Bank prior to April 9, 2010; any mortgage or tax foreclosed property acquired by non-profit or for-profit developer or agency prior to April 9, 2010; and any mortgage or tax foreclosed property acquired by non-profit or for-profit developer or agency after April 9, 2010 and without an Agreement with City or Land Bank to use NSP2 funds for said property.

Property Address: 0

Buyer Agency: 0

Acquisition Analysis by Section	REQUIRED DOCUMENTATION	Responsible Party	Date Completed / Executed	Notes
TOOL	1 Acquisition Analysis			
A. Location	2 Map of Property in Target Area and Census Tract			
B. Type and Condition	3 Front View Photo of Property			
	4 Rear View Photo of Property			
	5 Proof of Vacancy, i.e. Utility Shut-off, Site Inspection, etc.			
C. Ownership Assess.	6 Documentation to Determine Ownership (e.g. Initial Register of Deeds)			
D. Tenant Protections	8 Tenant Protections Checklist - NOT APPLICABLE			
E. Enviro. & Historic Review	9 Site-specific Environmental Review Record (ERR) Checklist			
	10 Historic Review Approval Letter (at least Tier 1, Acquisition ONLY)			
	11 Phase I Environmental Site Assessment			
F. Cost Analysis	12 Documentation of Reasonable Acquisition Costs			
G. End Use	See Analysis Tool Worksheet			
H. Acquis. Approv.	See Analysis Tool Worksheet			
I. Title	13 Title Search and Report (via Commitment of Title Insurance)			
J. Project Costs	See Analysis Tool Worksheet			
K. Negotiations and Settlement	14 URA Notice of Voluntary Acquisition			
	15 Purchase Agreement/Final Offer			
	16 Settlement Statement/Closing Documents			
	17 Recorded Deed			
	18 Commitment of Title Insurance <u>or</u> Proof of Quiet Title Authority			
	If Structure, Keys received			

NSP2 Acquisition Due Diligence & File Checklist - *POST SETTLEMENT*
Use this Checklist for All Property Acquired or Conveyed with NSP2 Funds

Property Address: 0
 Buyer Agency: 0

	Responsible Party	Date Completed/Executed	Notes
1. Board-up & Fencing, if Structure			
Contact Name:			
Board-up Company:			
Address:			
Phone/E-mail:			
Order Date:			
Date Boarded-up/Fenced:			
Inspection Date:			
2. Lawn Care & Trash Removal			
Contact Name:			
Lawn & Trash Company:			
Address:			
Phone/E-mail:			
Order Date:			
Date Mowed & Cleaned-up:			
Inspection Date:			
3. Added to Liability Insurance			
4. Added to Fire Insurance (if Structure)			
5. Utility Shut-off (if Structure)			
Electric Account #:			
Electric Shut-off Order Date:			
Electric Shut-off Date:			
Water Account #:			
Water Shut-off Order Date:			
Water Shut-off Date:			
Gas/Oil/Propane Account #			
Gas/Oil/Propane Shut-off Order Date:			
Gas/Oil/Propane Shut-off Date:			

MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

DEMOLITION REQUIREMENTS MODULE

① DEMOLITION POLICY AND PROCEDURES ①

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MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

DEMOLITION REQUIREMENTS MODULE

❶ DEMOLITION POLICY AND PROCEDURES ❶

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I. INTRODUCTION

This chapter provides NSP2 policy and guidance on the demolition of blighted property within income eligible census tracts. MSHDA will work with Cities and Land Banks to ensure that their demolitions comply with regulations and meet eligibility requirements. MSHDA will also assist in assuring that the total dollar amount spent on demolition complies with the waiver the Michigan NSP2 Consortium received. The waiver allows the Consortium to use up to 32% of their total award on demolition costs. MSHDA will analyze how much the cap should be increased to meet the demand of communities and collaborate with the Grantees to adjust their budgets.

Demolition activities are governed by many of the same principles and regulations as are housing construction projects. This chapter covers the regulations and requirements that are unique to demolition activities under NSP2. These apply to your project whether it is a demolition only project, phase of a new construction housing project, or long-term land banking.

A. Key Terms

Asbestos: Naturally occurring silicate minerals with long, thin, fibrous crystals. Asbestos became popular as a type of insulation, and in a variety of building products because of its tensile strength; heat, electrical, and chemical resistance; and its sound absorption. It has been found that the inhalation of asbestos fibers can cause serious illnesses, such as lung cancer, asbestosis, and mesothelioma. It is most susceptible to inhalation when it is disturbed so that it creates dust. Products with “friable” asbestos are so weak and soft that they can be crushed with simple finger pressure.

Blighted: A blighted property is a blighted/abandoned/uninhabitable property that meets any of the following criteria:

- Declared a public nuisance in accordance with local housing, building, plumbing, fire, or other related code or ordinance.
- Attractive nuisance because of physical condition or use.
- Fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.
- Has a subsurface structure or demolition debris that renders the property unfit for its intended use.

NOTE: Property owned by a Land Bank is NOT automatically deemed as blighted. All project files must contain a written blighted certification letter which indicates which of the criteria that specific property meets deeming it blighted.

Condemnation: The legislative, administrative or judicial process and procedure whereby real property, usually a structure, is deemed legally unfit for occupancy or continued existence due to its physical defects or for other causes, such as use of the property for illegal purposes. A property may be condemned without the owner's consent.

Deconstruction: A demolition strategy that is the selective dismantling or removal of materials from buildings before or instead of crushing and burying valuable building materials. A deconstruction process salvages not just the most readily available components but also extracts

additional materials. Reclaiming wood millwork, windows, doors, cabinetry, flooring, wall studs, joists, copper piping and wiring, lighting and plumbing fixtures, appliances, concrete, and other masonry prevents those materials from clogging up landfills, whether they are repurposed for use in another project or sent to industrial recyclers to go back into the product stream.

Historic Preservation: The recognition that properties potentially slated for demolition may have historic significance that needs to be considered, either because of their architectural elements or because of their connection with historic events.

Lead-based paint: A type of paint that contains lead, a toxic heavy metal. Significant amounts of lead were used in paint for residential uses until 1978. Deteriorated lead-based paint, and dust containing lead is hazardous.

B. Demolition Project Eligibility

The demolition of buildings is an eligible activity under the NSP within certain defined limits, and following certain requirements and protocol as described on the following pages.

NSP2 Requirements

The following should be considered when determining the eligibility of potential demolition projects under the NSP.

All demolition projects must meet one of the following national objectives.

- a. **Low, Moderate and Middle Income Beneficiary (LMMI):** There is a direct benefit resulting from the final activity completed on the site. For NSP2, a blighted structure is demolished and a new house is redeveloped in its place. This new house is then sold or rented to an income eligible (below 120% of area median income) LMMI household. Note that the final activity in this case would be redevelopment and the property must be residential.
- b. **Low, Moderate and Middle Income Area Benefit (LMMA):** More commonly through demolition only activities and demolition of a property to be land banked (Eligible Use C).

Demolition is an eligible stand alone activity that meets the LMMA national objective by itself with no identified end use under only two circumstances 1) the property is blighted, is in an LMMA area and is an **extreme** documented threat to public health and safety or 2) is blighted, is in an LMMA area and the area is part of a comprehensive strategy for revitalization.

