Neighborhood Stabilization Program Procedural Manual (NSP1 and NSP3)

September 2015

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

Table of Contents

Introduction 1

Mission Statement 1
Background 1
Procedural Manual 1

Chapter 1 – Subrecipient Responsibilities 2

1.01 Procedural Manual 2
1.02 Conflict of Interest 2
1.03 Evidence of Misconduct 4
1.04 Termination and Suspension of NSP Grants 4

Chapter 2 – Administration 5

2.01 Start-Up 5
2.02 Pre-Award Costs 5
2.03 Procurement of Goods and Services 6
2.04 Disbursement of Funds/Payment Holds 7
2.05 Financial Management 9

Chapter 3 – Federal Requirements 10

3.01 Income and Eligibility Limits 10
3.02 National Objectives 10
3.03 Fair Housing, Equal Opportunity, and Civil/Human Rights 11
3.04 Limited English Proficiency 17
3.05 Program Income and Reversion of Assets 17
3.06 Labor Standards 18
3.07 Lead Disclosure 18
3.08 Appraisals for Acquisitions 19
3.09 Environmental Review 20
3.10 Option and Conditional Contracts 23
3.11 Cost Reasonableness 23
3.12 Ineligible Improvements 26

Chapter 4 – NSP Program Requirements 28

4.01 Eligible Activities 28
4.02 Ineligible Activities 33
4.03 NSP Funds Obligation Requirements 34
4.04 Maximum Sales Price/NSP Property Value Limits 34
4.05 Acquisition Discount 35
4.06 Continued Affordability 35
4.07 NSP Housing Improvement Standards 36
4.08 Homebuyer Counseling 40
4.09 Real Estate Acquisition and Relocation 41
4.10 One-For-One Replacement 41
4.11 Reporting Requirements 42

Chapter 5 – Record Retention, Monitoring, and Audit Requirements 43
5.01 Record Retention 43
5.02 Monitoring 43
5.03 Audit Requirements 44

Chapter 6 – Closeout Requirements 46
6.01 Pre-Closeout Requirements 46
6.02 Closeout Reporting Requirements 46
6.03 Post-Closeout Requirements....49

Appendix A: Definitions 51

NSP Forms and Guidance List 54

Introduction

Mission Statement

Housing is the foundation for success, so we collaborate with individuals, communities and partners to create, preserve and finance affordable housing.

Background

The Minnesota Housing Finance Agency ("Minnesota Housing") was created in 1971 by the Minnesota Legislature.

Minnesota Housing received two allocations of federal Neighborhood Stabilization Program (NSP) funds from the Department of Housing and Urban Development (HUD). The goal of the program is to stabilize neighborhoods affected by foreclosures and abandonment through the acquisition, rehabilitation or redevelopment, and resale of Foreclosed or Abandoned Homes or Residential Properties. Minnesota Housing provides these funds to Minnesota cities and counties to implement NSP.

In 2008, HUD granted Minnesota Housing $38.8 million in NSP funds under the Housing and Economic Recovery Act of 2008 ("HERA"). This grant is referred to as "NSP1."

In 2011, HUD granted Minnesota Housing an additional $5 million under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"). This grant is the third round of NSP funding and is referred to as "NSP3."

Procedural Manual

This Procedural Manual sets forth the terms and conditions under which Minnesota Housing will award NSP funds to the Subrecipient.

Chapter 1 – Subrecipient Responsibilities

1.01 Procedural Manual

This Procedural Manual sets forth the terms and conditions under which a Subrecipient may use NSP funds to acquire, rehabilitate or redevelop, and resell Foreclosed, Abandoned, or blighted properties for the purpose of stabilizing neighborhoods affected by the foreclosure crisis.

This Procedural Manual may be amended as necessary to comply with state and federal statutes, rules, and policies, and to incorporate Minnesota Housing's policies.

The Neighborhood Stabilization Program Grant Agreement between the Subrecipient and Minnesota Housing (the "Agreement) and any amendments is a supplement to this Procedural Manual. The Agreement is incorporated into this Procedural Manual by reference. The Subrecipient must comply with both this Procedural Manual and the Agreement.

Minnesota Housing is under no obligation to disburse NSP funds for grants that do not fully comply with this Procedural Manual or the Agreement.

Amendments/Directives

- Minnesota Housing will notify the Subrecipient of changes to this Procedural Manual by providing Program Updates or E-News Alerts on Minnesota Housing's website. Changes to this Procedural Manual are effective as of the date of posting unless otherwise stated and are binding on all Subrecipients.

Waivers/Alterations/Revisions

- The Subrecipient may submit a written request to Minnesota Housing for a waiver, alteration, or revision to this Procedural Manual. Minnesota Housing will grant waivers, alterations, or revisions at its sole discretion.
- Nothing in this Procedural Manual may be construed in any way to conflict with, alter, or amend federal or state statutes, rules, or policies.

1.02 Conflict of Interest

Conflict of interest under NSP is governed by both state and federal laws.

Under federal laws, conflict of interest applies as follows:

- Procurement of supplies, equipment, construction, and services under 24 CFR 85.36
- Codes of Conduct under 24 CFR 84.42
- Program Administration under 24 CFR 570.489

- All other cases under 24 CFR 570.611

No person who is an employee, agent, consultant, officer, or elected or appointed official of the State of Minnesota or the Subrecipient and who exercises or has exercised any functions or responsibilities with respect to Activities assisted with NSP funds, 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 to, or the proceeds of, either for themselves or those with whom they have family or business ties, during their employment or for one year after.

No officer, employee, agent, elected or appointed official, or consultant of the Subrecipient may occupy a unit developed by the Subrecipient and assisted with NSP funds. 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.

Under Minnesota state laws, conflict of interest applies as follows:

- Contracts under Minn. Stats. 471.87-471.89 and 412.311

Except as authorized in section 471.88, a public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity must not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially from it.

The Subrecipient handles the evaluation of conflicts of interest and may request an exception from Minnesota Housing where permitted. Any Subrecipient requesting an exception to conflict of interest laws must provide Minnesota Housing with:

- An opinion of the Subrecipient'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 of 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 Subrecipient 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 call for granting an exception to 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 NSP and refer any evidence of fraud, misrepresentation, or other misconduct by a Subrecipient or other NSP participant, in connection with NSP 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 a Subrecipient's performance including, but not limited to, suspending or terminating the NSP Activities carried out by the Subrecipient (24 CFR 570.501(b)).
- Consistent with 24 CFR 570.503(b)(6), the Agreement between Minnesota Housing and the Subrecipient specifies that suspension or termination may occur if the Subrecipient materially fails to comply with any term of NSP, and that the Agreement may also be terminated for convenience (also see 24 CFR 85.43–85.44 and 24 CFR 84.62).
- Minnesota Housing may terminate the Agreement for cause if the Subrecipient violates any provisions of the Agreement.
- In the case of noncompliance, Minnesota Housing will take action, 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 a cancellation, the Subrecipient may be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

Chapter 2 – Administration

2.01 Start-Up

The Subrecipient may request disbursement of NSP funds after the completion of the environmental review and after the Agreement is fully executed.

