



**Neighborhood Stabilization
Program
Procedural Manual
(NSP1 and NSP3)**

July 2015

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Minnesota Housing does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability familial status, or sexual or affectional orientation in the provision of services.

An equal opportunity employer.

This information will be made available in alternative format upon request.

Introduction

Mission Statement

Minnesota Housing finances and advances affordable housing opportunities for low- and moderate-income Minnesotans to enhance quality of life and foster stronger communities.

Background

The Minnesota Housing Finance Agency (“Minnesota Housing” or “MHFA”) was created in 1971 by the Minnesota Legislature.

Minnesota Housing is the grantee for the State of Minnesota of \$38.8 million in funds allocated under the federal legislation called the Housing and Economic Recovery Act of 2008 (HERA). Under Title III of HERA, the Neighborhood Stabilization Program (NSP) provides emergency assistance to states and local governments for the redevelopment of Abandoned and Foreclosed Homes and Residential Properties. This original allocation is referred to as NSP1.

An additional \$5 million was authorized to Minnesota Housing under section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203 (July 21, 2010)) (“Dodd-Frank Act”), title XII of the Division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5 (February 17, 2009)) (“Recovery Act”) and sections 2301 -2304 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289 (July 30, 2008)) (“HERA”). This allocation under the Dodd-Frank Act represents the third round of Neighborhood Stabilization Program funding (NSP3) and will use federal funds in the purchase, management, and resale of foreclosed and abandoned properties.

Procedural Manual

This Procedural Manual sets forth for its Sub-recipients the eligible fund uses, terms, and conditions under which NSP funds may be used to acquire, rehabilitate, and redevelop Foreclosed and Abandoned Homes and Foreclosed and Abandoned Residential Properties that might otherwise become sources of abandonment and blight for the purpose of stabilizing neighborhoods. Eligible fund uses are:

- Financing mechanisms for the purchase of Foreclosed Homes and Foreclosed Residential Properties;
- Acquisition and rehabilitation of Abandoned and Foreclosed Homes for homeownership;
- Acquisition and rehabilitation of Abandoned and Foreclosed Residential Properties for rental;
- Establishing Land Banks for Foreclosed Homes and Residential Properties;
- Demolition of Blighted Structures (limited to 10% of total grant funds under NSP3); and
- Redevelopment of demolished Vacant or Abandoned Property.

This Procedural Manual may, from time to time, be amended as necessary to comply with rulings and interpretations from the US Department of Housing and Urban Development (HUD), amendments to the underlying statutes, regulations, rules or procedural changes made by Minnesota Housing.

Chapter 1 - Sub-recipient Responsibilities

1.01 Procedural Manual

This Procedural Manual sets forth the terms and conditions under which Minnesota Housing will award grant funds to Sub-recipients under the Neighborhood Stabilization Program (NSP). Minnesota Housing is under no obligation to disburse funds for grants that do not fully comply with this Procedural Manual, including schedules and requirements for supporting documentation regarding such grants.

The Neighborhood Stabilization Program Grant Agreement (hereinafter referred to as the Agreement) between Sub-recipients and Minnesota Housing is a supplement to this Procedural Manual. The Agreement is incorporated into this Procedural Manual by reference and is a part hereof as if fully set forth in this Procedural Manual at length.

This Procedural Manual references Federal CDBG Regulations, as amended and/or revised from time to time.

Amendments/Directives

- Minnesota Housing will make any periodic changes to this Procedural Manual available to all Sub-recipients by posting any amendments, changes, etc. in the form of Program Updates and/or E-News Alerts on Minnesota Housing’s website. Amendments to this Procedural Manual will be effective as of the date of posting unless otherwise stated and shall be binding upon all Sub-recipients.

Waivers/Alterations/Revisions

- Sub-recipients may submit written requests for waivers, alterations or revisions of provisions of this Procedural Manual to Minnesota Housing. Waivers, alterations or revisions may, if allowed by HUD regulations under the NSP Program, statute or rule, be granted at the sole discretion of Minnesota Housing.
- Nothing in this Procedural Manual shall be construed in any way to conflict with, alter or amend any federal or state laws or regulations applicable to Minnesota Housing or any Sub-recipient.

1.02 Conflict of Interest

- Conflict of Interest (24 CFR 570.611) can have two forms under the NSP program:
 - ◇ Supplies
 - Equipment
 - Construction
 - Services
 - ◇ Non-Procurement conflict of interest
 - All other conflicts of interest
- No person who is an employee, agent, consultant, officer, or elected or appointed official of the State of Minnesota or the Sub-recipient and who exercises or has exercised any functions or responsibilities with respect to Activities assisted with NSP funds obtained under the NSP Program or who is in a position to participate in a decision-making process or gain inside information with regard to these Activities, may obtain a financial interest or benefit from a NSP-assisted Activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereof, either for themselves or those with whom they have family or business ties, during their employment or for one year thereafter.
- No officer, employee, agent, elected or appointed official, or consultant of the Sub-recipient may occupy a unit developed by the Sub-recipient and assisted with funds from the Program. HUD may grant an exception to this limitation in accordance with the provisions of 24 CFR 570.611(d). Requests for exceptions must be directed to Minnesota Housing for review and submittal to HUD for its consideration and approval.
- Sub-recipients must evaluate conflicts and potential conflicts involving, but not limited to, its public officers, any employee, or agent, any member of his/her immediate family, his/her partner, or any organization which employs, or is about to employ, any of the above, among others.

Regulation Citations

Conflicts of interest and potential conflicts of interest are governed by local laws, the Agreement and both Minnesota Statutes and Federal Regulations at:

- Minnesota Statutes 471.87-471.89 and 412.311;and
- Federal Regulations at 24 CFR 570.489(h) and 24 CFR 570.611.

Sub-recipients are responsible for evaluating conflicts in the context of the Minnesota Statutes and any federal, state, or local laws. Sub-recipients are responsible for evaluating conflicts to the federal laws and requesting an exception from Minnesota Housing where warranted.

Sub-recipients requesting exceptions to federal conflict of interest regulations must provide Minnesota Housing with:

- An opinion of the Sub-recipient's attorney stating that the interest for which an exception is sought would not violate state or local law, federal laws and regulations, or falls under an "exception".
- A description of the nature of the conflict. The description must include sufficient detail, such as the relationship that results in the conflict, how long the person has been in the position (if applicable), whether the person is in a position to gain inside information,

whether the person participates or participated in any part of the grant decision making process (such as voting to submit the application to NSP, approving individual applications), whether the interest or benefit was present before the person was in their current position, etc.

- Evidence that there has been a public disclosure of the conflict (e.g. copy of council minutes, copy of meeting announcement with conflict on the agenda).

Any correspondence and supporting documentation must be retained by the Sub-recipient in a separate file and copies submitted to Minnesota Housing. Minnesota Housing staff will review this information and make a written determination on whether the situation would warrant granting an exception to federal conflict of interest provisions. If Minnesota Housing determines an exception is appropriate, it will forward a recommendation to HUD for final determination.

1.03 Evidence of Misconduct

Minnesota Housing will enforce all provisions of the NSP Program and refer any evidence of fraud, misrepresentation or other misconduct by a Sub-recipient or other NSP participant, in connection with program operation, to the appropriate state or federal authority for appropriate legal action.

1.04 Termination and Suspension of NSP Grants

- Federal regulations require Minnesota Housing to take appropriate action to correct any deficiencies in Sub-recipient performance including, but not limited to, suspending or terminating the NSP Activities being carried out by the Sub-recipient (24 CFR 570.501(b)).
- Consistent with 24 CFR 570.503(b)(6), the Agreement between Minnesota Housing and the Sub-recipient specifies that suspension or termination may occur if the Sub-recipient materially fails to comply with any term of the NSP Program, and that the Agreement may also be terminated for convenience (also see 24 CFR 85.43–85.44 and 84.62).
- Termination for Cause.
- In the case of noncompliance, Minnesota Housing 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 including, but not limited to, suspension of the grant, suspending disbursement of funds, requiring repayment of funds paid for noncompliant Activities, and termination of the grant.

In the event of such cancellation, the Sub-recipient shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

Chapter 2 - Administration

2.01 Start-Up

Sub-recipients may request disbursement of NSP funds after the completion of their environmental review and after the Agreement is fully executed.

Sub-recipients must satisfy the following requirements (in order of priority) prior to beginning project Activities:

- Complete the environmental review for properties being considered for funding under NSP based on the appropriate level of review. (See the “Environmental Review” section of this Procedural Manual; forms are available from the Minnesota Housing website.) Sub-recipient access to funds is conditional upon approval of environmental review.
- Execute the Grant Agreement. Develop policies for Activities including relocation, if needed.
- Develop policies to comply with standard NSP provisions such as:
 - ◇ Real Property Acquisition
 - ◇ Lead-based Paint
 - ◇ Debarred and Suspended Contractor
 - ◇ Vicinity hiring for projects funded under NSP3
 - ◇ Section 3 Employment Opportunities for Low Income Persons
 - ◇ The development of affordable rental housing
 - ◇ Leases on rental units contain no provisions prohibited by 24 CFR 92.253 (b)
 - ◇ Minority- and Women-owned Business Enterprise Outreach
 - ◇ Davis-Bacon Labor Standards
 - ◇ Comply with the conditions of the Agreement and all federal, state and local laws

2.02 Pre-Award Costs

- Sub-recipients approved for an award of NSP funds are allowed to claim and draw down certain reasonable “pre-award costs” that the Sub-recipient incurred before the date of the award or the Grant Agreement in compliance with 24 CFR 570.200(h) and after September 29, 2008. Sub-recipients may incur costs necessary to develop the NSP application and undertake other administrative actions necessary to receive its grant. Such costs must be fully documented in the Sub-recipient’s proposal and be directly related to the specific Activities included in the proposal.

Pre-award costs that may be eligible under the program include, but are not limited to:

- ◇ grant application preparation;
 - ◇ administration;
 - ◇ environmental reviews; and
 - ◇ other administrative work necessary to comply with the proposed delivery schedule of the project Activities.
- No eligible pre-award costs can be drawn down before Minnesota Housing’s clearance of the Sub-recipient’s environmental review and the submission of the required Fair Housing materials as detailed in this Procedural Manual. In addition, neither the Sub-recipient nor any other party can commit NSP funds to an Activity that needs an environmental review and/or Minnesota Housing’s clearance of the Sub-recipient’s environmental review.

2.03 Procurement of Goods and Services

The Procurement Process

Sub-recipients must use competitive processes to procure goods and services. Through a competitive process, two or more vendors or contractors bid to provide the Sub-recipient with the most favorable price, quality and service.

Depending on the nature of the purchase and the number of available providers, the Sub-recipient may select from these options:

- Small purchase procedures;
- Competitive sealed bids (formal advertising);
- Competitive negotiation; or
- Noncompetitive negotiation.

The requirements of each option are spelled out in the “Procurement” section of “The Common Rule” (24 CFR Part 85.36). The nature of the purchase will determine the option chosen. Sub-recipients should also adhere to any state and/or local procurement procedures that cover the situation.