Note that commercial, industrial, or other types of structures may, under limited circumstances, be demolished in addition to homes and residential structures. **MSHDA will review and approve non-residential demolition on a case by case basis.**

Properties to be demolished and then land banked must be foreclosed residential.

See the Module 1 Michigan NSP2 Consortium “Policy and Program Guidelines” for additional information on meeting a National Objective.

All demolition projects must be located in eligible LMMI targeted census tracts as listed in the consortium’s application to HUD for funding. Please refer to the “Policy and Program Guidelines,” “Michigan NSP2 Consortium Targeted Census Tracts”.

Demolition of public housing is prohibited.

Garages or other subsidiary structures cannot be demolished if the parcel contains housing structures that are privately-owned and not part of an NSP2-funded redevelopment project.

Property must meet the definition of blighted as described within the consortium's application to HUD. See the definition of blighted at the beginning of this module and the *attached sample "Blight Certification Letter."*

If stand-alone demolition and defined as blighted, grantee may demolish non-residential structures with MSHDA approval. Non-residential property must also be within an LMMA NSP2 Census Tract and be included within the target area redevelopment plan.

If **the property to be demolished is owned by another entity**, then the Grantee or its Consortium Partner must have a written approval by the owner or a legally approved condemnation order. A title search is required to ascertain ownership and the presence of any lienholders associated with the property need to be formally notified and given adequate notice.

Environmental and Historic Review

1. **Prior to demolition of a residential property**, grantee must receive clearance on all environmental review requirements, as outlined in the "Module 1 Michigan NSP2 Consortium Policy and Program Guidelines," particularly the site-specific Tier II requirements related to historic preservation for residential property. For each Tier II review of a residential property, the project file should contain a copy of the completed site specific Environmental Review Record (ERR) Checklist and the required historic review documentation and approval letter.
2. **Prior to demolition of a non-residential property**, grantee must receive clearance on all environmental review requirements (including Historic Review), as outlined in the "Policy and Program Guidelines".

Note: Since MSHDA's initial Environmental Review for NSP only anticipated demolition of residential properties, demolition of a nonresidential property will require an individual NEPA review supported by a Phase I Environmental Assessment. The Phase I assessment and other supporting materials must be reviewed and approved by MSHDA's Environmental Review Officer prior to publication of Notice of Finding of No Significant Impact (FONSI) on the Environment and Notice of Intent to Request Release of Funds."

Lead-based Paint

Lead-based Paint Risk Assessment and Abatement are not required if a demolition project, but a risk assessment is required for deconstruction on projects where the structure is older than 1978. The assessment and clearance requirements are as follows:

	Deconstruction:	Deconstruction:	Deconstruction:
Requirements	Less than \$5,000	\$5,000-25,000	More than \$25,000
Evaluation	Test painted surfaces to be disturbed (or Standard Treatments)	Risk Assessment	Risk Assessment

Work Requirements	Safe Work Practices above de minimus levels	Interim controls for any LBP hazards	Abatement of any LBP hazards
Clearance	Clearance of any hazard control work sites	Clearance of entire unit	Clearance of entire unit

Asbestos

Asbestos Survey and Full Abatement are required on Demolition and Deconstruction projects where the **structure** was built prior to 1981. The requirements are as follows and guidance on how to comply with Asbestos requirements are found at: http://www.michigan.gov/dleg/0,1607,7-154-11407_15333_15369-41734--,00.html

Activity Requirements Evaluation	Demolition/Deconstruction
Work Requirements	Comprehensive Asbestos Survey Prior to initiation of Demo Activities
Clearance	Work will disturb asbestos and require removal of materials Full Abatement

Davis Bacon for Demolition Projects with Re-use Plans

For the purposes of Davis Bacon, evidence of a planned re-use includes but is not limited to contract specifications, disposition plans, budgets, applications for assistance, and similar records. NSP2 follows CDBG Davis Bacon Requirements and property under NSP2 can only be redeveloped as housing. So for Demolition Projects of **Residential Structures that will be redeveloped into housing**, the following conditions apply:

1. If the demolition is part of a redevelopment project resulting in residential property of eight (8) or more units, Davis Bacon applies.
2. If the demolition is part of a redevelopment project resulting in a residential property of fewer than eight (8) units, Davis Bacon is not applicable.

Note: For both examples above, a “residential property” is defined as one or more buildings on an undivided lot or on contiguous lots or parcels, which are commonly-owned and operated as one rental, cooperative or condominium project. Examples of 8+ unit properties include:
5 townhouses side-by-side which consist of 2 units each.
3 apartment buildings each consisting of 5 units and located on one tract of land.
8 single-family (not homeowner) houses located on contiguous lots.”

3. If the demolition is part of a redevelopment project resulting in a mixed-use property that includes both residential and non-residential uses, Davis Bacon will apply. Note that in such a

project, all costs associated with the non-residential portions of the building must be paid with non-NSP funding.

Please contact your MSHDA Community Development specialist for further guidance when providing NSP2 funds to a project involving a mixed use building for technical assistance on Davis-Bacon requirements.

Davis Bacon for Stand-Alone Demolition Projects without a Re-use Plan

Demolition, by itself, is not necessarily considered to be construction, alteration or repair (i.e. activities to which Davis-Bacon requirements may apply.) As a result, Davis-Bacon is not triggered by demolition work alone. Therefore, when there is not a re-use plan, demolition only projects are not covered by Davis-Bacon requirements.

Please refer to the letter, “Labor Relations Letter: LR-09-01 Davis-Bacon applicability demolition work” found at <http://www.hud.gov/offices/adm/hudclips/letters/09-11r.pdf>. Evidence of a planned re-use includes but is not limited to contract specifications, disposition plans, budgets, applications for assistance, and similar records.

C. Demolition as an Eligible End Use

Broadly speaking, the NSP regulations expect that any NSP assistance to a property will lead to an NSP-eligible end use of that property, typically as LMMI housing. There are, however, limited circumstances under which NSP funds may be invested exclusively in the demolition of a blighted property under Eligible Use D with that demolition being treated as a stand-alone activity or end use. This policy is intended to discuss such cases and guide consortium members through how to qualify such a property, the considerations that surround demolition as a stand-alone activity, and the limitations on subsequent disposition of such properties toward non-NSP eligible purposes.

In all cases, the discussion below is limited to properties for which NSP funding was used only for demolition under Eligible Use D. Once NSP funds are used to acquire or maintain a property under any other eligible use category, there are specific requirements for the subsequent reuse of such property that apply—namely that the property must result in an NSP eligible reuse, the specifics of which vary somewhat between Eligible Uses B, C, and E.

MSHDA consulted with HUD’s Frequently Asked Questions and with HUD Technical Assistance providers prior to putting this guidance into writing. Following is the rationale to justify the use of demolition as an eligible end use.

Demolition is an eligible stand alone activity that meets the LMMA national objective by itself with no identified end use under only two circumstances:

1. The property is blighted, is in a LMMA area and is an extreme public health and safety hazard. HUD has determined that a national objective is met only when there is a extreme condition such as a fire hazard, a risk of collapse, a harboring of illicit activities, or other condition that is an immediate, serious and documented risk to the community. Please note a property that is an eyesore or a market negative does not meet the extreme threshold.

