



# Neighborhood Stabilization Program Frequent Asked Questions

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**Note:** Minnesota Housing will update these FAQs as the agency receives more questions from interested parties and more guidance from HUD. Check back frequently for clarifications and note the updated posted date on each section of this document.

## Background Information

01/28/2009 **Who applied to Minnesota Housing for Neighborhood Stabilization Program (NSP) funds?**

Local units of government experienced in administering CDBG funding. Local units of government included cities, HRAs, EDAs, CDAs, PHAs and counties. Only local units of government operating in the zip codes or counties identified as areas of greatest need were eligible to apply.

05/12/2009 **What is the Neighborhood Stabilization Program?**

Congress created the Neighborhood Stabilization Program in July 2008 and allocated \$3.92 billion for the first round of the program as part of the Housing and Economic Redevelopment Act of 2008. Another \$1.93 billion was allocated for a second round as part of the American Recovery and Reinvestment Act of 2009. The U.S. Department of Housing and Urban Development (HUD) developed the program and allocated funds in the first round to every state. In the second round funds are available on a competitive basis, as described in HUD's Notice of Funding Availability (NOFA2) located on its website at [www.hud.gov/nsp](http://www.hud.gov/nsp). The money provides assistance to stabilize neighborhoods – chiefly through acquiring and developing already foreclosed properties that might otherwise become abandoned or blighted. In the first round Minnesota was allocated nearly \$58 million under the program and Minnesota Housing is administering \$38.8 million according to an [Action Plan](#), which may be found at [www.mnhousing.gov](http://www.mnhousing.gov).

In addition to the state award, HUD made the following direct awards:

- Minneapolis \$5.6 million
- St. Paul \$4.3 million
- Hennepin County \$3.9 million
- Anoka County \$2.4 million
- Dakota County \$2.8 million

05/12/2008 **What are eligible fund uses?**

Eligible NSP activities under Minnesota Housing's plan are:

- A. Financing mechanisms for the purchase of Foreclosed Homes and Foreclosed Residential Properties;
- B1. Acquisition and rehabilitation of Abandoned and Foreclosed Homes for homeownership;
- B2. Acquisition and rehabilitation of Abandoned and Foreclosed Residential Properties for rental;
- C. Establishing Land Banks for Foreclosed Homes and Residential Properties;
- D. Demolition of Blighted Structures; and,
- E. Redevelopment of demolished or Vacant Property
- F. Administration Costs

## 18 Months to Obligate

- 12/19/2008 **If a subrecipient must “use” its NSP funds within 18 months, what does “use” mean?**  
HUD has defined “use” to mean “obligate for a specific project”. Funds are obligated for an activity when orders are placed, contracts are awarded, services are received, and similar transactions have occurred that require payment by the state, unit of general local government, or local subrecipient during the same or a future period. Funds are not considered obligated by an agreement that awards funds to a subrecipient or subgrantee.
- 05/11/2009 **When does the 18 month NSP “use” period begin?**  
Timely use of NSP funds is a requirement under HERA. All Minnesota Housing subrecipients must use (obligate) the NSP funds within 18 months. The 18 month timeline began on March 20, 2009 when HUD signed its grant agreement with Minnesota Housing and runs through September 20, 2010.

## Acquisition/Discount and Appraisal Requirements

- 06/10/2009 **For properties already owned by a community and where the activity will be demolition, the value of these properties would not be factored into the overall portfolio discount requirement, correct?**  
Correct. Acquisition discounts only apply to properties that have been foreclosed upon. A property currently owned by a community would not be considered foreclosed upon.
- 06/10/2009 **Can a state subrecipient working with local subrecipients use the one agreement with the local subrecipient to cover NSP funds received by the state subrecipient from HUD and Minnesota Housing?**  
State subrecipients can choose to execute agreements with their local subrecipients which include the use of Minnesota Housing's NSP funds and their own NSP funds received directly from HUD.
- 06/10/2009 **Is there a method for preserving equity in cases where the value of the house exceeds the TDC (and total NSP investment)?**  
No, NSP does not allow the sale price of an NSP-assisted property to exceed total development cost. For NSP the lesser of the total development cost or appraised value would be the sales price. Any lien above the sales price would be viewed as effectively raising the sales price.
- 04/07/2009 **Is the appraisal time frame 60 days from the date of the signing of the purchase agreement or from the date of the final offer?**  
The date of the final offer.
- 04/07/2009 **Can you set up a panel of appraisers after bidding?**  
Yes.
- 01/23/2009 **Will Minnesota Housing accept the National Community Stabilization Trust's Net Realized Value approach to determining a discounted purchase price?**  
Minnesota Housing has revised its Action Plan and no longer requires state subrecipients to use the National Community Stabilization Trust purchase discount methodology in their approach to determining a discounted purchase price. This methodology is posted on our website and is acceptable for use to obtain a discounted purchase price, but it is not required. Subrecipients can develop their own methodology, but must achieve at least a 5% discount on each purchase and an overall 15% discount on all purchases. The overall 15% requirement across the portfolio remains a requirement even when using the National Community Stabilization Trust methodology.
- 01/23/2009 **Can we use the value of the property and subtract the \$1 that we paid when donated to account for the 15% discount requirement?**  
Yes, assuming that you have obtained a URA-compliant appraisal dated within 60 days of the final offer on the property.
- 01/05/2009 **How feasible is it to use a direct homebuyer approach (e.g., down payment assistance) if a discount is required?**  
Each applicant must determine how feasible it would be to implement any of the eligible activities. If providing down payment assistance to homebuyers, the subrecipient must ensure that the required discount is obtained and that an appraisal is obtained within 60 days of the final offer.