The Subrecipient must satisfy the following requirements (in order of priority) before beginning project Activities:

- Complete the appropriate level of environmental review for properties considered for NSP funding. See the "Environmental Review" section of this Procedural Manual. Forms are available on Minnesota Housing's website. The Subrecipient's access to funds is conditional on approval of the environmental review.
- Execute the Agreement.
- Develop policies for Activities including relocation, if needed.
- Develop policies to comply with standard NSP provisions, including but not limited to:
  - 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

- Under 24 CFR 570.200(h), any Subrecipient approved for an award of NSP funds may be reimbursed for reasonable "pre-award costs" that the Subrecipient incurred before the date of the Agreement. Approved pre-award costs are reimbursed after September 29, 2008. Pre-award costs must be fully documented in the Subrecipient's proposal and be directly related to the Activities in the proposal.

- Pre-award costs that may be eligible for reimbursement include, but are not limited to:
  - Grant application preparation
  - Administration
  - Environmental reviews
  - Other administrative work necessary to comply with the proposed delivery schedule of the project Activities
- Pre-award costs will not be reimbursed until Minnesota Housing clears the Subrecipient's environmental review and the Subrecipient submits the Fair Housing materials required under Section 3.03 of this Procedural Manual. In addition, no NSP funds can be committed to an Activity that needs an environmental review or Minnesota Housing's clearance of the Subrecipient's environmental review.

2.03 Procurement of Goods and Services

The Procurement Process

The Subrecipient must use competitive processes to obtain goods or services. Through a competitive process, two or more vendors or contractors bid to provide the Subrecipient with the most favorable price, quality, and service.

Depending on the nature of the purchase and the number of available providers, the Subrecipient may select from these procurement methods:

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

The Subrecipient must comply with the requirements of each procurement method under 24 CFR 85.36(d). The Subrecipient must also adhere to state and local procurement procedures.

Documentation of the Procurement Process

The Subrecipient must document the procurement process for each purchase of goods or services. Documentation should include the rationale for selecting the procurement method used, the contract type, the selection or rejection of a contractor, and the basis for the contract price. Any Subrecipients that have not adequately documented the procurement process may be held liable for all NSP funds expended for the goods or services.

Contracts
Contracts for goods or services must:

- Clearly specify the goods or services to be provided.
- Include the applicable provisions described in 24 CFR 85.36(i).
- Include the provisions for contracts in the Agreement.
- Comply with all state, federal, and local statutes and rules.

Note: No NSP-related contracts may be awarded to contractors or subcontractors that are debarred or suspended from receiving Federal contracts or subcontracts. The Subrecipient may use the online Federal System for Awards Management (SAM) to determine whether a contractor or subcontractor is suspended from receiving federal funds. The Subrecipient must print the SAM search result and retain it in the Subrecipient's files.

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 the Subrecipient only after the Subrecipient has returned a fully executed Agreement, completed the required environmental review process, and addressed individual grant requirements.

Disbursement Methods
Two methods of disbursement are used by Minnesota Housing:

- Reimbursement Method – the Subrecipient is reimbursed by Minnesota Housing for actual, documented expenditures.
- Cash Advance Method – Minnesota Housing may advance funds to the Subrecipients to acquire Foreclosed or Abandoned Homes or Residential Properties quickly. The Subrecipients must provide the following documentation to secure funds in advance of acquisition:
    - NSP Initial Property Set-Up.
    - Documentation of the purchase discount, including the purchase price and appraisal.
    - Executed environmental review forms with certification.
    - Documentation of compliance with the Uniform Relocation Act, if applicable.
    - Any other documentation or certification requested by Minnesota Housing.

Note: Funds requested for administrative costs may only be disbursed using the reimbursement method.

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

Program Income and Net Disbursement

- The Subrecipient must apply Program Income to obligations before requesting Grant Funds for anticipated costs.

Disbursement Requests

- The Subrecipient may request funds by using Minnesota Housing's NSP Property Set-Up, Initial Expenditure/Disbursement Request Form, and Draw Form. Funds are disbursed to the Subrecipient on a property-by-property basis.
- Disbursements must reflect only actual expenditures. If the disbursement is greater than the actual expenditures, excess funds must be immediately returned to Minnesota Housing.
- For NSP3 Subrecipients only: The Grant Funds are used to cover the subsidy or value gap. Any Subrecipients with access to other resources for interim construction financing must draw Grant Funds first and before 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 Subrecipient must determine if the amount drawn was ultimately equal to, higher, or lower than the final gap left in the unit. If higher, the surplus is revolved into another NSP Activity and is considered Program Income. If the draw was less than the value gap incurred, another draw is authorized to cover the shortage.
- The Subrecipient must either e-mail the required form and supporting documentation to the NSP mailbox at nsp.mhfa@state.mn.us or mail the documents to Minnesota Housing, c/o Neighborhood Stabilization Program, 400 Sibley Street, Suite 300, St. Paul, MN 55101.

Note: At no time may the amount disbursed to the Subrecipient exceed the dollar amount awarded to the Subrecipient under the Agreement.

Timing of Disbursements

- The Subrecipient may submit daily draw requests to Minnesota Housing.
- Once Minnesota Housing approves the Subrecipient's request, Minnesota Housing will request funds from HUD. Funds are expected to be disbursed to the Subrecipient 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 Subrecipients on hold for a variety of reasons relating to performance or non-compliance with NSP requirements, such as non-submission of required reports or a lack of progress.

- Should this occur, Minnesota Housing staff will notify the Subrecipient before the payment hold goes into effect.
- If the Subrecipient 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

The Subrecipient must establish and maintain a financial management system for the grant which is in compliance with NSP requirements.

The Subrecipient's financial management system 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
  - amount expended
- Support all accounting documents by source documentation that may include but is not limited to payroll records, invoices, or vouchers.
- Include Activities funded by sources other than NSP funds (including Program Income from the Subrecipient's revolving loans). These other Activities and funds must appear and be traceable in the financial management system.

All staff or employees, including employees of housing redevelopment authorities (HRAs), community action partnerships (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 on these timesheets.

Chapter 3 – Federal Requirements

3.01 Income and Eligibility Limits

NSP funds may only assist households or individuals at or below 120% Area Median Income (AMI). Additionally, the Subrecipient must set-aside a percentage of its budget to assist households or individuals at or below 50% AMI. Under NSP1, a Subrecipient must expend no less than 25.4% of its budget to assist households or individuals below 50% AMI. Under NSP3, the set-aside is no less than 25% of the Subrecipient's budget.

The Subrecipient must use the guidelines under 24 CFR 5.609 to calculate annual household or individual income. The Subrecipient must compare a household or individual's Annual Income to the most recent HUD Income Limits to determine a household or individual's income eligibility. Minnesota Housing publishes the most recent HUD Income Limits on its website.

The Subrecipient must verify income eligibility for proposed occupants of rental units before occupancy and for subsequent occupants during the Affordability Period. The Subrecipient must verify income eligibility before the sale of a Home to a homebuyer.

The Subrecipient may use the Income Eligibility Calculation Worksheet on Minnesota Housing's website to calculate household income. The Subrecipient should obtain independent third party verification for all income sources. The Subrecipient may use the Income Verification Forms on Minnesota Housing's website to document income sources. When independent third party verification of income is not available, the Subrecipient may accept source documents that verify the household's income. The Subrecipient must assess the documentation to determine completeness. Additional written or verbal clarification may be required from the entity providing the verification. All supporting documentation must be retained in the project file.

3.02 National Objectives

Minnesota Housing requires all NSP projects meet at least one of the following national objectives.

- Low-Moderate-Middle Income Households (abbreviated as LMMH) - Provide or improve permanent residential structures that are occupied by households whose incomes are at or below 120% AMI.
- Low-Moderate-Middle Income Area (abbreviated as LMMA) - Serve an area in which at least 51% of the residents have incomes at or below 120% AMI.