Documentation of the Procurement Process

Sub-recipients that have not adequately documented the procurement process may be held liable for all funds expended for the goods or services.

Contracts

- Contracts with goods and/or services providers must, at a minimum, include the applicable provisions described in the Contract Provisions section of the Common Rule (24 CFR 85.36(i)) as well as the provisions for contracts included in the Agreement.
- The Sub-recipients legal counsel must insure that contracts with goods and/or services providers:
 - ◇ are clear as to the specification of the goods or services to be provided;
 - ◇ include the normal prudent safeguards in the contract language; and
 - ◇ comply with all restrictions.

Note: No NSP-related contracts, including but not limited to construction, audits, management, etc. may be awarded to contractors or subcontractors that have been debarred or otherwise suspended from receiving Federal contracts or certain subcontracts. (See Minnesota Housing's NSP webpage, Resources section, for the link to the Federal Excluded Parties List System.)

Evidence of this determination must be readily available to Minnesota Housing through the life of the project.

2.04 Disbursement of Funds/Payment Holds

Minnesota Housing will disburse funds to Sub-recipients only after the Sub-recipient has returned a fully executed Agreement, completed the required environmental review process and addressed any pertinent individual grant requirements.

Disbursement Methods

There are two methods of disbursement that will be used by Minnesota Housing:

- Reimbursement Method – the Sub-recipient will be reimbursed by Minnesota Housing for actual, documented expenditures.
- Cash Advance Method – Minnesota Housing will advance funds to Sub-recipients only for acquisition Activities to access funds to purchase Foreclosed and Abandoned Homes and Residential Properties quickly. The Sub-recipient must provide the following documentation to secure funds in advance of acquisition:
 - ◇ NSP Initial Property Set-Up, NSP Disbursement Expenditure, and NSP Property Close Out, as applicable;
 - ◇ Certifications from the Sub-recipient for the purchase price and appraisal;
 - ◇ Executed environmental review forms with certification; and
 - ◇ Any other documentation or certification requested by Minnesota Housing.

Note: Funds requested to cover eligible government costs (including administrative costs) **must** be disbursed using only the reimbursement method.

Note: The timing of cash advances shall be as close as possible to the actual disbursement.

Program Income and Net Disbursement

- Sub-recipients must apply Program Income to obligations prior to requesting funds for

anticipated costs.

Disbursement Requests

- Sub-recipients may request funds by using Minnesota Housing's NSP Property Set-Up and Initial Expenditure/Disbursement Request Form. Funds will be disbursed to Sub-recipients on a property-by-property basis for expenses.
- Disbursements must reflect only actual expenses. If the disbursement is greater than the actual project cost, excess funds must be immediately returned to Minnesota Housing. If, however, the disbursement is insufficient to cover increases in the cost to complete the project, the Sub-recipient must submit a written request for additional funds along with a revised NSP Property Set-Up and Initial Expenditure/Disbursement Request Form.
- The amount of Grant funds requested must be two thousand and no/100 dollars (\$2,000.00) or more, equal to the amount of unpaid obligations and minus any Program Income in the Sub-recipient's possession at the time the payment request is submitted to Minnesota Housing. NSP Program fund draw requests to pay for holding costs may be submitted on a quarterly basis, by property, if the total sum is lower than \$2,000.00.
- For NSP3 Sub-recipients only: The Grant funds will be used to cover the subsidy/value gap. Sub-recipients with access to other resources for interim construction financing must draw Grant funds first and prior to other resources. The draw amount to be requested will equal the acquisition price or the pro-forma anticipated value gap, whichever is less. After closing, the Sub-recipient must determine if the amount drawn was ultimately equal to, higher, or lower than the final gap left in the unit. If it is higher, then the surplus shall be revolved into another NSP activity and is considered Program Income. If the draw was less than the value gap incurred, then another draw will be authorized to cover the shortage.

- Sub-recipient must either e-mail the required form and supporting documentation to the NSP mailbox at Minnesota Housing or the Sub-recipient may send these documents via regular mail to Ruth Simmons at: Minnesota Housing, 400 Sibley Street, Suite #300, St. Paul, MN 55101.

Note: At no time may the amount disbursed to the Sub-recipient exceed the dollar amount awarded to the Sub-recipient under the Activity or NSP grant.

Timing of Disbursements

- Draw requests may be submitted to Minnesota Housing on a daily basis; processing days will be Thursday through Monday, except for state-observed holidays.
- Sub-recipients should receive funds in their account eight (8) business days following the approval of the request.
- Once the request is approved funds will be requested from HUD. Funds are expected to be disbursed to the Sub-recipient within eight (8) business days after approval.
- Interest earned on funds received but not expended must be returned to the U.S. Treasury.

Payment Holds

Minnesota Housing reserves the right to place payments to Sub-recipients on hold for a variety of reasons relating to performance or non-compliance with grant requirements, such as non-submission of required reports, or lack of progress.

- Should this occur, Minnesota Housing staff will notify Sub-recipients before the payment hold goes into effect.
- If the Sub-recipient is unable to resolve the situation precipitating the payment hold, Minnesota Housing reserves the right, at its sole discretion, to terminate the grant.

2.05 Financial Management

Sub-recipients must establish and maintain a financial management system for the grant which is in compliance with NSP Program requirements. These requirements are accessible through Minnesota Housing’s website in the Resources Section of the NSP webpage.

Sub-recipients’ financial management systems must:

- Provide accurate, current and complete information on the financial status of each grant-supported Activity.
- Be sufficiently detailed to generate status reports, by Activity and property that indicate:
 - ◊ funds budgeted;
 - ◊ amount obligated; and
 - ◊ amount expended.
- All accounting documents must be supported by source documentation that may include but is not limited to payroll records, invoices or vouchers.
- Activities funded by sources other than NSP funds (including Program Income from Sub-recipient revolving loans) must appear and be traceable in the financial management

system.

All staff or employees, including employees of HRAs, CAPs, etc., paid in whole or in part with NSP funds must prepare timesheets indicating the hours worked on all Activities, including NSP Activities, per pay period. Payroll must be based upon these timesheets.

Chapter 3 - Federal Requirements

3.01 Income and Eligibility Limits

Each year, HUD determines the annual median incomes for all states, counties and metropolitan statistical areas in the United States. NSP assistance is limited to households or individuals earning up to 120% of area median income.

- Sub-recipients must determine income eligibility for a household or individual prior to providing NSP assistance by comparing the Annual Income (see definition, page 55) to the published standard determined by HUD.
 - ◇ Sub-recipients must verify income eligibility for proposed occupants of rental units prior to occupancy and at unit turnover during the affordability period.
- Minnesota Housing publishes tables showing 50% and 120% of Area Median Income on its website:
 - ◇ 50% Area Median Income Table;
 - ◇ and
 - ◇ 120% Area Median Income Table;
- Minnesota Housing recommends that independent third party verification must be obtained for all income sources. Minnesota Housing has listed a set of forms on the website for third party verification of income. These forms must be retained in project files. Also included on the website is the Calculation of Income Worksheet. The entire set is available at the Neighborhood Stabilization Program (NSP1 and NSP3) page: under the: Homebuyer/Renter Underwriting Requirements & Forms section
- When independent third party verification of income is not used, Sub-recipients may accept source documents that verify the household's income.
- In all cases, supporting documentation must be retained in the project file.
- Sub-recipients must assess the documentation to determine if it is complete. Additional written or verbal clarification may be required from the entity providing the verification.

Income must be calculated using the Part 5 (Section 8) annual gross income in accordance with 24 CFR 5.609.

3.02 National Objectives

The NSP1 and NSP3 programs include two low- and moderate-income requirements that supersede existing CDBG income qualification requirements. Under the Low and Moderate Income National Objective requirement all funds appropriated under HERA and the Dodd-Frank Act shall be used with respect to individuals and families whose income does not exceed 120% of area median income. An NSP Activity may meet the national objective if the assisted Activity:

- provides or improves permanent residential structures that will be occupied by Low-Moderate-Middle Income Households whose incomes are at or below 120% of area median income (abbreviated as LMMH); and
- serves an area in which at least 51% of the residents have incomes at or below 120% of area median income, a Low-Moderate-Middle Income Area (abbreviated as LMMA).

Sub-recipients must be able to demonstrate how each Activity will meet this National Objective.

Low, Moderate and Middle Income Household (LMMH), Direct Benefit

Commonly used for owner-occupied housing rehabilitation, rental housing rehabilitation, relocation, new construction of residential housing, Activities in support of new, affordable housing development. These income figures are determined by HUD annually. The most current NSP Program Income Limits can be found on Minnesota Housing's NSP web page in the Program Information section.

Sub-recipients must state that they understand that all single-family households assisted with NSP funds are LMMH. Fifty-one percent (51%) of units in a multi-family rental building must be occupied by LMMH households, and 51% of the units in the building must have rents that are Affordable.

Sub-recipients must establish and follow policies and procedures for determining income eligibility based on household size to document the LMMH benefit. Sub-recipients must follow the HOME requirements of 24 CFR 92.252 (a)(c)(e)(f) for rental housing income determination and 24 CFR 92.254 for homeownership.

Low, Moderate and Middle Income Area (LMMA) Benefit

Commonly used for demolition, public facilities Activities and Land Banks aside from utility hookups on private property that is a part of rehabilitation. (See LMMI Direct Benefit.)

Sub-recipients must demonstrate how at least 51% of the benefitting area's residents meet income levels at or below 120% of area median income using:

- The most recent HUD census data, if the census area matches the benefitting area exactly, such as for a citywide benefit (use the link on Minnesota Housing's NSP web page in the Resources Section entitled: Table, HUD 2000 LMI Census Data for MN Non-entitlement Communities.
- If a survey is used, applicants must submit a copy of the income survey and the "NSP Survey Results Spreadsheet – LMMA Area Benefit" (or equivalent) to Minnesota Housing. A sample survey and a fillable "NSP Survey Results Spreadsheet – LMMI Area

Benefit” can be found on the NSP website. The most recent HUD income limits adjusted by household size must be used in the survey.

Note: The Spreadsheet file contains two worksheets – a completed example and a fillable version.

3.03 Fair Housing, Equal Opportunity and Civil/Human Rights

Minnesota Housing Fair Housing and Equal Opportunity Value Statement

Minnesota Housing furthers fair housing opportunities in all agency programs and administers its housing program affirmatively, so that all Minnesotans of similar economic levels have equal access to its programs, regardless of age, race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, or sexual or affectional orientation.

Sub-recipients must comply with the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (FHA), as amended, which prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on: Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and other statutes detailed in 24 CFR 5.105.

Sub-recipients of the Minnesota NSP Program are primarily responsible for marketing the NSP Program at the local level. Marketing methods should be such that no potentially eligible applicants are excluded. Access to NSP Program information and materials must be in compliance with civil rights laws and regulations, including the Minnesota Human Rights Act.