OR

2. The property is blighted, is in a LMMA area, and the area is part of a comprehensive area strategy for revitalization. HUD has determined that properties which are part of such a comprehensive strategy may be demolished and be considered an area benefit (LMMA).

MSHDA believes that the first circumstance identified above will rarely be needed or used by consortium members. The second circumstance will be the most likely used as all consortium members are implementing the comprehensive strategies identified in the NSP2 Consortium Application. Michigan's NSP2 application to HUD described focused investment to support strategic, long-term revitalization leading to housing development in target neighborhoods. Based on that objective, Michigan's NSP2 target census tracts meet HUD's criteria as areas where the grantee is undertaking a "coordinated program of redevelopment and/or rehab and/or new construction and/or other improvements, including other demolition, in a target area, which together can reasonably be expected to improve the area, can also qualify as LMMA." (Quote is taken from HUD FAQ #545).

In this context, **demolition only** is an acceptable stand alone end use subject to the following conditions:

- property is in the NSP2 target census tract and in an LMMA area;
- property is in a neighborhood where land use is primarily (i.e. majority) residential;
- property is being demolished 1) as an extreme public health and safety hazard **or** 2) as part of a comprehensive neighborhood plan that includes other non-demolition components and the demolition is central to a comprehensive area strategy for revitalization;
- property meets the definition of blighted contained within the consortium's application to HUD as follows:

Definition of Blighted Structure

A blighted property is a blighted/abandoned/uninhabitable property that meets any of the following criteria:

- Declared a public nuisance in accordance with local housing, building, plumbing, fire, or other related code or ordinance.
- Attractive nuisance because of physical condition or use.
- Fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.
- Has a subsurface structure or demolition debris that renders the property unfit for its intended use.

NOTE: Property owned by a Land Bank is NOT automatically deemed as blighted. All project files must contain a written blighted certification letter which indicates which of the criteria that specific property meets deeming it blighted.

NOTE: Commercial, industrial or other types of structures may, under limited circumstances, be demolished in addition to homes and residential structures. **MSHDA will review and approve**

non-residential demolition on a case by case basis. Please note a NEPA/Phase I will be required for demolition of a non-residential structure.

Submitting Non-residential Demolition to MSHDA:

Consortium members proposing to demolish non-residential property as a stand-alone project not leading to an NSP2 eligible redevelopment must obtain pre-approval from MSHDA. You should contact your CD Specialist early in the process to discuss the project, and prior to moving forward a letter and supporting documentation should be submitted for review that demonstrates consistency with each of the criteria noted above. MSHDA will review the submission to ensure that the project meets each of these criteria, especially that the demolition is central to a comprehensive redevelopment plan that includes other NSP activities. We expect that such projects will be rare.

In such cases, we suggest that local consortium members consult MSHDA before starting the Phase I and NEPA processes to ensure that the project, but for environmental considerations, will be approved.

Acquisition with Demolition:

At this time (March, 2011), this italicized section represents MSHDA's current policy on projects that include both acquisition and demolition. Continued discussions are underway with HUD, TA providers, and others to determine if any additional project paths may be available; if those discussions yield a broader interpretation, updates to this section will be published.

As further itemized below, if NSP2 funds are used to acquire a property that is then demolished, the future reuse of the property must be NSP2 eligible, namely that the property must be redeveloped as LMMI housing, transferred as a side-lot to an adjacent LMMI homeowner, or transferred to an eligible LMMA service provider. More specifically:

- *Any demolition activities for property acquired under Eligible use C-Land Banking must additionally be foreclosed residential properties and are subject to redevelopment requirements within 10 years under the applicable HUD regulations related to Land Banking;*
- *Any demolition activities for property acquired under Eligible Use E-Redevelopment of Demolished/Vacant Properties must be vacant and be redeveloped as housing, under the applicable HUD NSP2 regulations, within the grant term.*
- *Any demolition activities for property acquired and/or redeveloped under Eligible Use B – Rehabilitation of Foreclosed or Abandoned Properties must be foreclosed or abandoned and rehabilitated/redeveloped as housing within the grant term.*

Demolition of Property Owned by Consortium Member:

Implicit within the policy framework above is the opportunity for an NSP2 consortium member to demolish a blighted property it owns or acquired through means other than NSP2—such a land bank that obtained a property through the tax foreclosure process—as a stand-alone activity. However,

the underlying CDBG rules incorporated into NSP still impact the subsequent reuse of such a property. 24 CFR 570.505 contains specific expectations when grantee-owned (i.e. consortium member) property is assisted with CDBG, and by extension, NSP funds.

First, the property could subsequently be disposed of toward an NSP2 eligible end use. Generically, this is the program's preferred outcome, pushing all assisted properties toward an NSP2 eligible redevelopment.

However, in other cases, the consortium member may determine that an NSP2 eligible reuse is not practical or achievable due to market considerations, site limitations, or the like. In such cases, the consortium member may dispose of the property toward a non-NSP2 eligible reuse subject to the following conditions:

1. Subsequent sale of the property should be consistent with the neighborhood redevelopment plan initially used to qualify the demolition as a stand-alone activity; and
2. Sale should be at market value (unless being donated to a nonprofit organization or governmental unit) with net proceeds of sale used:
 - a. First to repay any documented, necessary, and reasonable non-NSP direct costs incurred by the consortium member in the acquisition of the property; and
 - b. Second deposited as Program Income.

This discussion is limited to properties where NSP2 funds are used exclusively for demolition, and no NSP2 funds were used to acquire or maintain the property. Once NSP2 is used to acquire or maintain the property, there are specific requirements about subsequent reuse of the property that cannot be removed by a sale and collection of Program Income.

If you have any such properties or require advice on this issue, please contact MSHDA for further guidance.

NOTE: Regardless if demolition is part of an acquisition or stand alone strategy; all cross-cutting requirements (environmental/historical, etc.) must be met.

Additionally, the total expenditure for demolition by all consortium members may not exceed 32% of Michigan's overall award.

D. Demolition of Projects in a Flood Plain

Because NEPA requirements limit the ability to build or develop in a flood plain, and the cost of flood insurance generally works against the affordability of housing, local consortium members should not acquire properties in a flood plain. Demolition of such blighted properties, as a stand alone activity under the criteria noted above is both acceptable and, to a limited degree, encouraged since removing structures from the flood plain can have broad benefits to a neighborhood redevelopment effort.

If you previously purchased a property that is in a newly designated flood plain, please contact your CD Specialist to discuss the challenges this may create. MSHDA will help determine the best approach to such properties on a case-by-case basis.