The Subrecipient must be able to demonstrate how each Activity will meet at least one of these National Objectives.

Low, Moderate and Middle Income Housing (LMMH), Direct Benefit
The LMMH national objective will result in renter- or owner-occupied housing through the rehabilitation or new construction of Residential Properties. NSP Activities meeting the LMMH national objective must benefit households at or below 120% AMI.

In the case of renter-occupied housing, the Subrecipient may choose one of the following options for satisfying the LMMH national objective.

- At least fifty-one percent (51%) of units must be occupied by LMMH households.
- The number of LMMH units must be proportional to the amount of NSP funds invested into the rental project.

All LMMH renter-occupied units must be leased at Affordable Rents. The Subrecipient must define Affordable Rents, which at minimum must meet the requirements under 24 CFR 92.252. All LMMH rental units must be leased at Affordable Rents for the duration of the Affordability Period.

All LMMH owner-occupied units must be sold at a purchase price consistent with the requirements under 24 CFR 92.254.

Low, Moderate and Middle Income Area (LMMA) Benefit
The LMMA national objective will result in properties that will benefit an area with 51% or more households below 120% AMI. Any projects completed or underway before July 1, 2015 will use the 2010 Census data to determine whether the project benefits an area with 51% or more households below 120% AMI. Any projects completed on or after July 1, 2015 must benefit an area with 51% or more households below 120% AMI as determined by the 2014 American Community Survey data. The LMMA national objective is a result of the demolition or land bank Activities.

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 programs affirmatively, so that all Minnesotans of similar economic levels have equal access to its programs.

The Subrecipient 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.

The Subrecipient is primarily responsible for marketing NSP at the local level. Marketing methods should not exclude potentially eligible applicants. 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
The Subrecipient (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 in the previous 12 months.

Title VI of the Civil Rights Act of 1964
Title VI of the Civil Rights Act of 1964 protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, the failure to make sure that limited English proficient persons 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, which authorized the Community Development Block Grant (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 or 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 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 (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 Subrecipients' bid documents and contracts:

List of all applicable laws:

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

The Subrecipient 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."

The Subrecipient must establish procedures that will facilitate, to the 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 are given to lower income residents of the area in which the project is located, particularly residents of public or federally assisted housing.
- The Subrecipient includes the Section 3 Clause, as described in 24 CFR 135.38, regarding economic opportunities for low and very low income persons in all Subrecipient bidding and contract documents for which the construction costs exceed $100,000.
- Contracts are awarded to small businesses located in the project area.

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

Rental Preferences

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

Lease Provisions

- The Subrecipient must make sure leases on rental units contain no provisions prohibited by 24 CFR 92.53(b).
  - The Subrecipient 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 the NSP section of 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.
  - 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]

[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.

Section 504 of the Rehabilitation Act of 1973
The Subrecipient must comply with the accessibility requirements under Section 504 of the Rehabilitation Act of 1973; Section 109 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. These federal laws require the Subrecipient to ensure accessibility for persons with disabilities. Public facilities, buildings, and all projects receiving federal financial assistance must be designed, constructed, and altered to be fully accessible to people with mobility and sensory impairments.

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 basic 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 and Equal Opportunity
Affirmatively Furthering Fair Housing and Analysis of Impediments to Fair Housing Choice

- The Subrecipient must follow the Affirmatively Furthering Fair Housing (AFFH) obligations imposed through the CDBG program (24 CFR 570.601 et seq.) AFFH obligations require the Subrecipient to:
  - Submit a copy of and follow the Analysis of Impediments to Fair Housing, if it is a CDBG entitlement community.
  - Be guided by Minnesota Housing's Analysis of Impediments to Fair Housing for the 7-county metropolitan area, whichever is appropriate for the community (either alternative referred to as the AI), if the Subrecipient is not a CDBG entitlement community.
  - Overcome the effects of any impediments identified through the AI.
  - Maintain records of actions taken to address impediments. The AI is an assessment of how a state or entitlement jurisdiction's laws, 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.
  - Submit information on how they will market NSP to advance Fair Housing Opportunities, before they can draw-down NSP funds. (See the Subrecipient Summary of Fair Housing Information form.)

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

Affirmatively Marketing

- The Subrecipient and their Local Subrecipient(s) must work with potential homebuyers to affirmatively market NSP housing units. Minnesota Housing requires the Subrecipient to 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

- The Subrecipient must provide the following information to Minnesota Housing on request:
  - Actions taken to promote Fair Housing.
  - The race and ethnicity of the beneficiaries of program Activities.
  - The number of beneficiaries of NSP Activities that are female headed households.
  - Actions taken to develop affordable rental preferences.
  - The number and amount of contracts awarded to people residing in the Vicinity of businesses employing residents in the Vicinity.
  - The number and amount of contracts awarded to women, minority, and Section 3-owned businesses, including gender, race, and ethnicity of those business owners.
  - Section 3 business employee information, including:
    - total new hires
    - job category
    - number of employees and trainees
    - race
    - color
    - national origin

Collecting and Maintaining Racial and Ethnic Data

- Under HUD Title VI regulations (24 CFR 1), the Subrecipient must record and maintain information on the race, color, or national origin of persons who are applicants for, participants in, or beneficiaries of NSP.

3.04 Limited English Proficiency

The Subrecipient must "take reasonable steps" to make sure limited English proficient (LEP) persons have meaningful access to NSP services and information.

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

- Ensuring that program information is available in the appropriate languages for the geographic areas 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.
- Ensuring that individuals who need language assistance receive assistance by:
  - Identifying LEP persons who may need language assistance.
  - Identifying ways in which language assistance may be provided.
  - Training staff.
  - Providing notice to LEP persons.
  - Monitoring and updating LEP policy.

Note: Brochure and additional resources may be found at the Limited English Proficiency federal website.

3.05 Program Income and Reversion of Assets

Program Income is generated through the use of NSP funds. The Subrecipient may give Program Income earned to Minnesota Housing or may keep Program Income to be reused for the NSP eligible Activities in the Agreement. The Subrecipient must document all Program Income earned in its accounting and report all Program Income earned to Minnesota Housing using the Draw Form. The Subrecipient must expend all Program Income before drawing down Grant Funds.

Definition of Program Income

Program Income is defined under 24 CFR 570.500 as gross income (revenue) received by the Subrecipient that is 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, or rehabilitated with NSP funds.
- Principal and interest payments on loans made from NSP funds.
- Revenue returned by individuals or other entities that is not the Subrecipients.

- Recaptures on sales of Homes pursuant to enforcement of NSP affordability requirements.

Program Income does not include income that a developer keeps, income used to pay off private loans, or income received in a Home sale used to provide closing cost assistance to a homebuyer in that same sale.

See 24 CFR 570.000 for additional examples of what is and is not Program Income. Also, see HUD's NSP Policy Alert, "Program Income in the Neighborhood Stabilization Program," dated July 13, 2011 for concrete examples of Program Income.

Use of Program Income
The Subrecipient must use Program Income in accordance with the Agreement and NSP rules governing management and expenditure of Program Income.

Reversion of Assets and Remittance of Program Income
Under 24 CFR 570.503(b)(7), the Subrecipient must transfer any assets attributable to the NSP grant, including accounts receivable, NSP funds on hand, and real property to Minnesota Housing, at the end of the Agreement.