Minnesota Human Rights Act

Under the Minnesota Human Rights Act, Section 363A.36, businesses and non-profits that a) have more than 40 full-time employees at any time during the previous 12 months, and b) bid on or make a proposal for a state contract and agreement for goods or services in excess of \$100,000, must have a Certificate of Compliance issued by the Commissioner of the Department of Human Rights. Certificates are issued to businesses that have an affirmative action plan approved by the Commissioner for employment of minorities, women and disabled persons. This does not apply to units of local government.

Affirmative Action Certification

Sub-recipients (excluding units of local governments) must submit either a copy of their Certificate of Compliance or a notarized certification indicating that the local administrator has not had more than 40 full-time employees at any time within the previous 12 months.

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 is the federal law that protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who are limited English proficient can effectively participate in, or benefit from, federally assisted programs may violate Title VI's prohibition against national origin discrimination.

Section 109 of the Housing and Community Development Act of 1974

Section 109 of the Housing and Community Development Act of 1974, the law authorizing the CDBG Program, extends coverage and prohibits the use of federal funds in any way that might exclude, on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, or sexual or affectional orientation. The provisions of Section 109 are very broad and cover benefits, services, methods of administration, housing, employment, contracting and displacement/relocation. Section 109 also includes prohibition against discrimination on the basis of age and handicap which are covered by the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973. The language of these laws is very similar to the Civil Rights Act of 1964.

Contracting with NSP Funds

NSP1-assisted projects are subject to the federal requirements found in the Federal Register – Federal Register/Vol. 73. No. 194/Monday, October 6, 2008/Notices (hereinafter referred to as the Notice) and CDBG Regulation at 24 CFR Part 570. NSP3-assisted projects are subject to the same federal requirements as the October 6, 2008 Notice and CDBG Regulation at 24 CFR Part 570 as amended by the Dodd-Frank Act. These requirements include nondiscrimination, equal opportunity, disclosure, debarment, drug-free workplaces, affirmative marketing, minority outreach, environmental reviews, relocation, labor, lead-based paint, conflict of interest, Executive order 12372, and consultant Activities.

Other applicable laws include those that encourage the participation of women or minority owned businesses.

The full text contained in the following applicable laws must be inserted into all Sub-recipients' bid documents and contracts:

List of all applicable laws:

- Executive Order 11246, for contracts in excess of \$10,000; and
- Executive Order 11625, 12432, and 12138 require efforts be made to encourage the use of minority and women's business enterprises in federally funded programs.

Sub-recipient contracts for rehabilitation and new construction projects must contain the following provisions:

- Equal Employment Opportunity: "The contractor shall provide equal employment opportunity to all persons without discrimination as to age, race, color, creed, religion, national origin, sex, or disability."
- Affirmative Action: "To the extent possible and practical, the contractor will take affirmative action to provide employment opportunities to all persons without regard to race, color, creed, religion, national origin, sex, age, or disability."

Sub-recipients must establish procedures that will facilitate to maximum extent possible the hiring of employees who reside in the vicinity or contract with small businesses that are owned and operated by persons residing in the vicinity of projects funded with NSP3.

Section 3 of the Housing and Urban Development Act of 1968

Section 3 requires that:

- To the greatest extent feasible, training and employment opportunities shall be given to lower income residents of the area in which the project is located;
- Sub-recipient include the Section 3 Clause, as described in 24 CFR §135.38, regarding economic opportunities for low and very low income persons in all Sub-recipient bidding and contract documents for which the construction costs exceed \$100,000;
- Contracts be awarded to small businesses located within the project area; and
- To the extent feasible, the contractor shall provide opportunities for training and employment to lower income residents of the area, particularly residents of public or federally assisted housing.

For contracts in excess of \$100,000, Sub-recipients must track and make available to Minnesota Housing the number of new hires who are Section 3 residents.

Rental Preferences

NSP3 Sub-recipients are expected to establish procedures to create preferences for the development of affordable rental housing for properties assisted with NSP3 funds.

Lease Provisions

- Sub-recipients must ensure leases on rental units contain no provisions prohibited by 24

CFR 92.53 (b).

- ◇ Sub-recipients must certify their approval of the lease form to be used and retain the approval certification in the project file.
- ◇ The Lease Approval Certification form posted on Minnesota Housing’s website must be used for this purpose.

Prohibited Lease Terms

24 CFR 92.253 (b) identifies the following prohibited lease terms:

- Agreement to be sued – Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- Treatment of property – Agreement by the tenant that the owner may take, hold or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties;¹
- Excusing owner from responsibility – agreement by the tenant not to hold the owner or the owner’s agents legally responsible for any action or failure to act, whether intentional or negligent;
- Waiver of notice – Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- Waiver of legal proceedings – Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- Waiver of jury trial – Agreement by the tenant to waive any right to a trial by jury;
- Waiver of right to appeal court decision – Agreement by tenant to waive the tenant’s right to appeal, or otherwise challenge in court, a court decision in connection with the lease; and
- Tenant chargeable with cost of legal actions regardless of outcome – Agreement by the tenant to pay attorney’s fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant.²

Section 504 of the Rehabilitation Act of 1973

As recipients of federal funds, Sub-recipients must also follow the accessibility requirements stated in Section 504 of the Rehabilitation Act of 1973; Section 109 of the Title I of the Housing and Community Development Act of 1974; Title II of the Americans with Disabilities Act of 1990; and the Architectural Barriers Act of 1968. Together, these federal laws require all recipients of federal financial assistance to ensure accessibility for persons with disabilities. Public facilities and buildings, as well as all projects receiving federal financial assistance, must be designed, constructed and altered to be fully accessible to people with mobility and sensory impairments.

¹ This prohibition does not apply to an agreement by the tenant concerning the disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law.

² The tenant may be obligated to pay costs if the tenant loses.

The Fair Housing Act

The Fair Housing Act (FHA) applies to both public and private housing. Under the Act, new multifamily buildings must be designed and constructed to have fully accessible common areas. These buildings must also incorporate basis adaptive features in ground floor and elevator-accessible dwelling units to allow for use by people with disabilities. In addition to these requirements, when housing is created using federal funding, at least 5% of a project's dwellings must be fully accessible to people with mobility impairments, and an additional 2% must be accessible to people with vision and hearing impairments.

Fair Housing Opportunity

Affirmatively Furthering Fair Housing and Analysis of Impediments to Fair Housing Choice

Sub-recipients must follow the Affirmatively Furthering Fair Housing (AFFH) obligations imposed through the CDBG program (24 CFR 570.601 et seq.) AFFH obligations require Sub-recipients to:

- Sub-recipients that are CDBG entitlement communities shall submit a copy of and follow their Analysis of Impediments. Sub-recipients that are not CDBG entitlement communities shall be guided by Minnesota Housing's Analysis of Impediments for the 7-county metropolitan area, whichever is appropriate for the community (either alternative hereinafter referred to as the AI).
- Take appropriate actions to overcome the effects of any impediments identified through the AI; and
- Maintain records of actions taken to address impediments. The AI is an assessment of how a state or entitlement jurisdiction's law, regulations, policies and procedures affect the location, availability and accessibility of housing. It also assesses how conditions, both private and public, affect fair housing choice.
- Sub-recipients must submit information on how they will market the NSP program to advance Fair Housing Opportunities, before they can draw-down NSP funds. (See Sub-recipient Summary of Fair Housing Information form.)

Affirmatively Marketing

Sub-recipients and their Local Sub-recipients must work with potential homebuyers to affirmatively market NSP housing units. Minnesota Housing requires that Sub-recipients take specific steps in soliciting renters and homebuyers, determining eligibility, and concluding all transactions. These steps include:

- Outreach to protected groups
- Marketing strategy that reaches protected groups
- Self-analysis to make sure all steps are non-discriminatory.

Fair Housing/Equal Opportunity Reporting and Tracking

- Sub-recipients must develop the following information and provide it to Minnesota Housing upon request:
- Actions taken to promote Fair Housing during the grant;

- The race/ethnicity of the beneficiaries of program Activities;
- The number of female headed households of the beneficiaries of program Activities;
- Actions taken to develop affordable rental preferences;
- The number and amount of contracts awarded to people residing in the vicinity or businesses employing residents in the vicinity;
- The number and amount of contracts awarded to women, minority and Section 3-owned businesses, including gender and race/ethnicity of those business owners; and
- Section 3 business employee information on contracts over \$100,000, including:
 - ◊ total new hires;
 - ◊ job category;
 - ◊ number of employees and trainees;
 - ◊ race;
 - ◊ color; and
 - ◊ national origin.

Collecting and Maintaining Racial and Ethnic Data

HUD Title VI regulations (24 CFR 1) requires that all of its federally assisted recipients record and maintain information on the race, color or national origin of persons who are applicants for, participants in, or beneficiaries of the NSP Program.

3.04 Limited English Proficiency

Sub-recipients must “take reasonable steps” to ensure that limited English proficiency (hereinafter referred to as LEP) persons have meaningful access to programs services and information funded through their NSP Grant.

“Taking reasonable steps” includes, but is not limited to the following:

- Sub-recipients must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction by complying at all times with the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons published in the January 22, 2007 Federal Register; and,
- In order to ensure that individuals who need language assistance with respect to a particular type of service, benefit or encounter receive that assistance, Sub-recipient plans must be compliant with the following:
 - ◊ identifying LEP persons who may need language assistance;
 - ◊ identifying ways in which language assistance may be provided;
 - ◊ training staff;
 - ◊ providing notice to LEP persons; and
 - ◊ monitoring and updating LEP policy.

Note: Brochure and additional resources may be found at the Limited English Proficiency federal website noted in the Resources section of Minnesota Housing’s NSP webpage.

3.05 Program Income and Reversion of Assets

Introduction

Program Income, generated through Activities from NSP funds, must be accounted, expended and reported according to section 2301(d)(4) of HERA, 24 CFR 570.500(a), 570.504 and Minnesota Housing guidelines.

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.

In general, Program Income may either be given to Minnesota Housing or reused for approved Activities in approved areas, as described in the Agreement. Sub-recipients must expend all Program Income on hand before drawing down additional funds.

Definition and Eligible Uses of Program Income

Program Income is defined as gross income (revenue) received by the Sub-recipient directly generated from the use of NSP funds. Program Income includes, but is not limited to, the following:

- Proceeds from the sale or lease of property acquired/redeveloped/rehabilitated with NSP funds;
- Principal and interest payments on loans made from NSP funds
- Revenue returned by individuals or other entities that are not Sub-recipients;
- Recaptures on sales of homes pursuant to enforcement of NSP affordability requirements; and
- See 24 CFR §570.500(a)(1) for more examples of amounts that are treated as Program Income.

Program Income Plan

Sub-recipients are allowed to use Program Income in accordance with the Agreement and the CDBG regulations governing management and expenditure of Program Income.

Reversion of Assets and Remittance of Program Income

At the end of the Grant Agreement, the Sub-recipient must transfer to MHFA any assets attributable to the NSP grant, including accounts receivable, NSP funds on hand, and real property, as provided for in 24 CFR §570.503(b)(7).