- 12/24/2008 **Doesn't the URA fair market value requirements conflict with the NSP discounted purchase price requirement?**  
Yes. In HUD's [NSP notice](#), HUD acknowledges the conflict and indicates that as the more recent and specific statutory provision, NSP prevails. All purchases of foreclosed upon homes or residential properties must be at a discount from the current market appraised value. HUD has defined "current market appraised value" to mean "the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property..."
- 12/24/2008 **Will subrecipients be required to obtain a pre-acquisition appraisal?**  
Yes. Subrecipients are required to obtain an appraisal prior to acquisition of any foreclosed upon home or residential property. The appraisal must conform to URA standards and be within 60 days of the final offer on the home or property. Subrecipients may want to make an initial offer; subject to an appraisal that validates the offer (or a revised final offer) after the discount is applied.
- 12/19/2008 **Can a community perform a neighborhood-wide appraisal to determine the current market value of properties that are being considered for acquisition?**  
No. NSP subrecipients must have an appraisal done on each separate property purchased with NSP funds. It may be possible to have one appraiser perform appraisals on multiple properties, but the appraisals must identify a value for each property. In other words, an "appraisal" that indicates that the median value of all 3-bedroom houses in the neighborhood is \$75,000, the median value of 2-bedroom houses is \$68,000, etc. would not be acceptable.

# Activities and Requirements

- 06/10/2009 **Can contracts for deed be used as a financing mechanism with NSP funding?**  
Prior to considering a contract for deed as the instrument for conveying NSP properties, alternate approaches that would provide fixed-rate long-term mortgage financing should be considered such as rental and gap financing. State subrecipients that intend to permit contract for deed sales of NSP properties are required to obtain Minnesota Housing approval of the contract for deed instrument. Contract for deed sales of NSP properties shall be required to: provide for an insurance and property tax escrow account; disclose to homebuyers the total amount of their monthly principal, interest, taxes and insurance; disclose to the homebuyer the difference in risks to the homebuyer between purchasing a home via a contract for deed or a mortgage; and provide a fixed interest rate not exceeding 2.5% over cost of funds. If the contract for deed will require a balloon payment, the state subrecipient must provide a strategy to maintain homeownership for contract for deed vendees who have performed under the contract yet are unable to obtain mortgage financing by the time the balloon payment is due.
- 06/10/2009 **As part of the NSP state subrecipient application process, applicants had to sign a certification related to Excessive Force. Can that requirement be met by a community if they contract with a county-level police force?**  
Yes
- 06/10/2009 **What is the requirement needed for an entity to function as a land bank and meet the regulatory requirements?**  
A land bank is a governmental or nongovernmental nonprofit entity established, as least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of properties. For the purposes of NSP, a land bank will operate in a specific, defined geographic area. If a land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service. Minnesota Housing requires that entities wishing to land bank provide documentation of their authority, either through their by-laws or through a resolution, at least in part to land bank
- 06/10/2009 **Where can I find guidance related to the requirements for a Limited English Proficiency (LEP) Plan?**  
Please see the following brochure: [http://www.lep.gov/resources/lep\\_aug2005.pdf](http://www.lep.gov/resources/lep_aug2005.pdf)
- 04/07/2009 **If the local subrecipient is administering a down payment program with NSP funds and working with an FHA approved lender to get buyers qualified under an FHA approved first mortgage, does the local subrecipient need FHA approved status to administer the downpayment loan, or is it okay for them to skip the process of becoming FHA approved?**  
No. The local subrecipient is required to get FHA approval status and also approval of the down payment loan documents to be used with the FHA first mortgage.
- 04/07/2009 **When redeveloping vacant properties under activity E, is it required that they once were occupied with structures?**  
Yes. While "vacant properties" includes both vacant land and properties with vacant structures on the land, HUD understands redevelopment to imply that properties were once developed; therefore undeveloped or "greenfield" sites may not be acquired under Eligible Use E. Research the property to determine what the land was previously used for. Document your records regarding its use and when it last had a structure/building located on it. There is not a specific date that the land had to have had a structure on it (i.e.: 10 -15 years ago). Be reasonable.

04/07/2009 **If a local subrecipient buys a blighted house, demolishes it, and builds a new house in its place, how would they classify the Activity, is it acquisition rehab or redevelopment?**

- If the local subrecipient builds a new house of a different size/style than what was demolished, it would be classified as redevelopment, Activity E.
- If the local subrecipient builds a new house identical to the one that was demolished (same size/style), then it would be classified as acquisition rehab, Activity B.
- If the local subrecipient had no immediate plans for redevelopment or rehab they could land bank the property for a few years until it determines it is the best time to rehab or redevelop it, as long as the activity is completed within 4 years.