E. Types of Demolition Projects and Related Issues:

Type of demolition project	Description of this type of project	Specific issues that need to be considered for this type of project
Stand-alone demolition	Demolition of one or more structures on property that will not be purchased by the Grantee or its Consortium Partner.	<ol style="list-style-type: none"> 1. The Grantee or its Consortium Partner must have written approval by the owner or a legally approved condemnation order. 2. A minimum five year, forgivable, not prorated lien will need to be placed on the property in the amount of NSP2 assistance.
Demolition on acquired property	Demolition on property that will be acquired through or during the NSP2 program	<ol style="list-style-type: none"> 1. A number of issues directly related to the acquisition of the property, including limits on the purchase amount, regulatory issues regarding environmental review, the uniform, relocation act, tenant rights, and requirements regarding the status of the property (abandoned, foreclosed, or vacant). For information regarding acquisition, reference the acquisition module of this policy and procedure manual. 2. Property that has been acquired must have an eligible reuse, either through redevelopment by 12/31/2012, or land banking (temporarily up to 10 years), transfer to an eligible LMMI beneficiary or for future redevelopment/transfer of ownership to an LMMI Service Provider. Thought should be given to the best reuse of the property prior to purchase and demolition. 3. The need to pay for and address insurance and security requirements related to the property before and during demolition. 4. The need to pay for and address maintenance issues related to the property before, during, and after demolition.

Demolition on previously owned property	The demolition of property which is already owned by the Grantee or its Consortium Partner prior to April 9, 2010 Release of Funds date or Grantee acquired property with <u>non</u> -NSP2 funds (prior to 2/10/2010).	<ol style="list-style-type: none">1. There are a number of issues that will need to be addressed relative to the prior acquisition of this property.<ol style="list-style-type: none">a. Environmental Review: If owned prior to February 10, 2010, provide evidence that it was acquired through foreclosure, if applicable, or that an ER was completed prior to purchase.b. Tenant protections: <u>Only applies if property was foreclosed.</u> The “questionnaire on compliance with NSP tenant protection requirements” in the appendices to the PPM, Module 5, Acquisition, must be completed and all tenant protection requirements fulfilled and documentation completed as outlined in Module 5. <p>For further information regarding these and other issues associated with acquisition, reference the acquisition module of this policy and procedure manual.</p> <ol style="list-style-type: none">2. The need to reuse this property in some eligible way if NSP2 funds are put into it for anything beyond demolition.3. The need to pay for and address insurance and security requirements related to the property during demolition.4. The need to pay for and address maintenance issues related to the property during, and after demolition, especially if “demolition only” is the end reuse for NSP2. Any other NSP2 funds to acquire or maintain the property will require the Grantee to redevelop by February 10, 2013 (if acquired under Eligible Use B or Eligible Use E) OR redevelop by February 10, 2020 (if acquired and/or maintained under Eligible Use C.)
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Demolition of large structures	The demolition of commercial, industrial, or other large structures Requires MSHDA pre-approval.	<ol style="list-style-type: none"> 1. In addition to the typical lead-based paint and the relatively small amounts of asbestos found in most of the housing stock, commercial and industrial structures may contain a much wider array of hazardous substances. The remediation of these can be very expensive. 2. The size and construction of many commercial and industrial structures can make them very costly to demolish. Keep in mind that there is a cap on the amount of NSP2 funds that can be spent on demolition and think carefully about the overall cost benefits of demolishing this type of structure. 3. The overall goal of the NSP2 program was to address the vacancy and abandonment of houses caused by the foreclosure crisis. Therefore, grantees must demonstrate that demolishing large commercial and industrial structures in NSP2 target areas further the goals of NSP2, threatens public health and safety, and increases the quality of life and marketability in NSP2 target areas. This should be a rare occurrence under NSP2. 4. Requires a project specific NEPA review and Phase I Assessment approved MSHDA.
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II. WORKING WITH PROGRAM PARTNERS

Because the demolition of property often involves a number of related activities such as acquisition and/or redevelopment, and because demolition often requires other complicating processes such as condemnation or hazardous material removal, it is important to develop a number of partnerships and to develop good working relationships. Some of these relationships are known going into the program. For example, a consortium of partners including city governments, land banks, and MSHDA were involved in applying to the U. S. Department of Housing and Urban Development (HUD) for the NSP2 funds.

Other relationships may not be so obvious on the surface. For example, the utility companies responsible for turning off and disconnecting the utilities will likely be partners with you in this endeavor. The better the working relationship with each of your partners, the more efficiently your program will operate.

Other potential partnerships that may need to be considered and fostered include the following:

- State and federal agencies with which you may be required to interact such as HUD, the State Historic Preservation Office, the Department of Natural Resources, and the Environmental Protection Agency.
- For profit and non-profit developers, contractors, realtors, appraisers, and consultants with whom you may work.

- Other city departments with whom you will need to work in order to complete the projects. For example building, code enforcement, engineering, planning, fire, and law enforcement personnel may all be required to demolish a property.
- Politicians, neighborhood groups, research institutions, lobbyists, advocates, and others who may be involved in decisions about what is right for a city or a particular neighborhood.
- Financial institutions, other government entities, and foundations that may provide additional project funding.

Additional information on working with partners is available in the PPM, Module 3: The cultivation of developers and program partners.

A. How Can Partnerships Be Facilitated?

Developing good relationships with partners is important to the smooth and efficient operation of a program. Following are some ways that good working relationships can be facilitated.

Recognize and acknowledge your partners. Understanding how another department or agency affects your ability to efficiently meet your goals is vital to your success.

Let them know of your goals. Take time to outline your process and desired outcomes. Explain to them what you are trying to accomplish, and why it is important to the overall goals of the community.

Look for road blocks. Find inefficiencies and points where the process gets bogged down.

Make agencies aware of your needs. Explain how their decisions, processes, and timing affect your results.

Find out how you can help them to help you. Maybe they need more detailed information, or need you to adjust how you do things in order for them to move more quickly.

Work together to develop a better delivery system. Communication and recognition of your partnership are keys to success.

Thank your partners for their help, and let them know that they are appreciated. If possible, do so publicly.

B. Making Use of a Demolition Facilitator (Recommended, but not required.)

A demolition facilitator is a person who is responsible for the handling of demolition projects from start to finish. That does not mean that they handle every aspect of demolitions directly, but it means that they are responsible for coordinating all of the various processes and agencies to ensure that the demolition projects move forward efficiently. There are a number of duties that need to be covered in handling demolition projects, including the following:

- Identification, Selection and Inspection of units to be demolished
- Determination of an end use for property
- Identification of qualified demolition contractors
- Development of a scope of work and bid packet
- Management of the bidding process
- Demolition contractor oversight
- Final property inspection
- Acquisition of property (if applicable)

- Management of maintenance, insurance, and security (if applicable)

III. DETERMINING WHEN DEMOLITION IS AN EFFECTIVE STRATEGY

In working toward the overall goals of NSP2, such as community and economic revitalization, the reestablishment of the housing market, the stimulation of reinvestment, and the mitigation of the effects of foreclosure, vacancy, and abandonment; demolition is just one of several tools in the toolbox. The effectiveness of demolition as a strategy varies with each neighborhood type and project situation.

A. Understanding Different Neighborhood Needs

Below are some descriptions of different neighborhood types and discussion about demolition as a strategy within each type of neighborhood.

Healthy neighborhoods: Healthy neighborhoods are neighborhoods where the market is largely sustaining occupancy and real estate transactions. Homes in these neighborhoods are generally reasonably well maintained, and there is an above average share of the housing stock that is owner occupied. In the present economic climate, even otherwise healthy neighborhoods are in some distress. Market transactions take considerably longer than normal, and job loss and a loss of market value has resulted in some foreclosure activity.