Under 24 CFR 570.504(c), any Program Income held or received by a Subrecipient at or after the end of the Agreement must be paid to Minnesota Housing.

3.06 Labor Standards

The Subrecipient must provide wages not less than the local prevailing wages for similar construction jobs to all laborers and mechanics working on construction projects that receive NSP financing. Financing includes, but is not limited to, payment of interest, payment to reduce the interest rate on a construction loan, and funds to provide permanent financing following construction. Subrecipients, contractors, and subcontractors must comply with labor standard laws.

These labor standards apply to residential rehabilitation and new construction projects with eight or more units. The following are examples of applicable projects: one eight unit building, eight single-family rental houses on a contiguous lot that are operated as a single rental property, and eight side-by-side townhouses. Single-family homeowner projects are generally excluded from this requirement.

The Subrecipient, its contractors, and subcontractors must document compliance with these labor standards.

3.07 Lead Disclosure

The Subrecipient should complete the Lead Safe Housing Requirements Screening Worksheet available on Minnesota Housing's website to determine whether a property is exempt from the

lead disclosure rules. A copy of the completed worksheet should be in each project file. Based on the worksheet, if a property is not exempt from the lead disclosure rules, the Subrecipient must follow the lead disclosure rules below and all provisions under 24 CFR 35.

The Subrecipient must disclose whether lead-based paint or lead-based paint hazards are present in a Home before selling or renting the Home to a homebuyer or tenant. The Subrecipient must also provide available records and reports about lead-based paint and include lead disclosure and warning language in the sale or lease contract.

For homeowners, the Subrecipient must provide the Environmental Protection Agency's (EPA) Protect Your Family From Lead in Your Home and Renovate Right informational pamphlets and allow homebuyers at least 10 days to conduct a risk assessment or inspection.

Violation of lead disclosure requirements may result in monetary penalties and civil liability among other consequences.

Note: The Subrecipient must use the Lead-Safe Housing Requirements Screening Worksheet, available on Minnesota Housing's website for all NSP properties.

3.08 Appraisals for Acquisitions

Any Subrecipients acquiring Foreclosed or Abandoned Homes or Residential Properties with NSP funds are subject to the appraisal requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), it's implementing regulations at 49 CFR Part 24, and the revised requirements explained in the NSP Policy Alert: "Guidance on NSP Appraisals: Voluntary Acquisitions – Updated March 15, 2012."

Note: While appraisals are not required under the URA, appraisals are required under NSP.

Acquisition Discount

Any Foreclosed Home or Residential Property purchased with NSP funds must meet a one percent (1%) purchase discount from the Current Market Appraised Value (CMAV) of the Home or Residential Property. For this reason, appraisals must be completed on all acquisitions to determine a purchase price that meets the one percent (1%) discount. In determining purchase price, the Subrecipient must follow cost reasonable rules under Section 3.11 of this Procedural Manual.

Appraisal Requirements

The appraisal must be completed within 60 days before the final purchase offer and meet one of the following appraisal requirements:

- URA appraisal requirements under 49 CFR 24.103
- Requirements of the Uniform Standards of Professional Appraisal Practice (USPAP)
- FHA or Government-Sponsored Enterprise (GSE) appraisal requirements

The Subrecipient should develop the scope of work for an appraisal based on the requirements above. The Subrecipient may use HUD's "Guide for Preparing An Appraisal Scope of Work" to develop the scope of work for a particular appraisal. The guide is in Appendix 19 of HUD's 1378.0 Handbook.

Properties that do not meet the NSP definition of Foreclosed are not subject to the appraisal requirements. Nonetheless, the Subrecipient must still determine market value and document the reasonable basis for determining market value. The Subrecipient may use the appraisal standards above to determine market value for properties that do not meet the NSP definition of Foreclosed.

Minnesota Licensing Requirements and Selecting An Appraiser
Contract appraisers must be licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The State of Minnesota requires that real estate appraisers be licensed.

The Subrecipient must establish criteria for determining the minimum qualifications and competency of appraisers. Qualifications must be consistent with the scope of work for the appraisal. The Subrecipient must review the experience, education, training, certification and licensing designation(s), and other qualifications of appraisers and use only those found by the Subrecipient to be qualified.

3.09 Environmental Review

The Subrecipient must conduct an environmental review before Minnesota Housing can release funds for an Activity. The Subrecipient 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 is made and, if applicable, a release of funds is granted by Minnesota Housing.

Level of Environmental Review
The level of environmental review required depends on the project and Activity undertaken. The 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
- Environmental Impact Statement

Each level of review has different documentation and public notice requirements. The Subrecipient should go to Minnesota Housing's website for information regarding the specific

requirements for each level of review and the documents that provide guidance on environmental reviews. The guidance documents include:

- 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 NSP, 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 a likelihood of five or more scattered site, single family properties are 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.

The Subrecipient must maintain a written record of the environmental review undertaken for each Activity, which is available for public review.

Tiered Environmental Reviews

Minnesota Housing will allow for tiered environmental reviews for functionally related Activities that require an Environmental Assessment. Tiered reviews allow an 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. Tiering prevents duplication of efforts. 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 Subrecipient has identified a specific Activity that will:

- Take place in several locales or jurisdictions.
- Serve the same function.
- Have the same level of environmental impact regardless of project site location.

Tier I
In a tiered review, the Subrecipient is allowed to designate a Tier I level of review, which must:

- Identify the target area.
- Identify the functionally related Activity undertaken in the target area.
- Identify 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 in the targeted area (e.g., all properties in the target area are not subject to a floodplain).
- Identify the components of the environmental review that can only be addressed at the Tier II level for specific properties, which must also include strategies for addressing those components (e.g., the southwest quadrant of the target area is subject to a floodplain, so any property acquired will require flood insurance upon sale).
- Document compliance with other requirements under 24 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 Subrecipient may publish a notice and make a request of release of funds for the whole functionally related action in the target area. On selection of specific properties, a Tier II review is required for the identified Tier II components.

In order to avoid further review and release of funds (ROF) clearance, the Subrecipient 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 are 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 Subrecipient to amend the tiered review according to 24 CFR 58.47.

3.10 Option and Conditional Contracts

In limited circumstances, the Subrecipient may enter into option and conditional contracts to gain site control of a property before the completion of an environmental review. Option contracts may be used to gain site control of any type of property. Conditional contracts may only be used to gain site control of existing single and multifamily Residential Properties that are retained for the same use.

An option contract gives the buyer the exclusive right to purchase a property but does not impose an obligation on the buyer to purchase the property. It does obligate the seller to sell the property to the buyer at the price specified in the contract. The Subrecipient may enter into an option contract 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 Subrecipient and a review by the State Historic Preservation Office (SHPO).
- 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

The 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 guidelines for determining the cost reasonableness and allowability of expenses. Cost reasonableness and allowability apply to direct homebuyer assistance and housing development.

Direct Homebuyer Assistance

Any Subrecipient providing purchase and rehabilitation assistance directly to homebuyer(s) must certify that the purchase price of a Home and the costs of rehabilitation are reasonable. The Subrecipient should use appraisals to decide whether a purchase price is reasonable. The Subrecipient should consider whether rehabilitation costs are independently estimated or competitively obtained to determine whether the costs are reasonable. The Subrecipient must also certify the amount of NSP assistance is reasonable in light of the purchase price and the costs of rehabilitation.

Housing Development

Cost reasonableness also applies to the procurement of developers, contractors, and subcontractors for housing development. This includes the procurement of both goods and services. The Subrecipient must ensure and document that developers and contractors are exercising cost reasonableness in selecting contractors and subcontractors.

