

MSHDA's Office of Community Development

Guidance Regarding Demolition and Eligible NSP2 End Uses in Michigan

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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 LMMA 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.

Demolition as an Eligible End Use

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 an 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:

Guidance originally published April 8, 2011 has been superseded by a Policy Update dated August 26, 2011. Under that guidance, an NSP2 grantee can purchase a property under Eligible Use B, C, or E (subject to other NSP requirements with each of those uses) and demolish it under Use D. If that property meets the criteria above to qualify as a stand alone LMMI area benefit project, future disposition can be subject to the change of use criteria addressed in the August 26, 2011 Policy Update.

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 requirements in the August 26, 2011 Policy Update

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.