In this type of neighborhood, market forces generally resolve vacancy and abandonment issues. Though in some distress now, these neighborhoods will be the first to rebound when the economy improves, loss of property values will typically be less than in the other neighborhood types. Any blighted properties will be more likely to be purchased by speculators or adjoining property owners and cleaned up. For these reasons, demolition generally does not make sense in this type of neighborhood. However, these neighborhoods fall within a range, and need to be watched closely to ensure that they do not fall into the tipping point category, as described below. Occasionally, if these neighborhoods fall within an eligible census tract, it makes sense to go in and remove one or two blighted buildings to ensure that the neighborhood market values remain stable. The goal is to keep these neighborhoods healthy and to stop the job loss and improve the housing market so they can recover.

Tipping point neighborhoods: In these neighborhoods there has been some marked decline. There are often a significant number of houses for sale and/or rent and a number of vacancies. However, these neighborhoods are still vital. Occupancy is often a mix of owners and renters, and the majority of units are occupied, though the vacancies are increasing and the home values are falling. Generally, less than 20% of the properties are blighted. For the most part, people still maintain their properties, though the number of properties not maintained is growing.

Like the healthy neighborhoods, these neighborhoods fall into a rather broad range. Therefore the strategies necessary will vary from neighborhood to neighborhood. In general, the goal is to stop the bleeding and to begin to turn these neighborhoods in a positive direction so that market forces will take over.

Demolition will likely be a part of that strategy. In most cases, properties will be selected on a scattered site basis for rehabilitation and demolition, hoping that taking care of the worst properties will stimulate the private market to take over and recover. Thought needs to be given to the future

use of lots remaining from demolition projects. How will they best fit into the overall neighborhood fabric? There are a number of options including their sale or donation to adjacent property owners, redevelopment, or transfer to a certified LMMA Service Provider. In each case, you need to look at the broader requirements that go with the subsequent plan for that property.

Revitalization neighborhoods: These neighborhoods have often seen considerable decline over years or even decades. Vacant, boarded up houses are noticeable, and there is a mix of occupied and unoccupied units. Often occupancy is primarily renters. Many properties are not well maintained, and 20 – 70 % are blighted. These neighborhoods again fall into a broad range, but are generally unable to become vital in the marketplace again, without substantial outside assistance.

The strategies necessary to revitalize these neighborhoods will vary based upon the needs and specific characteristics of each neighborhood. Often the assistance will include concentrated work in a small targeted area and radiating from there into the surrounding neighborhoods. This concentrated work will usually involve multiple activities including rehabilitation, infill development, streetscaping, infrastructure improvements, and demolition.

Redevelopment areas: These areas have seen the most decline. Though once vibrant neighborhoods, lost industries and decades of disinvestment have caused these communities to become almost virtual ghost towns. Abandoned, blighted houses are everywhere, with over 70% of the properties blighted. A minority of houses are occupied, usually by renters or illegal occupants. Maintaining basic utilities and city services to these areas usually places a burden on the City.

There are two primary strategies that will generally be applied to this type of neighborhood, as described below. In both of these strategies, widespread demolition plays a key role:

- **Reinventing the neighborhood:** In this strategy, much, or all of a neighborhood will be demolished, and the neighborhood will be redeveloped. Sometimes a few of the original properties will be saved and will serve as a design element for the new neighborhood. Other times the entire neighborhood will be razed and redeveloped with a new plan. This strategy will often make sense where a critical mass of properties of character remain in reasonably good condition; where adjacent neighborhoods contain important community anchors that need protected; or where adjacent neighborhoods are being revitalized.
- **Shrinking toward prosperity:** In this strategy whole blocks or neighborhoods are razed and the property turned into vacant land, which may be land banked for future redevelopment. This strategy is often used where few of the properties are salvageable and there is an overabundance of housing in the region.

B. Considerations Prior to Determining Project Feasibility

There are a number of issues that need to be given consideration as part of the process of selecting properties for demolition. Usually this process begins with the selection of targeted neighborhoods, and the development of a set of strategies for each neighborhood as described above. Once neighborhoods and strategies are selected, a property survey will typically be the next step to determine the ownership and condition of each property within the targeted area. After this information is collected, properties can be identified as potential demolition projects.

Addressing basic project eligibility

Make a site visit to the property and take photographs of the property adequate to demonstrate its architectural character and blighted condition. Also take photos of all four sides of the house, streetscapes on each side and across the street, and at least one interior photo. Ensure that the potential project meets all of the necessary eligibility criteria for demolition and that these criteria are properly documented in the project file. For a list of basic eligibility criteria, see pages 3-5 of this module.

Conducting a property inspection

Conduct an inspection of the property to discover the following:

1. The property description
2. The condition of the premises
3. The property's potential for deconstruction
4. The condition of the structure
5. Confirm Vacancy

Using this information, and information relative to the costs of demolishing similar structures, develop an in-house cost estimate for the potential demolition of this project.

Perform a project feasibility analysis

Armed with the information gathered above, conduct a project feasibility analysis and determine whether the project should be excluded from the program, demolished, or rehabilitated. Consider the following:

1. Value of demolishing this property to the overall neighborhood plan
 - How this project fits into the overall neighborhood strategy
 - Proximity to other significant NSP work
 - Extent to which the appearance of this property is a blighting influence on the neighborhood
 - Degree of safety concerns associated with this property
 - Level of importance of the vacant land created by this project to the overall neighborhood plan.
2. Costs associated with demolishing this project
 - Actual hard and soft costs
 - Demolition costs
 - Loss of a neighborhood anchor or building with historic significance or architectural character.
 - Loss of viable housing stock
 - Difficulty in successfully completing this project
 - Carrying costs, such as maintenance, insurance, security, and taxes.
3. Project's potential for rehabilitation

IV. ADMINISTRATION OF DEMOLITION PROJECTS

A. Other Compliance Requirements and Issues to address prior to project bidding

Once you have determined that a project is viable for demolition and plan to move forward with the project, the additional compliance requirements, not mentioned above, need to be addressed prior to putting this project out to bid.