Cost Reasonableness
A cost is reasonable if it passes the prudent person test. The prudent person test states that a cost is reasonable if it would not exceed an amount that could be incurred by a prudent person under similar circumstances at the time the decision was made to incur the cost.

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 or program.
- The restraints or requirements imposed by such factors as sound business practices, arms-length bargaining, federal, and 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.
- 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.

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 in the 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, is 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.

- Be adequately documented.

Methods of Implementing Cost Reasonableness

Competitive Bidding Process

- 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 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.

Price Analysis

- When the Subrecipient 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 Subrecipient 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 Subrecipient's estimator must:
    - Review the specific components of the work.
    - Verify the proposed cost data.
    - Evaluate whether the elements of cost and profit are in industry norms.
    - Provide supporting documentation for the analysis.
- The Subrecipient must retain the analysis and all supporting documentation in the project file.

Cost Reasonableness Certification

If a competitive bidding process does not occur, Minnesota Housing requires the Subrecipient to complete and retain a Cost Reasonableness Certification in the project file. The Cost Reasonableness Certification may be accessed on Minnesota Housing's website. The Subrecipient should also have documentation supporting the Cost Reasonableness Certificate and provide that documentation on request.

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

The Subrecipient 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 Subrecipient must document the file to:
    - Explain why a second bidding process was not undertaken.
    - The recommended bid selection.
    - 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 improvements to 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, or saunas.
- Costs associated with a project which is incomplete (i.e. framing in a room addition).
- Greenhouse
- Improvements begun or the purchase of a 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, or silos.

- Underground sprinkler systems
- 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

The Subrecipient may undertake the eligible Activities allowed and as described under the Agreement. The Subrecipient may undertake these activities directly or through agreements with developers and contractors. The Subrecipient ensures the developers and contractors follow the rules in this Procedural Manual, the Agreement, and local, state, and federal laws.

The following are NSP eligible activities:

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

Activity A - Establish Financing Mechanisms

NSP Eligible Use	CDBG Eligible Activity
A. Financing for the purchase and redevelopment of Foreclosed Homes for low and moderate income homebuyers. B. Financing for the purchase and redevelopment of Foreclosed Residential Properties.	Activity delivery costs for eligible Activity under 24 CFR 570.206 and the following eligible Activities: 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, and contract for deed. 24 CFR 570.202 Eligible rehabilitation and preservation Activities for Homes and Residential Properties.

National Objective

This Activity meets the LMMH national objective by providing financing for the purchase and redevelopment of housing that is occupied by households at or below 120% AMI.

General Terms Under Which Assistance Is Provided

- End users of financing may be developers or homebuyers.
- Generally, financing provided by the Subrecipient to the homeowner(s) for acquisition or rehabilitation is 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, the 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.
- Three types of assistance can be provided by NSP Subrecipients:
  - Down Payment and Closing Cost Assistance – Down payment assistance must not be more than 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 principal 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 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 the need must be justified by income or other circumstances, and the housing ratio needs test must not be less than 25%.
- **Incentive-based:** NSP incentive-based homebuyer assistance must not exceed $14,000. The Subrecipient 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:** Any Subrecipient providing rehab-based assistance directly to homebuyers to incentivize 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 that the rehabilitation process is managed by the Subrecipient 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 Foreclosed or Abandoned Homes or Residential Properties to resell to homebuyers.	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

National Objective

This Activity meets the LMMH National Objective by creating Homes that are purchased and occupied by households at or below 120% AMI.

Under this Activity, the Subrecipient will acquire and rehabilitate Foreclosed or Abandoned Homes or Residential Properties. These rehabilitated properties are sold to households at or below 120% AMI. Rehabilitated properties may also be sold to households at or below 50% AMI to meet the 25% low-income set-aside.

Activity B-2 – Acquisition and Rehabilitation, Rental

NSP Eligible Use	CDBG Eligible Activity
Purchase and rehabilitate Foreclosed or Abandoned Homes or Residential Properties to rent to tenants.	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 rehabilitation and preservation Activities for Residential Properties

National Objective
This Activity meets the LMMH National Objective by creating Residential Properties that are leased to households at or below 120% AMI.

Under this Activity, the Subrecipient will acquire and rehabilitate Foreclosed or Abandoned Homes or Residential Properties. These rehabilitated properties are leased at Affordable Rents to households at or below 120% AMI. Rehabilitated properties may also be leased to households at or below 50% AMI who meet the 25% low-income set-aside.

NSP funds may also be used to capitalize an operating reserve, if required by the lender providing first mortgage financing, to reduce the tenants' rents to more affordable levels.

The Subrecipient is required to encumber the property by filing a declaration or other document against the property that is approved by Minnesota Housing. The declaration or other approved document must enforce the affordability requirements of 24 CFR 92.252.

Activity C – Establish Land Banks

NSP Eligible Use	CDBG Eligible Activity
Establish and operate Land Banks for Foreclosed or Abandoned Homes or 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
This Activity must meet two national objectives. First, it must meet a temporary LMMA national objective at the time of acquisition by benefiting an area with 51% or more households at or below 120% AMI. Second, it must later meet a permanent LMMH or LMMA national objective within ten years after closeout.

Under this Activity, the Subrecipient will acquire a Foreclosed Home or Foreclosed Residential Property to be placed in a Land Bank. The property may be demolished. The Subrecipient must have short-term and long-term plans for the maintenance and later disposition of the property.

Within ten years of closeout, the property must meet a permanent national objective. This may be achieved by redeveloping the property and then selling or leasing the property to a household at or below 120% AMI. The Subrecipient may also sell the property if it will continue to benefit an area with 51% or more households at or below 120% AMI.

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
This Activity meets the LMMA national objective by benefiting an area with 51% or more households at or below 120% AMI.

General Terms Under Which Assistance Is Provided
Under this Activity, the Subrecipient will acquire and demolish Blighted Structures that are 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 the demolition Activity 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 to resell to homebuyers.	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) 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 to rent to tenants.	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) 24 CFR 570.202 Eligible rehabilitation and preservation Activities for demolished or Vacant Properties

National Objective
This Activity meets the LMMH national objective by redeveloping and selling or renting properties to households at or below 120% AMI.

Under this Activity, the Subrecipient will acquire Vacant Properties or properties that are demolished. The Subrecipient will then redevelop these properties into permanent housing to be sold or rented to households at or below 120% AMI. Redeveloped Homes or Residential Properties must meet codes and standards and be affordable, within the definitions of 24 CFR 92.252 and 24 CFR 92.254. They must also meet the affordability requirements of 24 CFR 92.252 if rental property or 24 CFR 92.254 for homeownership housing.

Activity F – NSP Program Administration

NSP Eligible Use	CDBG Eligible Activity
NSP Administration	24 CFR 570.206

Under this Activity, the Subrecipient is able to use NSP funds for the general administration costs of NSP. Costs incurred since September 29, 2008 are eligible NSP1 pre-award costs. The Subrecipient is eligible to be reimbursed for up to the percent of its NSP funds stated in its Agreement.

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

  - Underwriting counseling-related expenses
- In addition, unless otherwise specifically stated, if an Activity is ineligible under CDBG, it is ineligible under NSP.

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 Subrecipient, homebuyer, developer, or jurisdiction is 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 Subrecipients 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 Subrecipient. 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.