Section 24 CFR §570.504(c) requires that any Program Income held or received by a Sub-recipient at or after the end of the Agreement, be paid to Minnesota Housing.

3.06 Labor Standards

- Labor standards laws apply to projects using NSP funds and involving physical construction such as public facilities and residential rehabilitation of eight or more units on a site. Rehabilitation of single family, detached housing units is exempt as long as fewer than eight units are included in the contract.
- When a contract for work that includes NSP funds is bid or awarded, the contractor and

subcontractors must comply with the applicable labor standards laws. Sub-recipients are required to ensure compliance with these laws.

3.07 Lead Policy

- The lead-based paint regulatory requirements of 24 CFR part 35 governing the acquisition, rehabilitation, leasing, operations, and sale of NSP-funded housing apply.
- The Environmental Protection Agency (EPA) has developed a renovation-specific information pamphlet. This new pamphlet gives information on: lead-based paint hazards; lead testing; how to select a contractor; what precautions should be taken during renovation and proper cleanup Activities.
- The new pamphlet may be found on the EPA's website, a link for which is included in the Resources section of the NSP web page on Minnesota Housing's website.
- The new pamphlet entitled Renovate Right must be provided to all borrowers. Sub-recipients must obtain a written acknowledgment of receipt of this pamphlet from the borrower and retain a copy of the acknowledgement in the project file.
- The Protect Your Family from Lead brochure should be used when a Sub-recipient sells an NSP-assisted house.
- All other requirements of 24 CFR Part 35 applies in its entirety to projects receiving NSP funds. Sub-recipients must retain records demonstrating compliance with part 35 requirements for review by Minnesota Housing.

Note: HUD's "[Lead-Safe Housing Rule Screening Worksheet](#)" must be used for all NSP files.

3.08 Appraisals

NSP Requirements

Acquisitions financed with NSP funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), and its implementing regulations at 49 CFR Part 24, and the requirements set forth in the NSP1 and NSP3 Notices that were published in the Federal Register on October 6, 2008 and October 19, 2010 respectively. To ensure compliance with the NSP Notices, purchase of foreclosed properties must 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 Notices require appraisals to be performed with respect to the NSP funded acquisition of Foreclosed Homes and Foreclosed 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 Homes and Foreclosed 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.

- If NSP funds are to be used to acquire a Foreclosed Home or a Foreclosed Residential Property (other than through donation), the Sub-recipient must ensure that the purchase price includes a discount from the value established by an appraisal that meets the following requirements:
 - ◇ The appraisal must have been completed within 60 days prior to the final offer made

- for the property.
- ◇ 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.
 - ◇ 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.
 - ◇ 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 49 CFR 24.2(a)(23)) of the retained improvement.
 - The Sub-recipient 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, a link to which is available on Minnesota Housing's NSP web page in the Resources section.
 - The Sub-recipient 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 Sub-recipient shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and use only those determined by the Sub-recipient to be qualified.
 - If the Sub-recipient 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.).

Minnesota Licensing Requirements

The State of Minnesota requires that real estate appraisers be licensed. A link to the licensing requirements regulated by the Minnesota Department of Commerce can be found on Minnesota Housing's NSP web page in the Resources section.

3.09 Environmental Review

NSP Sub-recipients must maintain a written record of the environmental review undertaken for each Activity, which will be available for public review. All NSP Sub-recipients must conduct an environmental review before Minnesota Housing can release funds for an Activity. NSP Sub-recipients cannot commit NSP or non-NSP funds, by way of contract or other agreement, or take any other action for NSP-funded Activities until an environmental determination has been made and, if applicable, a release of funds is granted by Minnesota Housing.

Depending on the type of project and Activity undertaken, a different level of environmental review will be required. The different levels of environmental review include:

- Exempt;
- Categorically Excluded NOT Subject to 24 CFR 58.5;
- Categorically Excluded Subject to 24 CFR 58.5;
- Environmental Assessment; and
- Environmental Impact Statement.

Each level of review has different documentation and public notice requirements. Refer to the environmental review process contained in Minnesota Housing's "Step-by-Step NSP Environmental Review" packet, **which must be used for all NSP files**. The following forms are included in the packet and may be accessed on Minnesota Housing's website:

- [Environmental Review Guidance](#)
- [Environmental Review Levels](#)
- [Environmental Review Resources](#)
- [Environmental Review Agency Contacts Dissemination of Notice List](#)
- [Exempt Worksheet](#)
- [Categorically Excluded – Not Subject to 58.5 – Worksheet](#)
- [Categorically Excluded – Subject to 58.5 – Worksheet](#)
- [Categorically Excluded – Notice of Intent to Request Release of Funds](#)
- [Environmental Assessment – Tiered Review – Worksheet](#)
- [Environmental Assessment – Combined Notice of FONSI – Intent to Request Release of Funds](#)
- [Minnesota Housing Request for Release of Funds – Form](#)
- [Sample Site Specific Review for Tiered Environmental Assessment \(Tier II\)](#)

Due to the targeting nature of the NSP program, an Environmental Assessment will most likely be the level of environmental review undertaken. An Environmental Assessment is required for programs (a set of functionally related Activities) where there is a likelihood of five or more scattered site, single family properties being undertaken within 2,000 feet of each other or for programs that are clearly designed and intended to develop a specific block, neighborhood or

other limited geographic area.

Tiered Environmental Reviews

Minnesota Housing will allow for tiered environmental reviews for functionally related Activities that require an Environmental Assessment. Tiered reviews streamline the environmental review process for repetitive actions in a geographic area when specific project sites are still unknown. The process is simplified because tiering prevents duplication of effort. It allows environmental analysis to be completed on a geographic area to address those impacts typical of a proposed action so they need not be repeated on a site specific basis. Tiered reviews are typically used for activities that are categorically excluded – “subject to §58”, or require preparation of an environmental assessment or an environmental impact statement.

Consideration of the tiered approach is appropriate when:

- the Sub-recipient has identified a specific type of activity that will take place in several locales or jurisdictions;
- will serve the same function; and
- have the same level of environmental impact regardless of project site location.

Tier I

In a tiered review, NSP Sub-recipients are allowed to designate a Tier I level of review, which must:

- Identify the target area;
- Identify the functionally related Activity being undertaken in the target area;
- The amount of NSP funding, and if applicable, the other funding sources and amounts that are subject to environmental review requirements;
- Identify the components of the environmental review (environmental factors and effects) that can be addressed for all properties within the targeted area (i.e., all properties in target area are not subject to a floodplain);
- Identify the components of the environmental review that can only be addressed at the tier two level for specific properties, which must also include strategies for addressing those components (i.e., the southwest quadrant of the target area is subject to a floodplain, so any property acquired will require flood insurance upon sale); and
- Document compliance with other requirements under CFR 58.6.

Note: If these requirements cannot be concluded at Tier I, they must become part of the Tier II review once individual properties are identified.

Tier II

At the completion of the Tier I review, the NSP Sub-recipient may publish a notice and make a request of release of funds for the whole functionally related action in the target area. Upon selection of specific properties, a Tier II review will be required for the identified Tier II components.

In order to avoid further review and release of funds (ROF) clearance, Sub-recipients must

establish standards for determining site acceptability, including mitigation. These standards are specific written strategies for addressing environmental effects that can be determined only when specific sites are known. The standards will be used to choose appropriate sites, mitigate site specific problems and judge the impact of environmental effects on the specific sites.

Sites that do not comply with the established acceptability standards should be screened out or cause the Sub-recipient to amend the tiered review according to CFR 58.47.

3.10 Ability to Commit Funds

All NSP Sub-recipients must conduct an environmental review before Minnesota Housing can release funds for the Activity.

Sub-recipients may not commit NSP or non-NSP funds, by way of contract or other agreement, or take any other action for Activities until an environmental determination has been made and, if applicable, a release of funds is granted by Minnesota Housing.

Where NSP funds will be used for the acquisition of a property, the Sub-recipient may make an option agreement on a proposed property under the following conditions:

- The cost of the option is a small portion of the entire purchase price;
- The option agreement contains language stating that the purchase of the property is subject to completion of the environmental review by the Sub-recipient and a review by the State Historic Preservation Office (SHPO); and
- The option agreement contains language stating that the environmental review must end in a determination indicating the property is in compliance with the National Environmental Policy Act of 1969 (NEPA) before the property is purchased.

3.11 Cost Reasonableness

Sub-recipients providing purchase and rehabilitation assistance directly to homebuyers must certify that the assistance provided does not exceed the cost of rehabilitation and that the cost is deemed reasonable.

The following guidance on cost reasonableness is excerpted from the Federal Grants Management Handbook:

Generally, a cost is considered reasonable if it passes the prudent person test – it does not exceed an amount that could be incurred by a prudent person under similar circumstances. Other major considerations used in determining if a cost is reasonable are:

- whether the cost is generally considered as ordinary and necessary to the operation of the grantee or the performance of the federal award/program;
- the restraints or requirements imposed by such factors as sound business practices, arms-length bargaining, federal, state and other laws and regulations, and terms and conditions of other federal awards, or sponsored agreements;
- market prices for comparable goods and services;
- the extent to which actions taken with respect to the cost are consistent with

institutional policies; and

- whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the grantee organization, its employees, the public at large and the federal government.

Office of Management and Budget Circular A-87, “Cost Principles for State, Local and Indian Tribal Governments” (Attachment A, Paragraph C) (OMB Circular A-87) provides the following guidelines for determining the allowability and reasonableness of expenses:

Factors Affecting Allowability of Costs

- To be allowable under federal awards, costs must meet the following general criteria:
 - ◇ Be necessary and reasonable for proper and efficient performance and administration of federal awards;
 - ◇ Be allocable to federal awards under the provisions of OMB Circular A-87;
 - ◇ Be authorized or not prohibited under state or local laws or regulations;
 - ◇ Conform to any limitations or exclusions set forth in these principles, federal laws, terms and conditions of the federal award or other governing regulations as to types or amounts of cost items;
 - ◇ Be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities of the government unit;
 - ◇ Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose, in like circumstances, has been allocated to the federal award as an indirect cost;
 - ◇ Be determined in accordance with generally accepted accounting principles, except as otherwise provided in OMB Circular A-87;
 - ◇ Not be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior period, except as specified by federal law or regulation; be the net of all applicable credits; and
 - ◇ Be adequately documented.

Reasonable Costs

A cost is reasonable if, in its nature and amount, that cost which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

In rehabilitation programs, a competitive bidding process is the best method to attain compliance with OMB Circular A-87. In order to be truly competitive, the bidding process should require that all contractors bid on performing the same work, in the same manner and with the same quality of materials. This requires that the specifications given the contractors to prepare their bids be sufficiently detailed so the lowest responsible bid would normally be selected.

When the Sub-recipient is not able to determine the reasonableness of a cost through the selection of the lowest responsible bid, a price analysis must be used to determine the reasonableness of the proposed contract price. **A representative of the Sub-recipient with training and experience with rehabilitation cost estimating must prepare the analysis.** The scope of work must specify the number, type and quality of the materials to be used in order to make the analysis possible. The Sub-recipient's estimator must:

- Review the specific components of the work;
- Verify the proposed cost data;
- Evaluate whether the elements of cost and profit are within industry norms; and
- Provide supporting documentation for the analysis.