04/07/2009 **If you have a unit with a total development cost of \$120,000, it appraises for \$150,000 and you sell it to a homeowner for \$120,000 do you need to have a note for the difference (\$30,000)?**

No, you may not have a note for the difference or you would be selling it for more than the total development cost.

01/23/2009 **When demolished properties are donated for \$1, can we reimburse the demolition costs with NSP funds even though we didn't demolish the structure before taking ownership?**

No. Your cost to acquire was \$1.

01/23/2009 **Can layering CDBG funds or HOME funds in a transaction taint NSP funds?**

Minnesota Housing cautions state subrecipients when choosing to layer NSP funds with other funds. For example, when layering NSP with CDBG funds, state subrecipients must keep in mind that CDBG's and HOME's maximum income limits are 80% of AMI instead of the 120% AMI of NSP.

01/23/2009 **Does \$1 of NSP taint the funding? In other words will \$1 dollar of NSP investment activate requirements such as Davis Bacon, 18 months obligations, etc.? Does the same apply if NSP investments are made towards only one activity, such as, acquisition only?**

Any NSP investment amount in any activity will trigger federal compliance requirements and program requirements.

01/23/2009 **If a state subrecipient receives additional NSP funds, can they be used for an activity not included in its original application or stabilization area? What about the re-use of NSP funds or income?**

If a subrecipient receives additional NSP funds, due to reallocation of resources or for some other reason, and wishes to use the funds for an eligible NSP activity that was not included in the original funding application, it will be necessary to amend the funding agreement to include this activity. However, it is anticipated that the activity will be contained within the original stabilization area. NSP program income must be used prior to the use of additional NSP funds. NSP funds and program income investments must be used within the defined stabilization area.

05/11/2009 **Does NSP have a provision that trumps HOME requirements related to providing "needs-based" downpayment assistance?**

Minnesota Housing's Board has adopted a policy that any NSP needs-based homebuyer assistance which uses a housing ratio less than 30%, must be justified/limited by income or other circumstances, and shall not be less than 25%. Applicants should be prepared to defend the amount of assistance they plan to provide by showing how that amount is necessary and reasonable.

01/19/2009 **Can NSP funds be used for operating reserves or rental subsidies?**

NSP funds can be used for operating reserves if the NSP subrecipient can demonstrate that such a requirement is consistent with industry practices and the dollar amount of the required reserves is consistent with local industry standards. NSP funds cannot be used for rental subsidies.

- 12/24/2008 **Can program income be used for any NSP eligible activity or only the activity that generated the income?**  
 Program income may be used for any eligible NSP activity, including up to 10% for program administration expenses.
- 12/24/2008 **Are the state's subrecipients required to attain a certain percentage of minority or women-owned business contracting?**  
 No, however subrecipients are required to document their outreach efforts and Minnesota Housing will monitor to ensure that such outreach has taken place. Additionally, subrecipients will be required to report on the number and amount of contracts provided to women and minority businesses, and their Section 3 results regarding job training, employment, and contract opportunities for low- and very-low income residents in connection with projects.
- 12/24/2008 **Are mixed use projects acceptable?**  
 Under Eligible Use E of HERA, a subrecipient may use NSP funds to redevelop a property that is vacant or has been demolished. A mixed use project is acceptable, but NSP funds should be limited to the portion of the project that is housing. Subrecipients should use a different source of funds to finance any commercial portion of a project.
- 12/24/2008 **Can NSP demolition funds be used to acquire properties**  
 Acquisition and demolition are NSP activities eligible under different Eligible Uses listed in HERA. NSP funds can be used to both acquire and to demolish properties, however, if a subrecipient uses NSP funding for multiple eligible activities on the same property, the provisions of the different Eligible Uses become cumulative. For example, demolition under Eligible Use D requires that the structure be blighted, but does not require that it be abandoned, residential or foreclosed upon, as long as the vacated land will be used for a residential or public use. Acquisition under Eligible Use A requires that the property be foreclosed upon and be residential, but does not require that it be blighted. If a subrecipient uses NSP funding to both acquire and demolish a property, it must be foreclosed upon, be residential, and be blighted.
- 12/19/2008 **Will CDBG rules pertaining to lead paint remediation apply to the NSP?**  
 Yes. Certification with lead regulatory requirements that apply to CDBG programs apply to the NSP. Requirements are in the Lead Disclosure Rule (24 CFR part 35, subpart A), and the Lead Safe Housing rule's provisions for rehabilitation (subpart J), and for acquisition, leasing, support services, or operation (subpart K), and accompanying procedural requirements in subparts B and R.
- 12/19/2008 **Can a community use the state NSP funds to demolish buildings?**  
 Yes, however NSP funding through Minnesota Housing may only be used for demolition of blighted properties if the demolition is part of a plan for redevelopment of the targeted neighborhoods. Demolition of blighted commercial properties is eligible only if the vacated land will be used for housing or a public purpose that supports the residential neighborhood.
- 12/19/2008 **Can a community use the state NSP funds to acquire dilapidated buildings that are not in foreclosure or abandoned?**  
 To the extent that a subrecipient wishes to use NSP funds for activities that are eligible under only one of the five eligible uses, which are listed in HERA and the NSP Notice, one of the five uses can be viewed as severable and discrete. However, the provisions of the different Eligible Uses become cumulative if a subrecipient wishes to use NSP funding for multiple eligible activities on the same project, and those eligible activities are not all categorized under the same one Eligible Use.
- Under Eligible Use E: A subrecipient may use NSP funds to redevelop a property that is vacant or has been demolished. Providing NSP funds are only used for redevelopment activities listed under Eligible Use E, the property need not be abandoned, foreclosed upon or previously residential.
- Under Eligible Use D: If the property to be redeveloped is not vacant or previously demolished, NSP funds can be used to demolish structures on the property prior to redevelopment, under Eligible Use D. However, in order to use NSP funds for demolition, the structures must be blighted, but they need not be abandoned and they need not be residential.