Item that needs addressed prior to putting a demolition project out to bid	Description of what needs to be done	Reference for more information
Blight Certification	<p>Conduct an inspection and determine if the property meets the definition of blighted as described in the consortium’s NSP2 Application.</p> <p>Produce a blight certification letter and place a signed copy of the letter in the project file.</p>	<p>See the definition of blighted under key terms in this module.</p> <p>See the sample blight certification letter in the appendices following this module.</p>
Condemnation/ Approval	<p>For all properties being demolished without taking ownership of the property, meet one of the following requirements:</p> <p>Obtain written approval of the owner of the property to demolish the specific structure(s), and place a signed copy of this approval in the project file.</p> <p>Obtain a legal condemnation order for the property and place a copy of this order in the project file.</p>	<p>See the definition of condemnation under key terms on page two of this module.</p> <p>See the sample voluntary participation letter in the appendices following this module.</p>
Acquisition/ Relocation/ Tenant Rights	<p>Demolish only Vacant Properties.</p> <p>For all projects that will be demolished by the local government, the land bank, or a partner, ensure that all issues involving the occupancy of property demonstrate the property is vacant.</p>	<p>See the table “Types of Demolition Projects and Related Issues” on pages 4 and 5 of this module, and module 5: “Acquisition” for details.</p>

Other Government Requirements	Ensure that you have met all of the requirements for other government agencies and departments. Provide appropriate documentation in the project file.	Coordinate with the other government agencies as described in this module.
Ethical Considerations	Ensure that all real or perceived conflicts of interests have been appropriately addressed.	See module 4: “Cultivation and Procurement of Program Partners”.
Safety/Security	Have a plan in place to address any concerns related to public and worker safety. Include in the plan details regarding the management of site security.	Refer to the Michigan Department of Labor and Energy Construction Safety Standards Commission: http://www.michigan.gov/dleg/0,1607,7-154-11407_15368-88962--,00.html
Property Maintenance	Develop a plan for the proper maintenance of the site prior to, during, and following demolition. Include a means to pay for these costs.	Further information to be available in a module on land banking.
Project Timing	Give consideration to the timing of this project in relation to the other activities to be undertaken within the target area and develop a timeline to ensure a smooth and efficient flow of work.	See the strategies for addressing various types of neighborhoods, beginning on page 7 of this module.
Future Site Use	For all projects that will be purchased by the local government, the land bank, or a partner, ensure that there is a plan in place for the disposition and/or future redevelopment of the property.	See module 5: “Acquisition” for details.
Demolition or Deconstruction	Determine to what extent deconstruction is a possible and appropriate strategy for this project. If deconstruction is feasible, develop a plan, including the following components: Who will conduct the deconstruction? What components may be viable for salvaging? Who will receive the proceeds from the sale of the salvaged materials? What concerns need to be addressed?	See the appendices of this module

B. Issues Requiring Particular Attention

Opportunities and challenges associated with deconstruction

The deconstruction of houses and other buildings presents both opportunities and challenges. The opportunity lies in the ability to meet multiple objectives from the singular activity of demolishing a building. Through the use of the green principles embodied in the deconstruction process, it is possible to not only remove a blighting influence from a neighborhood, but at the same time reduce the waste stream from this activity, produce a source of low cost building components, reduce the amount of raw materials needing to be produced through recycling, and produce jobs for a relatively low skilled labor force.

The challenges come from a variety of fronts. First and foremost is cost. A comprehensive deconstruction project will generally cost more than the value of the recycled materials. In some cases the most valuable materials have already been removed by people on the street. Also some buildings are unsafe to enter, making deconstruction impractical. The presence of hazardous materials also adds to the costs and difficulty of salvaging materials, and the unsuitability of many components for reuse. In addition the deconstruction process slows down the removal of blight. Houses often have to be re-secured following the removal of components such as windows. Weather can also be a factor.

There are levels of deconstruction. On one end of the spectrum is the removal of only very high value items such as copper plumbing. On the opposite end of the spectrum is the concept of separating all parts of a building, by type of material, and then finding a way to reuse each material. For example, the concrete can be crushed back into aggregate, the wood shredded for mulch, the nails melted back into steel, etc. In between are a wide variety of methods. Following are a few tips for success:

1. Identify markets for deconstructed products. The following are examples of potential markets:
 - a. Construction and architectural reuse stores: <http://www.bmra.org/reuse-stores> has a link to some stores by zip code. The Building Materials Reuse Association, the keeper of this website, may also be a useful resource to anyone desiring to deconstruct houses. These types of stores often sell building components such as windows, doors, cabinets, trim, brick, and slate.

Habitat for Humanity also has a chain of “Restores”, which are listed at <http://www.habitat.org/cd/env/restore.aspx>
 - b. Recycling centers of various types may take a number of materials that can be reused as raw materials to make new products. For example, Concrete aggregate collected from demolition sites is accepted by concrete crushing facilities. These facilities accept only uncontaminated concrete, which must be free of trash, wood, paper and other such materials. Metals such as rebar are accepted, since they can be removed with magnets and other sorting devices and melted down for recycling elsewhere. This material has a number of reuses. For example, Smaller pieces of concrete are used as gravel for new construction projects. Crushed recycled concrete can also be used as the dry aggregate for brand new concrete if it is free of contaminants. Larger pieces of crushed concrete, such as riprap, can be used for erosion control. With proper quality control at the

crushing facility, well graded and aesthetically pleasing materials can be provided as a substitute for landscaping stone or mulch.

Many other raw materials may also be recycled for reuse such as copper, aluminum, steel, wood, glass, and some plastics.

- c. Other community departments, non-profit agencies, and for-profit companies may also have uses for specific products. For example, one non-profit reuses salvaged toilets for its rental properties. Another example would be a nursery that reuses framing lumber to make mulch or compost. Be careful to properly address the potential inclusion of hazardous wastes such as lead-based paint in such products.
2. Make use of efficiencies and economies of scale: Build connections and systems to make the work flow faster, the labor less expensive, and the materials more valuable. Examples include the following:
- a. Take bids on the price for aluminum (or any other specific material), and have all demolition contractors take their aluminum to one high paying facility.
 - b. Work with a local agency providing work opportunities for youth (or homeless, or ex-offenders, etc.) as a benefit to them and a source of low cost labor.
 - c. Provide training to develop a pool of deconstruction workers that have the skills necessary to conduct the work.
 - d. Develop a warehouse into a central facility for deconstruction, and have contractors cut houses into large pieces, put them on a flatbed, and deliver them to the facility, where work can be conducted year around.

Managing hazardous materials

Project Stage	Hazardous material being addressed	Demolition requirements	Deconstruction requirements
Planning (non-residential structures newer than the dates listed to the right may also contain hazards.)	Lead-based paint	Determine when the house was built. If prior to 1978, then lead-based paint (LBP) may be a factor.	
	Asbestos	Determine when the house was built. If prior to 1981, then asbestos containing material (ACM) may be a factor.	
Initial inspection	Lead-based paint/ Asbestos	Determine whether the house is structurally safe to enter. If unsafe, then deconstruction of interior components will be infeasible. Presumption will be made that hazards are present and appropriate measures will be taken during the demolition process as described below. A State or local agency should not issue a demolition order unless the facility is structurally unsound and in danger of imminent collapse. These conditions should be confirmed independently, and a demolition order should not be based solely on the representation of the	