The Sub-recipient must retain the analysis and all supporting documentation in the project file.

Cost Reasonableness Certification

Minnesota Housing requires the Sub-recipient to complete and retain in the project file, a Cost Reasonableness Certification and its supporting documents for all NSP rehabilitation projects where a competitive bidding process does not occur.

Note: In all cases, the Cost Reasonableness Certification may not substitute for a competitive bidding process when that process is required by NSP.

Circumstances Requiring Execution of the Cost Reasonableness Certification

Sub-recipients must execute the Cost Reasonableness Certification and compile the supporting documents when:

- the developer agreement does not require the developer to conduct a competitive bidding process;
- the developer agreement requires the developer to conduct a competitive bidding process on **some but not all** activities in the scope of work;
- a competitive bidding process was conducted but the lowest bid was not selected for valid reasons;
- a selective bidding process was conducted but insufficient bids were received. The Sub-recipient must document the file to:
 - ◇ explain why a second bidding process was not undertaken; the recommended bid selection; and
 - ◇ the Cost Reasonableness Certification along with its supporting documents.

If a competitive bidding process is conducted, the file must include all bidding documents, an outline of the process, the lowest bid and any necessary supporting documentation.

3.12 Ineligible Improvements

Ineligible improvements include but are not limited to the following:

- Any furniture or other personal household items;
- Payment, wholly or in part, of assessments for public improvements;
- Construction of or improving existing garage space which will result in personal use garage space per property, exceeding 800 square feet and 3 stalls;
- Construction of or aesthetic improvements to recreational facilities including, but not limited to, patios, gazebos, tennis courts, hot tubs, swimming pools, saunas;
- Costs associated with a project which will be incomplete (i.e. framing in a room addition);
- Greenhouse;
- Improvements begun or purchase of property occurred before the action plan posting date of December 1, 2008;
- Improvements to the portion of buildings or real estate owned by the association in a PUD or Condominium project;
- Labor costs paid to the Borrower or any resident of the household;
- New construction or expansion of an area used in a trade or business;
- Four season building additions which expand the existing housing footprint, except for reasonable expansions dealing with functional obsolescence or improvements which are consistent with neighborhood standards;
- Playground equipment;
- Repairs to or construction of outbuildings including, but not limited to, sheds, utility buildings, shops, barns, silos;

- Underground sprinkler systems; and
- Landscaping and sod, except for restoration of the site following an eligible Activity, or for health, safety or accessibility reasons.

Chapter 4 - NSP Program Requirements

4.01 Eligible Activities

Minnesota Housing sub grants funds to Sub-recipients under the NSP Program. Sub-recipients may accept applications to undertake eligible Activities (or undertake eligible Activities directly) including:

- Financing mechanisms for the purchase of Foreclosed Homes and Foreclosed Residential Properties;
- Acquisition and rehabilitation of Abandoned and Foreclosed Homes for homeownership;
- Acquisition and rehabilitation of Abandoned and Foreclosed Residential Properties for rental;
- Establishing Land Banks for Foreclosed Homes and Residential Properties;
- Demolition of Blighted Structures; and
- Redevelopment of demolished or Vacant Property.

Activity A - Establish Financing Mechanisms

NSP Eligible Use	CDBG Eligible Activity
Establish financing mechanisms	Activity delivery costs for eligible Activity as defined in 24 CFR 570.206 and eligible Activities defined below
<p>A. Financing for the purchase and redevelopment of Foreclosed Homes for low and moderate income homebuyers.</p> <p>B. Financing for the purchase and redevelopment of foreclosed Residential Properties.</p>	<p>24 CFR 570.201 (a) Acquisition (b) Disposition (i) Relocation; and (n) Direct homeownership assistance, including down payment and closing cost assistance, mortgage interest rate reduction, lease/purchase, contract for deed.</p> <p>24 CFR 570.202 Eligible rehabilitation and preservation Activities for homes and residential properties.</p>

National Objective

This Activity meets the NSP Program low, moderate and middle income national objective by providing financing for the purchase and redevelopment of housing that will be occupied by households with income levels at or below 120% of area median income.

General Terms Under Which Assistance Will Be Provided

- The role and structure of NSP funds in financing acquisition and/ or rehabilitation is described in the Sub-recipient’s Agreement.
- End users of financing may be developers or homebuyers.
- Generally, financing provided by Sub-recipients to homeowners for acquisition and/or rehabilitation will be without interest, except for circumstances in which the charging of interest or fees is necessary to pay documented costs associated with the financing mechanism. To the extent that NSP funds provide a first lien or equivalent primary financing, such financing mechanisms may be priced at an interest rate that is no greater than the interest rate charged on Minnesota Housing Mortgage Revenue Bond Program loans.
- There are three types of assistance provided by NSP Sub-recipients:
 - ◊ Down Payment and Closing Cost Assistance – When qualifying borrowers, Sub-recipients must cap NSP down payment assistance to 50% of the required down payment amount.
 - ◊ Interest Rate Write-Down Dollars – dollars to a lender in return for reducing the interest rate of a household mortgage.
 - ◊ Principal Loan Amount Write-Down Dollars – dollars to a lender in return for reducing the amount borrowed by a household or a reduction in sales price.
- Financing provided to other entities for acquisition and redevelopment may charge interest rates from 0% to market rate for equivalent types of financing with a loan term not in excess of 30 years.
- **Needs-based assistance:** Any NSP needs-based homebuyer assistance which uses a housing ratio less than 30% to determine need, must be justified/limited by income or other circumstances, and the housing ratio needs test shall not be less than 25%.
- **Incentive-based:** NSP incentive-based homebuyer assistance shall not exceed \$14,000. Sub-recipients must disclose whether they will layer needs-based and incentive-based assistance, and their strategy to minimize individual NSP assistance and maximize the number of households to be assisted.
- **Rehab-based:** Sub-recipients providing rehab-based assistance directly to homebuyers to incent the purchase and rehabilitation of Foreclosed Homes must certify and ensure that the assistance provided does not exceed the cost of rehabilitation, that the cost is deemed reasonable, and the rehabilitation process will be managed by the Sub-recipient to ensure the property meets rehabilitation standards and is completed in a timely manner.

Activity B-1 – Acquisition and Rehabilitation, Homeownership

NSP Eligible Use	CDBG Eligible Activity
Purchase and rehabilitate Abandoned or Foreclosed Homes in order to sell, rent or redevelop such Homes.	Activity delivery costs for an eligible Activity as defined in 24 CFR 570.206 and eligible Activities defined below: 24 CFR 570.201 (a) Acquisition (b) Disposition

	<p>Activity delivery costs for an eligible Activity as defined in 24 CFR 570.206 and eligible Activities defined below: 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.</p>
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National Objective

This Activity meets the NSP Program low, moderate and middle income national objective by providing homes that will be occupied by households with income levels at or below 120% of area median income.

General Terms Under Which Assistance Will Be Provided

- Under this Activity, the Sub-recipient will acquire and rehabilitate Abandoned and Foreclosed Homes and Residential Properties, which will be made available for sale to the full range of income-eligible persons for homeownership, including those with incomes below 50% of area median income.
- The acquisition and/or rehabilitation shall be conducted by the Sub-recipients.
- Sub-recipients will use either the HOME recapture or resale requirements to meet the Continued Affordability requirements of the NSP Program. The period of Continued Affordability will be at least as long as the period of affordability described in 24 CFR 92.254(a)(4). Recapture requirements and affordability periods must equal or exceed the requirements of 24 CFR 92.254. But, as with the HOME requirements of 24 CFR 92.254 (a)(5), the requirement that the property continue to be occupied by NSP-eligible owners will expire with recapture of the NSP investment. Where resale restrictions enforce Continued Affordability, repayment of any portion of the NSP investment will not reduce or eliminate the resale restrictions.

Activity B-2 – Acquisition and Rehabilitation, Rental

NSP Eligible Use	CDBG Eligible Activity
<p>Purchase and rehabilitate Abandoned or Foreclosed Residential Properties in order to sell and/or rent such Properties.</p>	<p>Activity delivery costs for an eligible Activity as defined in 24 CFR 570.206 and eligible Activities defined below: 24 CFR 570.201 (a) Acquisition (b) Disposition (i) Relocation 24 CFR 570.202 – eligible</p>

	rehabilitation and preservation Activities for residential properties.
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National Objective

This Activity meets the NSP Program low, moderate and middle income national objective by providing residential structures that will be occupied by Households with income levels at or below 120% of area median income.

General Terms Under Which Assistance Will Be Provided

- Under this Activity, the Sub-recipient will acquire and rehabilitate Abandoned, and Foreclosed Homes and Residential Properties, which will be made available for rental to the full range of income-eligible persons, including those with incomes below 50% of area median income.
- Renters will benefit from this Activity as Foreclosed and Abandoned Residential Properties are brought back on line and rented to tenants at rents that do not exceed the HOME rent limits specified in 24 CFR 92.252.
- NSP funds may also be used to capitalize an operating reserve, if required by the lender providing first mortgage financing, to reduce tenants' rents to more affordable levels.
- Sub-recipients will be required to encumber the property by filing a declaration or other document against the property that has been approved by Minnesota Housing. Said declaration or other approved document must enforce the affordability requirements of 24 CFR §92.252(a), (c), (e) and (f), which are identical to those of the HOME program.

Activity C – Establish Land Banks

NSP Eligible Use	CDBG Eligible Activity
Establish and operate Land Banks for Foreclosed Homes and Residential Properties	Activity delivery costs for an eligible Activity as defined in 24 CFR 570.206 and eligible Activities defined below: 24 CFR 570.201 (a) Acquisition (b) Disposition

National Objective

The Land Bank Activity meets the NSP low-, moderate- and middle-income national objective by serving an area in which at least 51% of the residents have incomes at or below 120% of area median income.

General Terms Under Which Assistance Will Be Provided

- This Activity will acquire Foreclosed Residential Properties and homes for possible demolition and public facility type interim use (community gardens, for example) until final sale of the property. Final sale must be within ten years for a purpose that will benefit the remaining housing in the neighborhood.
- Sub-recipients intending to use NSP funds for demolition must describe short-term and long-term plans for the use of the land, including how and who will maintain the vacated property until it is redeveloped and the timeframe for likely redevelopment of the property.
- Demolition plans should include a strategy for assembling land for redevelopment and not simply demolition on a case-by-case basis. Sub-recipients are encouraged to plan interim community uses for Vacant Property such as community gardens, playgrounds and parks.
- Land banks must operate in the pre-defined targeted geographic areas as described in the Agreement with Minnesota Housing.

Activity D – Demolish Blighted Structures

NSP Eligible Use	CDBG Eligible Activity
Demolish Blighted Structures.	24 CFR 570.201 (d) – Clearance for Blighted Structures only

National Objective

The demolition Activity meets the NSP low-, moderate- and middle-income national objective by serving areas in which at least 51% of the residents have incomes at or below 120% area median income.