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

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

Under Eligible Use A: If a subrecipient wishes to use NSP funds to provide financing to another entity for that other entity to purchase or redevelop homes or residential properties, that must be undertaken under Eligible Use A; the property must be foreclosed upon and must be residential.

12/19/2008

**Are Davis Bacon wage rates required?**

Yes, Davis Bacon applies to the rehabilitation or construction of eight or more units.

# Affirmative Fair Housing / Analysis of Impediments

- 06/10/2009 **Is there any additional affirmative fair marketing guidance?**  
Section 3.02 of Minnesota Housing NSP Procedural Manual outlines the expectations related to Fair Housing.
- 12/24/2008 **Can the state's subrecipients adopt Minnesota Housing's impediments to Fair Housing in lieu of completing their own local analysis?**  
CDBG entitlement communities are already required to have developed an Analysis of Impediments to Fair Housing Choice (AI). Those subrecipients do not need to conduct a separate analysis for NSP. Subrecipients that are not CDBG entitlement grantees may, depending on their location either inside or outside the 11-county metropolitan area, accept the state or metropolitan area AI. In addition, all applicants must still include an Affirmative Fair Housing Marketing Plan along with their application for NSP funding.

# Continued Affordability Requirements

- 06/10/2009 **Can subrecipients provide homeowners the option of either resale or recapture or do they have to select one?**  
No, the determination as to whether a property will use resale or recapture restrictions during the affordability period is subject to the type and amount of the NSP investment and subsidy, which should be determined before sale to an end-homebuyer.
- 04/07/2009 **If HOME or CDBG funds are used in conjunction with NSP, how are affordability requirements affected?**  
If any CDBG or HOME funds are used in an NSP development, CDBG or HOME affordability requirements are triggered and the most stringent rules among the programs should be applied.
- 04/07/2009 **If both HOME and NSP funds are provided for a development, how is the affordability period determined?**  
The affordability periods would be concurrent. Thus, if NSP assistance of \$14,999 and HOME assistance of \$10,000 is provided, there would be a five year affordability period for NSP funds, running concurrently with a five year affordability period for HOME funds.
- 04/07/2009 **If an original NSP homebuyer resells a property that is subject to resale restrictions to a subsequent low income homebuyer during the affordability period, how is the affordability period determined for the subsequent buyer?**  
The subsequent homebuyer would have an affordability period of the original affordability period minus the number of years that the original NSP homebuyer owned the home in compliance with the affordability requirements. Thus, if a property carried a ten year affordability period, and was sold by the original NSP homebuyer after five years, the subsequent homebuyer would have a five year affordability period remaining.
- 04/07/2009 **If the first mortgage lender forecloses on a home funded with NSP, what happens if the affordability restrictions are wiped out?**  
If the mechanism to enforce affordability is recapture, net proceeds, if any, should be recaptured. If the mechanism to enforce affordability is a resale restriction, unless the restriction was recorded in a superior position to the mortgage, the restrictions are wiped out and no further action needs to be taken.
- 04/07/2009 **What amount is considered NSP assistance for the purpose of determining the applicable affordability period?**  
This depends upon the affordability mechanism used and the amount of NSP assistance used. When using resale, the full amount of NSP funds in the property must be used to determine the affordability period. When using recapture, only the direct NSP assistance to the homebuyer is used to determine the affordability period. Direct assistance to the homebuyer is any assistance that is used to write down the sales price or provide down payment assistance to the homebuyer. In NSP the sales price must be the lesser of the fair market value or the total development cost of the home or property. In homebuyer situations, recapture can only be used when a direct subsidy exists.
- Scenario A:**
- \$100,000 of NSP funds were used to develop a home with a total development cost of \$150,000.
  - The fair market value of a home is less than the total development cost; thus, the price to the buyer cannot exceed the fair market value.
- A.1:**
- There is a direct subsidy provided to the buyer either in the form of a write down of the sales price or downpayment assistance. Of the original \$100,000 of NSP funds used to

develop the property, \$10,000 was left in to provide the direct benefit.<sup>1</sup> In other words, there is a direct benefit to the homebuyer, which is the difference between the lowered price and the fair market value.