Fifty percent (50%) of NSP3 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

Under Section 2301(d)(3) of HERA, the maximum sales price for a property which is a homebuyer's principal place of residence must not exceed the total development cost, which includes but is not limited to:

- Acquisition
- Rehabilitation or redevelopment
- Related Activity delivery costs
- 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
- Costs of maintaining the property in a static condition.

NSP Property Value Limits
Properties that are acquired and rehabilitated must not have an estimated post-rehabilitation value of more than 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 follows 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 Subrecipient is required to acquire properties at a discounted price. The purchase price of a property must be discounted by at least 1% of the Current Market Appraised Value for Foreclosed Homes or Residential Properties.

If the anticipated value of the proposed property 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.

The Subrecipient will maintain a data base of acquired properties, their market value, and the discount at purchase. The Subrecipient must provide this data to Minnesota Housing to demonstrate they meet the minimum discount of 1% for properties acquired.

4.06 Continued Affordability

The Subrecipient must make sure properties that receive NSP funds are affordable for the maximum extent practicable and for the longest term feasible. The length of affordability depends on the amount of NSP funds invested into a property. Affordability is enforced through recapture of funds, resale of a property to a household at or below 120% AMI, or leasing of a unit to a household at or below 120% AMI.

The Subrecipient must adopt the HOME program standards at 24 CFR 92.252 and 24 CFR 92.254 to be in minimal compliance with affordability rules. The Subrecipient may adopt and enforce stricter standards, such as longer Affordability Periods.

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

The Subrecipient is required to include in their loan documents the affordability requirements of 24 CFR 92.252(a), (c), (e) and (f), and 24 CFR 92.254. Affordability requirements for rental properties will be specified in the loan and are recorded against the property and become public record.

Continued Affordability of Rental Units
Minnesota Housing has adopted the affordable rent requirements under 24 CFR 92.252, minus utility allowances where tenants pay utilities. Rents paid by tenants must be the lesser of fair market rent (FMR) or 30% of the income of a household that is at 65% AMI, as determined by HUD, with adjustments for the number of bedrooms. Maximum rent includes a utility allowance.

NSP assisted units must be leased to income eligible households and must have Affordable Rents for the duration of the Affordability Period.

Continued Affordability of Owner-Occupied Housing
Affordability of owner-occupied housing is enforced by either recapture or resale restrictions. Each Subrecipient will design its own recapture or resale provisions, which are applied uniformly in their program. Although NSP 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 NSP and NSP Notice, rehabilitation funding must be provided simultaneously with the purchase financing.

Note: The Subrecipient 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 are sold to a reasonable range of low and moderate income buyers. The Subrecipient's analysis of the neighborhood must be sent to Minnesota Housing for forwarding to HUD. Any Subrecipient that has requested a waiver under the Presumption of Affordability must document affordability as required above until the waiver is approved by HUD.

4.07 NSP Housing Improvement Standards

Minnesota Housing's NSP Action Plan prioritizes improving properties to meet code and encourages energy efficiency components. The Subrecipient must document how each project will meet the local standards (or HQS if no local standard) in addition to the housing

improvement standards included in Minnesota Housing's NSP Action Plan and reproduced below within a specified time. The Subrecipient's files should indicate that homebuyer-initiated rehabilitation scopes of work were reviewed and found adequate. For more information regarding Cost Reasonableness, see Section 3.11 of this Procedural Manual. For more information regarding ineligible improvements, see Section 3.12 of this Procedural Manual.

General Provisions

The Subrecipient must follow these housing improvement standards and property standards 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. In addition, the housing should be improved to mitigate the impact of disasters such as flooding and fires.

The Subrecipient must adhere to the following:

- As a condition of receipt of NSP funds, the Subrecipient must 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 or standard.
- The Subrecipient, Local Subrecipients, developers, and 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 housing improvement standards. Further, they must also certify that the improvements, once completed, conform to those standards. This requirement is 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 housing improvement:
    - At the time of initial inspection, certify the standards were included in the scope of work.
    - At project completion, certify the standards were satisfied by the rehabilitation work itself.
- A scanned copy of the following completed and signed forms must be forwarded to Minnesota Housing for review before selling or renting the dwelling(s) included in the project:
    - The fully executed Final Inspection Report
    - The fully executed NSP Rehabilitation Standards Certification
    - The fully executed Intent to Comply with Green Certification form

Note: Both the NSP Rehabilitation Standards Certification form and the Intent to Comply with Green Certification form are available on the NSP section of Minnesota Housing's website.

Note: The NSP Rehabilitation Standards Certification applies to rehabilitation, new construction, and demolition.

Optional Green Building Practices
The Subrecipient is encouraged to incorporate green building practices that offer an opportunity to create environmentally sound and resource-efficient buildings by incorporating modern, green building, and energy-efficiency improvements. The Subrecipient may incorporate HUD's healthy homes interventions, including these seven steps, to make sure 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 fire extinguishers available.
- **Well-ventilated:** Service and maintain heating and cooling systems; provide exhaust fans for kitchens, bathrooms, 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 or systems.

Rehabilitation
The following requirements apply to housing that receives NSP funding for rehabilitation activities:

Assessment
In addition to property assessment standards already required by local, state, and federal regulations, properties must also be assessed for the following: (Results of all Assessment activities must be disclosed to the purchaser before the 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 components such as the 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 must include the following:

- Conduct mold and 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, or appliance that remains is exempt from this requirement.
- All units must comply with the 2011 Enterprise Green Communities mandatory criteria as modified by the 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 website.
- The following modifications and 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 or 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 must comply with rehabilitation requirements as described here 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 must be completed by the developer, certified by all applicable parties, retained by the Subrecipient, 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
The Subrecipient should contact Minnesota Housing before using NSP funds for demolition. Where demolition occurs, the Subrecipient 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 Subrecipient must make sure the soil on the site does not pose a health hazard to the community by 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 another approved barrier to prevent the disbursement of lead hazards.

4.08 Homebuyer Counseling

The NSP Program requires that homebuyers receive 8 hours of comprehensive homeowner training from a HUD-approved agency before purchasing a Home invested with NSP funds. The Subrecipient should identify HUD-approved homebuyer counseling agencies in their target area for potential homebuyers to contact.

Homebuyers who received qualified homebuyer counseling before 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

Properties that receive NSP funds must follow the acquisition rules under 49 CFR 24, Subpart B, except for properties described under 49 CFR 24.101(b). The Subrecipient must inform the owner of the property to be acquired, in writing, of what the Subrecipient believes to be the market value of the property. The Subrecipient must also inform the owner, in writing, that the Subrecipient will not acquire the property if negotiations fail to result in an amicable agreement.

The Subrecipient is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended and with relocation assistance requirements at 42 U.S.C. 5304(d). Individuals displaced as a result of the acquisition or clearance of property must be provided with financial assistance. This does not apply to individuals described in 24 CFR 570.606(b)(2)(ii), owners voluntarily selling property, easements, acquisitions from another public agency, or voluntary offers in response to a public solicitation.

The Subrecipient must document their efforts to ensure that the initial successor in interest in a Foreclosed dwelling or Residential Property has provided tenants with the notice and other protections outlined in the URA and required under 24 CFR 570.606. Typically, the initial successor in interest of a Foreclosed property is the lender. The Subrecipient may assume the obligations of the initial successor in interest and would be subject to the URA and 24 CFR 570.606.

NSP funds used for the acquisition of a property are subject to a determination by the Subrecipient that the initial successor in interest complied with the requirements of the URA and 24 CFR 570.606.