General Terms Under Which Assistance Will Be Provided

This Activity will demolish Blighted Structures that will be replaced with housing or a public facility. NSP funds cannot be used for commercial redevelopment, as noted under Activity E below.

Under the Dodd-Frank Act, NSP3 funds expended under demolition activities cannot exceed 10% of the total grant funds.

Activity E1 – Redevelop Demolished or Vacant Structures, Homeownership CDBG Eligible Activity

NSP Eligible Use	CDBG Eligible Activity
Redevelop demolished or Vacant Properties for housing.	24 CFR 570.201 (a) Acquisition (b) Disposition (c) Public facilities and improvements 24 CFR 570.204 – New Construction (n) Direct homeownership assistance (as modified below): <ul style="list-style-type: none"> • 24 CFR 570.202 Eligible rehabilitation and preservation Activities for demolished or Vacant Properties

Activity E2 – Redevelop Demolished or Vacant Structures, Rental

NSP Eligible Use	CDBG Eligible Activity
Redevelop demolished or Vacant Properties for housing.	24 CFR 570.201 (a) Acquisition (b) Disposition (c) Public facilities and improvements 24 CFR 570.204 – New Construction (n) Direct homeownership assistance (as modified below): <ul style="list-style-type: none"> • 24 CFR 570.202 Eligible rehabilitation and preservation Activities for demolished or Vacant Properties

National Objective

This redevelopment Activity meets the NSP low-, moderate- and middle-income national objective when it provides permanent residential structures that will be occupied by households with incomes at or below 120% of area median income.

General Terms Under Which Assistance Will Be Provided

- This Activity will redevelop demolished or Vacant Properties only for the purpose of providing permanent housing.
- Redeveloped Homes or Residential Properties must meet codes and standards and be affordable, within the definitions of 24 CFR §92.252 and §92.254 and meet the affordability requirements of 24 CFR §92.252(a), (c), (e) and (f) if rental property, or §92.254 for homeownership housing.

Activity F – NSP Program Administration

NSP Eligible Use	CDBG Eligible Activity
NSP Administration	24 CFR 570.206

National Objective

This Activity meets the NSP LMMA benefit national objective.

General Terms Under Which Assistance Will Be Provided

- This Activity refers to the general administration costs of the NSP Program.
- Costs incurred since September 29, 2008, are eligible NSP1 pre-award costs.
- Sub-recipients will be eligible for a portion of the administration program funds as stated in their specific grant agreements.

4.02 Ineligible Activities

Ineligible Activities include, but are not limited to:

- Foreclosure prevention Activities such as:
 - ◇ refinancing mortgages;
 - ◇ paying back taxes or mortgage payments; and
 - ◇ underwriting counseling-related expenses.
- In addition, unless otherwise specifically stated, if an Activity is ineligible under the CDBG Program, it is ineligible under the NSP Program.

Note: An NSP Recipient may not provide NSP funds to another party to finance acquisition of tax foreclosed (or any other) property from itself, other than to pay necessary and reasonable costs related to the appraisal and transfer of title. A property conveyed in this manner to a Sub-recipient, homebuyer, developer or jurisdiction will be NSP-assisted and subject to all program requirements.

4.03 NSP Funds Obligation Requirements

Timely use of NSP1 funds is a requirement under HERA. All Minnesota Housing Sub-recipients must use (obligate) NSP1 funds within 18 months of March 20, 2009. One hundred percent (100%) of NSP1 funds must be expended at the 36 month mark, March 20, 2013.

Funds are not considered obligated by an agreement that awards funds to a Local Sub-recipient. Funds are “used” when they are obligated for a specific 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 during the same or a future period.

The timeline for the use of NSP3 funds is as follows: Fifty percent (50%) of grant funds must be expended at the 24th month mark from the date of HUD’s signing of the NSP3 Agreement with Minnesota Housing, and 100% of funds must be expended at the 36 month mark.

4.04 Maximum Sales Price/NSP Property Value Limits

Maximum Sales Price

The maximum sales price for a property which will be owner-occupied, is determined by aggregating costs including, but not limited to:

- acquisition;
- rehabilitation and/or redevelopment;
- related Activity delivery costs; and
- costs related to the sale of the property.

In determining the sales price, the following items may not be included:

- costs of boarding up a property;
- lawn mowing; and
- costs of maintaining the property in a static condition.

Note: Section 2301(d)(3) of HERA directs that, if an Abandoned or Foreclosed Home or Residential Property is purchased, redeveloped or otherwise sold to an individual as a **primary residence, then such sale will 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.) The maximum sale price is determined by aggregating all costs of acquisition, rehabilitation and redevelopment (including related Activity delivery costs, which generally may include, among others items, costs related to the sale of the property).

NSP Property Value Limits

Properties that are acquired and rehabilitated must have an estimated value after rehabilitation not in excess of 95% of the median purchase price for the area.

In accordance with the guidance provided in HUD's January, 2009 HOMEfires Vol. 10 No. 1 (which supersedes HOMEfires Vol. 9, No. 3), participating jurisdictions are authorized to use either the Section 203(b) mortgage limits established as of February, 2008 or the actual 95% of median sales price limits for their areas, whichever is higher. Minnesota Housing is following the higher Section 203(b) mortgage limits. Maximum estimated values are posted on the NSP webpage.

Note: This requirement is in addition to the required discount when purchasing foreclosed properties.

4.05 Acquisition Discount

The Acquisition Discount from Current Market Appraised Value for Foreclosed Homes and Residential Properties will be at minimum 1% per property.

If the anticipated value of the proposed acquisition is estimated at \$25,000 or less and the acquisition is voluntary, 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 any person qualified to make the valuation.

Sub-recipients will maintain a data base of acquired properties, their market value, and the discount at purchase, and will be required to provide that data to Minnesota Housing so that it can determine whether it and its Sub-recipients are meeting the minimum discount of 1% for properties acquired.

4.06 Continued Affordability

As stated in the NSP Notice, Sub-recipients shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of Abandoned and Foreclosed Homes and Residential Properties under this section remain affordable to individuals or families whose incomes do not exceed 120% of area median income or, for units originally assisted with funds under the requirements of Section 2301(f)(3)(A)(ii) of HERA and also referenced in the Dodd-Frank Act, remain affordable to individuals and families whose incomes do not exceed 50% of area median income.

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

NSP Assistance	Affordability Period
Up to and including \$14,999.99	5 years
Between \$15,000 and \$39,999.99	10 years
Greater than \$40,000	15 years
Rental New Construction	20 years

Minnesota Housing will adopt the definition of affordable rents that is contained in 24 CFR §92.252(a), minus utility allowances where tenants pay utilities. NSP Income limits are adjusted for family size. Rents paid by tenants must not exceed the HOME rent limits specified in 24 CFR 92.252, which is the lesser of fair market rent (FMR) or 30% of 65% of area median income, as determined by HUD, with adjustments for the number of bedrooms. Maximum rent includes a utility allowance. This definition is

consistent with the Continued Affordability requirements of the same section that Minnesota Housing will adopt for the NSP Program.

Continued Affordability for NSP Assisted Housing

Sub-recipients will be required to include in their loan documents the affordability requirements of 24 CFR §92.252(a), (c), (e) and (f), and §92.254. Affordability requirements for rental properties will be specified in the loan and/or mortgage documents, and a covenant similar to the HOME program. Mortgages and covenants will be recorded against the property and become part of the public record.

Affordability of owner-occupied housing will be enforced by either recapture or resale restrictions. Each Sub-recipient will design its own recapture or resale provisions, which will be applied uniformly within their program. Although the NSP Program may not always finance both the purchase and rehabilitation, Minnesota Housing will consider these Activities to fall under the affordability requirements of §92.254(a) "Acquisition with or without rehabilitation." To meet the requirements of the NSP Program and Notice, rehabilitation funding must be provided simultaneously with the purchase financing.

Note: Sub-recipients may request a waiver of continuing affordability documentation by using the Presumption of Affordability approach in whole neighborhoods where historically a significant number of properties have sold to a reasonable range of low and moderate income buyers. The Sub-recipient's analysis of the neighborhood must be sent to Minnesota Housing for forwarding to HUD. Any Sub-recipient that has requested a waiver under the Presumption of Affordability must document affordability as required above until the waiver has been approved by HUD.

4.07 Rehabilitating Homes and Residential Properties

Minnesota Housing's NSP Action Plan rehabilitation priorities include improving properties to meet code and encouraging appropriate energy efficiency components. Sub-recipients must document how each project will meet the local standard (or HQS if there is no local standard) in addition to the rehabilitation standards included in Minnesota Housing's NSP Action Plan and reproduced below within a specified time. Sub-recipient files should indicate that homebuyer-initiated rehabilitation scopes of work have been reviewed and found adequate. For more information regarding Cost Reasonableness and ineligible improvements under the NSP Program, see section 3.10.

NSP Housing Improvement Standards

General Provisions

All Sub-recipients receiving Neighborhood Stabilization Program (NSP) funds in order to sell, rent, or redevelop a Foreclosed Home or Foreclosed Residential Property shall comply with these housing improvement standards as described herewith which are in addition to property standards already required by local, state, and federal regulations. These standards not only promote housing safety, quality, and habitability that will stabilize neighborhoods but they also promote energy efficiency and encourage modern, green building, and other energy-efficiency improvements. In addition, the housing should be improved to mitigate the impact of disasters such as flooding and fires.

Sub-recipients shall adhere to the following:

- As a condition of receipt of NSP funds the Sub-recipient shall accept all responsibility for complying with these improvement standards and all other applicable local, state, and federal regulations.
- When different codes or standards govern the same condition, conformance must be to the highest or most restrictive code/standard.
- Sub-recipients, Local Sub-recipients, administrators, developers and/or contractors must provide evidence that they have reviewed and included in the scope of work all items necessary for the project to meet the NSP Rehabilitation Standards. Further, they must also certify that the rehabilitation, once completed, conforms to those standards. This requirement will be satisfied by execution and retention in the project file, of the NSP Rehabilitation Standards Certification (NSP1 or NSP3, as applicable) form at the following stages of rehabilitation:
 - ◇ At the time of initial inspection to certify the standards were included in the scope of work, and
 - ◇ Upon project completion to certify that the standards were actually satisfied by the rehabilitation work itself.
- A scanned copy of the following completed and signed forms must be forwarded to Minnesota Housing's NSP staff for review prior to selling or renting the dwelling(s) included in the project:
 - ◇ The fully executed Final Inspection Report;
 - ◇ The fully executed NSP Rehabilitation Standards Certification; and
 - ◇ The fully executed Intent to Comply with Green Certification form.
- Both the NSP Rehabilitation Standards Certification form and the Intent to Comply with Green Certification form are available on Minnesota Housing's website at: available on the Neighborhood Stabilization Program (NSP1 and NSP3) page: under the: Homebuyer/Renter Underwriting Requirements & Forms section

Optional Green Building Practices

Sub-recipients are encouraged to incorporate any green building practice that offers an opportunity to create environmentally sound and resource-efficient buildings by using an integrated approach to design. In an effort to encourage modern, green building, and energy-efficiency improvements, Sub-recipients are also encouraged to incorporate HUD's healthy homes interventions including these seven steps ensuring housing is made and kept:

- **Dry:** Ensure proper drainage away from housing; clean repair gutters and downspouts, repair leaks, seal roofs and windows.
- **Safe:** Install safety devices on doors, cabinets, window blinds and outlets; store all poisonous items out of reach of children and labeled in the proper containers; install smoke detectors and carbon monoxide detectors; have appropriate fire extinguisher available.
- **Well-ventilated:** Service and maintain heating and cooling systems; provide exhaust fans for kitchens, bathroom and dryers to the outside to reduce mold; change furnace filters regularly.
- **Pest-free:** Provide proper storage and disposal for food products, caulk and seal holes; use least toxic pest management methods.
- **Contaminant-free:** Remove lead based paint hazards properly; provide test kits for radon; reduce volatile organic compounds in paint, carpet, etc.
- **Clean:** Install dust walk-off systems in entry ways; provide smooth, cleanable surfaces; provide effective storage space and containers; choose flooring that is easy to clean; provide vacuum with HEPA filters; implement weekly cleaning regimen.
- **Well-maintained:** Follow a maintenance calendar for inspecting, cleaning, repairing and replacing housing components/systems.