- Under this scenario, either the recapture or resale mechanism can be used.

Example:

• Total Development Cost (TDC)	\$150,000
• Fair Market Value (FMV)	\$140,000
• DPA or write down of price (from FMV)	\$10,000 (NSP left in)
• Effective Price to borrower (1st Mortgage requirement)	\$130,000

Recapture:

- Homebuyer received a direct benefit of \$10,000.
- Affordability period is subject to total NSP direct benefit equaling a 5 year recapture term.

Resale:

- \$100,000 of NSP funds were used in the home.
- Affordability period is subject to total NSP funds equaling a 15 year resale term.

**A.2:**

- The property is sold with no direct assistance to the homebuyer; thus, the resale mechanism must be used and the affordability term would be subject to the total NSP investment in the property.

**Example:**

Total Development Cost (TDC)	\$150,000
Fair Market Value (FMV)	\$140,000
Price to borrower (cannot exceed FMV)	\$140,000

Recapture:

- Homebuyer did NOT receive a direct benefit - cannot use recapture.

Resale:

- \$100,000 of NSP funds were used in the home.
- Affordability period is subject to total NSP funds equaling a 15 year resale term.

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**Scenario B:**

- \$100,000 of NSP funds was used to develop a home with a total development cost of \$150,000.
- The fair market value of the home is greater than the total development cost; thus the total price to the borrower cannot exceed the total development cost.

**B.1:**

- The property is sold with no direct assistance to the homebuyer; thus, the resale mechanism must be used and the affordability term would be subject to the total NSP investment in the property.

**Example:**

Total Development Cost (TDC)	\$150,000
Fair Market Value (FMV)	\$160,000
Price to homebuyer not to exceed TDC	\$150,000

Recapture:

- Homebuyer did NOT receive a direct benefit - cannot use recapture.

Resale:

- \$100,000 of NSP funds were used in the home.
- Affordability period is subject to total NSP funds equaling a 15 year resale term.

**B.2:**

- There is a direct subsidy provided to the homebuyer either in the form of a write down of the sales price or downpayment assistance. Of the original \$100,000 of NSP funds used

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<sup>1</sup> If additional NSP funds were brought in at time of closing that would increase the amount of NSP funds in the property for resale calculations.

to develop the property, \$10,000 was left in to provide the direct benefit.<sup>2</sup> In other words, there is a direct benefit to the homebuyer, which is the difference between the lowered price and the total development cost.

Under this scenario, either the recapture or resale mechanism can be used.

**Example:**

Total Development Cost (TDC)	\$150,000
Fair Market Value (FMV)	\$170,000
Write down or downpayment (from TDC)	\$10,000 (NSP left in)
Effective Price to borrower (1st Mortgage requirement)	\$140,000

Recapture:

- Homebuyer received a direct benefit of \$10,000.
- Affordability period is subject to total NSP direct benefit equaling a 5 year recapture term.

Resale:

- \$100,000 of NSP funds were used in the home.
- Affordability period is subject to total NSP funds equaling a 15 year resale term.

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<sup>2</sup> If additional NSP funds were brought in at time of closing that would increase the amount of NSP funds in the property for resale calculations.

# Cost Reasonableness / Reimbursement

06/10/2009

## How does a community determine "comparable neighborhood improvement" eligible activities for rehabilitation? What about sod and sprinklers, decks, etc?

Improvements to a property that are above what is needed to pass local code and HUD's Housing Quality Standards (HQS) and are needed to address a marketability issue for the property must be evaluated to determine if the item is considered a "luxury," reflects what is customary for the local neighborhood and be viewed as a reasonable use of public funds. Sprinklers and sod would be considered luxury items and would not be considered to be a reasonable use of public funds.

01/23/2009

## What is the test for cost-reasonableness?

The following guidance on cost reasonableness is excerpted from the Federal Grants Management Handbook: "Generally, a cost is considered reasonable if it passes the prudent person test – it does not exceed an amount that could be incurred by a prudent person under similar circumstances. Other major considerations used in determining if a cost is reasonable are:

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

any significant deviations from the established practices of the grantee organization that may unjustifiably increase the federal award's cost."

## Drawdowns and Failed Acquisitions

- 06/10/2009 **What will the reimbursement schedule be (monthly, weekly, more frequently)?**  
Draw requests may be submitted to Minnesota Housing on a daily basis; processing days will be Monday through Thursday, except for state-observed holidays. State subrecipients should receive funds in their account 8 business days following the approval of the request. Interest earned on funds received but not expended must be returned to the U.S. Treasury.
- 06/10/2009 **What date can the Administrator start claiming work for their admin fee?**  
Costs incurred since Sept 29, 2008 are eligible pre-award, administration costs.
- 06/10/2009 **Is marketing an eligible administration cost?**  
Yes.
- 12/19/2008 **Are costs of an appraisal or title search on failed acquisition covered with NSP funds?**  
Generally, yes. An NSP subrecipient may investigate the acquisition of some properties and incur costs before acquiring it (such as the cost of an appraisal or a title search), but then decide that the acquisition is not feasible. In such a case, Minnesota Housing will support an NSP subrecipient that chooses to walk away from a property that looks to be problematic, rather than getting bogged down and losing valuable time when the 18-month obligation requirement is drawing near. For drawdown and reporting purposes, a subrecipient can allocate the project delivery costs of property acquisitions (or considering purchasing) across all properties under the acquisition eligibility category.