Further guidance on relocation assistance is available on HUD's Real Estate Acquisition and Relocation website.

Note: The Subrecipient is required to publically adopt a Residential Antidisplacement and Relocation Assistance Plan (RARAP) in accordance with the Housing and Community Development Act of 1974, as amended, the Agreement, and 24 CFR 42.325. The Subrecipient may include an Optional Relocation Plan, which allows financial assistance to individuals excluded from receiving financial assistance under the URA and 24 CFR 570.606. If the Subrecipient's RARAP does not include an Optional Relocation Plan, the Subrecipient may use Minnesota Housing's Optional Relocation Plan. Information about Minnesota Housing's Optional Relocation Plan is available on the NSP section of Minnesota Housing's website.

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. The Subrecipient must comply with one-for-one replacement requirements of local units of government, unless waived for NSP.

4.11 Reporting Requirements

Drawdown Request Report

The Subrecipient must provide complete and accurate information on drawdown requests. Documentation supporting these requests must be retained and available for review by Minnesota Housing.

Monthly Progress Reports

- Minnesota Housing requires regular progress reports from the Subrecipient. These reports will track actual program outcomes, obligations, and spending patterns against planned operations and outcomes as specified in the Agreement. The Subrecipient must use the forms provided by Minnesota Housing. The frequency and content of the reports will vary depending on the information required. For NSP3, the Subrecipient must register with the Central Contractor Registry and provide Minnesota Housing with the information that is required for Minnesota Housing and the Subrecipient to comply with the Federal Funding Accountability and Transparency Act.
- The Subrecipient must provide timely and accurate information in connection with Minnesota Housing's input to the Disaster Recovery Grant Reporting System (DRGR). Each report will include information about the uses of funds, including but not limited to:
    - Project name
    - Activity
    - Total obligations
    - Location
    - National objective
    - Funds budgeted and expended
    - Program Income
    - Funding source
    - Total amount of any non-NSP funds
    - Numbers of properties or housing units
    - Beginning and ending dates of the Activities
    - Numbers of low- and moderate-income persons or households benefiting
    - Demographic data on properties assisted by NSP

Information that is not obtained through the draw request process is assembled and provided monthly to Minnesota Housing.

Chapter 5 – Record Retention, Monitoring, and Audit Requirements

5.01 Record Retention

The Subrecipient must retain all records necessary to manage the NSP grant and demonstrate compliance with all NSP requirements as specified in 24 CFR 570.506, as it may be modified or amended, the NSP Notice, the Agreement, and any written direction from Minnesota Housing.

The Subrecipient must retain 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 the NSP Activity was finalized (for all Activities except the land bank Activity). Records for the land bank Activity must be retained for a minimum of ten years from the final disposition of the property that was placed in a Land Bank.

5.02 Monitoring

Minnesota Housing will examine Activity progress and compliance with NSP 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 after following signing of the NSP3 Agreement. The Subrecipient is evaluated relative to the Activities addendum of their Agreement.

Minnesota Housing may consider recapturing funds if progress is insufficient in the obligation and expenditure of funds. A recapture of funds may occur at any time. If a recapture of funds is necessary, Minnesota Housing will re-evaluate the target areas and the progress reports submitted by all Subrecipients to identify best opportunities for the re-distribution of the recaptured funds.

Onsite Monitoring

The Subrecipient is 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 Subrecipient may include, but is not limited to:

- Monthly and Quarterly Reports/Performance Measurements
- Disbursement 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 have the right, upon reasonable notice and during normal working hours, to access and examine any pertinent books, documents, papers, or other records of the Subrecipient relating to the Subrecipient's participation in NSP in order to make audits, examinations, excerpts, or transcripts.

Minnesota Housing may request that all documents be delivered to its place of business on request. Minnesota Housing reserves the right to make site visits at any stage of NSP process with reasonable notice to the Subrecipient, homeowner, or renter.

Single Audit Act (OMB Circular A-133)
Any Subrecipients 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 24 CFR 85.26. Minnesota Housing, as the Grantee, will identify deficiencies in the Subrecipient's program administration and work with the Subrecipient to mitigate deficiencies and prevent their recurrence.

The Subrecipient must submit A-133 audits to Minnesota Housing by 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. The Catalog of Federal Domestic Assistance Number for the Neighborhood Stabilization Program is 14.228. The Subrecipient must refer to this number when reporting its expenditures. Entitlement grantees should note that this number may be different from their direct agreement and should be accounted for separately in their agreements.

A link to the most current version of Circular A-133 can be found on the Office of Management and Budget's website.

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 the Subrecipient to submit to a program specific audit at any time during the grant period.

Audit Costs
The Subrecipient may use NSP funds to pay for the share of A-133 audit costs that relate to the percentage of NSP funds expended during that fiscal year. For example, if an A-133 audit is required and NSP funds are 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 Subrecipient must obtain 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 Subrecipient administrative budget.

Chapter 6 – Closeout Requirements

Minnesota Housing will close out its NSP1 and NSP3 programs with HUD when all Subrecipients have:

- Spent down all Grant Funds and Program Income
- Met the 25% Low-Income Set-aside as required under the Agreement
- Met a national objective on all Activities

Before closeout, the Subrecipient must provide reports as required in this Procedural Manual and as requested by Minnesota Housing or HUD.

After Minnesota Housing has closed out NSP with HUD, the Subrecipient must continue to monitor and report on its NSP projects, as required in this Procedural Manual and as requested by Minnesota Housing or HUD.

Minnesota Housing may close out one of its NSP programs before it closes out its other NSP program.

6.01 Pre-Closeout Requirements

Spend down Grant Funds and Program Income

Before closeout, all Grant Funds and Program Income must be expended and reimbursed. This includes reallocated NSP funds. All NSP costs must be incurred and reimbursed before closeout.

25% Set-aside of NSP Funds for Households Below 50% AMI

The Subrecipient must meet the low income housing set-aside, as outlined in the Agreement before closeout. The Subrecipient must meet the 25% set-aside as follows:

- NSP1: No less than 25.4% of total Grant Funds and Program Income.
- NSP3: No less than 25% of total Grant Funds and Program Income.

All Projects must meet a National Objective

At the time of closeout, every property receiving any amount of NSP funds must meet a national objective as defined in Section 3.02 of this Procedural Manual.

Properties in the land bank Activity must meet a temporary national objective at closeout. The Subrecipient must provide a plan for the disposition of each of these properties. These properties must then meet a permanent national objective within 10 years of closeout.

6.02 Closeout Reporting Requirements

To meet HUD reporting requirements, Minnesota Housing will collect a number of data points. Minnesota Housing will supply the documents to be used to provide this information.

Unit Counts Data
The Subrecipient must report the final count of all NSP properties and units. This includes the properties in the land bank Activity.

Beneficiary Data
Beneficiary data for each property must be reported to Minnesota Housing. The following data points are considered required beneficiary data:

- Female Headed Household
- Race
- Hispanic or Non-Hispanic
- Number of Individuals in the Household
- Gross household income
- Extremely Low Income (30% AMI), Low (50% AMI), Moderate (80% AMI), or Medium (120% AMI) household
- Ownership or Rental

Affordability Data
The Subrecipient must develop a plan to manage compliance with the affordability covenants of each property. This plan must be submitted to Minnesota Housing before closeout along with the following information for each property:

- Affordability Period Start Date
- Affordability Period End Date
- Term of Affordability Period
- Method of enforcing affordability

Minnesota Housing requires the Subrecipient to submit a yearly update on the status of the affordability covenants for each property. The Subrecipient must notify Minnesota Housing if the property no longer meets the requirements of the affordability covenant or if the Subrecipient recaptures NSP funds.