Rehabilitation

The following requirements apply to housing receiving NSP funding for rehabilitation activities:

Assessment

In addition to property assessment standards already required by local, state, and federal regulations, properties shall also be assessed for the following: (Results of all Assessment activities shall be disclosed to purchaser prior to sale.)

- Any visible mold or water infiltration issues.
- Compliance with smoke detectors, carbon monoxide detection, and GFCI receptacle protection as noted below in Required Rehabilitation Activities.

- Remaining life expectancy of major building component such as roof, siding, windows, mechanical systems and electrical systems, as well as any immediate cosmetic improvements necessary in order to sell or rent the residential property.

Required Rehabilitation Activities

In addition to remediation of any deficiencies resulting from property assessment required by local, state, and federal regulations, rehabilitation activities shall include the following:

- Conduct mold and/or water infiltration mitigation, if mold or water infiltration is observed during the Assessment. Any moldy materials that cannot be properly cleaned must be removed.
- U.L. approved smoke detection in all locations as required for new construction. At least one smoke detector must be hardwired (preferably located near sleeping rooms).
- GFCI receptacle protection in locations required for new construction.
- Carbon monoxide detection per 2006 legislation.
- Apply Mandatory items in the 2011 Enterprise Green Communities Criteria as modified by the Minnesota Overlay to the 2011 Enterprise Green Communities Criteria (Minnesota Overlay) to those improvements enacted upon (replacement of any equipment, system, building component, assembly of components, or appliance) at the time of rehabilitation. Any existing equipment, system, component, and/or appliance that remains is exempt from this requirement.
- All units must comply with the 2011 Enterprise Green Communities mandatory criteria as modified by Minnesota Overlay to the National Green Communities Criteria.
- For additional guidance regarding Green Communities Criteria, please refer to NSP Guidance/Supplement to Minnesota Overlay and Minnesota Housing's Minnesota Overlay to the 2011 Enterprise Green Communities Criteria guidebook found on Minnesota Housing's webpage.
- The following modifications/exceptions to the Agency green rehabilitation policy as outlined in the Minnesota Overlay apply under NSP:
 - ◇ NSP3 – **Criteria 5.1a** – Building performance standards applies to substantial/gut rehab and new construction.

Housing for which NSP funds are used is subject to compliance with 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.

Rehabilitation or stabilization of hazardous materials including lead-based paint and asbestos, must be in accordance with applicable federal, state, and local laws, regulations, and ordinances.

If 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), housing shall comply with rehabilitation requirements as described herein and applicable new construction requirements listed below.

New Construction

The following requirements apply to housing receiving NSP funding for new construction:

- Buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes.
- Buildings of mid-or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20%.
- Compliance with 2009-2010 Minnesota Overlay to Green Communities Criteria for use with the 2008 Green Communities Criteria (Includes completing Intended Method of Satisfying Green Criteria and Certification Form – refer to Minnesota Housing’s Website). The Intended Method of Satisfying Green Communities Criteria and Certification Form shall be completed by the developer, certified by applicable parties, retained by the Sub-recipient and kept in the compliance file.
 - ◊ If multifamily housing, consult and consider Minnesota Housing’s Rental Housing Design/Construction Standards (Refer to Minnesota Housing’s Website).

Demolition

Sub-recipients should contact Minnesota Housing’s NSP Program Coordinator prior to using NSP funds for demolition. Where demolition occurs, the Sub-recipient should consider deconstruction practices where deconstruction crews are available and a market for salvaged materials exists. If a site will not be redeveloped within three months after demolition, the Sub-recipient must ensure that soil on the site does not pose a health hazard to the community by either verifying that the soil meets lead clearance levels, removing and replacing the soil with soil that meets lead safe levels, or covering bare soil with sod or some other approved barrier to prevent the disbursement of lead hazards.

4.08 Homebuyer Counseling

The NSP Program requires that homeowners receive 8 hours of comprehensive homeowner training from a HUD-approved agency prior to purchasing a home with support of NSP funds. Sub-recipients should identify HUD-approved homebuyer counseling agencies in their target area for potential homebuyers to contact.

Homebuyers who received qualified homebuyer counseling prior to publication of the NSP1 Notice on October 6, 2008 or the NSP3 Notice on October 19, 2011, meet the training requirement but must be approved on a buyer-by-buyer basis by HUD.

4.09 Real Estate Acquisition and Relocation

The Sub-recipient must ensure that the owner is informed in writing of what the Sub-recipient believes to be the market value of the property; and that the Sub-recipient will not acquire the property if negotiations fail to result in an amicable agreement (see 49 CFR 24.101(b)(1) and (b)(2)).

Relocation assistance under the NSP Program must comply with the requirements of the Uniform Relocation Act of 1970, as amended and with relocation assistance requirements at 42 U.S.C. 5304(d).

The Sub-recipient must document its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property (typically in a property acquired through foreclosure is the lender) has provided bona fide tenants with the notice and other protections outlined in the Recovery Act. Sub-recipients may assume the obligations of such initial successor in interest with respect to bona fide tenants. Sub-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 outlines in 24 CFR 570.606.

The use of NSP funds for acquisition of such property is subject to a determination by the Sub-recipient that the initial successor in interest complied with the requirements of the act.

Further guidance on relocation assistance is available on HUD's website, a link to which is located in the Resources section of Minnesota Housing's NSP web page.

Note: Optional Relocation Plan – Sub-recipients are required to have publically adopted a Residential Ant displacement and Relocation Assistance Plan (RARAP) in accordance with the Housing and Community Development Act of 1974, as amended; the Grant Agreement with Minnesota Housing; and HUD regulations 24 CFR 42.325 that is applicable to Neighborhood Stabilization Program assisted projects. If the Sub-recipient's RARAP does not include an Optional Relocation Plan, the Sub-recipient shall use Minnesota Housing's Optional Relocation Plan.

4.10 One-For-One Replacement

The one-for-one replacement requirements of 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. Sub-recipients must comply with any one for one replacement requirements of local units of government, unless waived for the NSP program

4.11 Reporting Requirements

Drawdown Request Report

Sub-recipients are responsible for providing complete and accurate information on drawdown requests and documentation supporting these requests must be retained and available for review by Minnesota Housing.

Monthly Progress Reports

- Minnesota Housing requires regular progress reports from Sub-recipients. These reports will track actual program outcomes, obligations, and spending patterns against planned operations and outcomes as specified in the Agreement. Sub-recipient shall use the forms provided by the MHFA. The frequency and content of reports will vary depending on the type of information required. For NSP3 the Sub-recipient shall register with the Central Contractor Registry and provide to the MHFA the information that is required for MHFA and Sub-recipient to comply with the Federal Funding Accountability and Transparency Act.
- Sub-recipients must provide timely and accurate information in connection with Minnesota Housing's input to Disaster Recovery Grant reporting. Each report will include information about the uses of funds, including but not limited to:
 - ◇ the project name;
 - ◇ Activity;
 - ◇ total obligations;
 - ◇ location;
 - ◇ national objective;
 - ◇ funds budgeted and expended;
 - ◇ Program Income;
 - ◇ the funding source;
 - ◇ total amount of any non-NSP funds;
 - ◇ numbers of properties/housing units;
 - ◇ beginning and ending dates of Activities;
 - ◇ numbers of low- and moderate-income persons or households benefiting; and
 - ◇ demographic data on properties being assisted by the NSP Program.

Information that is not obtained through the draw request process will be assembled and provided on a monthly basis to Minnesota Housing, such as total dollar amount obligated and total count of properties and units.

Chapter 5 - Record Retention, Monitoring and Audit Requirements

5.01 Record Retention

Sub-recipient shall retain all records necessary to manage the Grant and demonstrate compliance with all requirements of the Program as specified in 24 CFR 570.506, as it may be modified or amended by subsequent legislation, the Notice, their Contractual Agreement, or subsequent written direction from Minnesota Housing.

Sub-recipients are responsible for retention of financial records, supporting documents, statistical records, environmental review records and all other records pertaining to the project for a minimum of five years from the date that the NSP Activity was finalized (for all Activities except Land Banking). Records for Land Banking Activities must be retained for a minimum of ten years from the final disposition of the land banked property.

5.02 Monitoring

Minnesota Housing will examine Activity progress and compliance with the NSP Program and other federal requirements and evaluate organizational and project performance.

Monitoring will occur during the grant term as well as after the grant term to enable Minnesota Housing to determine program Activity, progress and compliance.

Types of Monitoring

Monitoring for Outcomes and Impact

Minnesota Housing will monitor for substantial progress at the 6th, 9th and 12th month following signing of the NSP1 Agreement and at the 9th month and every three months thereafter following signing of the NSP3 Agreement. Sub-recipients will be evaluated relative to the Activities addendum of their individual Agreement.

Minnesota Housing may consider recapturing funds if progress is insufficient in the obligation and expenditure of funds. Recapture of funds may occur at anytime. Should recapture of funds be necessary, Minnesota Housing will re-evaluate the target areas and progress reports submitted by all Sub-recipients to identify best opportunities for the re-distribution of recaptured funds.

Onsite Monitoring

Sub-recipients will be monitored onsite at least once during the term of the Agreement. Onsite monitoring may include but is not limited to:

- Federal Objective
- Grant and Financial Management
- Activity

- Environmental
- Labor Standards
- Fair Housing/Equal Opportunity
- Lead Paint Remediation Activities
- Other information as applicable

Ongoing Monitoring

Minnesota Housing’s ongoing monitoring of each Sub-recipient may include but is not limited to:

- Monthly and Quarterly Reports/Performance Measurements
- Disbursements Requests
- Information regarding the grant process
- Labor Standards-Notice of Awards and Final Reports
- Other information

5.03 Audit Requirements

General

Minnesota Housing, the Legislative Auditors for the State of Minnesota, HUD and the Comptroller General of the United States or any of their representatives shall have the right, upon reasonable notice and during normal working hours, to have access to examine any pertinent books, documents, papers or other records of the Sub-recipient relating to the Sub-recipient’s participation in the NSP Program in order to make audits, examination, excerpts and/or transcripts.