		contractor or the contractor's agent. If safe to enter, conduct a visual survey for potential areas of LBP, friable ACM, or mercury, particularly on any areas that would need to be disturbed to remove components considered for salvage (heavily alligatored painted or varnished surfaces, wrapping on pipes, ductwork, etc.). Utilize this information as a tool in determining whether to further pursue deconstruction on this property.	
Survey/Assessment requirements prior to bidding project	Lead-based paint	None required	A risk assessment must be completed by a licensed lead-based paint risk assessor: The risk assessor will need to know the components considered for salvage.
	Asbestos	An asbestos survey will be required to be conducted on all projects built prior to 1981. These inspections must be conducted under the Michigan Occupational Safety and Health Act (MIOSHA) standards, and must also adhere to the Asbestos Hazard Emergency Response Act (AHERA) inspection protocol and be performed by a Michigan-accredited asbestos building inspector or a Certified Industrial Hygienist (CIH). The building survey must document the presence, location, and quantity of all “suspect” ACM. Laboratory analysis information should be a part of the building survey document and be kept by the building owner.	
Notification requirements	Lead-based paint	None required	
	Asbestos	Asbestos removal projects that are 160 s.f., 260 l.f., 35 c.f. or more are subject to the NESHAP notification procedure. A 10 working day notification is required to be postmarked or hand-delivered prior to a subject renovation or demolition using the required form. Issuance of a demolition order (for a building structurally unsafe for entry and in danger of collapse) will allow for a shorter notification timeframe.	
Removal of hazardous material prior to demolition/deconstruction, where the building is structurally <u>safe</u> for entry.	Lead-based paint	None required	Yes, any lead-based paint hazards identified by the risk assessor need to be properly addressed, and proper cleaning conducted in compliance with 24 CFR Part 35 prior to allowing work crews into the unit to conduct deconstruction activities.
	Asbestos	Yes, the National Emission Standards for Hazardous Air Pollutants (NESHAP) specifies that Category I materials which are not in poor condition and not friable prior to	

		demolition do not have to be removed, except where demolition will be by intentional burning. However, regulated asbestos-containing materials (RACM) and Category II materials that have a high probability of being crumbled, pulverized, or reduced to powder as part of demolition must be removed before demolition begins by a licensed asbestos abatement contractor.	
Addressing hazardous materials where the building is structurally <u>unsafe</u> for entry, or where lead-based paint remains in place during demolition	Lead Based paint	The demolition contractor should keep all building components adequately wet to eliminate dust and prevent the release of particulates into the air.	
	Asbestos	The demolition contractor should keep all building components adequately wet to eliminate dust and prevent the release of particulates into the air and comply with the U. S. Environmental Protection Agency (EPA) “Asbestos NESHAP Adequately Wet Guidance”.	N/A (will not be conducting deconstruction on this type of structure)
Removal and disposal of waste	Lead Based paint	Material should be kept wet and covered during transport to eliminate dust and prevent the release of particulates into the air. Material containing lead-based paint that is exempted from hazardous waste management requirements as household waste may be disposed of in a construction and demolition landfill or a municipal solid waste landfill.	
	Asbestos	Material shall be kept wet and covered during transport to eliminate dust and prevent the release of particulates into the air in compliance with CFR, Title 40, Volume 7, Part 61.150.	

C. Managing the Demolition Process

Developing a bid packet

The bidding process and the award of contracts should follow the procedures outlined in the Policy and Procedures Manual, Module 3: “Cultivation of Developers and Program Partners”. In addition to what is outlined there, make sure that all of the appropriate items are addressed in the scope of work and the contract, as described in the subsequent pages.

Demolition projects are not required to pay federal prevailing wages, unless the end use for the project will be the construction or rehabilitation of 8 or more houses or the construction or rehabilitation of a mixed-use structure. In either of these cases federal prevailing wages will apply. There may be additional local prevailing wage requirements.

Managing the project environment

A number of administrative and project environment issues need to be addressed in the contract for construction, and managed as the project proceeds, including the following:

- **Ensuring that permits are obtained and posted**
- **Checking utility connections:** It is important not only to call for disconnects on all utilities, but to field check to make sure they are off. It is also important to call for a check on the location of any underground lines. Hitting utilities such as gas and electric lines with heavy equipment can be very dangerous for both the operator and anyone else in the area, and breaking of water mains can cause contamination. Three days prior to digging, grantees are encouraged to call Miss Dig at 1-800-482-7171, or 811.
- **Addressing accessory structures:** (See note in Section I-B “Garages or other subsidiary structures of this module)
- **Ensuring that fill and compaction requirements are met:** Soil compaction is defined as the method of mechanically increasing the density of soil. If it is not done properly, then a number of problems will likely occur, such as settling; frost damage; water seepage, swelling and contraction; soil instability; and decreased load bearing capacity. This is particularly a problem if there is ever a chance that another structure will be placed on the lot. **Many buildings have failed because of improper soil compaction.** Compaction must be done in lifts (narrow, level, layers) and done with care. Compaction is particularly a problem in the winter, where frozen ground, and ice in the fill can make compaction challenging.

Some contractors have a tendency to allow a lot of junk in the fill such as demolition debris and chunks of asphalt. This is not acceptable. Fill must be clean and compactable material. The excavation must be completely cleaned out, including the foundation walls and footings, and should be inspected prior to any fill being placed within the excavation. The surface of the excavation may also need to be loosened to allow for the fill to be cohesive, particularly on steep slopes. The quality and type of fill material should also be clearly specified in the scope of work. This will partly depend on what is available locally. It is recommended that an engineer or other qualified person be involved in this process, as the type of fill will determine the compaction equipment and methods to be used, the amount of moisture required, and the thickness of the individual lifts. The engineer or other qualified person should develop compaction specifications and should also specify testing and/or inspection methods to ensure that compaction is adequate.

- **Dust control:** Dust generation must be limited. Not only is dust a nuisance, but it can contain lead, asbestos, cement, and other health hazards. Specifications should call for the wetting of surfaces during the demolition process, and care should be taken to consider the impact on surrounding persons and property. Impromptu interim inspections should be made to ensure that contractors are keeping dust to a minimum.
- **Control of dirt and debris on the street:** Specifications should call for keeping the mud cleaned up off of the streets and sidewalks and the covering of trucks during the transport of materials and debris. Again, interim inspections will be important to ensure that streets are kept as clean as possible.

- **Getting a good finish grade and seeding:** Just as with the fill, the quality of the topsoil is important. It should not include debris and large rocks. It should also contain enough organic matter and a well graded mixture of various soil particle sizes to ensure that whatever is planted in it will grow. The surface should be level, raked smooth, with large rocks and sticks removed, then seeded with a type of vegetation that grows well in your area, that will be attractive, will not be a nuisance, and will be easy to maintain. Mulch, such as straw or another acceptable material, should be placed over any seeded areas. The seed may need care to get started, including frequent watering. If an acceptable stand of plant growth is not produced, then the contractor should be asked to return to the site and reseed.
- **Managing the proper disposal of materials:** Demolition waste, particularly waste including components with asbestos and/or lead-based paint may not just be taken and dumped anywhere. They must go to a landfill that is approved for and accepts such waste (see the notes in the table above on the handling of hazardous waste for more details). The scope of work should be clear on this, and should require the contractor to provide copies of receipts from the proper disposal site(s).

Managing project change orders and time extensions

Change orders and time delays need to be minimized. These need to be addressed in the **contract** and in the management of the project. A thorough inspection and clear detailed scope of work will help to limit change orders. The contract should require that all change orders and time extensions follow a written and signed contract addendum prior to proceeding with any work. Even with good planning, surprises happen. For example, you find a large underground fuel storage tank that nobody knew was there.

Inspecting the Work

Careful inspections of the work are an important component of the management of demolition projects. This should include interim inspections, when possible, to ensure that work is being properly carried out, including dust and debris control, adequate fill compaction, etc. Final inspections should be conducted with great care to ensure that all requirements are met, and that the site is properly prepared for its final use. All site visits should be documented with notes and signed.