Addresses
The Subrecipient must provide complete address information for all properties supported with NSP funds. Addresses must contain the following:

- House Number
- Full legal street name
- City

- Zip Code

Final Activity
The Subrecipient must provide Minnesota Housing with the final Activity for each property at disposition taking into account whether the property was sold or leased to a household at or below 50% AMI.

National Objective
Each property must meet a national objective. To demonstrate this, the Subrecipient must provide Minnesota Housing with the national objective that the property meets. For eligible national objectives, see Section 3.02 of this Procedural Manual.

Land Bank Properties
All properties in the land bank Activity must meet a temporary LMMA national objective at the time of closeout. The Subrecipient must have a plan for a final end use for each property that will meet a permanent national objective. To demonstrate this, the Subrecipient must provide Minnesota Housing with the following information for each property in the land bank Activity:

- Full legal address
- End use of the property
- Disposition plan
- Expected date of final disposition
- Census tract in which the property is located

25% Set-aside of NSP Funds for Households Below 50% AMI
The Subrecipient must provide Minnesota Housing with a budget of their final expenditures, including total expenditures for properties sold or leased to households at or below 50% AMI.

Closeout Documents
The Subrecipient must provide Minnesota Housing with all closeout documents for each property before closeout. This includes:

- The completed NSP Initial Set-Up & Close Out form, which can be found on the NSP section of Minnesota Housing's website
- The acquisition HUD-1 or settlement statement
- The disposition HUD-1 or settlement statement, if applicable

Final Narrative
The Subrecipient must provide a final narrative regarding its implementation of the Agreement before closeout. Minnesota Housing will provide a template and questions for the Subrecipient to complete their final narrative.

6.03 Post-Closeout Requirements

Program Income Earned After Closeout
The Subrecipient must return Program Income earned after closeout to Minnesota Housing. If the Subrecipient wants to keep the Program Income earned after closeout, it must request this in writing to Minnesota Housing. The Subrecipient may not keep its Program Income unless agreed to by Minnesota Housing.

Use of Program Income After Closeout
The Subrecipient must use Program Income earned after closeout for Activities that will meet a LMMH national objective. The Subrecipient must report to Minnesota Housing when it completes a project that meets a LMMH national objective. The Subrecipient must provide the following information upon the sale or lease of the property:

- The completed NSP Initial Set-Up & Close Out form, which can be found on the NSP section of Minnesota Housing's website
- The acquisition HUD-1 or settlement statement
- The disposition HUD-1 or settlement statement, if applicable

The Subrecipient may not use Program Income earned after closeout for administrative costs.

25% Set-Aside for Households Below 50% AMI
The Subrecipient must comply with the 25% low-income set-aside when using Program Income for Activities after closeout. The Subrecipient must expend 25% of its total Program Income to assist households at or below 50% AMI.

Monitoring and Reporting of Continued Affordability
The Subrecipient must monitor its NSP projects for the duration of the Affordability Period. The Subrecipient must annually report the continued affordability status of its NSP projects to Minnesota Housing. The Subrecipient must report how it enforces continued affordability. This includes reporting the method of enforcement (i.e. recapture or resale) and if applicable:

- The amount of funds recaptured
- The documents that support the amount of funds recaptured (e.g. HUD-1, settlement statements)
- The documents that support the resale of the property to a household at or below 120% AMI
- The documents that support the lease of the property or unit to a household at or below 120% AMI

When the Subrecipient recaptures funds to enforce continued affordability, it must comply with the Program Income earned after closeout requirements under this section.

Monitoring and Reporting of Properties in the Land Bank Activity
The Subrecipient must annually report the status of each of its properties in the land bank Activity. The Subrecipient must report whether the property:

- Is still being held under the land bank Activity
- Met a LMMH national objective
- Was sold at the Current Market Appraised Value

When a property in the land bank Activity meets a LMMH national objective, the Subrecipient must report this to Minnesota Housing along with information about the sale or lease of the property.

When a property that was placed in a Land Bank is sold at Current Fair Market Value, the Subrecipient must document the basis for determining the Current Fair Market Value and must comply with the Program Income earned after closeout requirements under this section.

Other Monitoring and Reporting
The Subrecipient must comply with other monitoring and reporting as required by Minnesota Housing after closeout.

Appendix A: Definitions

All terms used in the Procedural Manual use mortgage industry standard definitions except for the terms below. Definitions are equally applicable to the singular and plural form of the term defined.

TERM	DEFINITION
Abandoned	A Home or Residential Property is Abandoned if a) the mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, b) a code enforcement inspection determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, c) the property is subject to a court-ordered receivership or nuisance abatement related to the abandonment, or d) meets a state or local definition of Abandoned Home or Residential Property.
Acquisition Discount	The acquisition discount from Current Market Appraised Value for Foreclosed Homes or Residential Properties is, at minimum, 1% per property.
Activity	Activity refers to one of the following eligible uses of NSP funds: a) financing mechanisms, b) acquisition and rehabilitation, c) land bank, d) demolition, or e) redevelopment.
Affordability Period	The duration of time during which the continued affordability rules under Section 4.06 of this Procedural Manual must be enforced.
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 NSP. 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 as determined by the Subrecipient.

TERM	DEFINITION
Blighted Structure	A structure determined to be detrimental to the safety, health, morals, or welfare of the community 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.
Community Development Block Grant (CDBG)	A Department of Housing and Urban Development (HUD) grant program authorized under Title I of the Housing and Community Development Act of 1974 that provides funds to address community development needs in local communities.
Current Market Appraised Value (CMAV)	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 before a final offer is made for the property by a grantee, a Subrecipient, a developer, or an individual homebuyer.
Foreclosed	A Home or Residential Property is Foreclosed if a) its current delinquency status is at least 60 days and the homeowner was notified of the delinquency, b) tax payments are delinquent 90 days or more, c) under state or local law, the mortgage or tax foreclosure is initiated or complete, or d) the foreclosure proceedings are complete and title was transferred to an intermediary aggregator or servicer that is not an NSP grantee, Subrecipient, contractor, developer, or end user. Generally a foreclosure is not considered complete until the title for the property is transferred from the former homeowner through a foreclosure proceeding or a transfer in lieu of foreclosure, in accordance with state or local law.
Grant Funds	The $38.8 million in NSP1 funds and the $5 million in NSP3 funds awarded to Minnesota Housing by HUD. Grant Funds do not include Program Income.
Home	Any 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.
HUD Income Limits	NSP Income Limits are 50% AMI and 120% AMI as annually defined by HUD.

TERM	DEFINITION
Land Bank	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 Subrecipient	A local government or nonprofit agency selected by the Subrecipient to administer NSP on behalf of the Subrecipient or to assist the Subrecipient in administering NSP.
NSP 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, NSP, and alternative requirements that, for purposes of NSP, amend the Community Development Block Grant regulations.
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 Subrecipient 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 designated for residential use, e.g. through zoning.
Subrecipient	A public or nonprofit agency, authority, or organization receiving NSP funds from Minnesota Housing to undertake Activities eligible for assistance under the NSP Program.
Vacant Property	Unoccupied property or land that was once developed; Greenfield sites (i.e., undeveloped land) are ineligible.
Vicinity	Defined as each NSP3 target area.

NSP Forms and Guidance List

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