# Environmental Requirements

01/23/2009 **If the state subrecipient has already received environmental approval from HUD, will Minnesota Housing's environmental approval process be required as well?**  
Yes. Minnesota Housing's approval is required, however the subrecipient should be able to submit the same documentation to the state that has already been submitted to HUD.

12/29/2008 **Do environment review requirements apply under the NSP grant program?**  
The level of environmental review required depends upon the program design and project description. The responsible entity should consider the use of the categorical exclusion at §58.35(a)(4) which reads:

§58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see §58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in §58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

(a) *Categorical exclusions subject to §58.5.* The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in §58.5:  
(4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or  
(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.  
(iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).  
"Individual action" as used in §58.35(a) refers to an individual approval action about the particular dwelling unit(s) and may include new construction, demolition, and/or reconstruction (demolition and new construction). However, note that this categorical exclusion does not apply to rehabilitation of a building for residential use.

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

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

## Funding Sources and Leverage

- 12/24/2008 **Can other federal funds be used as leverage for the NSP?**  
Yes. Subrecipients should be mindful that other federal funds may have their own compliance requirements in addition, or contradictory to, those of the NSP (e.g., replacement housing, 80%AMI, acquisition for appraised value).
- 12/24/2008 **How do we find out about other funding sources?**  
The Minnesota Housing website includes links to other potential funding sources. Potential applicants are encouraged to check on programs with other NSP recipients and the following partner organizations: the [Department of Commerce](#), the [Department of Employment and Economic Development](#), the [Metropolitan Council](#), the [Family Housing Fund](#), the [Greater Minnesota Housing Fund](#), and their local utility company.

# Homebuyer Information

- 02/26/2009 **How can residents in my community access state NSP funds to combat the foreclosure crisis we are facing?**  
Minnesota Housing did not award NSP funds directly to individuals or nonprofit organizations. Residents can review the state's [Action Plan](#) to learn where funds were targeted, known as "areas of greatest need." To learn who was awarded the funds, Minnesota Housing's NSP awardees list is posted on Minnesota Housing's website at [www.mnhousing.gov](http://www.mnhousing.gov). For detailed information on awardees' activities for stabilization, specific target areas, downpayment and closing costs assistance, or rehabilitation funds for the purchase of foreclosed or abandoned homes individuals may visit awardees' websites. Individuals should be aware that all NSP-assisted homebuyers are required to complete at least 8 hours of homebuyer counseling by a HUD approved housing counseling agency. See the approved HUD agency list visiting the HUD web page at [www.hud.gov/offices/hsg/](http://www.hud.gov/offices/hsg/) or visiting the Minnesota Housing's NSP web page.
- 01/23/2009 **What is the status of the requested HUD waiver for approved / certified Homestretch providers operating under the Homeownership Center network, a waiver necessary to be an eligible counseling agency under the NSP program?**  
Minnesota Housing submitted a waiver to HUD for the approval of homebuyer counseling agencies operating under the Homeownership Center network and possibly others. Once the waiver is received from HUD the agency names will be posted on Minnesota Housing's NSP web site as additional agencies approved to provide the 8 hour counseling required under NSP. Meanwhile, homebuyers may obtain the homebuyer counseling through the current list of HUD approved agencies.
- 01/15/2009 **Does the discount requirement apply to individual homebuyers purchasing foreclosed properties?**  
Yes. The discount requirement applies to individuals or families purchasing foreclosed upon homes or residential properties.
- 12/24/2008 **Can a community use state NSP funds to provide down payment assistance and cover closing costs for families purchasing foreclosed properties?**  
Yes. Providing down payment and closing cost assistance to individuals or families purchasing foreclosed homes are eligible activities under Eligible Use A. Properties must be vacant prior to families purchasing, must meet the NSP purchase discount requirement and must meet habitability standards.
- 12/24/2008 **Is there a Veteran's preference as part of NSP funding?**  
Local communities can design their own NSP implementation programs to include such a preference. However, a preference for Veterans is not a requirement by either HUD or Minnesota Housing.
- 12/19/2008 **Can state NSP funds be used to refinance existing mortgages and prevent foreclosure?**  
No. NSP funds may not be used to refinance existing mortgages and prevent foreclosure. The program was designed to stabilize communities through acquisition and redevelopment of properties that have already been foreclosed or abandoned. NSP subrecipients designed activities based on the eligible activities listed in the state's [Action Plan](#).

# HUD Guidance

12/24/2008 **How can one access HUD's NSP guidance notices?**

HUD's NSP policy guidance is available at:

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

Here one can obtain guidance on [Program Income](#) and the [DRGR](#) reporting system. HUD has posted an FAQ document at <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfaq.cfm> and updates it periodically. Guidance on relocation is available at <http://www.hud.gov/offices/cpd/library/relocation/index.cfm>.