Paying contractors

The payment of contractors should not proceed until all of the following have taken place:

1. All work items for which they are seeking payment are completed.
2. An inspection form has been completed and signed by the inspector, showing all work to be completed satisfactorily and approved based on a thorough inspection by qualified staff
3. An invoice for the completed work has been turned in by the contractor.
4. Copies of lien waivers for all subcontractors and suppliers have been submitted by the contractor.
5. Copies of any other required documentation are provided from the contractor, such as certification of proper compaction by an engineer, receipts from an appropriate waste disposal site, etc.

The management of funds, including payments to contractors, and the handling of administrative and project delivery costs should be in compliance with the requirements outlined in the PPM, Module 2: Program Administration and Module 3: Cultivation of Developers and Program Partners.

V. PROJECT CLOSE OUT

Once a contractor has completed a project and has received payment, it is easy to feel that the project is complete and move on to other things. However, it is important to ensure that all remaining loose ends regarding a project are taken care of. For example, there may be final paperwork to be handled with other city or county departments such as the filing of a lien, and/or a contract to be secured for site maintenance. In addition it is important to make sure that the file is complete, with all documentation included and the checklist finalized. Finally, it is important to complete all of the items on the OPAL Activity Checklist, revise the activity budget if the amount of NSP committed is different than the actual amount of NSP needed for the project, and draw dollars committed on OPAL.

Handling lien requirements

Demolition projects may have lien requirements if the property remains in the hands of the original property owner or if it is acquired, demolished, and sold, as described in the table below.

Activity	Held by (mortgager)	Terms
Third-party demolition--stand-alone demolition of structure owned by a private party	Local grantee (if property privately owned)	Minimum 5-year forgivable lien, not prorated, in the amount of NSP2 assistance. Lien retained in grantee's file.
Stand-alone demolition of property previously owned by consortium partner	None	No lien is required if a stand-alone demolition is completed on property previously owned by a consortium partner. This assumes that no NSP funds were used to acquire or maintain the property under Eligible Uses B, C, or E.
Demolition, as a part of a NSP2-funded construction project	MSHDA (if owned by Grantee) or If owned by 3 rd Party secured by developer agreement	Amount of demolition will be included in the construction mortgage (See the terms for construction mortgages in the PPM, Module 1: Policy and Program Guidelines, page 20.
Demolition, with the end use being the sale or donation of vacant parcel		No lien if income eligible beneficiary or LMMA service provider

Develop a system of checks and balances

It is also a good policy to have in place a system of checks and balances for all of your projects. For demolition projects, this means having someone go out on occasion with the primary inspector to ensure that all work is adequately completed, and/or having someone other than the primary demolition facilitator look over the final project file to ensure that everything is in order.

VI. APPENDIX AND ATTACHMENTS

Sample Blight Certification Letter

Sample Letter for Voluntary Participation Demo

SAMPLE BLIGHT CERTIFICATION LETTER

City/Qualified Official Letterhead

Date

RE: Blight Certification Letter for **Property Address**

Community Name is a recipient of federal grant funds from the U.S. Department of Housing and Urban Development (HUD) Neighborhood Stabilization Program 2 (NSP2) to assist with blight removal (structural demolition/site clearance) activities within **target area name**. **Community Name** has determined that your property meets the NSP definition of blighted property. This is based on the property located at **Property address** being in violation of the community's **specific local housing code or standard not met i.e dangerous and unsafe building ordinance** and meeting the NSP2 definition of blight based on one of the following: *(Check the appropriate box(es))*

- Declared a public nuisance in accordance with local housing, building, plumbing, fire, or other related code or ordinance.
- Attractive nuisance because of physical condition or use.
- Fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.
- Has a subsurface structure or demolition debris that renders the property unfit for its intended use.

Based on its current condition, it has been determined that this property is eligible to qualify for federal demolition/site clearance assistance and meets the NSP definition of blight.

Certified by:

Signature(s) of Local Authorized Official and/or Blight Certification Official

Local Authorized Official and/or Blight Certification Official Name(s) and Title(s) Typed

SAMPLE PROPOSED LETTER FOR VOLUNTARY PARTICIPATION DEMO

City Letterhead – Sent Certified Mail

Date

Property Owner's Name

Property Owner's Address

Dear **Property Owner of Record**:

Community Name is pleased to announce that they are the recipient of federal grant funds from the U.S. Department of Housing and Urban Development (HUD) Neighborhood Stabilization Program 2 (NSP2) to assist with blight removal (structural demolition/site clearance) activities within **target area name**. **Community Name** has determined that your property meets the NSP2 definition of blighted property. This is based on your property being in violation with the community's **XXX**.

Example:

Dangerous and Unsafe Building Ordinance No. 73-4. The township's ordinance is "An ordinance to provide for the regulation and removal of dangerous and unsafe dwellings." "WHEREAS, the presence of dangerous and unsafe dwellings constitutes an attractive nuisance to children and endangers their safety; provides harborage for vermin; creates or enhances fire hazards, causes neighborhoods to become unsightly resulting in the depreciation of property values and, adversely affects the health, safety and general welfare of the inhabitants therein."

Based on its current condition, it has been determined that your property may be eligible to qualify for federal demolition/site clearance assistance. As the property owner of record, and in order to qualify for demolition assistance, you must be a voluntary participant. Through the grant process, the city cannot implement any demolition activities including site clearance without an amicable agreement between you (the property owner) and the grantee (the city). **Again, please understand that if you do not wish to participate, no further action to mandate site clearance will take place during the grant agreement's term of work.**

If you are interested in participating and alleviating the site issues that are currently in existence on your property then please sign below and return this letter to the city and additional follow-up information will be forthcoming. If you elect to not participate, then the funding being offered to assist your property will be dedicated to other properties that are determined by the city to qualify.

The funds will be strictly distributed and used by the city and they will handle all contracts and demolition related activities at no cost to the property owners. However, a lien will be placed on the property for the cost of the demolition. In addition, any change in use of the property will require a special reuse permit to be approved and issued by the city.

I certify that after reading the above information:

- I am not interested in participating in the blight removal (structural demolition/site clearance) grant process for my property parcel #: _____.

- I am interested in voluntarily participating in the blight removal (structural demolition/site clearance) grant process. I authorize **Community Name** to complete a title search on my behalf and/or to review the recorded deed to ensure that I am the property owner of record. Once the title search/recorded deed review has been completed and I am formally recognized as the property owner of record, I understand that the city will contact me to sign a construction waiver of rights. Once I sign and return this letter, I understand that I will need to make arrangements to remove any wanted items from my property. Also by signing this letter, I voluntarily authorize the city to enter into a formal contract to complete the blight removal (structural demolition/site clearance) process on my property parcel #: _____ . In addition, I understand that there will be a lien placed on my property for the demolition costs.

Property Owner of Record Signature: _____ Date: _____

Please return this form as soon as possible to **Community Name and address** via fax, regular mail, e-mail scan

We look forward to working with you to help make **Community Name** a better place to live, visit and enjoy.

Sincerely,

Signature(s) of Local Authorized Official and/or Blight Certification Official

Local Authorized Official and/or Blight Certification Official Name(s) and Titles(s) Typed