Minnesota Housing may request that all documents be delivered to its place of business upon request. Minnesota Housing reserves the right to make site visits at any stage of the NSP Program process with reasonable notice to the Sub-recipient and/or the homeowner or renter.

Single Audit Act (OMB Circular A-133)

- Sub-recipients that expend \$500,000 or more of federal financial assistance from all federal sources must have an audit performed in accordance with the requirements of the Single Audit Act Amendments of 1996 (P.L. 104-156) and (OMB Circular A-133) as referenced at 24 CFR §84.26 and §85.26. Minnesota Housing, as the Grantee, is responsible for identifying deficiencies in program administration by Sub-recipients, mitigating such deficiencies and preventing their recurrence.
- Sub-recipients must submit A-133 audits to Minnesota Housing’s NSP staff within the earlier of 30 days after receipt of the auditor’s report, or 9 months following the end of each audit year the Agreement is in effect.
- A link to the most current version of Circular A-133 can be found on the Office of Management and Budget’s website.
- The Catalog of Federal Domestic Assistance Number for the Neighborhood Stabilization Program is 14.228. Entitlement grantees should note that this number may be different

from their direct agreement and should be accounted for separately in their agreements.

- Minnesota Housing, HUD, or HUD's Inspector General may require program specific audits based on single audit or monitoring findings.

Program Specific Audits

Minnesota Housing reserves the right to require Sub-recipients to submit to a program specific audit at any time during the grant period.

Audit Costs

- Sub-recipients may use NSP funds to pay for the share of A-133 audit costs that relate to the percentage of NSP funds expended that fiscal year. For example, if an A-133 audit is required and NSP funds represent 50% of audited federal expenditures, NSP funds may be used to pay for a maximum of 50% of A-133 audit costs.
- In order to use NSP funds to pay for A-133 audit costs, the Sub-recipient must procure audit services as outlined in the Procurement section of the Common Rule (24 CFR Part 85.36).

Program specific audits, if required, may be paid from the Sub-recipient administrative budget.

Appendix

Definitions

Forms and Guidance List

Definitions

Definition

All terms used in the Procedural Manual use mortgage industry standard definitions except for the following:

Term	Definition
Abandoned Home and Abandoned Residential Property	A Home and/or Residential Property is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property; no corrective actions within 90 days that a code enforcement inspection has determined property uninhabitable ; the property is subject to a court-ordered receivership or nuisance abatement related to abandonment; no mortgage, tribal leasehold, or tax payment have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.
Acquisition Discount	The acquisition discount from Current Market Appraised Value for Foreclosed Homes and Foreclosed Residential Properties will be at minimum 1% per property.
Activity	A way in which the funds granted to Sub-recipients may be used under the NSP.
Affordable Rents	Minnesota Housing has adopted the definition of affordable rents that is contained in 24 CFR §92.252(a) minus utility allowances where tenants pay utilities. This definition is consistent with the continued affordability requirements of the same section that Minnesota Housing has adopted for the NSP Program. Under 24 CFR §92.252(a), a rent is affordable that does not exceed 30% of the adjusted income of a family whose annual income equals 65% of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit; OR is equal to the fair market rent (FMR) determined by HUD and used in the Section 8 Housing Choice Voucher Program.
Annual Income	The anticipated total income earned by all adults in a household during the 12 months immediately following the effective date of income determination by a Sub-Recipient.
Blighted Structure	Minnesota Housing defines a blighted structure as one which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light, and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, is detrimental to the safety, health, morals, or welfare of the community.
Continued Affordability	To the maximum extent practicable and for the longest feasible term, the sale, rental, or redevelopment of Abandoned and Foreclosed Homes and Residential Properties through the NSP Program will remain affordable to individuals or families whose incomes do not exceed 120% of area median income or, for

	<p>To the maximum extent practicable and for the longest feasible term, the sale, rental, or redevelopment of Abandoned and Foreclosed Homes and Residential Properties through the NSP Program will remain affordable to individuals or families whose incomes do not exceed 120% of area median income or, for units originally assisted with funds under the requirements of section 2301 (f)(3)(A)(ii) of the Housing and Economic Recovery Act of 2008 (HERA) as amended under the Dodd-Frank Act, remain affordable to individuals and families whose incomes do not exceed 50% of area median income.</p> <p>HUD considers 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, see chart below.</p> <table border="1"> <thead> <tr> <th>NSP Assistance</th> <th>Affordability Period</th> </tr> </thead> <tbody> <tr> <td>Up to and including \$14,999.99</td> <td>5 years</td> </tr> <tr> <td>Between \$15,000 and \$39,999.99</td> <td>10 years</td> </tr> <tr> <td>Greater than \$40,000</td> <td>15 years</td> </tr> <tr> <td>Rental New Construction</td> <td>20 years</td> </tr> </tbody> </table>	NSP Assistance	Affordability Period	Up to and including \$14,999.99	5 years	Between \$15,000 and \$39,999.99	10 years	Greater than \$40,000	15 years	Rental New Construction	20 years
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Current Market Appraised Value (CMAV)	The current market appraised value means the value of a Foreclosed Home or Foreclosed Residential Property that is established through an appraisal made in conformance with the appraisal requirements of the Uniform Relocation Act at 49 CFR 24.103 and completed within 60 days prior to a final offer made for the property by a grantee, Sub-recipient, developer, or individual homebuyer.										
Foreclosed Home or Foreclosed Residential Property	A Home or Residential Property has been foreclosed upon if current delinquency status is at least 60 days, tax payments are delinquent 90 days or more, under state or local law, the mortgage or tax foreclosure has been initiated or is complete. Generally a foreclosure is not considered 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.										
Home	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.										
Income Limit	NSP income limits are 50% of HUD Area Median Income and 120% of HUD Area Median Income.										
Land Bank	A Land Bank is a governmental or nongovernmental nonprofit entity established, as least in part, to assemble, temporarily manage, and dispose of Vacant Property for the purpose of stabilizing neighborhoods and encouraging re-use or										

	redevelopment of the property.
Local Sub-recipient	A local government or nonprofit agency selected by the Sub-recipient to administer the NSP Program on behalf of the Sub-recipient or to assist the Sub-recipient to administer the NSP program.
Low, Moderate, and Middle-Income Household	Abbreviated as LMMH, the aggregated income of a household is less than or equal to 120% of median income as defined by HUD.
NSP Notice	A Notice published for NSP1 in the October 6, 2008 Federal Register and for NSP3 in the October 19, 2010 Federal Register describing allocations to state and local governments, the NSP Program and alternative requirements that, for purposes of the NSP Program, amend the Community Development Block Grant regulations.
Optional Relocation Plan	Delineates the circumstances under which the Agency will provide relocation benefits for homeowners when relocation is not required under state or federal law and the property owner and Sub-recipient are unable to underwrite the cost of the relocation.
Presumption of Affordability	One-time documentation of Continued Affordability for whole neighborhoods believed to be affordable because a reasonable range of low and moderate income buyers have purchased and continue to purchase in the area.
Program Income	Income received by Minnesota Housing or generated by a Sub-recipient directly from the use of NSP funds as further defined in 24 CFR 570.500(a).
Residential Property	Homes as defined above and Vacant Property that is currently designated for residential use, e.g. through zoning.
Sub-recipient	A public or nonprofit agency, authority or organization receiving NSP funds from Minnesota Housing to undertake Activities eligible for assistance under the Housing and Economic Recovery Act of 2008.
To “use” NSP funds	Funds are “used” when they are obligated for a specific 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, or Local Sub-recipient during the same or a future period. Funds are not considered obligated by an agreement that awards funds to a Sub-recipient or Local Sub-recipient.
Vacant Property	Unoccupied property or land that was once developed; Greenfield sites are ineligible.
Vicinity	Defined as each NSP3 target area.

Forms and Guidance List (NSP1 and NSP3)

Transaction Worksheets

[Draw Disbursement Instructions Manual](#)

[NSP Help Instructions - Disbursement Forms](#)

[NSP Property Set up and Closeout](#)

[Properties Completed Report - Template](#)

[Obligated Funds Report - Template](#)

[Homebuyer Risk Indicators](#)

[Banker's Certification Form](#)

Environmental Review Guidance

[Environmental Review Guidance](#)

[Environmental Review Levels](#)

[Environmental Review Resources](#)

[Environmental Review Agency Contacts Dissemination of Notice List](#)

Environmental Review Guidance

[Exempt - Worksheet](#)

[Categorically Excluded - **Not Subject** to 58.5 - Worksheet](#)

[Categorically Excluded - **Subject** to 58.5 - Worksheet](#)

[Categorically Excluded – Notice of Intent to Request Release of Funds](#)

[Environmental Assessment - Worksheet - Tiered Review](#)

[Environmental Assessment - Combined Notice of FONSI - Intent to Request Release of Funds](#)

[Request for Release of Funds](#)

[Sample Site Specific - Tier II Review Clearance Letter](#)

Fair Housing

[Affirmative Fair Housing Marketing Plan](#)

[Analysis of Impediments to Fair Housing](#)

[Subrecipient Summary Fair Housing Information](#)

Continued Affordability Guidance

[Continued Affordability Requirements Guidance](#)

[Sample Rental Declaration of Covenants](#)

[Data Practices Information](#)

Rehabilitation Standards

Lead-Safe Housing Rule Screening Worksheet

Cost Reasonableness Certification

Housing Rehabilitation Standards (NSP1)

Housing Rehabilitation Standards (NSP3)

Rehabilitation Standards Certificate (NSP1)

Rehabilitation Standards Certificate (NSP3)

Method of Satisfying Green Communities Criteria and Certification

2009-2010 Minnesota Overlay to the Green Communities Criteria

HUD Guidance on NSP1 and NSP3 Appliance Purchases

HUD Guidance NSP3 Attachment C - Recommended Energy Efficiency

Income Verification and Limits

Income Eligibility Calculation Worksheet

NSP Income Limits: 50% Median Income, 120% Median Income

Value Limits

Employment Verification

Bank Verification

Stocks / Bonds Verification

Asset Verification - 401K

Divestiture of Assets Verification

Real Estate Verification

Alimony / Child Support Verification (Payer)

Alimony / Child Support Self-Certification

Alimony / Child Support Verification (Enforcement Agency)

Live-in Aide Agreement

Live-in Aide Verification

Military Pay Verification

Workers Compensation Verification

Unemployment Compensation Verification

Veteran's Benefits Verification

Self Employment Verification - New Business

Self Employment Verification - Existing Business

Regular Contributions Verification

Public Assistance Verification

Phone Verification/Clarification Record

Zero Income Certification