# Low Income Targeting Requirement

06/10/2009 **Are income limits adjusted for family size? In a rental property, if the income limit of a given unit will be 50% AMI, would the maximum rent be 30% of 50% AMI, or 30% of the tenant's actual income? Will rent limit include utility allowance if tenant paid utilities?**

NSP Income Limits are adjusted for family size. Rents paid by tenants must not exceed the HOME rent limits specified in 24 CFR 92.252, which is the lesser of fair market rent (FMR) or 30% of 65% area median income, as determined by HUD, with adjustments for number of bedrooms. Maximum rent includes a utility allowance.

06/10/2009 **If NSP funds will be used for demolition and non-NSP funds used for redevelopment with the end use meeting the 25.4% requirement, should the NSP funds and related outcomes be classed as demolition or redevelopment?**

Purchase and demolition costs may be counted toward meeting the 50% AMI targeting requirement when the units are occupied before our grant closeout. Documentation demonstrating that the units are occupied by income-eligible households would be required.

01/23/2009 **If targeting multiple neighborhoods (in 3 different cities) within one county, does the 25.4% low-income requirement apply to each of the subrecipients (3 cities) or to our project as a whole?**

The 25.4% applies to the project as a whole. However, subrecipients are cautioned to design their activities appropriately and as needed in their targeted stabilization areas to ensure they meet the low income targeting requirement while promoting economic diversity.

01/23/2009 **What consequences will be imposed if a state subrecipient does not meet the 25.4% requirement?**

Minnesota Housing is required under its NSP Action Plan to HUD to meet this low income targeting requirement. Therefore it is imperative for all state subrecipients to meet this requirement in their stabilization plans. Minnesota Housing will monitor activities and obligations periodically. State subrecipients are advised to design programs accordingly to ensure compliance. Minnesota Housing will reserve its right to retract funding from state subrecipients that may be at risk at meeting this requirement.

01/23/2009 **Each state subrecipient must use at least 25.4% of its funding award to house individuals and families with incomes at or below 50% of area median income. Which activities count toward the 25.4% low income targeting requirement?**

The HERA statute actually specifies that the targeting requirement pertains to "the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used by individuals or families with incomes that do not exceed 50 percent of area median income." For specific eligibility information go to HUD's guidance document titled: **Guidance on NSP Eligible Use - Explanation of Property Types under Each Eligible Use** by visiting HUD's web site at: [http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp\\_terminology.pdf](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp_terminology.pdf).

Additional information for low income targeting is provided below:

1. The property source and type has to be an abandoned or foreclosed upon home or residential property.
2. Only activities housing individuals and or families on a permanent basis are eligible for low income targeting. Temporary housing is not eligible.
3. Activities that involve public use or maintenance for the benefit of area residents cannot be counted toward the low income targeting.
4. In land banking the property's ultimate use is unknown, so funds expended for this activity cannot be counted toward meeting the income targeting requirement. Note for activities such as land banking that do not benefit individual households, the activity must benefit areas in which at least 51% of the residents have incomes at or below 120% of area median income.
5. Demolition activities are also not counted towards the 25.4% of funds for low income targeting, as

they similarly benefit an area, not an individual. An exception to this would be if the end use of the property is connected to a string of activities that ultimately leads to housing an individual or family with an income of 50% AMI or less, under eligible activities B or E, and the property is foreclosed upon or abandoned.

12/19/2008

**What low-income targeting is required when using NSP funds?**

All NSP activities must benefit individuals and families whose income does not exceed 120% of area median income. For example, using NSP for demolition and then using other funds for redevelopment to house a family with income greater than 120% would not be allowed.

Low Income Targeting:

In addition, 25.4% of subrecipient's funds must be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income. The income targeting requirement is based on actual occupancy.

For activities that do not benefit individual households, the activity must benefit areas in which at least 51% of the residents have incomes at or below 120% of area median income.

# Monitoring and Compliance

01/23/2009

## **What criteria will Minnesota Housing use to determine if a de-obligation of funds is merited?**

Minnesota Housing will monitor the progress of obligations as anticipated by state subrecipients in their stabilization plan (exhibit D of their contract), at 6, 9 and 12 months. If insufficient progress is evident, subrecipients will need to justify their lack of progress and Minnesota Housing may choose to de-obligate funds. All state subrecipients will be required to provide updated information after 9 months regarding current conditions in their target area(s), and other information regarding the progress of activities, their capacity and feasibility in securing stabilization. Said information will be used to evaluate the status of subrecipient plans, and recommend amounts to be retracted and reallocated.

## Procurement – General Information

- 06/10/2009 **Can programs limit the number of appraisers who can be used?**  
A procurement process must be used to procure all contractors. Once procurement rules are followed, the state subrecipient may select and retain as many contractors for a particular service, such as appraiser, as they wish.
- 06/10/2009 **For competitive bidding purposes, do entities have to follow the bidding process per HOME requirements or per CDBG requirements?**  
NSP functions under the CDBG requirements. HOME requirements are only in place as it relates to the affordability period requirement .
- 04/07/2009 **If you are doing a buyer driven, acquisition, rehab program, can the buyer choose the contractor without procurement rules applying?**  
Yes.
- 04/07/2009 **If you write the scope of work and bid it out for the buyer, do procurement rules apply?**  
Yes. If you assist the buyer in writing the scope of work AND help them choose the contractor, procurement rules are triggered. If you merely assist the buyer with the scope of work and he/she chooses the contractor on his/her own, procurement rules do not apply. However, you will likely want the buyer to obtain at two or more bids in order to assure that he/she obtains competitive pricing.
- 04/07/2009 **Do you have to procure an appraiser for each unit?**  
No, you can define a scope of work for the appraisal, which will apply to all units acquired through the program, and bid out for services.

# Program Income

06/10/2009

**Will HUD treat any future net operating income for rental properties acquired, owned, and operated by NSP subrecipient, as program income?**

Net operating income is considered program income up to the proportion of the NSP investment to total development cost at time of development. State subrecipients are allowed to keep and use program income in accordance with the Grant Agreement and the CDBG regulations governing management and expenditure of program income. At the end of the Grant Agreement, the state subrecipient must transfer to Minnesota Housing any assets attributable to the NSP grant, including accounts receivable, NSP funds on hand, and real property, as provided for in 24 CFR §570.503(b)(7). Section 24 CFR §570.504(c) requires that any Program Income held or received by a Subrecipient at or after the end of the Agreement, be paid to Minnesota Housing.

06/10/2009

**What would be the program income implications for a property partially funded with NSP and a private interim construction financing loan? For example, an acquisition-rehabilitation activity had a total development cost of \$200,000 and half of the cost was paid through an interim construction loan from a local lender and the other half with NSP. If the home has a fair market value of \$150,000 at time of sale, is the \$150,000 considered program income and need to be prorated to pay off each source proportionately (i.e, each paid off in the amount of \$75,000)?**

The proceeds of the sale can pay off the full interim construction loan and the remaining \$50,000 would be considered program income. In this scenario, the affordability period implication should be fully considered. Assuming there is not any development or direct subsidy, a resale restriction must be used for a minimum period of 15 years based off of the full NSP investment in the property of \$100,000.

06/10/2009

**If a state subrecipient will acquire, own and operate multiple, scattered-site single family rental units, can all of the units be accounted for under one project so that the negative operating income of one rental unit can offset positive operating income of another rental unit?**

This would be allowable if there is common ownership and financing. The declaration would likely need to cover all of the rental units and they would need to be designated as fixed or floating. If units are floating, then the units must be "comparable," which may be difficult with single family homes.

## Relocation and Uniform Relocation Act

**If a state subrecipient wishes to undertake a redevelopment activity on a foreclosed upon home or residential property and the property is currently occupied, can the state subrecipient redevelop it since eligible properties under redevelopment must be vacant? Does this mean that when the subrecipient buys the property and title is transferred it has to be vacant? Could relocation be offered to the tenants occupying the property, and if so does this have to happen before title is transferred to the state subrecipient or can this happen afterwards?**

06/10/2009

The property can be occupied and vacated after title is taken by the state subrecipient. The state subrecipient would need to acquire the property under the Eligible Activity B and after the Uniform Relocation Act requirements for relocation have been met, the vacated property can be redeveloped under Activity E. State subrecipients must be cautious with relocation since there are many rules to follow, which could complicate the NSP activity. Minnesota Housing recommends the property be vacant when purchased.

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

12/19/2008

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

**Do CDBG rules, pertaining to relocation and affordable housing, apply to the NSP?**

12/19/2008

HUD does not have authority to provide alternative requirements for the National Affordable Housing Act (NAHA) or for the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 (URA). These statutes apply as in the CDBG program, with modifications implementing NSP's limitations regarding real property acquisition.

## State Subrecipient / Local Subrecipient

12/24/2008

### **What qualifications does Minnesota Housing require for local subrecipients in case the state subrecipients decide to use the subrecipient model for all or a portion of their funding**

Subrecipients will need to establish their own requirements for local subrecipients. Minnesota Housing recommends its subrecipients consider potential local subrecipients' capacity and experience in administering CDBG funds, including familiarity with the compliance requirements of Davis Bacon Labor Standards, Uniform Relocation Act, Environmental Reviews, Lead Risk, Property Standards, Fair Housing and other federal requirements. If state subrecipients utilize local subrecipients, the state subrecipients remain responsible for local subrecipient performance and reporting. See HUD's guidance titled "**Guidance on NSP-Eligible Acquisition & Rehabilitation Activity**", by going to the HUD web site at:

[http://www.hud.gov/utilities/intercept.cfm?offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp\\_guidance\\_acqandreh.pdf](http://www.hud.gov/utilities/intercept.cfm?offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp_guidance_acqandreh.pdf)

## Contacts

Any further questions regarding the NSP program can be directed to: Ruth Simmons, 651- 297-5146, or [ruth.simmons@state.mn.us](mailto:ruth.simmons@state.mn.us).